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UNITED STATES COMMISSION ON CIVIL RIGHTS

1331 PENNSYLVANIA AVENUE, NW, WASHINGTON, DC 20425
www.usccr.gov

March 9, 2017

Subject: FOIA # 2017-19

The U.S. Commission on Civil Rights (USCCR) received your request under the Freedom of Information Act (FOIA) seeking:

A digital copy of the Administrative Instructions document compilation at USCCR.

The USCCR found agency records responsive to your request. We attempted to email these records to you on February 6, 2017, but the email was bounced back as not delivered. See Attachment A. We have enclosed a CD with a pdf of the information you've requested. Please note that while the file is the latest compilation of the Administrative Instructions that it is from 2014.

This information should fully satisfy your request. If you need any further assistance or would like to discuss any aspect of your request, please do not hesitate to contact our FOIA Public Liaison, Brian Walch, at bwalch@usccr.gov or 202-376-8371.

The USCCR is an independent fact-finding agency authorized to investigate voting rights complaints, study and collect information related to discrimination or denial of equal protection of the law on the basis of race, color, religion, sex, age, disability or national origin, and appraise federal laws and policies with respect to these issues.

Sincerely,

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

Maureen E. Rudolph
General Counsel
Office of the General Counsel
U.S. Commission on Civil Rights

ADMINISTRATIVE INSTRUCTIONS

ADMINISTRATIVE

INSTRUCTIONS

PART 1

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ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-1

INTRODUCTION TO THE MANUAL

SECTION 1. PURPOSE

.01 The purpose of this Administrative Instruction (AI) is to introduce and describe the Administrative Manual, which is the official primary medium for describing internal agency structure policies and processes, and a means of providing general information to employees of the U.S. Commission on Civil Rights. See Administrative Instruction 1-16 where the Commission delegates authority to issue administrative instructions to the Staff Director.

.02 The Commission is governed in its administrative functions by specific legislation, executive orders, and a wide variety of rules and regulations issued especially for governmental entities by the Office of Management and Budget, the Office of Personnel Management, the General Services Administration and a variety of other agencies with unique authorities to dictate government-wide policy in defined areas. Information contained in the Administrative Manual serves to supplement, summarize, clarify and explain sometimes complex managerial or administrative policies as they relate to the day-to-day operations of the U.S. Commission on Civil Rights and its employees.

.03 An AI may not always stand alone. Employees are alerted to the fact that even though some very important information is conveyed in each AI, some are based on laws or government policies. Every reasonable effort will be made to redesign AIs promptly to reflect necessary changes. Thus, Commission employees are encouraged to ask the specific experts in the agency to interpret, explain, and provide further details on any managerial or administrative policy in question.

.04 The Administrative Manual is intended to be used as an official source book of information. Information is also communicated to employees in a wide variety of other methods and formats, especially when the information is seasonal, temporary or not of such critical importance to employees as to warrant the issuance of an AI. In some instances, for example, it may be more appropriate for agency guidance on a

specific subject to be succinctly described and incorporated into the Employee Handbook provided all employees, detailed in a simple annual announcement or provided as a reminder in an e-mail message forwarded to all employees. Employees are encouraged to stay abreast of agency information by attending and fully participating in staff meetings, reading memorandum, sharing information, gaining guidance from supervisors, etc. Managers are expected to share changes on AIs and other Commission issues with employees as they develop, working toward the goal of achieving a fully informed staff.

.05 The controlling office head(s) responsible for managing the function described by an AI may recommend revision, cancellation or issuance of a new AI. Prior to recommending action on an AI, office heads should weigh the benefits and disadvantages of the action. Consideration should be given to relevant factors such as whether or not a written internal policy is required by law; whether formal direction would be beneficial or limiting to agency employees; whether the anticipated AI is expected to have long-term importance and permanence; and whether the subject area can be summarized with ease for an accurate interpretation by a broad audience.

.06 AIs that simply duplicate language existing in law or regulation and cite penalties for violations of policy should be considered for simplification through revision.

.07 Almost all employees, except supervisors and management officials, are a part of the collective bargaining unit between the Commission and the Union. Except when required by a law or government-wide regulation, the Collective Bargaining Agreement will govern in the event a difference arises between an AI and the Agreement.

SECTION 2. MANUAL SYSTEM

.01 The Manual consists of individual AIs organized for filing in a loose-leaf binder as follows:

- PART 1. ORGANIZATION AND GENERAL MANAGEMENT
- PART 2. HUMAN RESOURCES
- PART 3. FINANCIAL MANAGEMENT
- PART 4. OTHER ADMINISTRATIVE SERVICES
- PART 5. REGIONAL ACTIVITIES
- PART 6. REPORT EDITING AND PRINTING SERVICES
- PART 7. LEGAL DIRECTIVES AND GUIDANCE

PART 8. CONGRESSIONAL LIAISON

PART 9. PUBLIC AFFAIRS ACTIVITIES

PART 10. CIVIL RIGHTS EVALUATION ACTIVITIES

.02 AIs will be numbered serially within each part of the manual. For example, this AI was assigned the number 1-1, with the following number to be 1-2. The first AI to be issued in the area of Human Resources will be assigned the number 2-1, with subsequent numbers to be 2-2, 2-3, etc.

.03 Sections within each AI will be numbered according to the decimal system, as evidenced in this AI.

.04 Members of the Executive Staff, office heads and heads of regional offices will be issued manuals and are responsible for the maintenance and accessibility of the manuals in their offices.

SECTION 3. MANUAL RESPONSIBILITIES AND AI ISSUANCE PROCESS

.01 The Staff Director may initiate and issue AIs to ensure the effective management and administration of the agency. Office heads may recommend the development, revision and/or cancellation of AIs in their areas of expertise. Proposed AI changes must be coordinated with all Commission office heads whose operations will be substantially impacted by the changes for comment prior to submission to the Staff Director for consideration.

.02 After evaluation, the Office of the Staff Director may coordinate with the Human Resources Division for review by the agency's Union, when appropriate, and the Office of General Counsel, as required.

.03 When the Staff Director has determined that an AI is in the best interest of the Commission, it will be issued under his/her signature.

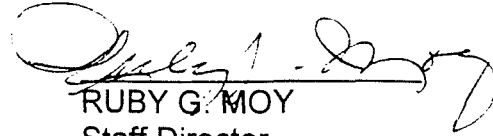
.04 AIs will be forwarded to all office heads for inclusion in their manuals. Office heads are responsible for circulating new AI information to all employees in their office in the most expedient and effective manner possible.

.05 Annually, the Office of the Staff Director will issue a memorandum to all office heads requiring a review of all AIs in their areas of responsibility. Office heads will subsequently certify to the Staff Director that all AIs in their respective areas have been reviewed and provide a timeline chart for the revision of any outdated AI.

SECTION 4. SUPERSEDED MATERIAL

.01 Manual issuances will supersede any previous Als or memoranda of the Commission on the same subject.

.02 In cases of obsolete information, Als should be promptly canceled until such time as new manual issuances are prepared and distributed, if necessary.



RUBY G. MOY
Staff Director

Issued: 1/26/03

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-2

ORGANIZATION OF THE U.S. COMMISSION ON CIVIL RIGHTS

SECTION 1. PURPOSE

.01 The purpose of this Administrative Instruction (AI) is to describe the organization and function of the U.S. Commission on Civil Rights ("Commission").

SECTION 2. THE COMMISSIONERS

.01 The Commission is composed of eight members (or "Commissioners"), not more than four of whom may be of the same political party. The President shall appoint four members, the President pro tempore of the Senate shall appoint two, and the Speaker of the House of Representatives shall appoint two.

SECTION 3. OFFICE OF THE STAFF DIRECTOR

.01 Under the direction of the Staff Director, this Office is responsible for the day-to-day management of the Commission; defines and disseminates to staff the policies established by the Commissioners; develops program plans for presentation to the Commissioners; evaluates program results; supervises and coordinates the work of other agency offices; manages the administrative affairs of the agency; appoints an Equal Employment Opportunity Officer for the agency's in-house Equal Employment Opportunity Program; and conducts agency liaison with the Executive Office of the President, the Congress, and other Federal agencies.

SECTION 4. OFFICE OF THE DEPUTY STAFF DIRECTOR

.01 Although current agency regulations describe an "Office of the Deputy Staff Director," the Commission has eliminated that office, and the position of Deputy Staff Director has been transferred to the Office of the Staff Director.

SECTION 5. OFFICE OF THE GENERAL COUNSEL

.01 Under the direction of the General Counsel, who reports directly to the Staff Director, this office serves as legal counsel to the Commissioners and to the agency;

legal aspects of agency-related personnel actions, employment issues, and labor relations issues; plans and conducts hearings and consultations for the Commission; conducts legal studies; prepares reports of legal studies and hearings; drafts or reviews proposals for legislative and executive action; receives and responds to requests for material under the Freedom of Information Act, Federal Advisory Committee Act, Administrative Procedures Act, and the Sunshine Act; serves as the agency's ethics office and responds to requests for advice and guidance on questions of ethical conduct, conflicts of interest, and reporting financial interest; and reviews all agency publications and congressional testimony for legal sufficiency.

SECTION 6. OFFICE OF MANAGEMENT

.01 This Office is responsible for all administrative, management, and facilitative services necessary for the operation of the agency, including financial management, personnel, publications, and the National Clearinghouse Library. This Office consists of three divisions reporting directly to the Staff Director.

- a. Administrative Services and Clearinghouse Division – under the direction of the Chief of Administrative Services, this Division is responsible for the identification and acquisition of Commission hearing facilities; oversight of the Rankin Library and the distribution of publications; procurement; information and resources management; security; telecommunications; transportation; space management; repair and maintenance services; supplies; central mailing lists; and assorted other administrative duties and functions;
- b. Budget and Finance Division – under the direction of the Chief of Budget and Finance, this Division is responsible for budget preparation, formulation, justification, and execution; financial management; and accounting, including travel for Commissioners and staff; and
- c. Human Resources Division – under the direction of the Director of Human Resources, this Division is responsible for human resources development, including career staffing, classification, benefits, time and attendance, training, and compensation.

SECTION 7. OFFICE OF FEDERAL CIVIL RIGHTS EVALUATION

.01 Under the direction of an Assistant Staff Director, this Office is responsible for monitoring, evaluating and reporting on the civil rights enforcement effort of the Federal Government; developing concepts for programs, projects, and policies directed toward the achievement of Commission goals; preparing documents that articulate the Commission's views and concerns regarding Federal civil rights to Federal agencies having appropriate jurisdiction; and receiving complaints alleging denial of civil rights

because of color, race, religion, sex, age, disability, or national origin and referring these complaints to the appropriate government agency for investigation and resolution.

SECTION 8. CONGRESSIONAL AFFAIRS UNIT

.01 This Unit is responsible for liaison with committees and members of Congress or their staffs, monitoring legislative activities relating to civil rights, and preparing testimony for presentation before committees of Congress when such testimony has been requested by a committee.

SECTION 9. PUBLIC AFFAIRS UNIT

.01 Under the direction of the Chief of Public Affairs, this Unit is responsible for planning and managing briefings at which the Commission receives information regarding civil rights issues; developing plans for community outreach activities; managing the Commission's public service announcements; media releases and press conferences; preparing for publication periodic updates of Commission activities and a Commission civil rights magazine; and keeping the Commission and Commission staff apprised of civil rights conferences and activities.

SECTION 10. REGIONAL PROGRAMS COORDINATION UNIT

.01 Under the direction of the Chief of the Regional Programs Coordination Unit, this Unit is responsible for directing and coordinating the programs and work of the regional offices and 51 State Advisory Committees to the Commission and maintaining liaison between the regional offices and the various headquarters' offices of the Commission.

SECTION 11. REGIONAL OFFICES

.01 The Commission has six regional offices, each headed by a Director, that coordinate studies and fact-finding activities on a variety of civil rights issues addressed by the State Advisory Committees (SAC) in their regions and approved by the Staff Director; report to the Commission on the results of SAC activities; submit SAC reports to the Commission for action; and assist with follow-up on recommendations included in SAC or Commission reports.

.02 The name of the Director, the address, and telephone and facsimile numbers for each regional office are published annually in the *United States Government Manual*. The regions and the SACs that they serve are:

Region I: Eastern Regional Office, Washington, D.C.

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.

Region II: Southern Regional Office, Atlanta, Georgia

Florida, Georgia, Kentucky, North Carolina, South Carolina, and Tennessee.

Region III: Midwestern Regional Office, Chicago, Illinois

Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

Region IV: Central Regional Office, Kansas City, Kansas

Alabama, Arkansas, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, and Oklahoma.

Region V: Rocky Mountain Regional Office, Denver, Colorado

Colorado, Montana, New Mexico, North Dakota, South Dakota, Utah, and Wyoming.

Region VI: Western Regional Office, Los Angeles, California

Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Texas, and Washington.

SECTION 12. OFFICE ORGANIZATION

.01 The heads of offices may, with the approval of the Staff Director, organize their offices in the manner they think will most efficiently carry out the functions assigned to those offices in compliance with this Administrative Instruction.

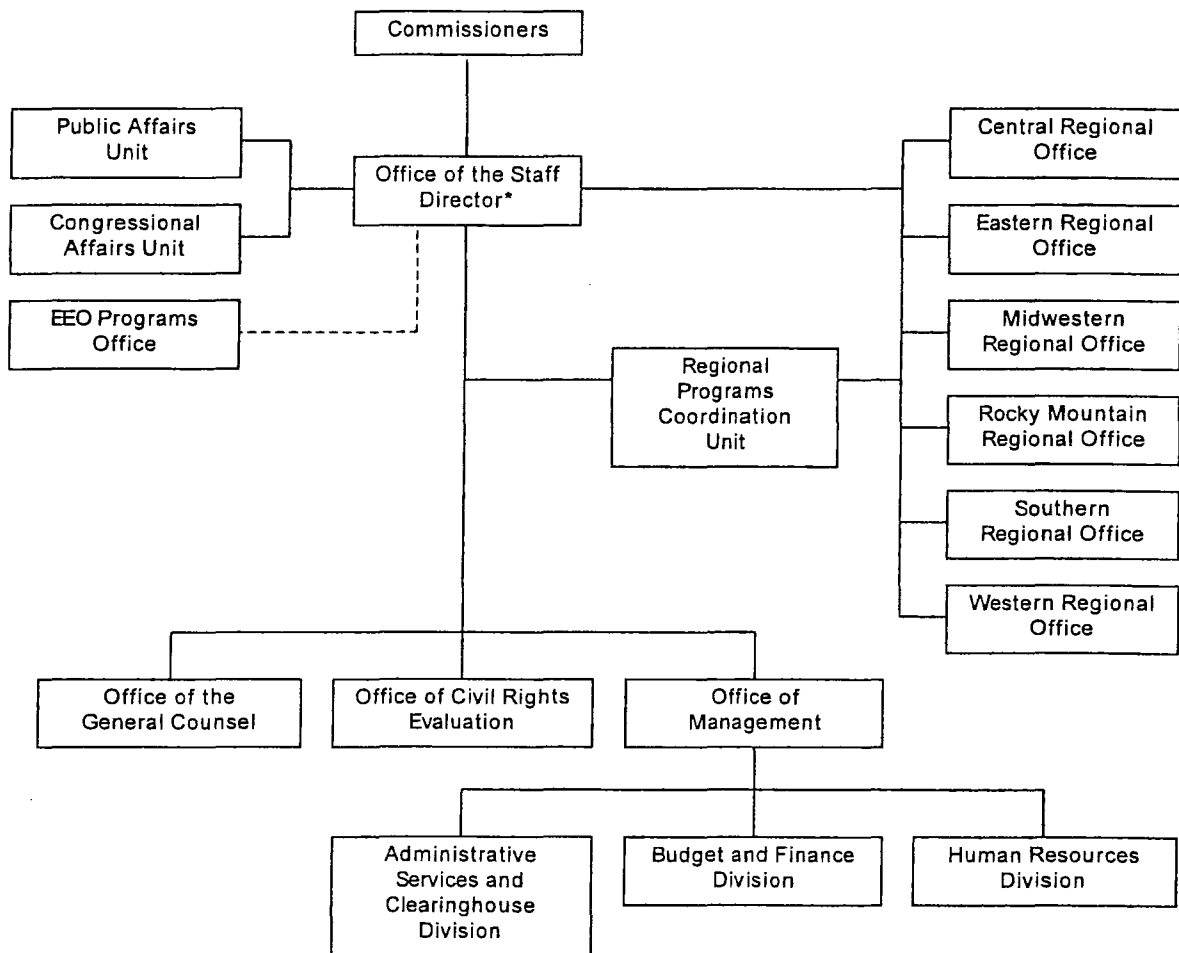
SECTION 13. ORGANIZATION CHART

.01 The attached organization chart is made part of this Instruction by reference.



LES JIN
Staff Director

U.S. COMMISSION ON CIVIL RIGHTS
ORGANIZATION CHART



* Although current agency regulations describe an "Office of the Deputy Staff Director," the Commission has eliminated that office, and the position of Deputy Staff Director has been transferred to the Office of the Staff Director. This chart reflects current agency structure as described in pending revisions to the agency's regulations.

Issued: APR 15 1999

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-3

MONTHLY OFFICE ACTIVITY REPORT/MONTHLY PROJECT REPORT

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish guidelines for use in preparation of the Monthly Office Activity Report and the Monthly Project Report. The reports provide the Commissioners, Staff Director, and staff with information concerning the ongoing activities of each office during the reporting period.

SECTION 2. RESPONSIBLE OFFICIALS

.01 Staff Director. The Staff Director is responsible for preparing the monthly report to the Commissioners.

.02 Chief, Regional Programs Coordination Unit (RPCU). The Chief, RPCU is responsible for consolidating the monthly reports of all Offices and submission to the Staff Director.

.03 Regional Offices. The Director of each regional office is responsible for preparation and submission of a monthly activity report to the Chief, RPCU.

.04 The Head of each Headquarters Office is responsible for preparation and submission of a monthly activity report to the Chief, RPCU.

SECTION 3. DUE DATES

Monthly activity reports for each office are to be submitted to the Chief, RPCU, in accordance with the Monthly Report Schedule as published by the Office of the Staff Director. If the due date must be changed the Office of the Staff Director will notify reporting officials in advance by memorandum.

- b. Program Activities. This section will contain highlights and results of Staff and SAC participation in speeches, conferences, technical assistance and liaison activities.
- c. Monitoring Highlights. This section will cover actions by regional staff and SAC members arising from monitoring specific issues. Actions may vary from region-to-region and change from time-to-time to accommodate emerging interests of the Commissioners.
- d. Items of Interest to the Staff Director. This section shall include Staff and SAC activities not reported elsewhere which complement the view of ongoing activities of the Office. Information such as election of SAC members or appointment to office shall be provided here.

.03 Attachments to the narrative report

- a. Summary of Advisory Committee Meetings. Regional Offices will summarize significant issues presented during the meeting and any decisions made therefrom.
- b. Complaints Log. This attachment will contain a list of complainants, the basis for the complaints, the category of complaint, and the receipt and processing dates.

.04 Negative Reports. All categories will be included in the report. If there has been no action in a specific area, the section shall be listed and annotated with "none."

SECTION 6. PROJECT INFORMATION (MIS)

.01 Headquarters. Headquarters offices with project responsibility shall submit monthly a detailed statement of all ongoing projects. The statement will include 1) project summary and status analysis; 2) critical task/milestone analysis; 3) resource availability and usage analysis; 4) budget/cost analysis presented in charts.

.02 Regions. Summary project information on each SAC project will be presented in charts showing actual and projected dates for project tasks.

SECTION 7. REPORT TO THE COMMISSIONERS

.01 The Office of the Staff Director will prepare the Monthly Report to the Commissioners. The report will be a compilation of the monthly activity reports and project reports submitted by the various Commission Offices. The report will contain:

- a. Summaries of the status of all current and planned projects;

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ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-4

WHITE HOUSE AND CONGRESSIONAL CORRESPONDENCE

LEGISLATIVE TESTIMONY, COMMENTS, AND LIAISON

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish guidelines for the handling of White House and congressional correspondence and other contacts. Specific procedures and policy are delineated concerning preparation, legal sufficiency review and approval of congressional testimony and comments. Correspondence is defined to include mail, electronic (e-mail), and facsimile communications.

SECTION 2. POLICY

.01 All contacts by staff with the White House will be cleared through the Office of the Staff Director (OSD), with exceptions agreed to by the Staff Director.

.02 All initial contacts by staff with Members of Congress or congressional committees will be cleared through the Congressional Affairs Unit (CAU), with exceptions agreed to by the Staff Director.

.03 The Congressional Affairs Unit (CAU), has principal responsibility for providing congressional liaison assistance, monitoring congressional developments, and apprising appropriate program staff accordingly during all phases of testimony and comment preparation. CAU is also responsible for reviewing, preparing in final form, and distributing testimony or comments.

.04 The Office of the General Counsel (OGC) shall review all testimony and comments for legal sufficiency prior to final preparation by CAU. The OSD shall review all testimony in support of the Commission's appropriation requests.

.05 When headquarters correspondence or contacts, (with the exception of responses to routine requests for publications, complaints of discrimination or constituent referral) are directed/addressed to an individual employee of the Commission, but require an official response by the Commission, the employee will forward such correspondence or information regarding other contact to OSD for

evaluation and assignment, where appropriate. In no instance should the employee respond for the Commission on a program or policy matter without the prior approval of the Staff Director.

.06 Internal memoranda, reports still in draft or other unpublished forms, and publications in print but not yet released, may not be transmitted orally or in writing to Senators, Representatives, congressional committees or their staff without prior consultation with CAU and approval by OSD.

.07 Nothing in this instruction shall apply to contacts between individual employees or employee organizations when such contacts with the White House, Members of Congress, or Committees of Congress pertain to matters that come within the scope of employee-management relations, or that are not work-related.

SECTION 3. ROUTING AND HANDLING WHITE HOUSE AND CONGRESSIONAL CORRESPONDENCE

A. Headquarters

.01 All incoming White House and congressional mail, except that marked "personal," or addressed to a recognized employee organization, an individual staff member, or office, will be stamped by the Mail Room with the date and time of arrival and will be hand-carried, unopened, to OSD. Correspondence received electronically or by facsimile will be stamped by the recipient with the date and time of arrival and will be forwarded immediately and confidentially to OSD.

.02 Correspondence addressed to a recognized employees' organization or to a specific office or staff member shall be routed, unopened, to the named addressee or to the incumbent elected representative of the employees' organization named in the address.

.03 The Office of the Staff Director is responsible for the following:

- a. Opening all White House and congressional correspondence, except as noted in section 3.02.
- b. Ensuring that all correspondence is properly logged in the agency.
- c. Evaluating and assigning White House and congressional correspondence to the appropriate staff office or otherwise determining disposition.
- d. Providing informational copies of congressional incoming and outgoing correspondence to CAU as appropriate.
- e. Ensuring that responses to White House and congressional correspondence are timely.

.04 The Office of the Staff Director will route White House and congressional correspondence as follows:

- a. Complaints of discrimination will be routed to the Office of Civil Rights Evaluation (OCRE)
- b. Requests for publications will be routed to the Library
- c. All other requests will be routed to the directors of offices with appropriate program responsibility.

.05 CAU is responsible for logging headquarters congressional correspondence, providing liaison advice, and reviewing replies to congressional correspondence.

B. Regional Offices

All congressional correspondence (with the exception of responses to routine requests for publications, complaints of discrimination, or constituent referrals) from local offices of Members of Congress directed to Commission regional offices shall be routed to OSD through the Chief, Regional Programs Coordination Unit for processing.

SECTION 4. ANSWERING WHITE HOUSE AND CONGRESSIONAL CORRESPONDENCE

.01 All White House and congressional correspondence will be answered or acknowledged by the office to which it is directed within two (2) working days from the time of receipt by the Commission.

.02 If a complete reply to the White House or congressional correspondence cannot be prepared within two (2) working days from the date of receipt by the program office assigned to prepare a reply, OSD will be immediately notified. An interim reply, if necessary, will be prepared for the Staff Director's signature by OSD staff.

.03 Office directors are responsible for ensuring that White House and congressional correspondence moves promptly between the various persons responsible for its preparation and approval. As a general rule, all White House and congressional correspondence should be transmitted promptly and confidentially between employees in the agency.

.04 All official headquarters correspondence addressed to the White House or Members of Congress shall be prepared for the signature of the Staff Director or Commission Chairperson, as appropriate, except for responses to routine requests for copies of publications, complaints of discrimination, or constituent referrals received in headquarters or field offices.

.05 Replies to the White House and congressional correspondence should be responsive, substantive, and must comply with instructions of the White House or congressional request.

.06 Replies to congressional correspondence will be reviewed by CAU, as appropriate before submission to the Staff Director for approval and signature.

.07 Copies of answers are not to be sent to a constituent unless requested by the White House or Member of Congress.

.08 Complaints forwarded by the White House or Members of Congress should be considered for referral to appropriate agencies. The White House or office of the Member of Congress should first be advised or consulted. A copy of the referral letter must be enclosed with the reply to the White House or Member of Congress reporting the action taken by the Commission.

.09 An employee who receives White House or congressional correspondence pertaining to Commission business that did not come through the proper channels should refer it to the Staff Director at once.

SECTION 5. TELEPHONE CALLS

.01 All telephone requests for information or other assistance from the White House, except for routine requests for publications, should be referred immediately to OSD for appropriate action.

.02 All telephone requests for information or other assistance from Members of Congress or their aides, except for requests for publications, should be referred immediately to CAU or OSD for appropriate action.

.03 At the request of OSD or CAU, Commission staff who have contact with congressional staff that is not of a routine or incidental nature (e.g., routine requests for Commission publications or library review of past Commission reports), shall prepare a record for CAU of incoming and outgoing phone calls and/or personal meeting with Congressional staff. The record will contain the following information: (1) name, congressional affiliation, date and phone of contact; (2) matter discussed and comments; (3) action taken; and (4) recommended follow-up actions.

SECTION 6. CONGRESSIONAL TESTIMONY

.01 All requests for congressional testimony and comments shall be directed to the Office of the Staff Director (OSD).

.02 In consultation with CAU, OSD will request substantive assistance from the appropriate Commission office(s) and notify OGC. CAU shall coordinate the timely development of congressional material. OSD is to be contacted to resolve particularly difficult problems concerning the preparation of testimony or comments.

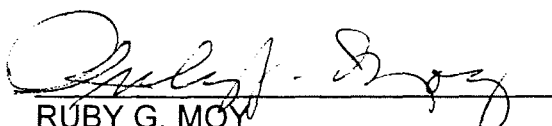
.03 If appropriate or necessary, CAU shall be responsible for acknowledging receipt of the request and for establishing contact with the relevant congressional committee(s).

.04 The General Counsel shall review, at the earliest possible stage, all congressional testimony or comments to pass on legal sufficiency. The General Counsel shall place a top priority on the review of the draft and shall expeditiously complete the review and forward comments to CAU in sufficient time to complete the final preparation of the testimony.

SECTION 7. STATE ADVISORY COMMITTEE (SAC) MEMBERS CONTACT WITH MEMBERS OF CONGRESS AND CONGRESSIONAL COMMITTEES

.01 Rules governing SAC members contacting congressional representatives and other elected officials are outlined in the State Advisory Committee Handbook and periodic procedures issued by the OSD.

.02 Each Regional Director has the responsibility to clear SAC members' appearances before congressional committees with OSD, when appearing in an advisory committee role.


RUBY G. MOY
Staff Director

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-5

ATTENDANCE AT CONFERENCES, SPEAKING ENGAGEMENTS, ETC.

SECTION 1. PURPOSE AND SCOPE

This Administrative Instruction (AI) establishes Commission policy concerning employee attendance at conferences and meetings and the capacity to speak, serve as members of a panel, or act as a resource person in their official capacity on Commission related work or issues.

SECTION 2. ACCOUNTABLE OFFICIALS

.01 *Staff Director*. The Staff Director is responsible for approving the conference attendance and speaking engagements of office directors and Regional Directors for a covered event. A copy of the invitation and agenda must be attached to the request.

.02 *Office Directors*. Each office director or Regional Director is responsible for approving speaking engagements, the participation on a panel, service as a resource person, or attendance at a conference, by Commission staff under their immediate supervision. A copy of the invitation and agenda should be attached to the request.

SECTION 3. COMPENSATION

.01 *Official Duties*. Commission employees are expected to abide by all government regulations and ethical rules dealing with standards of conduct on compensation.

SECTION 4. APPROVAL

.01 *Approval*. Approval is required whether or not the engagement, conference, or service occurs during working hours or is performed on official time.

.02. *Coverage*. This AI does not apply to research conducted by staff of the Commission prior to their working at the Commission, or to research conducted outside of their responsibilities to the Commission.

SECTION 5. PROCEDURE

.01 *Approval*. Requests by staff, other than office/regional directors, to attend a conference or to appear as a speaker, panel participant or resource person must be

submitted to the office director in writing for approval. Request by office/Regional Directors must be submitted in writing for the approval of the Staff Director.

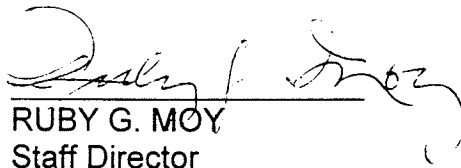
.02 *Prior approval.* The Chief of Budget and Finance will not approve or process travel authorizations covering travel incidental to attendance at a conference, appearance as a speaker, or participation as a panel participant or a resource person, unless the travel authorization is accompanied by the written approval of the office director, the Regional Director, or the Staff Director.

SECTION 6. CLEARANCE

.01 *Submission of speeches.* Staff members who are to deliver prepared speeches must submit for review and approval a copy of the speech to the office/Regional Director at least one week before the speech is to be delivered, or the staff member is to begin his/her travel, whichever comes first. An office/Regional Director, under the same requirements, must submit his/her copy to the Staff Director for review and approval. In the absence of a prepared speech, an outline of the topics to be discussed must be submitted to the office/Regional Director and/or the Staff Director for comment and approval.

.02 *Agency policy.* The office director and the Staff Director will review the speeches to ensure that they are in conformance with agency policy and view. The Office of the General Counsel will conduct a legal sufficiency review of the speech.

.03 *Extemporaneous remarks.* Remarks made by staff members who participate in panels, appear as resource person or otherwise speak extemporaneously must be confined to that staff member's area of expertise and responsibility at the Commission.


RUBY G. MOY
Staff Director

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ADMINISTRATIVE INSTRUCTION 1-6

NATIONAL PROJECT DEVELOPMENT AND IMPLEMENTATION

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish policies and procedures to ensure that:

- (a) Commission projects are well planned, efficiently managed, and appropriately reported to the Staff Director and the Commissioners.
- (b) Commission projects, including reports and other written work products, hearings, and briefings, are examinations of civil rights issues that reflect a consideration of varied and opposing viewpoints, opinions, and perspectives.
- (c) Commission publications meet high standards of quality and are produced and distributed efficiently.
- (d) Project follow-up activities encourage and promote the acceptance and implementation of Commission recommendations.

SECTION 2. POLICY

.01 The Commission on Civil Rights is mandated to study issues and to publish reports and other informational materials on the administration of justice and discrimination or the denial of equal protection of the laws because of race, color, religion, sex, national origin, or disability.

.02 It is Commission policy to issue well-written documents that meet high standards of accuracy, objectivity, and timeliness.

.03 The policies and procedures contained in this AI pertain to national office projects. They apply (unless otherwise stated) to national office statutory reports, hearing reports, staff reports, periodicals, transcripts or proceedings based on information obtained from hearings, consultations, and conferences, films, and tapes.

.04 Program memoranda containing interim instructions modifying the procedures prescribed in this instruction may be issued from time-to-time. Subsequent revision of the instruction will incorporate appropriate portions of the program memoranda.

SECTION 3. DEFINITIONS AND FORMS

See Appendix 1, Glossary of Terms.

See Appendix 2, National Office Checklist for Statutory Reports.

See Appendix 3, National Office Checklist for Hearing Reports.

See Appendix 4, National Office Checklist for Briefing Reports.

SECTION 4. RESPONSIBILITIES

.01 The Office of the Staff Director (OSD) is responsible for:

- (a) identifying civil rights issues and problems within the Commission's jurisdiction that may be appropriate for study, review, research, or analysis by the Commission;
- (b) preparing memoranda on agency program direction and subjects to be discussed at the annual Commission program planning meeting;
- (c) eliciting staff participation in program planning, including participation by regional offices and non-supervisory headquarters staff;
- (d) reviewing and approving national office project concepts, proposals, outlines, discovery plans, and draft reports, before presentation to the Commissioners for action, to ensure compliance with Commission policies and standards;
- (e) monitoring project progress, including work plans and staff reports, to ensure adherence to approved purpose, scope, methodology, and schedule;
- (f) preparing the monthly report on the status of all Commission activities;
- (g) submitting statutory and clearinghouse reports to the Commissioners for action;
- (h) presenting proposed program goals, priorities, and issues for study by national offices to the Commissioners for action;
- (i) presenting the proposed program and budget to the Commissioners at the annual midsummer planning meeting; and
- (j) overall direction and management of agency staff, budget, and resources.

.02 Assigned offices (e.g., Office of Civil Rights Evaluation, Office of General Counsel, and Public Affairs Unit), as appropriate, are responsible for:

- (a) preparing and submitting for OSD review national office project concepts, proposals, outlines, and discovery plans. Project proposals, outlines, and discovery plans, consistent with the amount of detail and research generally required for each document, should articulate an objective approach to the study of the issues;
- (b) preparing and submitting national office monitoring work plans to the Staff Director;
- (c) obtaining an account code from BFD for each project at the appropriate time;
- (d) executing the project as approved by the Commissioners;
- (e) managing budget and staff resources to ensure that projects are delivered within approved time and cost parameters;
- (f) ensuring that the draft report is well written, accurate, objective, of high quality, and it is published according to the Commission's *Style Guide*;
- (g) preparing the final product (e.g. report, transcript, film, etc.) for publication;
- (h) submitting monthly progress reports in writing to the Staff Director as prescribed in AI 1-3, *Monthly Office Activity Report/Monthly Project Report*; and
- (i) establishing and maintaining official project files in accordance with the Commission's Records Control Schedule.

.03 The Budget and Finance Division (BFD), within the Office of Management (OM), is responsible for:

- (a) maintaining current records of all expenditures of money and staff time;
- (b) providing new account codes when requested by office heads and circulating new lists of account codes to all Commission staff whenever a code is changed, deleted, or added;
- (c) issuing the Budget Call following the annual program planning meeting (see AI 3-1, *Performance Budget Formulation* for additional budget guidance);
- (d) ensuring that the Commission's planned projects can be performed within the agency's budget; and

- (e) providing monthly project cost reports to the Staff Director, heads of program offices, and others as designated by the Staff Director.

Cost reports should include the project name, code number, initiation date, completion date, total project duration, projected project cost, the actual project cost-to-date, the cost variance, costs incurred during the previous fiscal year (FY), costs incurred in the current FY and projected versus actual staff hours (see AI 3-6, *Management of Project Account Codes* for additional guidance).

.04 The Administrative Services and Clearinghouse Division (ASCD), within OM, is responsible for coordinating with BFD and OM requests for surveys of 10 or more persons, as part of its Paperwork Reduction Act responsibilities. ASCD is also responsible for producing, warehousing and distributing all publications.

.05 In addition to its program duties, the Office of General Counsel (OGC) is responsible for advising the office heads on the jurisdictional basis for programming and for conducting legal sufficiency and defame and degrade reviews of Commission publications.

.06 The Commissioners, by a majority vote, are responsible for:

- (a) preparing or approving projects concepts and proposals;
- (b) approving project assignments, outlines, and discovery plans;
- (c) altering or amending the scope and focus of a project;
- (d) reassessing priorities and making alterations to office assignments if budgetary changes occur during the year;
- (e) commenting on draft reports; and
- (f) approving reports in whole or in part.

The Commissioners also participate in some follow-up activities, including the preparation of concurring or dissenting statements. As the agency's policymakers, the Commissioners receive and review the Staff Director's monthly reports on the status of projects and program activities.

.07 All responsibilities not otherwise delegated are reserved to the Staff Director. The Staff Director may delegate any of these responsibilities to a member of the executive staff.

SECTION 5. PROGRAM PLANNING CYCLE AND PROJECT RESOURCE MANAGEMENT

.01 Approved projects and their budget and cost information will be used to prepare the Commission's annual budget submission to OMB. Administrative Instruction 3-2, *Performance Budget Formulation*, provides additional guidance on integrating the budget and the Commission's program planning.

.02 Program planning is keyed to the annual budget process. Identifying and approving program and project goals and priorities are central elements of this process. Staff submits program plans to the Staff Director, who makes recommendations to the Commission for final approval.

.03 Annually, in October, headquarters and regional offices submit project recommendations and concepts to the Staff Director. The Staff Director will solicit input directly from the Commissioners regarding recommendations for topics. All headquarters and regional offices are instructed to involve as many staff as possible in the development of recommendations. OSD/RPCU is responsible for soliciting input from regional directors and state advisory committee members regarding possible project concepts. Heads of assigned offices are also encouraged to seek concept suggestions from external groups, as appropriate.

.04 The Commission establishes its program goals and priorities annually between January and March during a monthly Commission meeting. The basis for discussion at this meeting is a set of program activities, goals, priorities, and issues proposed by the Staff Director, including project concept papers. Project concept papers are approved by a majority of Commissioners during the program planning meeting but may also be approved during any regular monthly meeting of the Commission.

.05 Annually, between March and May, the program offices develop project proposals, including budget estimates, based on the decisions made by the Commissioners and assignments from the Staff Director.

.06 Annually, in April and May, OGC reviews the project proposals prepared by Commission offices for jurisdictional conformance, and BFD assesses their budgetary impact.

.07 Annually, in May, the Budget and Finance Division initiates the budget call.

.08 Annually, in July, the Commissioners review and approve the program activities and budget based on the recommendations submitted by the Staff Director.

.09 The Staff Director submits the Commissioners' approved program activities and budget to OMB by the second week of September (or by the specific date established by OMB).

.10 When the Commission receives its final budget appropriation from Congress, the Staff Director, with input from office and division heads and the Chief of BFD, informs the Commissioners whether the budget is sufficient for the Commission to conduct all approved program activities. The Staff Director submits recommendations for revising the program for review and approval by the Commissioners. These recommendations are submitted within one month of receipt of the Commission's final appropriation amount.

.11 The Staff Director informs the Commissioners of any budgetary changes from OMB, the President, Congress, or unforeseen events requiring additional expenditures that would alter the ability of the Commission to complete projects as planned or approved.

.12 If such budgetary changes alter the Commission's ability to complete projects as planned and approved, the Commissioners are given the opportunity to reassess priorities and make alterations to office assignments for the fiscal year.

.13 Throughout the fiscal year, if Commissioners propose or approve new projects or assignments, the Staff Director informs them of the budgetary consequences and impact on ongoing projects.

.14 Any substantive changes to previously approved projects, whether driven by budgetary constraints or other priorities, require a majority vote of the Commissioners.

SECTION 6. NATIONAL OFFICE PROJECT CONCEPTS

.01 The Staff Director assigns offices to develop written concepts for specific projects. The length and detail of the concept papers may vary with different kinds of projects. All concept papers should provide information adequate to support a decision to allocate resources to its execution.

.02 All project concept papers must specify anticipated national, regional office, or State Advisory Committee (SAC) involvement.

.03 Concept papers should include a brief narrative on the civil rights issues in question. Staff will propose hearings or briefings that may be needed in the course of conducting the project, indicate whether the project will require staff or witness travel, indicate whether the project requires an outside consultant, anticipate a completion date, and include a budget estimate of out-of-pocket expenses (exclusive of salaries and benefits) related to the project.

.04 Concept papers should also indicate how the Commission's long and short-term goals and objectives, and performance measures are achieved or furthered by the project.

.05 Project concept papers for national office projects are usually submitted at one

time during the program planning cycle. However, concepts may be submitted whenever additional projects or changes to the program are contemplated.

.06 A project concept paper is required for all reports, briefings, studies, conferences, consultations, and hearings.

.07 Project concept papers shall be approved by a majority of Commissioners during annual program planning, however, concepts may be approved during a regular monthly meeting of the Commission, if warranted.

SECTION 7. INITIAL PROJECT PLANNING

.01 The Staff Director will approve or disapprove national office project concepts or require their revision before they are submitted to the Commissioners.

.02 With the approval of project concepts, offices are assigned responsibility for developing the related project proposals. The proposals expand on the concept papers and reflect any modifications to the concepts approved by the Commissioners. OGC reviews national office project proposals for jurisdictional conformance and BFD reviews them for conformity with the agency's overall budget plan.

.03 Following Staff Director and Commissioner approval of the project concepts and proposals, the staff of the assigned office performs background research and a literature review of the topics of the approved projects. In performing background research and literature reviews, the staff of the assigned office will review materials that present varied and opposing views, opinions and perspectives with respect to the approved project concept and proposal. This is subject to the availability and credibility of the research and literature. The assigned office, after completing this work, submits a detailed project outline for each project to the Staff Director for submission to the Commissioners at a regularly scheduled meeting. This outline includes: (a) a summary of the research performed to date, including, wherever feasible, the incorporation of opposing views, opinions and perspectives found in the research materials; (b) a statement of scope and direction; (c) the proposed methodology; and (d) a timeline for completion.

.04 The Commissioners consider the project outlines and may, at their discretion, vote to alter or amend the scope and focus of a project.

.05 National office projects are assigned an account code either upon initiating work on the project or when financial obligations are incurred related to the project, whichever comes first. The assigned office is responsible for obtaining the account code from the BFD as established in Administrative Instruction 3-6, *Management of Project Account Codes*.

SECTION 8. DISCOVERY PLAN

.01 The assigned office drafts a project discovery plan for approval by the Staff Director and the Commissioners. The discovery plan describes, with as much detail as practicable, the subpoenas, interrogatories, document requests and other forms of discovery and information gathering that the project team proposes to undertake. The plan also provides a timeline for doing so. The discovery plan shall be presented to the Commissioners for review and discussion at a regular monthly meeting. No discovery can take place until the Commissioners review and approve, by a majority vote, the discovery plan prepared by the staff. This does not preclude staff from continuing routine research and analysis.

.02 If plans require data collection from 10 or more persons (see Section 9) the head of the assigned office forwards a copy of the discovery plan to the Chief of ASCD, and to such other offices as deemed appropriate, for review of the plan's clarity and the adequacy of the methodology to achieve the project's purposes.

SECTION 9. REVIEW OF DATA COLLECTION MATERIALS

.01 ASCD is the Commission's designated paperwork reduction office and as such is responsible for reviewing proposed data collection procedures, as required by the Paperwork Reduction Act of 1980.

.02 Offices completing assignments that require collecting identical information from 10 or more persons or organizations must receive approval from the OMB.

.03 At least 50 days before the anticipated administration of a questionnaire or interview schedule, two copies of proposed data collection instruments shall be forwarded to ASCD, along with two copies each of Standard Form 83 and the supporting statement (OMB forms eliciting pertinent information about the proposed data collection effort).

.04 ASCD staff will work with the assigned office to assemble all data collection materials for submission to OMB and hold secure for OMB approval.

SECTION 10. NATIONAL OFFICE PROJECT TRACKING

.01 The responsibility and authority for project implementation rests with the head of the assigned office.

.02 All projects, including regional office components of national office projects, must have clearly specified and relevant milestone dates and deliverables by which the office head may track, monitor and report progress. Changes that substantially alter national office project proposals, outlines, or discovery plans (e.g., changes of substance that affect a project's purpose, scope, or methodology) must be approved in writing by

the Staff Director and by a majority vote of the Commissioners.

.03 When more than one office is involved in a project, a lead office is assigned by the Staff Director to manage the project. The lead office submits a monthly Management Information System (MIS) or project timeline report for the entire project. It is the responsibility of the lead office to ascertain work on the project and to report in the monthly report what has been accomplished during the preceding month.

.04 Each staff member is responsible for accounting for his/her time using the appropriate account code on the biweekly time and attendance worksheet.

.05 BFD prepares and submits to the Staff Director a monthly report on expenditures by project name and code.

.06 The project team is responsible for establishing and maintaining appropriate research files including individual interview reports and clearly identified and dated source documents.

.07 The project team leader is responsible for ensuring that appropriate Privacy Act certifications are made during interviews and filed in accordance with Commission regulations.

.08 The project team leader is also responsible for providing an OMB control number for identical questions asked of 10 or more persons, as required by the Paperwork Reduction Act. When respondents are fewer than 10, the project team leader must be prepared to explain that such information collection is legally exempt from OMB review. (see Sections 8 and 9 above).

.09 The project team leader is responsible for ensuring that, before a draft publication is submitted for editorial and legal reviews, sources cited in the draft are double-checked for accuracy and conformance with the appropriate rules of citation.

10 Assigned offices are responsible for ensuring that pertinent regional offices and State Advisory Committees are briefed on the their national office projects upon their start and informed of major outcomes in advance of the publication and release of project reports.

11. The production of all national office reports will be documented using checklist forms (see Appendices 2, 3 and 4) to ensure compliance with the quality control procedures described in this Administrative Instruction. A completed form is submitted, by the assigned office, to OSD along with a copy of the revised draft report.

SECTION 11. COMMISSION HEARINGS

.01 The OGC is responsible for preparing and holding Commission hearings. This

includes ensuring that the witnesses, when viewed as a whole, possess sufficient policy, legal, academic, advocacy, and other knowledge and experience necessary for a full inquiry into the issues.

.02 To document that hearing witnesses reflected varied and opposing views, opinions, and perspectives, OSD completes Section III of the *National Office Report Checklist for Hearing Reports* form. By completing this part of the form OSD certifies that the hearing included a numerical balance of witnesses between opposing views, opinions and perspectives or that a numerical balance could not be achieved or was not appropriate in light of the subject of the hearing and/or the availability of credible witnesses. Section IV is completed by the Staff Director before the proposed final draft report and checklist are provided to the external reviewer.

.03 Staff is encouraged to use various sources to gather suggestions for appropriate hearing witnesses. These sources may include, but are not limited to, Commissioners, other program offices, regional directors, and appropriate external groups.

.04 OGC prepares hearing proposals, design or implementation plans, and briefing or background books. When preparing hearing proposals this office should demonstrate a consideration of varied and opposing views, opinions, and perspectives. This office also verifies the accuracy of transcripts, drafts hearing reports, and maintains official hearing records.

.05 OGC is responsible for supplying a complete and correct transcript with appropriate exhibits to OSD and ASCD for publication. Hearing transcripts do not require editorial review.

.06 The hearing record will be kept open for a period of 30 days after the hearing or as otherwise established by a majority vote of the Commissioners. Any material or information placed in the record during this period will be available to the Commissioners upon request.

SECTION 12. COMMISSION BRIEFINGS

.01 Briefings are used by the Commission to provide Commissioners and the general public insight into civil rights issues without the formality of a hearing. Any program office may be assigned responsibility for conducting a briefing by the Staff Director.

.02 Commissioners are provided a proposed final list of briefing presenters for approval. To document that the briefing witnesses reflected varied and opposing views, opinions, and perspectives, OSD completes Section III of the *National Office Report Checklist for Briefing Reports* form. By completing this part of the form, OSD certifies that the briefing included a numerical balance of witnesses between opposing views, opinions and perspectives or that a numerical balance could not be achieved or was not appropriate in light of the subject of the briefing and/or the availability of credible

witnesses. Section IV of this form is completed by the Staff Director before the proposed final draft report and checklist is provided to the external reviewer.

.03 The briefing record will be kept open for a period of 30 days after the briefing or as otherwise established by a majority vote of the Commissioners. Any material or information placed in the record during this period will be available to the Commissioners upon request.

SECTION 13. NATIONAL OFFICE MONITORING

.01 The Commission's national office civil rights monitoring program is conducted primarily by the Office of Civil Rights Evaluation (OCRE). In some instances, the staff in other offices may also be assigned to track specific issues, usually in conjunction with ongoing projects or as part of a follow-up to a report.

.02 The purposes of the Commission's monitoring program are to enhance the agency's fulfillment of its oversight function, to enable the agency to respond more readily and knowledgeably to requests for comments and assistance, and to increase the quality and quantity of information available for Commission program and policy planning. The monitoring program is designed to identify specific opportunities for the Commission to act in order to affect policy formulation in a timely manner.

.03 All staff engaged in monitoring activity are responsible for maintaining complete, formal records as specified in Section 10.06 above, and for submitting routine reports of their findings so that their performance can be evaluated. The head of the assigned office reports the information in the office's monthly report according to the requirements of AI 1-3.

.04 Each Spring, if staff resources are sufficient to permit OCRE to conduct a monitoring program, OCRE formulates a plan for monitoring activity expected to occur during the next fiscal year. The plan should include a description of the monitoring methodology and the anticipated civil rights topics, to the extent these can be predicted. The monitoring work plans are submitted to the Staff Director for approval. Upon approval, the necessary budget information is transmitted to OM.

.05 If an issue being monitored is determined to be suitable for a project resulting in a report, the procedures outlined in Sections 6 through 10 will apply. If an issue is to be pursued through a contract, staff will follow the procedures prescribed in AI 4-16 and the Commission's procurement manual.

.06 Follow-up monitoring will be performed as appropriate. Follow-up monitoring, which is a continuation of the effort, does not require the Staff Director's approval. The information gained is conveyed to the Staff Director and the Commissioners through the monthly report.

SECTION 14. DRAFTS OF NATIONAL OFFICE REPORTS

.01 The Staff Director's office will submit a first draft of a report for all Commissioners to review giving the Commissioners sufficient time to provide complete and thorough comments on the draft report as feasible in light of time constraints. The draft report, when ready for review, should contain a complete text, footnotes, and table of contents. If appropriate, charts, tables, a letter of transmittal, findings, conclusions, and recommendations should also be included in the draft. If the report is to contain photographs, cartoons, graphics or other copyrighted material, the assigned office must obtain permission for such use before the report is submitted to Commissioners for review.

.02 The first draft must be held in the strictest of confidence by all parties as it will not have been subjected to final editorial, legal sufficiency, or affected agency reviews. Commissioners will have four weeks to comment on the draft report and make editorial suggestions before the proposed final draft is prepared.

.03 The first draft is distributed simultaneously to all Commissioners for comment. Commissioners will submit their comments, in writing, to OSD. The Staff Director directs the project team to incorporate, as the Staff Director deems appropriate, those Commissioner comments into the draft report that are:

- supported by the existing research, including any supplemental research which may reasonably be conducted within existing time constraints;
- viewed as strengthening the quality and objectivity of the report;
- consistent with the approved scope and purpose of the project as reflected in the Commissioner-approved concept paper, proposal, outline, discovery plan and any subsequent modifications approved by a majority of the Commissioners; and
- consistent with the structure and thrust of the report.

A written record documenting the disposition of Commissioner comments is made and maintained in the official project file by the assigned office. These records are made available to the Commissioners upon request.

.04 In reviewing draft reports, the Commissioners are asked to consider several factors, including the:

- consistency with the project concept, proposal, outline, and discovery plan;
- existence of objectivity;
- quality and breath of the research;
- strength of the reasoning and analysis; and
- strength of the evidence supporting the findings, conclusions, and recommendations.

SECTION 15. EDITORIAL REVIEW OF NATIONAL OFFICE REPORTS

.01 The head of the assigned office transmits four copies of the complete draft (including a dated title page and for statutory reports, a draft letter of transmittal to the President and congressional officials) to OSD for editorial review.

.02 The editorial review is coordinated by OSD, which appoints the members of the editorial review board. The editorial review board will usually consist of three members, but more may be appointed as appropriate.

.03 The primary purpose of the editorial review is to determine the adequacy and accuracy of the substantive information in the draft document (e.g., conceptual soundness, adherence to Commission policy, quality of the research, argumentation, and documentation of major points).

.04 The editorial review board will generally complete its review in seven workdays, but a different period of time may be allotted depending on the length of the document and other circumstances.

.05 If necessary, a meeting of the editorial review board shall be held within three workdays after receipt of editorial comments. The meeting shall be attended by the members of the board, the office director, and other staff as appropriate. The head of the assigned office is responsible for ensuring that clear instructions on revision of the draft report result from this meeting.

.06 The project staff revises the draft publication in accordance with the editorial board comments. The head of the assigned office apprises the Staff Director by memorandum of areas upon which agreement was not reached and changes were not made.

SECTION 16. LEGAL SUFFICIENCY AND DEFAME/DEGRADE REVIEWS OF NATIONAL OFFICE REPORTS

.01 Simultaneous with sending the draft report for editorial review, the head of the assigned office must send three copies of the report to the Staff Director for legal sufficiency review and, if appropriate, defame/degrade review.

.02 The purpose of the legal sufficiency review is to ensure the accurate interpretation and citation of legal materials and compliance with statutory requirements. Source materials are maintained by the assigned office and, upon request, are made available to the attorneys performing the legal sufficiency review.

.03 The purpose of the defame/degrade review is to ensure that Commission reports do not defame or degrade persons and entities named in them. AI 7-1 provides guidance on complying with defame/degrade procedures.

.04 Legal sufficiency review should generally be completed in one to three weeks, but could be assigned a different period for completion depending on the length, complexity, and nature of the draft publication. When the draft report originates in the OGC, staff on the project team will not be assigned to conduct the legal sufficiency review.

.05 Defame/degrade review should be performed concurrently with the legal sufficiency review.

.06 OGC sends the assigned office an annotated draft and a memorandum of comments that certifies that the document is legally sufficient or recommends changes necessary to make it legally sufficient. A copy of the memorandum is sent to OSD.

.07 Review of whether the argumentation and conclusion of a draft report are documented sufficiently and with convincing evidence is the responsibility of the editorial review board, not the attorney performing legal sufficiency review. The legal sufficiency review is restricted to the review of legal sources and matters. If, however, the General Counsel determines that non-legal problems could seriously detract from the publication, these problems should be brought to the attention of the editorial review board at the meeting specified in Section 15.05 above.

.08 The project team responsible for drafting the report works with staff attorneys to render the draft legally sufficient. When substantive changes are made in a draft report after the initial legal sufficiency review, e.g., as a result of editorial and affected agency reviews or Commissioner comments, the new material must be submitted for an expedited legal sufficiency review.

.09 Tasks associated with ensuring that the draft satisfies defame/degrade requirements are the joint responsibility of the OGC and the assigned office. OGC is responsible for identifying the legal requirements and suggesting appropriate revisions, and the assigned office is responsible for ensuring timely completion.

SECTION 17. AFFECTED AGENCY REVIEW OF NATIONAL OFFICE REPORTS

.01 After completing any revisions occasioned by legal and editorial reviews, the head of the assigned office sends the sections of the draft report (but not the conclusions, findings, recommendation, or letter of transmittal) that pertain to the affected agency for review and comment. This review is limited to the accuracy of the material contained in those sections. When appropriate, non-governmental organizations receive pertinent material for review.

.02 Affected agency reviews are usually completed in 4 weeks; however, the time period provided may be different based on the length and complexity of the report, as

well as other circumstances.

.03 Upon receipt of affected agency comments, the project team prepares revisions to the draft report as deemed appropriate and necessary. The project team also prepares a memorandum for the Staff Director detailing its action on all affected agency comments.

.04 If substantial changes affecting the legal thrust of the report are made as a result of this review, the changes must undergo a second legal sufficiency review.

SECTION 18. FINAL REVISION OF NATIONAL OFFICE REPORTS AND COMMISSION REVIEW

.01 If defame and degrade procedures must be implemented the project team, in consultation with staff attorneys, makes appropriate changes in response to the comments received or, where suitable, add the comments as an appendix to the report.

.02 The assigned office sends the revised draft report to the Staff Director. This draft incorporates all applicable editorial, legal, and affected agency revisions. Before forwarding the report to the Staff Director, the assigned office completes its section(s) of the appropriate checklist form for forwarding along with the revised draft report.

.03 After completing the final review of the revised draft report, the Staff Director documents this review by completing his/her section(s) of the checklist. The Staff Director submits the proposed final draft report and the checklist to an external reviewer as described in Section 19 below.

.04 The Staff Director will confirm that the external reviewer has reviewed the report and the checklist and has completed the certification on the bottom of the appropriate national office report checklist. If the report is ready for final draft distribution, the Staff Director will submit the report to the Commissioners as the proposed final draft report, along with the completed report checklist. A copy of the proposed final draft report will also be returned to the assigned office to be maintained in the project file. The assigned office maintains a record of the changes it made as a result of the Commissioners' review.

.06 The Staff Director will determine (before transmitting the report to the Commissioners) if any changes should be made to the assigned office's follow-up plan.

.07 The proposed final draft report, incorporating any revisions made as a result of the Staff Director's review, is submitted to the Commissioners for a vote. For a report to become an official report of the Commission, it must be approved by a majority vote of the Commissioners.

- (a) Nothing in this policy is intended to alter previously approved policies regarding the posting and release of reports to the public or on the agency

Web site.

- (b) Nothing in this policy rule requires that a proposed final draft be submitted for an up or down vote in its entirety. If the staff or a majority of the Commission deems it appropriate, the Commission may sever the document for purposes of discussion and voting. Only portions of the report that receive a majority vote become part of the final Commission document.
- (c) Commissioners wishing to submit a statement of dissent may indicate their intention to do so after the vote approving the report has been taken. At that time, the Commissioner(s) will make arrangements with the Staff Director as to the date such dissent will be submitted. Nothing in this policy prohibits the integration of a dissenting statement within the body of the report, so long as the Staff Director and the author of the dissenting statement agree to use this format. All dissenting statements that are provided in a timely fashion and that comply with applicable federal law and Commission policy will either be included as an attachment to the report or integrated into the body of the final report.

.08 The timing of each of the stages describing Commissioner involvement is intended to be flexible and may be conducted by notational vote (project concept approval, background and planning, discovery, first draft report and final report).

.09 After Commissioner review and approval of a report, the project team in the assigned office makes any necessary revisions and oversees copy editing before submitting the report to the Staff Director for final approval. If there are any substantive changes made to the report subsequent to Commissioner review, such changes must be provided to the Commissioners for further review before the final report is published. Any editorial changes made to the report after Commissioner review will be documented in the project file.

.10 If substantial changes affecting the legal thrust of the report are made as a result of Commissioner review they must undergo an expedited legal sufficiency review.

SECTION 19. EXTERNAL REVIEW OF NATIONAL OFFICE REPORTS

.01 An external reviewer is required to certify that the national office checklist is fully completed for each national office report prior to publication and dissemination of the report.

.02 OSD will send a copy of the proposed final draft report and national office report checklist to at least one external reviewer selected by the Staff Director, with input from the Commissioners, the assigned office staff, and regional offices, as appropriate. Reviewers may include state advisory committee members or compensated external

reviewers.

.03 The external review process will generally be completed in seven workdays, however, a different period of time may be allotted depending on the circumstances.

.04 The external reviewer will be asked to review the proposed final draft report and the checklist and certify on the bottom of the checklist that all pertinent sections have been fully completed. The completed form and proposed final draft report are submitted to OSD.

.05 OSD will provide a copy of the external reviewer's certification to the Commissioners along with the proposed final draft of the report. A copy of the completed form should also be provided to the assigned office and maintained in the project file.

SECTION 20. PUBLICATION AND DISSEMINATION OF NATIONAL REPORTS

.01 The approved report is submitted to ASCD for printing and distribution. ASCD generally provides copies of the printed report, in the quantities approved by the Staff Director, within 60 days. Some reports may, however, require additional production time.

.02 To distribute the report to affected and interested parties, the assigned office must complete and submit form CCR-500, *Publication Distribution Request*, to ASCD.

.03 ASCD is responsible for distributing the printed report, including preparing mailing labels and envelopes, ensuring that each envelope contains the report and any other transmittal material provided by OSD, and delivering the reports to the mail box or other shipping location for pick-up. Labels are prepared based on the list(s) selected by the assigned office. ASCD is also responsible for mailing six copies to each regional office, and providing two copies to the Library, eight copies to OSD for distribution to the Commissioners, and one copy to each member of the Executive Staff.

.04 The assigned office discusses publicity plans with the Public Affairs Unit.

.05 The Congressional Affairs Unit of OSD is responsible for distribution to the Congress.

.06 The Public Affairs Unit is responsible for notifying regional offices of proposed release dates of national reports and for supplying them with copies of the press release in advance of the publication's release, whenever possible.

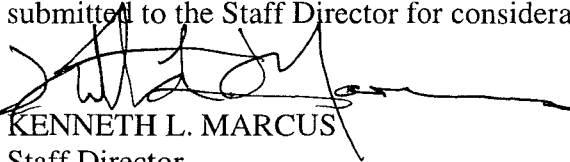
SECTION 21. NATIONAL OFFICE PROJECT FOLLOW-UP

.01 Assigned offices prepare written follow-up plans as needed to carry out each project's purpose. These plans must identify budgetary and other resource needs and be approved by the Staff Director.

.02 Follow-up plans for national office projects should be submitted to the Staff Director approximately 60 days before the follow-up is scheduled to begin according to the project milestones. The Staff Director approves follow-up plans for all reports before the Commissioners review them.

.03 Follow-up activity generally begins at least 12 months after publication.

.04 If follow-up work develops into substantial activity such as updating a publication's statistical or legal analysis, a project proposal should be prepared and submitted to the Staff Director for consideration in light of other program priorities.



KENNETH L. MARCUS
Staff Director

GLOSSARY OF TERMS

ACCOUNT CODE

A number assigned by the Budget and Finance Division (BFD) and used to track and report the financial expenditures associated with Commission projects or other program activities. This code is also used by the Human Resources Division to record the human resource demands associated with executing Commission projects and other activities.

AFFECTED AGENCY REVIEW

An opportunity afforded government agencies, and occasionally private organizations, whose policies and operations are being assessed or evaluated by the Commission, to review and comment on the factual accuracy of portions of a draft Commission report. This review occurs before the draft report is submitted to the Commissioners for approval. Affected agency comments may be incorporated into the text of the report or acknowledged in footnotes or an appendix, if appropriate.

ASSIGNED OFFICE

The program office having sole or primary responsibility for national project development and execution.

BRIEFINGS

A briefing is usually held in conjunction with a regularly scheduled public meeting of the Commission on a civil rights topic previously approved by the Commissioners. Individuals are invited to appear of their own volition to present information to Commissioners and staff on the topic of discussion. Participants are encouraged to submit statements and other relevant materials for their presentation in writing and at least ten days in advance of the briefing. Available materials will be provided to Commissioners at least seven days in advance of the briefing.

CLEARINGHOUSE REPORT

A report on a civil rights matter, other than the annual statutory report, that may or may not contain specific findings and recommendations for governmental action.

CONFERENCE

A public meeting with experts and Commission staff to exchange information on specific topics. Conferees may present papers, and the proceedings may be transcribed and published.

CONSULTATION

A public meeting during which invited experts present papers, provide their expert opinions, and respond to questions asked by the Commission. The proceedings of a consultation are transcribed and published.

DEFAME AND DEGRADE REVIEW

The review of draft publications by legal staff for material that may defame, degrade, or incriminate an individual or institution. Such material is then provided to the affected individual, organization or institution with the opportunity to respond. Responses are

reported in the document text, footnotes, or an appendix. (See AI 7-I for guidance).

DISCOVERY PLAN

A written plan or description that identifies, with as much specificity as possible, the discovery and other information gathering tools and techniques that will be used by Commission staff to execute a project. A discovery plan must be approved by the Commissioners.

EDITORIAL REVIEW (statutory and hearing reports)

A content review of a draft publication by a board, usually comprised of three persons, appointed by the Staff Director. This review is for the adequacy and accuracy of the substantive information in the draft document (e.g., conceptual soundness, adherence to Commission policy, quality of the research, argumentation, and documentation of major points).

HEARINGS

A hearing will be defined as appears in the Code of Federal Regulations.

- a. Definition:
§ 702.1-Definitions.
(e) Hearing means collectively to a public session of the Commission and any executive session held in connection therewith, including the attendance of witnesses or the production of written or other matters for which subpoenas have been issued.
- b. Approval Process:
§ 702.2-Authorization for hearing.
Under 42 U.S.C. § 1975a (e) (1) the Commission or, on the authorization of the Commission, any subcommittee of two or more members, at least one of whom shall be of each major political party, may for the purpose of carrying out the provisions of the Act, hold such hearings and act at such times and locations as the Commission or such authorized subcommittee may deem advisable. The holding of hearings by the Commission or by a majority of the members present at a meeting at which at least a quorum of five members is present.
- c. Notice Requirements:
§ 702.3-Notice of hearing.
At least 30 days prior to the commencement of any hearing, the Commission shall publish in the Federal Register notice of the date on which such hearing is to commence, the location at which it is to be held, and the subject of the hearing.
- d. Staff Responsibilities:
As outlined in Administrative Instruction 1-6, Section 11, the Office of General Counsel is responsible for preparing and holding Commission hearings.

JURISDICTION OF THE COMMISSION (USCCR)

The legal authority for Commission activities. All Commission activities must be directed toward and be within its statutory areas of responsibility.

LEGAL SUFFICIENCY REVIEW

A review by the legal staff of draft documents prior to public release to ensure the accurate interpretation and citation of legal materials.

LETTER OF TRANSMITTAL

A letter to the President, the President of the Senate, and the Speaker of the House of Representatives from the Commission formally transmitting a statutory report. It informs the President and Congress of the reasons for the study and may contain its essential findings and recommendations.

MILESTONES

The significant tasks necessary to complete a project and for which resource allocations and deadlines have been set.

MONITORING

The planned systematic efforts to identify civil rights problems and to collect information and track continuing developments with respect to such issues. The purpose of this activity is to assess the need for further investigation via a project, to provide information via a brief internal report to the Staff Director or the Commission, or to propose Commission action to affect a particular situation.

MONTHLY REPORTS

The internal reports submitted by the various offices to the Staff Director summarizing the progress of projects, monitoring, and other activities. The reports are compiled into a memorandum that is presented to the Commissioners (See AI 3-1).

NATIONAL OFFICES

The offices, divisions, and units of the Commission (other than the Eastern Regional Office) located in Washington, DC.

OBJECTIVITY:

A balanced and unbiased exploration of the issues and presentation of information in Commission reports, other written work products, and hearings and briefings. To be considered objective, these products should reflect a consideration of varied and opposing views, opinions, and perspectives.

OSD SPECIAL ASSIGNMENT

A short-term activity assigned by the Staff Director, usually involving requests for information, policy reviews, comments on regulations, etc., that generally originates outside of the agency staff.

PROGRAM ACTIVITY

An activity in support of the Commission's statutory mission in a particular area or issue related to civil rights, including the following:

- a. Liaison activities, such as attendance at meetings, symposia, conferences, and other activities not directly related to a current project and not supported by the Commission. Liaison activities also include formal and informal contacts with public and private organizations outside the Commission.
- b. Technical assistance activities, such as providing responses to requests for information or analysis, civil rights investigative/research techniques, legal analysis, analysis of administrative regulations, and preparation of analysis, testimony, position statements correspondence, background papers, and other documents.

PROGRAM MEMORANDUM

A memorandum issued by the Staff Director to specify new or revised procedures affecting operation of the agency's program. As appropriate, these procedures subsequently are incorporated into the Administrative Manual.

PROJECT

A project is a study or evaluation of a civil rights issue that culminates in a report, transcript, summary of proceedings, film, monograph, or other product for public release. "Updates" of completed projects are treated as new projects. A project typically is:

- a. approved by the Commissioners;
- b. assigned an account code to track costs and the use of staff hours;
- c. subject to a monthly status report using the Management Information System (MIS) or a similar project management tool; and
- d. likely to generate directly related follow-up activities after release of the written work product to the public.

PROJECT CONCEPT

A short narrative explaining the proposed project's purpose and scope, including an overview of the issue, an explanation of its components (e.g., briefings, hearings, travel, staffing), related costs, and the approximate duration. The concept papers are typically prepared for Commissioner decision-making during annual program planning meetings.

PROJECT FOLLOW-UP

The Commission and/or staff activities that directly relate to a specific project after its product(s) has been released to the public. Such activities include:

- a. efforts to ensure that the product has reached the intended audience;
- b. efforts to encourage acceptance and implementation of Commission recommendations;
- c. efforts to encourage use of the project's information; and
- d. efforts by the Commission and/or staff to provide clarifying or additional information.

PROJECT OUTLINE

A detailed outline of the project developed after the Staff Director and the Commissioners approve a project concept and a project proposal has been developed by the assigned office. It summarizes the initial research and literature review, identifies the project's issues and focus, and describes the purpose, scope, and methodology of the project, and sets forth the timeline for completion of the project. This timeline should include milestone tasks and target dates. When appropriate, the project outline may be incorporated into the project's proposal.

PROJECT PROPOSAL

An expanded description of a project concept, after the concept has been approved by the Commissioners during a program planning meeting, which is developed by the assigned office. It also provides a detailed project budget estimate, identifies the general purpose, goal(s), and clarifies anticipated project outcomes. A proposal also links the project and its anticipated outcomes to the Commission's strategic goals, objectives, and performance measures.

PROJECT REPORT

The product of a project which contains information, data, or materials collected, analyzed, and assessed by the project team. Such products include:

- a. Statutory reports: A report required by the Commission's statute that is often referred to as the "annual report." The statutory report monitors federal civil rights enforcement efforts and contains findings, conclusions, and recommendations that are transmitted to the President and Congress for action.
- b. Clearinghouse reports: A report on a civil rights matter, other than the annual statutory report, that may or may not contain specific findings and recommendations for governmental action.
- c. State Advisory Committee reports: Reports to the Commission that may contain findings, conclusions, and recommendations for action. State Advisory Committee reports are prepared by advisory committee members

and regional office staff. These reports are not adopted or approved by Commission prior to publication, however, they are reviewed for legal sufficiency, defame and degrade issues, and compliance with applicable procedural requirements.

- d. Staff reports: National and regional staff reports to the Commission that may contain findings, conclusions, and recommendations for Commission action. All staff reports require approval by the Staff Director.
- e. Statements: Brief informational publications explaining a Commission policy position on an issue of current interest.
- f. Proceedings of conferences, consultations, and seminars: Collection of invited participants who present papers and engage in discussions on civil rights issues. The edited discussions of the participants may be published. The proceedings do not contain findings and recommendations.
- g. Hearing transcripts: Official transcripts of testimony taken at hearings.
- h. Films: Film, slide, and videotape presentations of information gathered by the Commission and/or staff in the course of approved projects.

PUBLIC SPEAKER

- a. Definition: An individual, appearing of his/her own volition and at the invitation of the Commission, to make a presentation to the Commission on a civil rights topic.
- b. Approval Process: Commissioners or managerial staff may submit names and ideas for such a presentation to OSD and this office will follow the same procedures for approval as outlined for briefings.
- c. Notice Requirements: The notice requirements for a guest speaker shall be the same as those for a briefing.
- d. Staff Responsibilities: OSD shall coordinate the appearance of a guest speaker and any related public relations or protocols as necessitated by the event.

PROJECT TEAM

The staff in the assigned office responsible for executing and completing the project.

PROJECT TEAM LEADER

The team leader is a non-supervisory role. The team leader is a member of the project team who is responsible for the administrative management of the project, as well as the

coordination of the project within the team. The team leader reports to the head of the assigned office on project timelines, needs, issues, team member assignments, and compliance with applicable Commission policies and procedures.

RECOMMENDATIONS

The written recommendations for legislative, regulatory or other action, made as a result of specific findings of discrimination, or denials of equal protection of the laws, or disparate effects of laws or program implementation.

STATUTORY REPORT

A report required by the Commission's statute that is often referred to as the "annual report." The statutory report monitors federal civil rights enforcement efforts and contains findings, conclusions, and recommendations that are transmitted to the President and Congress for action.

NATIONAL OFFICE CHECKLIST FOR STATUTORY REPORTS

SECTION I

(To be completed by the assigned project office.)

Office: _____

Project Name: _____

Project Team Leader: _____

1. Project office reviewed and considered materials that presented varied and opposing views, opinions and perspectives, with respect to the concept as approved or modified by the Commissioners. _____ YES _____ NO
2. Draft Report Submitted for Editorial Review: _____ YES _____ NO
 Submission Date: _____ Completion Date: _____
 Reviewers: _____,
 _____,

3. Draft Report Submitted for Legal Sufficiency and/or Defame and Degrade Review(s): _____ YES _____ NO
 Submission Date: _____ Completion Date: _____
 Reviewers: _____,

4. Draft Report Submitted for Affected Agency Review: _____ YES _____ NO
 Submission Date: _____ Completion Date: _____
5. Revised Draft Report Incorporates Commissioner Comments: _____ YES _____ NO

SECTION II

(To be completed by the Office of the Staff Director.)

1. Input was sought from program staff, regional offices, State Advisory Committee members and others consistent with Commission policy as reflected in AI 1-6. _____ YES _____ NO
2. Revised Draft Report Required Revisions: _____ YES _____ NO
3. Proposed Final Report is Consistent with Commissioner-Approved Project Concept, Proposal, Outline, and Discovery Plan: _____ YES _____ NO

4. Proposed Final Report Approved for Submission to Commissioners for Review and Approval:
_____YES _____NO

Certification by the Staff Director:

I hereby certify that the above checklist has been completed.

Staff Director

Date

Certification by the External Review:

I hereby certify that all pertinent sections of the above *National Office Checklist for Statutory Reports* have been fully completed.

External Reviewer

Date

NATIONAL OFFICE CHECKLIST FOR HEARING REPORTS

SECTION I

(To be completed by the assigned project office.)

Office: _____

Project Name: _____

Project Team Leader: _____

1. Project office reviewed and considered materials that presented varied and opposing views, opinions and perspectives, with respect to the concept as approved or modified by the Commissioners. _____ YES _____ NO

2. Draft Report Submitted for Editorial Review: _____ YES _____ NO
Submission Date: _____ Completion Date: _____

Reviewers: _____,
_____,
_____.

3. Draft Report Submitted for Legal Sufficiency and/or Defame and Degrade Review(s): _____ YES _____ NO

Submission Date: _____ Completion Date: _____

Reviewers: _____,
_____.

4. Draft Report Submitted for Affected Agency Review: _____ YES _____ NO
Submission Date: _____ Completion Date: _____

5. Revised Draft Report Incorporates Commissioner Comments: _____ YES _____ NO

SECTION II

(To be completed by the assigned project office. Attach a separate sheet if necessary.)

The following individuals presented at the hearing: _____,

_____,
_____,
_____.

SECTION III

(To be completed by the Office of the Staff Director.)

1. Input was sought from program staff, regional offices, State Advisory Committee members and others consistent with Commission policy as reflected in AI 1-6. ____ YES ____ NO
2. There was a numerical balance among the presenters between opposing views, opinions and perspectives relating to the subject of the hearing by virtue of the fact that ____ individuals presented representing a particular view, opinion and perspective and ____ individuals presented representing an opposing view, opinion or perspective.

OR

____ (Check below if appropriate). A numerical balance could not be achieved/was not appropriate in light of the subject of the Commission hearing and/or the inability to locate credible and topical presenters.

Explanation (optional): _____

SECTION IV

(To be completed by the Staff Director before external review and submission of the proposed final report to the Commissioners for review and approval.)

1. Revised Draft Report Required Revisions: ____ YES ____ NO
2. Proposed Final Report is Consistent with Commissioner-Approved Project Concept, Proposal, Outline, and Discovery Plan: ____ YES ____ NO
3. Proposed Final Report Approved for Submission to Commissioners for Review and Approval: ____ YES ____ NO

Certification by the Staff Director:

I hereby certify that the above checklist has been completed.

Staff Director_____
Date

Certification by the External Review:

I hereby certify that all pertinent sections of the above *National Office Report Checklist for Hearing Reports* have been fully completed._____
External Reviewer_____
Date

NATIONAL OFFICE CHECKLIST FOR BRIEFING REPORTS

SECTION I

(To be completed by the assigned project office.)

Office: _____

Project Name: _____

Project Team Leader: _____

1. Project office reviewed and considered materials that presented varied and opposing views, opinions and perspectives, with respect to the concept as approved or modified by the Commissioners. _____ YES _____ NO

2. Draft Report Required Defame and Degrade Review: _____ YES _____ NO
If required, Submission Date: _____ Completion Date: _____

Reviewers: _____,
_____,
_____.

3. Revised Draft Report Incorporates Commissioner Comments: _____ YES _____ NO

SECTION II

(To be completed by the assigned project office. Attach a separate sheet if necessary.)

The following individuals presented at the briefings: _____,
_____,
_____,
_____.

SECTION III

(To be completed by the Office of the Staff Director.)

1. Input was sought from program staff, regional offices, State Advisory Committee members and others consistent with Commission policy. _____ YES _____ NO
2. There was a numerical balance among the presenters between opposing views, opinions and perspectives relating to the subject of the briefing by virtue of the fact that _____ individuals presented representing a particular view, opinion and perspective and _____ individuals presented representing an opposing view, opinion or perspective.

OR

_____ (Check below if appropriate). A numerical balance could not be achieved/was not appropriate in light of the subject of the Commission briefing and/or the inability to locate credible

and topical presenters.

Explanation (optional): _____

SECTION IV

(To be completed by the Staff Director before external review and submission of the proposed final report to the Commissioners for review and approval.)

1. Revised Draft Report Required Revisions: _____ YES _____ NO
2. Proposed Final Report is Consistent with Commissioner-Approved Project Concept, Proposal, Outline, and Discovery Plan: _____ YES _____ NO
3. Proposed Final Report Approved for Submission to Commissioners for Review and Approval: _____ YES _____ NO

Certification by the Staff Director:

I hereby certify that the above checklist has been completed.

 Staff Director

 Date

Certification by the External Review:

I hereby certify that all pertinent sections of the above *National Office Checklist for Briefings Reports* have been fully completed.

 External Reviewer

 Date

Issued: 10/24/03

ADMINISTRATIVE INSTRUCTION 1-7

NOTATIONAL VOTING PROCEDURES AND GUIDELINES

SECTION 1. PURPOSE

.01 The purpose of this Administrative Instruction (AI) is to establish a written procedure for notational voting by the U.S. Commission on Civil Rights.

SECTION 2. POLICY

.01 Commission matters may be resolved either at a meeting, or by circulating written materials to the Commissioners.

.02 Though Commission regulations only address Commission meeting procedures, the Commission acts on items of business between meetings by notational voting.

SECTION 3. NOTATIONAL VOTING PACKAGE

.01 The Chairman decides if a matter that requires a Commission vote should be handled at a Commission meeting or by a written circulation.

.02 The decision by the Chair to hold a notational vote and the subject matter of the vote normally will be communicated to all Commissioners by email at least 4 business days prior to sending the voting package. However, if a matter is deemed by the Chair to be extremely urgent and all Commissioners support an immediate notational vote, this period of notice may be waived.

.03 At the request of the Chairman, the Staff Director sends a notational voting package that includes the text of the motion being voted on and a written ballot. The written ballot shall have a space for a Commissioner to vote in favor, against or to abstain. The package will say when the notational voting process ends.

.04 The package is sent to the Commissioners by both email and facsimile.

SECTION 4. VOTING

.01 All commissioners will be afforded the opportunity to vote.

.02. If a commissioner objects to voting on the matter by notational vote he/she will send a written objection to the Chairman with copy to all other commissioners and the Staff Director. If one or more commissioners object to the notational vote the matter will be dealt with at a meeting of the Commission.

.03 Commissioners must vote personally. Proxies are not permitted. Commissioners shall vote on the ballot and then send the ballot to the Staff Director during the required time limit. Any vote received after the time period for voting shall not be counted.

.04 If a commissioner returns a ballot to the Staff Director but fails to put an appropriate mark in one of the blocks, this shall constitute an abstention. A Commissioner who abstains shall be considered to have participated in the vote for purposes of ascertaining a quorum. The number of votes necessary to approve a matter is the majority of quorum.

.05 Each Commissioner may relay his/her vote by facsimile or email.

SECTION 5. SOLICITOR CERTIFICATION

.01 The Staff Director will provide the Solicitor with the written transmissions from the Commissioners with their votes. The Solicitor will certify the matter that was voted on, that the Commission notational voting process was followed and what was the result of the vote.

SECTION 6. RECORDS

.01 At the next Commission meeting after the notational vote, the Chairman will describe for the record the content of the matter that was voted on and the vote of each commissioner.

.02. The Office of the Staff Director and the Library shall maintain a binder with copy of the notational vote package and the certification of the Solicitor.

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

KENNETH L. MARCUS
Staff Director

Issued: APR 15 1999

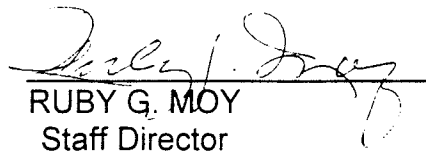
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-8

FORMS MANAGEMENT

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 1-8 effective immediately.


RUBY G. MOY
Staff Director

Issued: APR 15 1999

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-9

CORRESPONDENCE FORMAT

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 1-9 effective immediately.



RUBY G. MOY
Staff Director

Issued: APR 15 2000

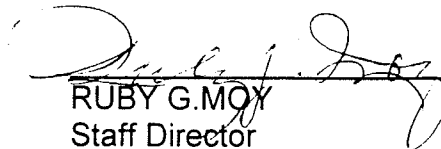
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-10

INTERNAL ADMINISTRATIVE REPORTS

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 1-10 effective immediately.


RUBY G. MOY
Staff Director

Issued: APR 15 2009

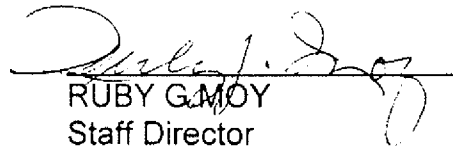
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-11

MEDIA CONTACT GUIDELINES

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 1-11 effective immediately. Policy and guidance on media contact can be found in AI 9-1, Public Affairs Unit.


RUBY G. MOY
Staff Director

Issued: APR 15 1992

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-12

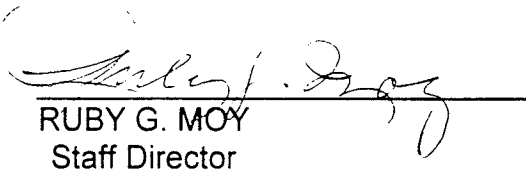
PERSONAL PROPERTY MANAGEMENT

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 1-12 effective immediately.

SECTION 2. POLICY

01. The Commission policy on property management and employee responsibilities related to government property utilization can be found in the Commission's "Employee Handbook" and AI 4-14.


RUBY G. MOY
Staff Director

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-13

EVALUATION OF INTERNAL CONTROL SYSTEMS

Issued: July 30, 2008

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to implement the requirements contained in the Federal Managers' Financial Integrity Act of 1982 as codified in 31 U.S.C. 3512 (referred to as FMFIA), OMB Circular A-123, *Management's Responsibility for Internal Control* (as revised), and the Federal Financial Management Improvement Act of 1996, as codified in 31 U.S.C. 3512 note (referred to as FFMIA).

SECTION 2. OVERVIEW OF AUTHORITIES AND REQUIREMENTS

FMFIA applies to program, operational, and administrative areas, as well as accounting and financial management. It establishes specific requirements with regard to overall management controls that include:¹

- creating an internal control system that safeguards assets, properly records financial transactions, and reasonably ensures compliance with applicable laws and regulations,
- evaluating and reporting annually on the internal control and financial systems that protect the integrity of federal programs,
- identifying material weaknesses in the above areas, and
- developing plans for correcting material weaknesses.

FFMIA codifies several financial management system requirements that exist in various federal policies. FFMIA requires, for example, that agencies maintain systems that substantially comply with:

- Federal financial management system requirements,
- applicable federal accounting standards, and
- the Standard General Ledger (SGL) at the transaction level.

OMB Circular A-123 addresses internal control over financial reporting and prescribes the process for assessing, testing, and documenting internal control over financial reporting. This circular incorporates FMFIA and GAO internal control standards.

SECTION 3. POLICY

¹ FMFIA also requires that GAO establish standards for internal control and that OMB establish a process for implementing FMFIA. OMB's FMFIA guidelines are set forth in Circular A-123.

01. It is the policy of the Commission on Civil Rights (referred to as “the Commission”) to maintain a cost-effective internal control system for results-oriented management. This includes establishing and maintaining internal controls that achieve the objectives of:

- effective and efficient operations,
- reliable financial reporting, and
- compliance with applicable laws and regulations.

Because internal controls are tools that help program and financial managers achieve results, these controls are an integral part of the Commission’s planning, budgeting, management, accounting, and auditing cycles. As such, it is our policy to involve all levels of management in ensuring the adequacy of internal controls.

02. We recognize the benefits derived from having an appropriate internal control system such as increased:

- likelihood of mission accomplishment,
- accountability for stewardship and performance,
- operational economy and efficiency,
- transparency and openness, and
- integrity and credibility.

SECTION 4. KEY CONCEPTS AND DEFINITION OF TERMS

01. *Internal Control*: The organization, plans, policies and procedures used to reasonably ensure that the Commission’s:

- program activities efficiently and effectively achieve their intended results,
- resources are used in a manner consistent with its mission,
- resources are protected from waste, fraud, and mismanagement,
- actions are in compliance with applicable laws and regulations, and
- decision-making is based on reliable and timely information.

02. *GAO Standards for Internal Control*. These standards set the minimum level of quality acceptable for internal control and apply to program and financial management, and legal compliance. GAO established five components of internal control.

- Control Environment
- Risk Assessment.
- Control Activities
- Information and communication, and
- Monitoring

03. *Control Environment*: A good control environment, which is a part of an organization’s overall culture, should have top-down leadership. To create a sound control environment Commission management and employees must establish and maintain an environment or organizational culture that sets a positive and supportive attitude toward internal control and conscientious management. Examples include

demonstrating integrity and ethical values through management's commitment to competence, management's operating style, the Commission's organizational structure, how authority and responsibility are delegated, and the existence of good human capital policies.

04. *Risk Assessment*: Internal control should provide an assessment of the risks the Commission faces, from internal and external sources, which may prevent it from meeting its objectives. Good risk assessment requires the existence of clear agency goals and objectives as reflected in strategic and annual performance plans.

05. *Control Activities*: The Commission policies, procedures, and techniques that are intended to reduce risks. These activities should be both effective and efficient in accomplishing the agency's control objectives. Examples of control activities are approval, authorization, verification and reconciliation requirements, and performance reviews.

06. *Information and Communication*: Information should be recorded and communicated to management and others within the Commission who need it. The information should be provided in a form and within a timeframe that enables it to be used effectively.

07. *Monitoring*: Internal control monitoring should assess the quality of performance over time and ensure that the findings of audits and other reviews are resolved.

08. *Assessable Unit*: An organizational unit (e.g., office or division) or administrative function within the Commission that is subject to assessment or evaluation.

09. *Material weakness*. A material weakness in an internal control is a weakness of the nature that it has or could impair the fulfillment of the assessable unit's mission, goals and purpose; violates statutory or regulatory requirements, or could result in waste, fraud or abuse of agency resources.

SECTION 5. RESPONSIBLE OFFICIALS

01. The Office of the Staff Director is responsible for coordinating the agency-wide effort and data collection process related to evaluating the Commission's systems of internal control.

02. The Office of the Staff Director is responsible for submitting an annual report to the President and to the Congress on the state of the Commission's internal control systems.

03. All office and division heads shall involve themselves in assuring the adequacy of internal controls within their office or division, and will complete an internal control review annually or as otherwise required.

04. All office and division heads have financial stewardship and performance accountability responsibilities including ensuring that within their office or division:

- funds are used effectively and efficiently and for their intended purpose,
- expenditures are properly recorded,
- adequate security exists to safeguard funds and other assets against waste, fraud, abuse, and mismanagement,
- program activities are managed with integrity and in compliance with applicable law and regulations,
- program activities support the Commission's mission and goals, and annual plan,
- work products (outputs) achieve their intended results (outcomes), and
- areas where improvement is needed are identified and corrective action is planned and timely taken.

05. When appropriate, notations are made in the performance appraisals of responsible office and division heads concerning their effectiveness in implementing and evaluating internal controls within their office or division.

SECTION 6. CONDUCTING AN INTERNAL CONTROL ASSESSMENT

01. The Office of the Staff Director will issue a memorandum to office and division heads annually directing them to complete a self-assessment of internal controls. The Office of the Staff Director will provide each with worksheets, questionnaires, or other appropriate tools for conducting the self-assessment.

02. If the self-assessment results in an office or division identifying significant risks that are unaddressed and material weaknesses in internal control the head of that office or division must provide documentation to the Office of the Staff Director explaining how and when he/she will reasonably ensure that a system of internal controls is or will be in place that complies with applicable laws and regulations.

03. The Commission's Senior Management Council, headed by the Office of the Staff Director, reviews the assessment results. This includes the testing results and proposed corrective action plans prepared by each office/division. The council should periodically monitor the implementation status of these plans and may make additional recommendations for corrective action, as appropriate. These recommendations must be consistent with applicable federal law and regulation, and be approved by the Staff Director.

SECTION 7. REPORTING

01. *Reporting and Assurance Statements.* The head of the agency must include assurance statements in the Commission's Performance and Accountability Report (PAR) for submission to the President and Congress annually on November 15, or as otherwise directed by OMB. These statements are usually in the section of the annual PAR labeled "Management Assurances."

02. *FMFIA Assurance Statement Under Section 2.* The agency head must issue a signed statement of assurance representing whether Commission internal controls over program,

operations, and financial reporting are operating as intended and provide reasonable assurance that the goals of FMFIA are being met. The statement takes one of three forms: unqualified statement, qualified statement, or no assurance.

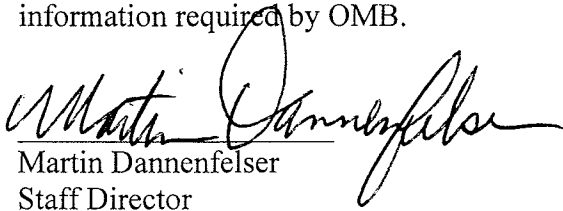
03. *FMFIA Assurance Statement Under Section 4.* The head of the agency provides a statement of assurance representing whether the Commission's financial management systems conform to requirements mandated by federal law and OMB guidance under Section 4 of FMFIA.

04. *OMB Circular A-123 Assurance Statement.* A subset of the assurance statement given under section 2 of FMFIA is the required separate statement on the effectiveness of internal control over financial reporting per OMB Circular A-123. This statement is on the status of financial reporting as of June 30 annually, or as otherwise required by OMB.

05. *FFMIA Assurance Statement.* The head of the agency must determine if the agency's financial management systems substantially comply with FFMIA based on the annual financial audit report and other information. In addition, FFMIA requires auditors to report on agency compliance with the three stated requirements as part of financial statement audit reports.

SECTION 8. CORRECTIVE ACTIONS

Corrective Action Plans. Corrective action plans are required for all material weaknesses in internal control and financial management systems. These plans should be periodically assessed and their status reported to the Office of the Staff Director. The Commission submits a summary of its corrective action plans for material weaknesses to OMB and Congress in the PAR. The summary should include a description of each material weakness, the status of corrective actions, target completion dates, and other information required by OMB.


Martin Dannenfelser
Staff Director

Issued: APR 15

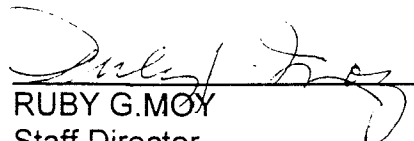
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-15

LEGISLATIVE TESTIMONY, COMMENTS AND LIAISON

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 1-15 effective immediately. Policy and guidance on this topic can be found in AI 1-4, White House and Congressional Correspondence, Legislative Testimony, Comments, and Liaison.


RUBY G. MOY
Staff Director

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-16

DELEGATION OF AUTHORITY TO STAFF DIRECTOR

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish a delegation of authority from the Commission to the Staff Director so that day-to-day operations of the U.S. Commission on Civil Rights may be expedited and so that administrative controls are maintained.

SECTION 2. DELEGATION OF AUTHORITY TO STAFF DIRECTOR

.01 Pursuant to the authority vested in the Commission by the United States Commission on Civil Rights Act of 1983, P.L. 98-183; 42 U.S.C. 1975d(i)(1) (except as limited by Sections .01 and .02 below), the Staff Director is delegated authority to organize or reorganize the staff of the United States Commission on Civil Rights into such offices, divisions and units as the Staff Director may deem appropriate for the purpose of carrying out the duties and responsibilities of the Agency. The Staff Director is also delegated, consistent with any policy established by the Commission, the authority to approve, certify or otherwise authorize those actions dealing with personnel, budget (including allotments), fiscal matters and contracts relating to the operations of the Commission, within the laws, rules and regulations set forth by the Federal Government to govern such functions.

.02 Prior to implementing a plan for the reorganization of the Commission's staff, the Staff Director shall submit such plan to the Commission. Within 30 calendar days after the submission of a plan for reorganization, the Commission, by the vote of a majority, may amend or reject such plan. If the Commission takes no action during such 30-day period, the plan shall become effective on whatever day the Staff Director deems appropriate.

.03 The Staff Director shall submit the names of any individuals whom he/she proposes to appoint as Deputy Staff Director or General Counsel to the Commission.

During a period of 30 calendar days after such submission, the Commission, by a vote of a majority, may reject such proposed appointments. If the Commission fails to act during such period, the Staff Director thereafter may proceed with the appointments.



MARY FRANCES BERRY
Chairperson

Issued: APR 15

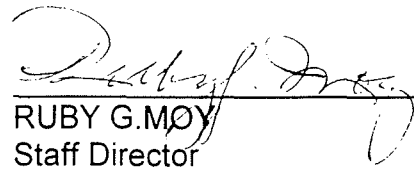
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-17

RE-DELEGATION OF AUTHORITY

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 1-17, effective immediately.


RUBY G. MOY
Staff Director

Issued: 12/5/04

ADMINISTRATIVE INSTRUCTION 1-18A

PROCEDURES FOR PUBLIC FINANCIAL DISCLOSURE SYSTEM

SECTION 1. PURPOSE

.01 This Administrative Instruction supplements the applicable statutes and regulations regarding public financial disclosure systems and sets forth specific procedures for the filing, collecting, reviewing, evaluating, and making publicly available the public financial disclosure reports filed by Commission employees.

SECTION 2. POLICY

.01 Pursuant to the Ethics in Government Act of 1978, as amended, it is the policy of the United States Government and the U.S. Commission on Civil Rights that high-level Federal officials disclose publicly their personal financial interests, to ensure confidence in the integrity of the Federal Government by demonstrating that they are able to carry out their duties without compromising the public trust. The financial disclosure system serves to prevent conflicts of interest and to identify potential conflicts by providing for a systematic review of the financial interests of both current and prospective officers and employees.

SECTION 3. DEFINITIONS

.01 Definition of Public Filer. All Commission employees who meet the definition of public filer must file a public financial disclosure report, unless covered by an exclusion.

(a) Generally, the term public filer covers the following positions:

- (1) each officer or employee, including a special Government employee, whose position is classified above GS-15 of the General Schedule, or at a rate of pay other than under the General Schedule which is at a rate equal to or greater than 120% of the minimum rate of basic pay for GS-15 of the General Schedule.
- (2) any employee not otherwise described under (a)(1) above who is in position which is excepted from the competitive service by reason of being of a confidential or policy-making character.
- (3) the Commission's primary designated ethics official.

02. Exclusions

- (a) Any individual or group of individuals described under section 3.01 (a)(2) may be excluded from the public reporting requirements when the Director of the Office of Government Ethics determines, in his sole discretion, that such exclusion would not affect adversely the integrity of the Government or the public confidence in the integrity of the Government.
 - (1) The determination required by the above paragraph has been made for the following group of individuals: Individuals in any position classified at GS-15 of the General Schedule or below, or the rate of basic pay which is less than 120% of the minimum rate of basic pay fixed for GS-15, who have no policy-making role with respect to Agency programs.
 - (2) The exclusion of any individual pursuant to this section will be effective as of the time the Commission files with the Office of Government Ethics a list and description of each position for which exclusion is sought and the identity of any incumbent employees in those positions.
- (b) Any public filer who, as determined by the DAEO, is not reasonably expected to perform the duties of an office or position described in section 3.01 for more than 60 days in any calendar year shall not be subject to the public financial disclosure reporting requirements.
- (c) In unusual circumstances the Director of the Office of Government Ethics may grant a request for a waiver of these requirements. Employees should contact the DAEO for further information on waivers.

.03 Designated Agency Ethics Official (DAEO). The Solicitor is the Designated Agency Ethics Official (DAEO) and is delegated the authority to coordinate and manage the Commission's Ethics Program as set forth in 5 C.F.R. § 2638.203. The DAEO has primary responsibility for the administration, coordination, and management of the Commission's Ethics Program. The DAEO's oversight responsibilities include ensuring that the Commission's Ethics Program has adequate resources, is effective, and is administered in accordance with applicable laws and regulations. The DAEO makes delegations of authority and ensures that prompt and effective action is taken to remedy potential or actual conflicts of interests. The DAEO's responsibilities include, but are not limited to, the following activities:

- a. Providing written or oral opinions concerning the application of the conflict of interest laws or the Standards of Ethical Conduct for Employees of the Executive Branch to Government employees;
- b. Developing and conducting training; and

- c. Ensuring proper maintenance and disposition of Ethics Program records in accordance with the Records Retention Schedules.

.04 Alternate Designated Agency Ethics Official (ADAEO). The Alternate Designated Agency Ethics Official (ADAEO) manages the Ethics Program on behalf of the DAEO. The ADAEO is responsible to the DAEO for all Ethics Program activities Commission-wide.

SECTION 4. FILING REQUIREMENTS AND PROCEDURES

01. General Requirements for Filing

- (a) Incumbents. A public filer, as described under section 3.01, who during any calendar year performs the duties of his/her position or office for a period in excess of 60 days shall file a public financial disclosure report on or before May 15 of the succeeding year;
- (b) New Entrants.
 - (1) Within 30 days of assuming a public filer position, as described under section 3.01, an individual shall file a public financial disclosure report.
 - (2) However, no report shall be required of an employee described in the preceding paragraph if the individual has, within 30 days prior to assuming such position, left another position or office for which a public financial disclosure report was required to be filed.
- (c) Termination of employment. On or before the 30th day after termination of employment from a public filer position described under section 3.01, an individual shall file a public financial disclosure report. However, if within 30 days of such termination the individual assumes employment in another position or office for which a public report is required, no report shall be required by the provisions of this paragraph.

02. Identification of Public Filers. The Commission's Designated Agency Ethics Officer (DAEO) will be responsible for maintaining and updating a master list of positions at the Commission which require the filing of a public financial disclosure report.

The DAEO will be responsible for providing the Director of Human Resources with a copy of the master list of employees covered by this section. The Director of Human Resources will notify the DAEO whenever a covered position is being filled by a new hire or when the incumbent of a covered position is vacating that position. The DAEO and the Director of Human Resources will coordinate to ensure that any new entrant or exiting employee will receive a copy of the requisite SF 278 with instruction for its completion and the name and phone number of the Commission's primary and alternate DAEOs.

- (b) The DAEO annually will identify and notify all incumbents who are required to file public financial disclosure.

03. Filing Instructions. The Commission's DAEO will ensure that all required filers are notified in a timely manner and provided with instructions for filing.

- (a) By April 15th of each year, the DAEO will notify the incumbent public filers of their obligation to file a report and provide them with an SF 278.
- (b) Each filer will be required to return to the DAEO the completed SF 278 by May 15th of each year.
- (c) The DAEO shall contact any employee who has not returned the form in order to assure compliance.
- (d) Any new entrants or employees vacating a position covered by this section will be given the SF 278 as part of their orientation or exit process.
- (e) Any questions concerning the forms or filing requirements should be directed to the DAEO.
- (f) Any requests for extensions should follow the instructions outlined in subparagraph 04. of this section.
- (g) A copy of the report filed by the Commission's DAEO shall be transmitted to the Office of Government Ethics.

04. Extensions. Any requests for extensions shall be directed to the DAEO. The DAEO may, for good cause shown, grant to any public filer or class thereof an extension of time for filing that shall not exceed 45 days.. The DAEO has been delegated authority by the Director of Government Ethics to grant an additional period of time that shall not exceed 45 days. The employee shall set forth the specific reasons in his or her request for a second extension, which he/she shall forward to the DAEO.

SECTION 5. REVIEW STANDARDS AND PROCEDURES

01. Review of Reports. The DAEO will serve as the reviewing official for the Commission.

- (a) The DAEO shall note on any report the date on which it is received.
- (b) Except as otherwise indicated, all reports shall be reviewed within 60 days after the date of filing.
- (c) Initial review. The DAEO shall examine the report to determine, to his/her satisfaction, that:

- (1) each required item is completed;
- (2) no interest or position disclosed on the form violates or appears to violate:
 - (A) any applicable provision of chapter 11 of Title 18, United States Code;
 - (B) the Ethics in Government Act of 1978, as amended, and the implementing regulations;
 - (C) Executive Order 12674, as modified by Executive Order 12731, and the implementing regulations; or
 - (D) Any other Commission-specific statute or regulation which governs the filer.
- (d) If the DAEO determines that the report meets the requirements of paragraph (c) of this section, he/she shall certify by signature and date. The DAEO need not audit the report to ascertain whether the disclosures are correct.
- (e) If the DAEO believes that additional information is required, he/she shall request that it be submitted by a specific date. This additional information shall be made a part of the report.
- (f) If the DAEO concludes, on the basis of the information disclosed in the report and any additional information submitted, that the report fulfills the requirements of paragraph (c) of this section, the DAEO shall sign and date the report.

02. Compliance with Applicable Laws. If the DAEO concludes that the information disclosed in the report may reveal a violation of applicable laws and regulations, the DAEO shall:

- (a) notify the filer of that conclusion;
- (b) afford the filer a reasonable opportunity for an oral or written response; and
- (c) determine, after considering the response, whether or not the filer is then in compliance with applicable laws and regulations. If the DAEO concludes that the report does fulfill the requirements, he/she shall sign and date the report. If he/she determines that it does not, he/she shall:
 - (1) notify the filer of that conclusion;
 - (2) afford the filer an opportunity for personal consultation if practicable;
 - (3) determine what remedial action under subparagraph .03 of this section should be taken to bring the report into compliance; and

- (4) notify the filer in writing of the remedial action which is needed and the date by which such action should be taken.

03. Remedial Action. Except in unusual circumstances, which must be fully documented to the satisfaction of the DAEO, remedial action shall be completed not later than three months from the date on which the filer received notice that the action was required.

(a) Remedial action may include, as appropriate:

- (1) divestiture of a conflicting interest;
- (2) resignation from a position with a non-Federal business or other entity;
- (3) restitution;
- (4) establishment of a qualified blind or diversified trust;
- (5) procurement of a waiver under 18 U.S.C. §§ 208(b)(1) or (b)(3);
- (6) preparation of a written instrument of recusal; or
- (7) voluntary request by filer for transfer, reassignment, limitation of duties, or resignation.

(b) If the filer complies with a written request for remedial action the DAEO shall indicate, in the comment section of the report, what remedial action has been taken. The DAEO shall also sign and date the report.

(c) If the filer does not comply by the designated date with the written request for remedial action, the DAEO shall notify the Staff Director and the Office of Government Ethics for appropriate action.

SECTION 6. ETHICS TRAINING

.01 The DAEO and the Alternate DAEO will have the responsibility of providing annual training on ethics laws and regulations to new entrants and to incumbent employees in positions covered by this AI. This will include providing materials on ethics requirements of the Office of Government Ethics. They will keep attendance rosters of the individuals who have received this training.

SECTION 7. ADVICE AND COUNSELING

.01 Disciplinary action for violating the Standards of Ethical Conduct or the supplementary Commission regulation will not be taken against an employee who has engaged in conduct in

good faith reliance upon the advice of a Commission ethics official, provided that the employee, in seeking such advice, has made full disclosure of all relevant circumstances.

.02 Advice and counseling can be either verbal or written, but preferably written. Any written interpretations, whether of criminal statutes or conflict of interest, shall be based on a written statement of facts by the employee seeking the interpretation. All written opinions interpreting the statutes at Chapter 11 of Title 18 shall be prospective in nature, and no written opinion shall be issued which includes a determination of whether such statutes have been violated by an employee's prior conduct. Any relevant facts gathered from other witnesses shall be documented.

SECTION 8. PROGRAM REVIEW

01 At the end of the year the DAEO shall conduct a review of this program and determine if this AI needs to be modified accordingly.

SECTION 9. CUSTODY AND ACCESS TO PUBLIC FINANCIAL DISCLOSURE REPORTS

01. The SF 278 reports filed by Commissioners shall be treated as if they were confidential reports until the Commissioner exceeds 60 workdays. The Office of Human Resources will advise the DAEO when a Commissioner works more than 60 days. Upon this notice the DAEO will deal with the report as if it were a public financial disclosure report.
02. Public Access to Reports. The Commission shall make available to the public in accordance with the provisions of this section those public financial disclosure reports filed with the Commission by reporting individuals.
 - (a) The Commission shall, within 30 days after any public financial disclosure report is received by the DAEO, permit inspection of the report by, or furnish a copy of the report to, any person who makes written application as provided by Commission procedures. An application shall state:
 - (1) the requesting person's name, occupation and address;
 - (2) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and
 - (3) that the requesting person is aware of the prohibitions on obtaining or using the report for purposes set forth in paragraph (c) of this section.
 - (b) The Commission may require a reasonable fee, established by Commission regulation, to recover the direct cost of reproduction or mailing of a public report, excluding the salary of any employee involved. A copy of the report may be furnished without charge, or at a reduced charge, if the Commission determines that

the waiver or reduction of the fee is in the public interest, as established by Commission regulation.

(c) It is unlawful for any person to obtain or use a public report:

- (1) for any lawful purpose;
- (2) for any commercial purpose, other than by news and communications media for dissemination to the general public;
- (3) for determining or establishing the credit rating of any individual; or
- (4) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

03. Custody of Public Financial Disclosure Reports

Any report filed with the Commission under this AI must be retained and available to the public for a period of six years after receipt. When the six year period expires, the report shall be destroyed unless needed in an ongoing investigation.

SECTION 10 PENALTIES

01. Late Filing Fee

(a) Any reporting individual who is required to file a public financial disclosure report shall remit a late filing fee of \$200 to the Commission, payable to the U.S. Treasury, if such report is more than thirty days after the later of:

- (1) the date such report is required to be filed pursuant to the provisions of this part; or
- (2) the last day of any filing extension period granted.

(b) The Director of the Office of Government Ethics may waive the late filing fee if he/she determines that the delay in filing was caused by extraordinary circumstances which made the delay reasonably necessary. Any request for a waiver of this filing fee must be made in writing and submitted with supporting documentation to the DAEO.

(c) The Commission's DAEO shall maintain a record of the due dates for all public reports, along with the new filing dates under extensions which have been granted. For any report which has not been received by the end of the period specified in paragraph (a) of this section, the agency shall advise the delinquent filer in writing, that:

- (1) because his/her financial disclosure report is more than 30 days overdue, a \$200 late filing fee will become due at the time of filing;
- (2) the filer is directed to remit to the agency, with the completed report, the \$200 fee, payable to the U.S. Treasury;
- (3) if the filer fails to remit the \$200 fee when filing his/her report, it shall be subject to agency debt collection procedures; and
- (4) if extraordinary circumstances exist that would justify a request for a fee waiver, such requests and supporting documentation must be submitted immediately.

2. Failure to File or Falsifying Reports. The Staff Director of the Commission or the Director of the Office of Government Ethics, as appropriate, shall refer to the Attorney General the name of any individual when there is reasonable cause to believe that such individual has willfully failed to file a public report or information required on such report, or has willfully falsified any information required to be reported. The Attorney General may bring a civil action at any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information required by filers of public reports. An individual may be subject to civil and criminal penalties. The President or the Staff Director also may take appropriate personnel or other action in accordance with applicable law or regulation.



KENNETH L. MARCUS
Staff Director

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-18B

ORDER OF PRECEDENCE

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI), Order of Precedence (Order), is to provide for the effective management and day-to-day administration of the U.S. Commission on Civil Rights in the absence¹ of the Staff Director by establishing an orderly system of the delegation of authority.

SECTION 2. PROCEDURES

.01 When the Staff Director is absent, the Deputy Staff Director or the individual serving as Acting Deputy Staff Director shall assume the authority to manage the Office of the Staff Director.

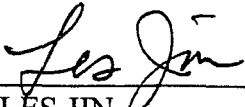
.02 When the Staff Director and the Deputy Staff Director are both absent, the Assistant Staff Director for the Office of Civil Rights Evaluation shall assume the duties and authority of the Acting Deputy Staff Director.

SECTION 3. SCOPE OF AUTHORITY

In the absence of the Staff Director, the individual managing the Office of the Staff Director pursuant to Section 2 of this AI will assume full responsibility and authority of the Staff Director, including signatory authority.

SECTION 4. DURATION

This order of precedence supersedes all other delegations of authority and will remain in effect until superseded or canceled. This order also supersedes any prior orders of precedence.



LES JIN
Staff Director

¹ For purposes of this Administrative Instruction, 1-18B, absence is defined as the inability of an employee to carry out his or her legal function due to vacancy of the position, travel, vacation, or any other reason.

Issued: 12/5/04

ADMINISTRATIVE INSTRUCTION 1-19

PROCEDURES FOR CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEM

SECTION 1. PURPOSE

.01 The purpose of this Administrative Instruction (AI) is to establish the U.S. Commission on Civil Rights' policy and procedures governing its confidential disclosure system as required by law and applicable regulation.

SECTION 2. POLICY

.01 The confidential financial reporting system set forth in this Administrative Instruction (AI) is designed to complement the public reporting system established at AI 1-18A. It is equally important in order to guarantee the efficient and honest operation of the Government that other, less senior employees, whose Government duties involve the exercise of significant discretion in certain sensitive areas, report their financial interests and outside business activities to facilitate the review of possible conflicts of interest.

SECTION 3. DEFINITIONS

.01 Definition of Confidential Filer. All Commission employees who meet the definition of confidential filer must file a confidential financial disclosure report, unless covered by an exemption.

(a) Generally, the term confidential filer covers the following positions:

(1) each officer or employee whose position is classified at GS-15 or below of the General Schedule, or at a rate of pay which is less than 120% of the minimum rate of basic pay for GS-15 of the General Schedule, if:

(A) the Commission concludes that the duties and responsibilities of the position require that employee to participate personally and substantially through decision making or the exercise of significant judgment, in taking a Government action regarding:

(i) contracting or procurement;

(ii) administering or monitoring federally conferred financial or operational benefits;

(iii) regulating or auditing any non-Federal entity; or

(iv) other activities in which the final decision or action will have direct and substantial economic effect on the interest of any non-Federal entity; or

(B) the Commission concludes that the duties and responsibilities of the position require the employees to file such a report to avoid involvement in a real or apparent conflict of interest, and to carry out the purposes behind any statute, Executive Order, rule or regulation applicable to or administered by that employee.

(2) unless required to file public financial disclosure reports by AI 1-18A, all executive branch special Government employees, excluding those who serve on advisory committees.

.02 Exclusions.

(a) Any individual or class of individuals, including special Government employees may be excluded from all or a portion of the confidential reporting requirements of this AI, when the Staff Director determines that:

- (1) The duties of the position make remote the possibility that the incumbent will be involved in a real or apparent conflict of interest;
- (2) The duties of a position involve such a low level of responsibility that the submission of a confidential financial disclosure report is unnecessary because of:

(A) the substantial degree of supervision and review over the position; or

(B) the inconsequential effect of any potential conflict on the integrity of the Government; or

- (3) The use of an alternative procedure approved in writing by the Office of Government Ethics is adequate to prevent possible conflicts of interest.

(b) The Staff Director, or his/her designee, shall review any complaint by an individual that his/her position has been improperly determined by the agency to be one which requires the submission of a confidential financial disclosure report. A decision by the Staff Director regarding the complaint shall be final.

(c) The requirements of this AI shall not apply to members of the Commission's State Advisory Committees.

.03 Designated Agency Ethics Official (DAEO). The Solicitor is the Designated Agency Ethics Official (DAEO) and is delegated the authority to coordinate and manage the Commission's Ethics Program as set forth in 5 C.F.R. § 2638.203. The DAEO has primary responsibility for the administration, coordination, and management of the Commission's Ethics Program. The DAEO's oversight responsibilities include ensuring that the Commission's Ethics Program has adequate resources, is effective, and is administered in accordance with applicable laws and regulations. The DAEO makes delegations of authority and ensures that prompt and effective action is taken to remedy potential or actual conflicts of interests. The DAEO's responsibilities include, but are not limited to, the following activities:

- a. Providing written or oral opinions concerning the application of the conflict of interest laws or the Standards of Ethical Conduct for Employees of the Executive Branch to Government employees;
- b. Developing and conducting training; and
- c. Ensuring proper maintenance and disposition of Ethics Program records in accordance with the Records Retention Schedules.

.04 Alternate Designated Agency Ethics Official (ADAEO). The Alternate Designated Agency Ethics Official (ADAEO) manages the Ethics Program on behalf of the DAEO. The ADAEO is responsible for all agency ethics activities when the DAEO is unavailable or otherwise unable to perform the duties, or if the DAEO delegates some specific activities.

SECTION 4. FILING REQUIREMENTS AND PROCEDURES

01. General Requirements for Filing

(A) Incumbents. A confidential filer who holds a position or office described under section 3.01 of this AI and who performs the duties of that position or office for a period in excess of 60 days during the preceding calendar year shall file a confidential report as an incumbent on or before February 15.

- (1) The confidential report for February 15, 2007, shall cover the 15 month period from October 1, 2005 to December 31, 2006.
- (2) No incumbent reports are required of special Government employees covered by this AI, but they must file new entrant reports under paragraph (b) of this section upon each appointment, re-designation as an SGE, or upon the anniversary of his/her initial appointment.

(b) New Entrants

- (1) not later than 30 days after assuming a new position or office described under Section 3.01 of this AI, a confidential filer shall file a confidential report.

(2) however, no report shall be required of an employee described under this section, if the individual:

(A) has within 30 days prior to assuming his position, left another position or office referred to in section 3.01 of this AI and has previously satisfied the reporting requirements applicable to that former position, but a copy of the report filed by the individual while in that position should be made available to the Commission;

(B) has already filed such a report in connection with consideration for appointment to the position. The Commission may request that the individual update such a report if more than 6 months has elapsed since it was filed; or

(C) is not reasonably expected to perform the duties of an office or position referred to in section 3.01 of this AI for more than 60 days in the following twelve-month period, as determined by the Commission's designated agency ethics official (DAEO). If the individual actually performs the duties of such position for more than 60 days in the twelve-month period, then a confidential financial disclosure report must be filed within 15 calendar days after the sixtieth day of such service in the position. This paragraph does not apply to new entrants filing as special Government employees under section 3.01(a)(2) of this AI.

.02 Identification of Confidential Filers. The Commission's DAEO will be responsible for maintaining and updating a master list of positions at the Commission which require the filing of a confidential financial disclosure report.

(a) The DAEO will be responsible for providing the Director of the Human Resources Division with a copy of the master list of employees covered by this section. The Director of Human Resources will notify the DAEO whenever a position covered by this AI is being filled by a new hire. The DAEO and the Director of Human Resources will coordinate to ensure that any new entrant receives a copy of the requisite SF- 450 with instructions for its completion and the name and phone number of the Commission's primary and alternate DAEOs.

(b) The DAEO annually will identify and notify all incumbents who are required to file a confidential financial disclosure report.

.03 Filing Instructions. The Commission's DAEO will ensure that all required filers are notified in a timely manner and provided with instructions for filing.

(a) By February 1 of each year, the DAEO will notify all incumbent confidential filers of their obligation to file a report and will provide them with an SF 450.

(b) Each filer will be required to return to the DAEO the completed SF 450 by February 15th of each year.

(c) The DAEO shall contact any employee who has not returned the form by February 15th in order to ensure compliance.

(c) Any new entrant covered by this section will be given the SF 450 as part of his/her orientation process.

(e) Any questions concerning the forms or filing requirements should be directed to the DAEO.

(f) Any requests for extension should follow the instructions outlined in item .04 of this section.

.04 Extensions. The Commission's DAEO may, for good cause shown, grant any employee or class of employees a filing extension or several extensions totaling not more than 90 days.

SECTION 5. SPECIAL GOVERNMENT EMPLOYEES WHO SERVE MORE THAN 60 DAYS

.01 Whenever a special Government employee, not to include State Advisory Committee members, serves more than 60 days the Office of Human Resources will notify the DAEO so that the disclosure form is treated as a public financial disclosure report.

SECTION 06. ETHICS TRAINING

.01 The DAEO and the Alternate DAEO will have the responsibility of providing annual training on ethics laws and regulations to new entrants and to incumbent employees in positions covered by this AI. This will include providing materials on ethics requirements of the Office of Government Ethics. They will keep attendance rosters of the individuals who have received this training.

SECTION 7. ADVICE AND COUNSELING

.01 Disciplinary action for violating the Standards of Ethical Conduct or the supplementary Commission regulation will not be taken against an employee who has engaged in conduct in good faith reliance upon the advice of a Commission ethics official, provided that the employee, in seeking such advice, has made full disclosure of all relevant circumstances.

.02 Advice and counseling can be either verbal or written, but preferably written. Any written interpretation, whether of the conflict of interest statutes, the standards of ethical conduct for federal employees, the OPM ethics regulations or the Commission supplementary ethics regulation shall be based on a written statement of facts by the employee seeking the interpretation. All written opinions interpreting the statutes at Chapter 11 of Title 18 shall be prospective in nature, and no written opinion shall be issued which includes a determination of

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(C) Executive Order 12674, as modified by Executive Order 12731, and the implementing regulations; or

(D) any other Commission-specific statute or regulation which governs the filer.

- (d) If the DAEO determines that the report meets the requirements of paragraph (c) of this section, he/she will certify by signature and date. The DAEO need not audit the report to ascertain whether the disclosures are correct.
- (e) If the DAEO believes that additional information is required, he/she shall request that it be submitted by a specified date. This additional information shall be made a part of the report. If the DAEO concludes, on the basis of the information disclosed in the report and any additional information submitted, that the report fulfills the requirements of paragraph (c) of this section, the reviewing official shall sign and date the report.

02. Compliance with Applicable Laws. If the DAEO concludes that the information disclosed in the report may reveal a violation of applicable laws and regulations, the DAEO shall:

- (a) notify the filer of that conclusion;
- (b) afford the filer a reasonable opportunity for an oral or written response; and
- (c) determine, after considering the response, whether or not the filer is then in compliance with applicable laws and regulations. If the DAEO concludes that the report does fulfill the requirements, he/she shall sign and date the report. If he/she determines that it does not, he/she shall:
 - (1) notify the filer of the conclusion;
 - (2) afford the filer the opportunity for personal consultation if practicable;
 - (3) determine what remedial action under item .03 of this section should be taken to bring the report into compliance; and
 - (4) notify the filer in writing of the remedial action which is needed, and the date by which such action should be taken.

03. Remedial Action. Except in unusual circumstances, which must be fully documented to the satisfaction of the DAEO, remedial action shall be completed not later than three months from the date on which the filer received notice that the action is required.

(a) Remedial action may include, as appropriate:

- (1) divestiture of a conflicting interest;

- (2) resignation from a position with a non-Federal business or other entity;
- (3) restitution;
- (4) establishment of a qualified blind or diversified trust;
- (5) procurement of a waiver under 18 U.S.C. 208(b)(1) or (b)(3);
- (6) preparation of a written document of recusal; or
- (7) voluntary request by filer for transfer, reassignment, limitation of duties, or resignation.

(b) If the filer complies with a written request for remedial action the DAEO shall indicate, in the comment section of the report, what remedial action has been taken. The DAEO shall also sign and date the report.

(c) If the filer does not comply by the designated date with the written request for remedial action, the DAEO shall notify the Staff Director for appropriate action.

SECTION 10. CUSTODY OF AND ACCESS TO CONFIDENTIAL FINANCIAL DISCLOSURE REPORTS

01. Access to Confidential Financial Disclosure Reports.

Reports filed pursuant to this AI are confidential and are required to be withheld from the public. The confidential reports contain sensitive commercial and financial information, as well as personal privacy-protected information. These reports and the information which they contain are exempt from being released to the public, under exemptions 3(A) and (B), 4 and 6 of the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(3)(A) and (B), (b)4 and (b)6. Additional FOIA exemptions may apply to particular reports or portions of reports. Commission personnel shall not publicly release the reports or the information which these reports contain, except pursuant to an order issued by a Federal court, or as otherwise provide under applicable provisions of the Privacy Act.

02. Custody and Retention of Confidential Financial Disclosure Reports

Any report filed with the Commission pursuant to this AI must be retained for a period of six years after receipt. When the six year period expires, the report shall be destroyed unless needed in an ongoing investigation.


SECTION 11. PENALTIES

.01 The Staff Director of the Commission or the Director of the Office of Government Ethics, as appropriate, shall refer to the Attorney General the name of any individual when there is

reasonable cause to believe that such individual has willfully falsified any information required to be reported under this AI.

.02 An individual may also be prosecuted under criminal statutes for supplying false information on any financial disclosure report.

.03 The President, the Director of the Office of Government Ethics, the Staff Director and the Office of Personnel Management may take appropriate personnel or other action in accordance with applicable law or regulation against any individual for failing to file confidential reports required by this AI, for filing such reports late, or for falsifying or failing to report required information.



KENNETH L. MARCUS
Staff Director

Issued: 10/6/06

ADMINISTRATIVE INSTRUCTION 1-19A
ETHICS PROGRAM AND FINANCIAL DISCLOSURE
PROCEDURES FOR STATE ADVISORY COMMITTEE MEMBERS

SECTION 1. PURPOSE

.01 The purpose of this Administrative Instruction (AI) is to establish the U.S. Commission on Civil Rights policy and procedures governing the ethics program and disclosure procedures for Federal Government employees appointed to State Advisory Committees (SACs).

SECTION 2. POLICY

.01 The policy of the Commission is to delegate to regional directors the authority to administer the ethics program for SAC members as prescribed in this AI. However, the Designated Agency Ethics Officer (DAEO) has primary authority for the administration, coordination, and management of the ethics program. Under this authority, the DAEO will review ethics matters to ensure accuracy and consistency, conducting program reviews, and developing ethics materials. The financial reporting system set forth in this AI complements the confidential reporting system established at AI 1-19.

SECTION 3. DEFINITIONS

.01 Special Government Employee (SGE). A special government employee means an officer or employee of the executive branch of the United States Government, of any independent agency of the United States or of the District of Columbia, who is retained, designated, appointed, or employed to perform, with or without

compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis. For purposes of this AI the term SGE also includes regular Federal employees appointed to SACs.

.02 Designated Agency Ethics Official (DAEO). The Solicitor is the Designated Agency Ethics Official (DAEO) and is authorized to coordinate and manage the Commission's ethics program as set forth in 5 C.F.R. § 2638.203. The DAEO has primary responsibility for the administration, coordination, and management of the Commission's ethics program. The DAEO's oversight responsibilities include ensuring that the Commission's ethics program is effective, administered in accordance with applicable laws and regulations and has adequate resources. The DAEO makes delegations of authority and ensures that prompt and effective action is taken to remedy potential or actual conflicts of interests. The DAEO's responsibilities include, but are not limited to, the following activities:

- a. providing written or oral opinions concerning the application of the conflict of interest laws or the Standards of Ethical Conduct for Employees of the Executive Branch to government employees;
- b. developing and conducting training materials; and
- c. ensuring proper maintenance and disposition of ethics program records in accordance with the Records Retention Schedules.

.03 Alternate Designated Agency Ethics Official (ADAEO). The Alternate Designated Agency Ethics Official (ADAEO) performs the duties of the ethics program on behalf of the DAEO, when these duties are delegated by the DAEO, for example, but not limited to, when there is large amount of ethics related matters or the DAEO is unable to perform the duties.

.04 Deputy Designated Agency Ethics Official (DDAEO). The Deputy DAEO for each regional office shall be the regional director or other person designated by the Staff Director. Deputy DAEOs are delegated the authority to administer the ethics

program for SAC members as prescribed in this AI. Their responsibilities include, but are not limited to, the following activities:

- a. collecting and reviewing the Confidential Conflict-of-interest Statement of the SAC members;
- b. training SAC members on ethics materials that are developed by the DAEO;
- c. providing advice and counseling to SAC members as prescribed by Section 6 of this AI;
- d. working with the DAEO to ensure that SAC members comply with this AI and the applicable ethics and standards of conduct requirements for special government employees; and
- e. reporting to the DAEO on ethics matters as prescribed by this AI.

.05 Confidential Conflict-of-Interest Statement (Confidential Statement). The Confidential Statement shall be the form submitted by SAC members to comply with their requirement to file a Confidential Statement.¹

SECTION 4. FILING REQUIREMENTS AND PROCEDURES

01. Upon appointment, SAC members shall file the Confidential Statement (CCR 17) not later than 30 calendar days after the member's appointment. A SAC member who has not filed the report may not participate in committee deliberations or activities, including SAC meetings.

.02 The agency appointment letter of each SAC member shall clearly reference the member's appointment date.

¹ (On June 21, 2006, Joseph Gangloff, Deputy Director of Agency Programs of OGE, authorized the use of the Confidential Statement that is attached to this AI as Appendix A).

.03 Each SAC member shall file a Confidential Statement on the anniversary of the date for filing their initial Confidential Statement.

.04 A SAC member leaving his/her position is not required to file a termination report.

.05. Each year the Deputy DAEOs will identify all SAC members who are required to file a Confidential Statement as SGEs. The Deputy DAEO will notify the SAC member at least 15 days before the Confidential Statement is due and will include in the notice instructions for filing. The notification notice shall make clear that any questions about the Confidential Statement should be directed to the Deputy DAEO.

.06 The Deputy DAEO will maintain a list for each SAC that indicates:

- a. the date the SAC charter was filed;
- b. a list of committee members; and
- c. the date their reports are due, the due date of any extension(s), and the date the form was filed.

.07 Extensions. The Deputy DAEO may, for good cause shown, grant any SAC member one or more extensions for filing the Confidential Statement, totaling not more than 90 calendar days. Consistent with subsection .01 of this Section, the SAC member who has not filed the statement may not participate in committee deliberations, including SAC meetings.

SECTION 5. REVIEW STANDARDS AND PROCEDURES

.01 Review of Confidential Conflict-of-Interest Statements. The Deputy DAEO will be the reviewing official for Confidential Statements filed by SAC members. The review shall comply with the following standards:

- a. The Deputy DAEO shall record the date on which the Confidential Statement and any related information is received;
- b. all Confidential Statements shall be reviewed within 60 days after the date of filing;
- c. The Deputy DAEO shall examine the Confidential Statement to determine that:
 - 1. each required item has been included;
 - 2. no interest or position disclosed on the report violates or appears to violate:
 - (A) any applicable provision of Chapter 11 of Title 18, United States Code, the criminal conflict of interest statutes for federal employees that carry criminal penalties for non-compliance;
 - (B) the Ethics in Government Act of 1978, as amended, and the implementing regulations, the law that sets financial disclosure requirements for public officials, restrictions on former government employees lobbying activities, and imposes limits on gifts and honoraria;
 - (C) any other Commission-specific statute or regulation which governs SAC members, such as 45 CFR Part 706.
- d. The Deputy DAEO shall certify by signature and date if the Confidential Statement meets the requirements of this subsection. The Deputy DAEO is not required to audit the Confidential Statement in order to make the certification.
- e. If the Deputy DAEO believes that additional information is required before the certification can be made, he/she shall request that it be submitted by a specific date. The request for additional information shall

be attached to the Confidential Statement. If the additional information means that this subsection has been satisfied, the Deputy DAEO shall complete and sign the certification section of the Confidential Statement.

.02 Compliance with Applicable Laws. If the Deputy DAEO concludes that the Confidential Statement indicates a violation of applicable laws and regulations, the Deputy DAEO shall:

- a. notify the SAC member of that conclusion;
- b. afford the SAC member a reasonable opportunity for an oral or written response; and
- c. determine, after considering the response, whether or not the SAC member is in compliance with applicable laws and regulations. If in compliance, the Deputy DAEO shall certify and date the Confidential Statement. If it does not, the Deputy DAEO shall:
 1. notify the SAC member of the determination;
 2. afford the SAC member the opportunity for personal consultation, if practicable;
 3. determine what remedial action is practicable;
 4. notify the SAC member in writing of the required remedial action and a date certain by which such action should be taken.

.03 Remedial Action. Except in unusual circumstances, which must be fully documented to the satisfaction of the Deputy DAEO, remedial action shall be completed not later than three months from the date on which the SAC member received notice of the required remedial action. All remedial actions must be approved by the DAEO;

- a. Remedial action may include, as appropriate:

1. divestiture of a conflicting interest;
2. resignation from a position with a non-Federal business or other entity;
3. restitution;
4. establishment of a qualified blind or diversified trust;
5. procurement of a waiver under 18 U.S.C. 208(b) (1) or (b) (3);
6. preparation of a written document of recusal; or
7. voluntary request by SAC member for limited duties, or resignation.

A copy of the remedial action shall be attached to the disclosure form.

b. If the SAC member complies with a written request for remedial action the Deputy DAEO shall attach a memorandum to the Confidential Statement describing the remedial action that has been taken and certify the Confidential Statement as required by .01(b) of this Section.

c. If the SAC member does not comply with the written request, the Deputy DAEO shall refer the matter to the DAEO for appropriate action as provided in Section 11.

SECTION 6. ADVICE AND COUNSELING

.01 Advice and counseling can be either verbal or written. The Deputy DAEO shall submit all written interpretations of any violation of:

(A) any applicable provision of Chapter 11 of Title 18, United States Code, the criminal conflict of interest statutes for federal employees that carry criminal penalties for non-compliance;

(B) the Ethics in Government Act of 1978, as amended, and the implementing regulations, the law that sets financial disclosure requirements for public officials, restrictions on former government employees lobbying activities, and imposes limits on gifts and honoraria;

(C) any other Commission-specific statute or regulation which governs SAC members, such as 45 CFR Part 706.

to the DAEO for review and clearance. A statement of facts will be provided by the SAC member seeking the interpretation. All written opinions interpreting the statutes at Chapter 11 of Title 18 shall be prospective in nature, and no written opinion shall be issued which includes a determination of whether such statutes have been violated by an SAC member's prior conduct. Any relevant facts gathered from other witnesses shall also be documented.

.02 Ethics officials should tailor advice to the needs and requirements of each situation. Factors to consider should include the following:

- a. The preferences of the SAC member;
- b. The importance of the substantive advice;
- c. The need to formally document background factual information;
- d. The need to formally document any advice to help protect the Commission and SAC member with respect to the SAC member's needs, the preference of potential outside entities, and against any potential criminal investigation; and

e. The need to report information to the Office of Government Ethics, the need to document Commission precedent and maintain accurate statistics for Commission use.

.03 To the extent practicable, ethics officials should keep some record of oral advice given for all but the most general and/or informal requests.

.04 SAC members do not have to request prior approval from the the Deputy DAEO for outside employment.

SECTION 7. ETHICS TRAINING

.01 The DAEO has the responsibility of preparing ethics training material for SAC members. These materials will be updated based on changes in law or regulation, current events, or specific ethics needs and trends identified through the program review function.

.02 The Deputy DAEOs will conduct training for SAC members who are new entrants and henceforth annually. The Deputy DAEOs will also maintain attendance rosters of those SAC members who have been trained, and forward the rosters to the DAEO at the end of the year. These rosters shall contain the following information:

- a. number of SAC members required to file Confidential Statements;
- b. number of SAC members required to receive initial ethics orientation;
- c. number of SAC members who actually received initial ethics orientation;
- d. how often was initial ethics orientation provided to SAC members;

_____ Once a week
_____ Every two weeks
_____ Every ninety days
_____ Other (specify)_____

e. number of SAC members who were required to receive annual ethics training; and

f. number of SAC members who actually received annual ethics training. If the number of employees required to receive annual training is different than the number of employees that actually received annual training, provide a brief explanation.

SECTION 8. REPORTING INFORMATION

.01 During the first week of January, and no later than January 8, the Deputy DAEs will send to the DAE the following information:

- a. the list required by Section 4.06 of this AI;
- b. the rosters required by Section 7.02 of this AI; and

.02 In addition, if the Deputy DAEs has issued opinions, advice and counseling during the previous calendar year, they will rate the following topics based on the frequency that they were addressed utilizing the following frequency scale to the topics:

1=not at all 2=Rarely 3=Periodically 4=Frequently 5=Very Frequently

- a. Outside employment activities
- b. Post-employment restrictions
- c. Conflicting financial interests
- d. Awards
- e. Impartiality in performance of official duties
- f. Misuse of position, Government resources and information

g. Travel, subsistence, and related expenses from non-Federal sources

h. Gift acceptance, excluding awards and travel, subsistence, and related expenses from non-Federal sources

.03 If before the end of the year, the Office of Government Ethics makes any revisions to the information that must be reported by subsection .01 and .02 above, the DAEO will advise the Deputy DAEOs and they shall revise the information that shall be reported by no later than January 8th.

SECTION 9. PROGRAM REVIEW

.01 The Deputy Designated Agency Ethics Officials shall perform delegated ethics responsibilities under the supervision of the DAEO. In order for the DAEO to have sufficient insight into program activities to fulfill this requirement, the activities of each Deputy DAEO shall be subject to routine program reviews as an integral part of the program review function.

SECTION 10. CUSTODY OF AND ACCESS TO CONFIDENTIAL CONFLICT-OF-INTEREST STATEMENTS

01. Access to Confidential Conflict-of-Interest Statements

Confidential Statements filed pursuant to this AI are confidential and required to be withheld from the public. The Confidential Statements contain sensitive commercial and financial information, as well as personal privacy-protected information. These Confidential Statements and the information which they contain are exempt from being released to the public, under exemptions 3(A) and (B), 4 and 6 of the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(3)(A) and (B), (b)4 and (b)6. Additional FOIA exemptions may apply to particular statements or portions of statements.

.02 The Deputy DAEO shall not release to the public the Confidential Statements, any subsequent submission, including notations to the forms made by Commission

personnel, or the information which these Confidential Statements contain, except pursuant to an order issued by a Federal court, or as otherwise provide under applicable provisions of the Privacy Act. The Deputy DAEO shall request permission from the DAEO to release a Confidential Statement.

02. Custody and Retention of Confidential Conflict-of-Interest Statements

Any Confidential Statement filed with the Commission pursuant to this AI must be retained for a period of six years after receipt. When the six year period expires, the Confidential Statement shall be destroyed, unless needed in an ongoing investigation.

SECTION 11. PENALTIES

.01 A SAC member who does not file a Confidential Statement in a timely fashion, or who refuses to comply with a required remedial action, shall be removed from the SAC.

.02 The Staff Director of the Commission or the Director of the Office of Government Ethics, as appropriate, shall refer to the Attorney General the name of any individual when there is reasonable cause to believe that such individual has willfully falsified any information required to be reported under this AI.

.03 An individual may also be prosecuted under criminal statutes for supplying false information on any Confidential Statement.

.04 The President, the Director of the Office of Government Ethics, the Staff Director and the Office of Personnel Management may take appropriate personnel or other action in accordance with applicable law or regulation against any individual for falsifying or failing to report required information.



KENNETH L. MARCUS
Staff Director

U.S. COMMISSION ON CIVIL RIGHTS

Confidential Conflict-of-Interest Statement for USCCR State Advisory Committee Members

Name of Advisory Committee:

Member's name:

Member's address:

In carrying out your duties as a member of a USCCR advisory committee, you will be called upon to give advice on civil rights issues policy deliberations. Sometimes policy deliberations focus on the interests of specific persons or organizations or on a discrete class of specific persons or entities. In such cases, your personal financial interest or your affiliations or relationships with other affected persons or entities may raise conflict-of-interest questions. By providing the information requested on this form, you will satisfy a requirement of U.S. Office Government Ethics regulations and help USCCR personnel identify and resolve potential and apparent conflicts. You must return your completed statement to the Committee Designated Federal Officer responsible for the Committee prior to participating in Committee activity.

For each of the three parts below list all interests, positions, arrangements, or relationships you think might reasonably be responsive. If you have none, check the "NONE" box.

Part 1: Financial Interests

If you, your spouse, or your dependent children receive any income (compensation, honoraria, royalties, etc.), hold any stock, securities, or similar financial interests in any nongovernmental entity that could be affected by civil rights policy deliberations likely to come before the Committee – list all such interests.

EXAMPLE: Does your spouse hold stock in a company that could be affected by a change in USCCR civil rights projects?

NONE ☐

(Identify specific business, stock, bond, etc.)

- 1.
- 2.
- 3.
- 4.
- 5.

Part 2: Positions and Arrangements

If any entity with which (i) you are now "connected", (ii) you are negotiating to become "connected", or (iii) you have arrangement to become "connected" in the future has financial interests that could be affected by policy deliberations likely to come before the Committee – describe all such interests. You are "connected" with any entity if you serve as an employee, officer, director, trustee, general partner, agent attorney, consultant, or contractor for that entity.

EXAMPLE: (1) Are you connected with a professional association, or corporation, that has a contract, or other financial relationship with the U.S. Commission on Civil Rights or parties that may be affected by recommendations of the Committee (i.e. recommendation for civil rights project, or selection of one type of research over another, etc.)? If so, name the other entity and contract or other financial relationship involved.

NONE ☐

(Identify specific organization, or entity)	(Type of position, arrangement or other connection)	(Interest or issue involved)
1.		
2.		
3.		
4.		

Part 3: Other Interests or Relationships

Are you aware of any other interests, affiliations, or relationships you believe would impair your impartiality in any policy deliberations likely to come before the Committee, or

that will use a reasonable person with knowledge of the relevant facts to question impartiality in such matter?
EXAMPL: Does your best friend stand to benefit by a change in the U.S. Commission on Civil Rights administration of a program your committee is advising? If so, briefly describe. NONE []
1.
2.
3.
4.
5.
6.
7.

COMMITTEE MEMBER'S CERTIFICATION		
I certify that my answers to the above questions are true to the best of my knowledge. I also understand that I must contact the U.S. Commission on Civil Rights Designated Federal Official responsible for the Committee if a conflict exists or arises during my term of service.		
Member's Name (Please Print)	Signature	Date

CERTIFICATION BY RESPONSIBLE USCCR OFFICIAL	
On the basis of the information contained in this report, I conclude that the filer is in compliance with the applicable laws and regulations, except as noted below.	
Signature	Date

Privacy Act Statement	
required by section (e)(3) of the Privacy Act	
<p>Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.), Executive Order 12674, and 5 CFR Part 2634, Subpart I, of the Office of Government Ethics regulations require the reporting of this information before you may serve on a Federal advisory committee. The primary use of the information on this form is for review by officials of any agency, to determine compliance with applicable Federal conflict of interests laws and regulations. This confidential report will not be disclosed to any requesting person unless authorized by law. Failure to file this form will preclude your service on the advisory committee. Knowing and willful falsification of information required to be reported could subject you to criminal prosecution.</p>	

Issued: 2/10/05

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-20

**PROCEDURE FOR POSTING STAFF REPORTS, STATE
ADVISORY COMMITTEE REPORTS AND ANY OTHER FORMAL REPORTS ON
THE COMMISSION WEBSITE**

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish guidelines to ensure that only formal documents that are consistent with policies of the Commission are posted on the Commission's website. This AI overrides any other written or unwritten policies of the Commission concerning the posting of Commission reports on the Commission website.

SECTION 2. POLICY

Only those formal reports, staff reports, state advisory committee reports, and legal or policy analyses that receive a majority vote of the Commissioners prior to posting on the Commission's website, shall be posted. This does not include, for example, press releases or biographies of Commission employees. This does include, but is not limited to all "projects" and "project reports" as defined in the glossary of terms included in AI 1-6.


KENNETH L. MARCUS
Staff Director

Issued: 2/10/05

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-21

PROCEDURE FOR REMOVING STAFF REPORTS, STATE ADVISORY COMMITTEE REPORTS AND ANY OTHER FORMAL REPORTS FROM THE COMMISSION WEBSITE

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish guidelines for the removal of all documents from the Commission's website that have not been approved by a majority of the Commissioners. This AI overrides any other written or unwritten policies of the Commission concerning the removal of Commission reports from the Commission website.

SECTION 2. POLICY

.01 All staff reports, state advisory committee reports, and any other formal reports which include any legal or policy analyses that have not received a majority vote of the Commissioners prior to their posting on the Commission's website, will be removed from the website by the close of business Monday, January 10, 2005. This includes, but is not limited to all "projects" and "project reports" as defined in the glossary of terms included in AI 1-6.

.02 The following language will be posted on the Commission's website explaining why reports that were previously posted on the website are no longer posted: "On January 7th 2005, the Commission adopted a new policy on the public release and posting of reports and Commission documents. To comply with that new policy, the Website has been updated and several draft reports that failed to receive a majority of Commissioners' votes have been removed."

.03 A list of all reports previously in the public domain and subsequently removed from the website pursuant to this AI, will be posted on the website by the Commission's Information Technology Specialist, along with an explanation instructing the public how these documents may be obtained upon request.

.04 All reports previously in the public domain, never voted upon by the Commissioners, subsequently removed from the website pursuant to this AI and released to the public upon request shall;

(a) not be printed on official Commission letterhead; and

(b) very clearly on the front page of the document state, "This document is not recommended for citation."

.05 Those reports previously in the public domain, voted upon by the Commissioners, subsequently removed from the website pursuant to this AI and released to the public upon request shall;

(a) not be printed on official Commission letterhead; and

(b) very clearly on the front page of the document state, "This is a draft document which was previously disseminated to the public. It failed to pass by a majority of the Commission. 'X' number of Commissioners voted in favor of the report. 'X' number of Commissioners voted against the report. The report is not recommended for citation."

.06 The Commission's Solicitor will notify the Chief of the Administrative Services and Clearinghouse Division of the outcome of Commissioner's votes on each report, whether the report has been approved for posting on the website and the manner in which the report will be posted.

.07 Nothing contained in this AI shall be construed to alter the release of Commission documents to the public as required under all applicable laws.

A handwritten signature in black ink, appearing to read 'Kenneth L. Marcus', is written over a horizontal line.

KENNETH L. MARCUS
Staff Director

Issued: 2/10/95

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 1-22

LOCATION OF COMMISSION MEETINGS: **WASHINGTON, D.C.**

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish guidelines to ensure that Commission proceedings and meetings, including briefings and hearings held by the Commission are conducted in the most effective and financially responsible manner possible. This AI overrides any other written or unwritten policies of the Commission concerning where Commission meetings will take place and the manner in which the location of the meetings is determined.

SECTION 2. POLICY

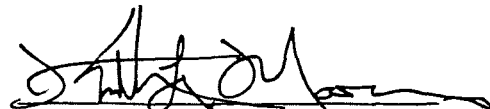
.01 All Commission proceedings and meetings, including briefings and hearings as defined in 45 C.F.R. Part 702 shall take place in Washington, D.C., unless the following has occurred:

- (a) a minimum sixty-day notice has been given to the Commissioners that an alternative place to hold a proceeding, meeting, briefing or hearing has been proposed by the Staff Director in consultation with the Chair of the Commission;
- (b) the Staff Director provides the Commissioners with the rationale for changing the location as well as providing the Commissioners with a cost assessment with respect to each proposed meeting site;
- (c) the Commissioners are given an opportunity to vote on the proposed alternative proceeding, meeting, briefing or hearing site; and
- (d) a majority of the Commissioners vote to hold the proceeding, meeting, briefing or hearing in a location other than Washington D.C.

SECTION 3. EXCEPTION

Nothing in this AI shall prevent the Commissioners from voting on a proposed alternate proceeding, meeting, briefing or hearing site outside Washington D.C., as proposed by the Staff Director in consultation with the Chair of the Commission, less than sixty days prior to the

proceeding, meeting, briefing or hearing date under exigent circumstances. Even under exigent circumstances it is still required that a majority of the Commissioners vote in favor of holding a proceeding, meeting, briefing or hearing in a location other than Washington, D.C.



KENNETH L. MARCUS
Staff Director

Issued: JUN 16 2009

ADMINISTRATIVE INSTRUCTION 1-23

REQUESTING PERMISSION FOR OUTSIDE EMPLOYMENT

SECTION 1. PURPOSE

.01 The purpose of this Administrative Instruction (AI) is to establish the U.S. Commission on Civil Rights' policy and procedures for employee acceptance of outside employment.

SECTION 2. POLICY

.01 The Supplemental Standards of Ethical Conduct for Employees of the Commission on Civil Rights, 45 C.F.R. §§ 7801.101; 7801.102, require that Commission employees obtain written approval from the Designated Agency Ethics Officer before engaging in outside employment.

.02 An employee may engage in outside employment to the extent that it is not prohibited by statute or Commission policy. The outside employment must not prevent you from devoting your primary interests, talents, and energies to the accomplishments of the employee's work at the Commission. In addition, it may not create a conflict or apparent conflict between the employee's private interests, and official responsibilities.

SECTION 3. DEFINITIONS

.01 Employee. An employee, other than a special Government employee

.02 "Employment" means any form of non-Federal employment, business relationship or activity involving the provision of personal services by the employee, whether or not for compensation. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher, or speaker. It includes writing done under an arrangement with another person for production or publication of the written product.

.03 Exclusions. Employment does not, however, include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization. These exclusions include participating in the activities of a political party. These exclusion do not apply when such activities involve the provision of professional services or advice or are for compensation other than reimbursement of expenses.

.04 A Special Government Employee is an officer or employee who is retained, designated, appointed, or employed by the Government to perform temporary duties, with or without compensation, for not more than 130 days during any period of 365 consecutive days. This includes the Commissioners and the members of the State Advisory Committees.

.05 Volunteer. The activities of any employee who participates without receiving compensation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civil organization but whose activities do not involve the provision of professional services or advice or are for compensation other than reimbursement of expenses, are subject to the provisions of the administrative instruction on the Employee Volunteer Community Service Program.

.06 It is the policy of the Commission to encourage and support efforts by Commission employees to provide volunteer services, including pro bono legal services. Employees are encouraged to participate in volunteer activities in their free time, as long as these activities do not violate any statutory or regulatory restrictions.

.07 The Designated Agency Ethics Official (DAEO) is the Solicitor for the Commission.

.08 Alternate Designated Agency Ethics Official (ADAE0). The Alternate Designated Agency Ethics Official (ADAE0) manages the Ethics Program on behalf of the DAEO. The ADAEO is responsible to the DAEO for all Ethics Program activities Commission-wide.

SECTION 4. PROCEDURES

01. General Requirements

a. An employee, other than a special Government employee, of the Commission who wishes to engage in outside employment shall first obtain the approval, in writing, of the Designated Agency Ethics Official (DAEO).

b. Upon a significant change in the nature or scope of the outside employment or the employee's official position, the employee must submit a revised request for approval.

.02 The employee will send copy of the request for outside employment to the DAEO, or the Alternate DAEO when the DAEO is on leave, and the supervisor of the employee. The supervisor will send comments to the DAEO within 3 days of receipt. The DAEO will process the request within 2 days of receipt of the comments by the supervisor and approve/deny or request additional information if the request is incomplete.

.03 The request by the employee will include the following information:

- a. Employee's name, title, and program;
- b. Description of the proposed employment including specific duties;
- c. Description of any Commission duties that relate to the proposed employment;
- d. Prospective employer's name, address, and the location where work will

be performed;

e. Estimated total time that will be devoted to the outside employment. If expected to continue indefinitely, the number of hours per year. Otherwise, list the beginning and ending dates;

f. Whether work can be performed entirely outside of regular duty hours. If not, estimate the number of hours of absence needed;

g. Whether the employer has a procurement or otherwise participates, or will in foreseeable future participate, in any Commission program; and

i. Whether compensated or not.

.04 If the work assignments of the employee change so that there is a potential conflict with the outside employment, the employee should make a new request.

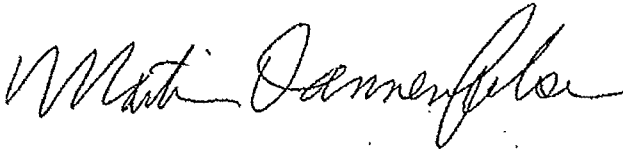
SECTION 5. USE OF PERSONAL TIME

.01 Generally, an employee must conduct all outside activities on his/her personal time. If outside work is to be performed during an employee's standard tour of duty, the employee must be on approved leave, leave without pay, or compensatory time.

SECTION 6. STANDARD FOR APPROVAL

.01 Approval shall be granted by the DAEO only upon a determination that the prospective outside employment is not expected to involve conduct prohibited by statute or Federal regulation.

.02 An employee shall not engage in outside employment or any outside activity that would require the employee's disqualification from matters so central or critical to the performance of his/her official duties that the employee's ability to perform the duties of his/her position would be materially impaired.

A handwritten signature in cursive script, appearing to read "Martin Dannenfels".

MARTIN DANNENFELSER
Staff Director

**ADMINISTRATIVE
INSTRUCTIONS
PART 2**

Issued: 1/24/03

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-1

MERIT PROMOTION AND STAFFING PLAN

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to set forth the policies and procedures of the U.S. Commission on Civil Rights (USCCR) in promoting and selecting employees not covered by the bargaining unit.

SECTION 2. AUTHORITIES

Title 5 United States Code, Government Organization and Employees

Title 5, Code of Federal Regulations (CFR), Part 300 - 335

SECTION 3. SCOPE

This Plan applies to all full-time, part-time, GS-01 to GS/GM-15 employees who are not covered by the Collective Bargaining Agreement.

SECTION 4. POSITIONS EXCLUDED

- .01 Senior Executive Service positions
- .02 Excepted service positions. Guidance for filling these positions is contained in Title 5 Code of Federal Regulations and Article X of the Collective Bargaining Agreement.

SECTION 5. DEFINITIONS

- .01 Area of Consideration - The area in which an agency makes a search for eligible candidates for consideration for a specific vacancy. (Applications will be accepted from USCCR employees for vacancy announcements outside the geographical area of consideration; however, no relocation expenses will be paid unless authorized by the Staff Director).

- .02 Best Qualified - Those candidates who are ranked at the top when ranked against other qualified candidates and who are normally referred to the Selecting Official(s).
- .03 Career Ladder Position - A position where the full performance level is identified. Employees may be promoted as they demonstrate the ability and readiness to perform at the next higher level and when legal requirements are met, e.g., time-in-grade, a fully successful or higher rating of record, qualifications, etc.
- .04 Certificate of Eligibles - A listing of the names of best qualified candidates for a vacancy that is provided to the selecting official for consideration. Non-competitive candidates are listed on a separate certificate of eligibles from competitive candidates.
- .05 Crediting Plan - The document prepared by the supervisor/selecting official with the assistance of the Human Resources specialist which defines the knowledge, skills, and abilities (KSAs) needed to perform the duties of the position to be filled. This document also defines how points will be awarded in the ranking process.
- .06 Eligible Candidate - An applicant who meets all legal and regulatory requirements for a position.
- .07 Full Performance Level - The highest level of non-supervisory, non-managerial work within a career ladder to which an employee may be promoted.
- .08 Job Analysis - The process of assessing the duties and responsibilities of a position to determine the KSAs necessary to perform the duties.
- .09 KSA's - Knowledge, skills, and abilities related to the position to be filled.
- .10 Minimally Qualified - Rating given to candidates who meet established qualifications, legal requirements, including selective factors if applicable, and who meet the qualification standards specified in the U.S. Office of Personnel Management's Operating Manual.
- .11 Non-Competitive Selection - A selection that is excepted from the competitive provisions of this Plan.
- .12 Panel - A method of determining the best qualified amongst a list of minimally qualified applicants.
- .13 Panel Members - Three or more members, at or above the grade level of a position, designated to assist in the evaluation of candidates.
- .14 Priority Consideration - The consideration given to an employee who, through an administrative error, was not given proper consideration for an announced vacancy. Such an applicant will be referred for the next appropriate vacancy before a

certificate of eligibles is issued to the selecting official. No justification is required for non-selection. Those entitled to priority consideration under Career Transition Assistance Plan (CTAP) and Interagency Career Transition Assistance Program (ICTAP) take precedence.

- .15 Promotion - A change of an employee, while continuously employed, from one GS/GM grade to a higher GS/GM grade.
- .16 Promotion Records - A file sufficient to allow for reconstruction of the action must be kept for 2 years on each competitive action. Information in the files must be made available as required by laws, regulations, and agreements. As a minimum, it must contain the following records or copies of them: Job analysis documentation; vacancy announcement; evaluation methods used, including a record of how the best qualified category was established, all applications and appraisal forms submitted; names and positions of panel members, if any; evaluation records, basic eligibility determinations and rating sheets; and names of all candidates as finally rated and ranked; promotion certificate (the names in the group from which the selection was made), including the name of the selectee.
- .17 Quality Ranking Factor - A knowledge, skill or ability which could be expected to significantly enhance performance in a position, but could not reasonably be considered necessary for satisfactory performance. Quality ranking factors are those elements that are evaluated in the ranking process to determine the best qualified.
- .18 Ranking Process - The process of determining the best qualified of those who have been rated. This is determined by grouping together, those who exceed to the greatest degree, the factors needed for successful performance on the job.
- .19 Rating Process - The process of determining whether the candidates meet basic eligibility requirement (Qualifications Handbook and selective factors).
- .20 Repromotion Rule - The promotion to a grade previously held on a permanent basis in the competitive service (or in another merit system with which OPM has an interchange agreement approved) from which an employee was separated or demoted for other than performance or conduct reasons.
- .21 Selecting Official - The official who has the authority to select a candidate for assignment to a position, subject to the final approval of an official with appointing authority.
- .22 Selective Factor - The knowledge, skills, or abilities essential for satisfactory performance on the job and which represent an addition to the basic qualifications for the position being filled. Candidates who do not possess the selective factor(s) will not be considered as qualified for the position to be filled.

- .23 USCCR Employee - An individual serving in a Federal agency under any appointment (i.e., career, career conditional, temporary, etc.).

SECTION 6. RESPONSIBILITIES

- .01 The Office of the Staff Director is responsible for:

- (a) Providing leadership and support for the Merit Promotion Plan as it relates to all segments and activities of the USCCR.
- (b) Assuring that managers and supervisors are aware of and comply with the objectives and requirements of this plan.

- .02 The Human Resources Division is responsible for:

- (a) Ensuring full and equitable application of the Plan to all covered employees and positions.
- (b) Providing information to employees on the provisions of the Merit Promotion Plan.
- (c) Developing and employing procedures necessary for the implementation of the Plan.
- (d) Providing the necessary technical competence required to operate the promotion plan, publicizing its operation, and training individuals selected to serve as members of promotion panels used in the ranking process.
- (e) Maintaining the required documentation on all promotion actions covered by the Plan as required by the Office of Personnel Management (OPM) and USCCR.
- (f) Communicating changes in the Federal merit promotion program or the Agency Merit Promotion Plan to managers, supervisors, and employees.
- (g) Ensuring the preparation and availability of USCCR's vacancy announcements to all employees at the work site.
- (h) In conjunction with managers and supervisors, developing quality ranking factors, job analysis, crediting plans, and any necessary selective factors for recruitment.

- .03 Managers and supervisors are responsible for:

- (a) Making selections from among the referred applicants and, in making the selections, ensuring that considerations are given to applicants with disabilities,

veteran, and other under-represented groups of their respective offices are addressed.

(b) Developing quality ranking factors, job analysis, crediting plans, and any necessary selective factors for recruitment in conjunction with the servicing human resources specialist.

(c) Keeping informed of and adhering to the provisions of the plan.

(d) Counseling employees on ways to increase or improve their potential for promotion and assisting them in self-development activities.

(e) Submitting applications and supervisory appraisals furnished by absent employees by the closing date of the announcement and in accordance with 4.3. below.

.04 Employees are responsible for:

(a) Familiarizing themselves with the provisions of the Plan.

(b) Applying for vacancies in which they are interested and submitting required application materials specified in the vacancy announcement by the closing date of the announcement.

(c) Making arrangements during an absence to have their applications submitted for vacancies by specific title, series, grade and organizational location. Vacancies covered by this provision are those which are announced and which close during the employee's absence.

SECTION 7. GENERAL REQUIREMENTS

Promotions and selections must be made without discrimination as to race, color, religion, sex, national origin, politics, marital status, physical disability, age or membership or non-membership in an employee organization or a political party, except where required by statute.

.01 Qualifications, evaluation and selection of candidates shall be based on job-related criteria.

.02 To receive consideration for announced vacancies, candidates must meet all applicable qualification requirements, time-in-grade restrictions and time-after-competitive appointment requirements no later than the closing date of the vacancy announcement.

.03 Management has the right to select or not to select from among a group of best qualified candidates. Management also has the right to fill a vacancy

announcement from other appropriate sources, e.g., Reemployment Priority List, Selective Placement Program, Veterans Readjustment Appointments, CTAP and ICTAP.

SECTION 8. PERSONNEL ACTIONS COVERED

.01 The competitive procedures of this Plan must be followed in taking the following actions:

(a) Promotions - An employee must serve at least one year in a grade before he/she may be considered for promotion as provided by in the 5 CFR Part 300, Subpart F.

1. In cases where the requirement to serve one year in grade would result in undue hardship or inequity to the Commission and/or to an employee, the requirements may be waived by authority delegated to the Commission by the Office of Personnel Management (OPM).
2. The appropriate office director may submit a request to waive time-in-grade requirements to the Staff Director. Requests must contain all the facts to justify that an undue hardship or inequity would result if the time-in-grade requirements were not waived. A waiver may not be for a total of more than two grades for any one employee during any one service year.
3. Waiver of time-in-grade requirements does not include waiver of qualifications for positions to which promotion is proposed. Waivers involving qualifications must receive prior OPM approval.
4. The Director of Human Resources is responsible for monitoring and reporting annually to OPM actions taken under the delegated authority to waive time-in-grade requirements.

(b) Any personnel action that actually results in a promotion, except those promotion actions listed in .03 below.

1. A temporary promotion over 120 days (90 days for bargaining unit positions). Prior service during the preceding 12 months under all details to higher graded positions or temporary promotions whether competitive or noncompetitive is included in determining the 90 or 120 day restriction.
2. Promotion by transfer from another Federal agency, except when that promotion is to a grade not higher than previously held on a permanent basis in the Federal service.

3. Re-promotion of employee on retained grade given priority consideration.

.02 Other Covered Actions

- (a) Selection for detail of more than 120 days (more than 60 days for bargaining unit positions) to a higher grade position or to one with known promotion potential.
- (b) Transfer from another Federal agency to a position with more promotion potential than the potential of the applicant's current position or than a grade previously held on a permanent basis.
- (c) Reassignment or demotion to a position with greater promotion potential than the employee's current position or a grade previously held on a permanent basis (except as permitted by reduction-in-force regulations).
- (d) Reinstatement to a higher grade than previously held on a permanent basis or with greater promotion potential.

.03 Competitive procedures do not apply to the following actions:

(a) Career promotions when the employee was originally selected from an OPM register or through competitive merit promotion procedures, when the employee is recommended by their supervisor, and when the fact that the promotion potential of the position was made known to all candidates. Career promotions include:

- 1. Promotion of an employee to an intermediate or full performance level in a career ladder position where there is enough work at the full performance level for all employees in the group and the employee is promoted as he/she demonstrates ability and readiness to perform at the next higher level. Although advancement to the full performance level is the intent and expectation of the career ladder system, promotions within career ladders are neither automatic nor mandatory. There is no guarantee that an employee in a career ladder will be promoted, nor a commitment that a promotion will be made at a set time.
- 2. Promotion to an intermediate, target or full performance level position from a trainee position.
- 3. Promotion of an employee who satisfactorily completes training under a formal training agreement.

(b) Other Promotions

- 1. Promotion of an employee whose current position is reclassified at a higher grade but without further promotion potential because of additional duties

and responsibilities. Such a non-competitive promotion may be made if: the "old" position has been absorbed into the new position (same title and series); the employee continues to perform the same basic functions and the duties represent an outgrowth, over a significant period of time, of the "old" position; or where a program change requires the immediate performance of new duties that only one employee is capable of performing. (There are no other employees in the same organization at the same grade level who could compete for the subject position). Written documentation is required for each promotion taken under this paragraph.

2. Promotion of an employee resulting from the upgrading of his/her position without significant change in the duties and responsibilities due to the issuance of a new classification standard or the correction of an initial classification error.
3. A temporary promotion made permanent (without further competition) provided it was originally made under competitive procedures and the fact that it might lead to a permanent promotion was made known to all potential candidates via a statement in the vacancy announcement.
4. A temporary promotion or detail of 120 days or less. Competition is required when an employee will have spent an aggregate of more than 120 days (more than 90 days for bargaining unit positions) in a higher grade position or positions with known promotion potential during the service year preceding the proposed effective date of the contemplated assignment. Details to higher grade positions as well as temporary promotions are including in computing the 90 or 120 days.

(c) Other Personnel Actions

1. Position change of an employee from a position having known promotion potential to a position having no higher known promotion potential than the current position or a grade previously held (includes reassignment, demotion, and conversion to reinstatement actions).
2. Non-competitive conversion actions of employees Veterans Readjustment Appointment, 30 percent Disabled Veterans, and other authorized programs, and their subsequent promotions into career ladder positions.
3. Reinstatement, transfer, or promotion of an employee who was downgraded, not as a result of deficiencies in performance or for "cause" reasons, to the highest grade previously held on a permanent basis on a career or career conditional appointment.

4. Selection of a candidate from the Agency's Reemployment Priority List.
5. Position change permitted by reduction-in-force regulations, which may technically be considered a promotion or which would result in a reassignment to a position with greater promotion potential.
6. Selection of a candidate from an OPM certificate, OPM direct hire authorities, or OPM delegated examining authorities.
7. Reinstatement to a position up to the highest grade previously held in a non-temporary position in the competitive service that has no higher promotion potential.
8. Reassignment or transfer from a non-supervisory position to a supervisory position having no higher promotion potential than their current position or a grade previously held on a permanent basis.
9. Action directed by OPM, Merit Systems Protection Board, Equal Employment Opportunity Commission or another regulatory agency or recommended by an agency fact finder.
10. Consideration of a qualified candidate who was not given proper consideration in a previous competitive merit promotion action.
11. Transfer, reassignment or demotion to a position in the same or a different series at the same or lower grade level without greater promotion potential than their current position or a grade previously held on a permanent basis. Employee must meet all applicable qualification requirements for the new series.
12. Promotion to a grade previously held on a permanent basis in the competitive service (or in another merit system with which OPM has an interchange agreement approved) from which an employee was separated or demoted for other than performance or conduct reasons.

SECTION 9. RECRUITMENT GUIDELINES

.01 The minimum area of consideration for positions at the GS-15 and below will be agency wide.

.02 Applications will be accepted from USCCR employees for announcements outside of the geographic area of consideration. Applications from candidates of any geographic area will be accepted when a vacancy is announced to non-status

candidates. However, relocation expenses will not be paid unless authorized by the Staff Director.

.03 Vacancy announcements and other forms of recruitment notices received from other agencies will be made available in the Headquarters Office.

.04 Merit Promotion and Staffing

Vacancy announcements will be open for a period of at least 5 workdays, but may be advertised for a longer period at the request of the selecting official.

SECTION 10. REFERRAL AND SELECTION

.01 Merit Promotion Referral

- (a) The best qualified of the candidates rated and ranked under the competitive procedures of this plan will be referred on a competitive certificate to the selecting official for consideration.
- (b) The certificate will include in alphabetical order: the names of the top scoring candidates with an acretionable distinction (at least a two point spread) in assigned scores; or the top 10 candidates when there is no meaningful distinction. When 10 candidates have been referred and there is more than one vacancy to be filled, an additional candidate may be certified for each vacancy, provided there is no meaningful distinction between the scoring of the candidates.
- (c) The certificate of eligibles is valid for 30 calendar days from the date of issuance but may be extended with the approval of the Director of Human Resources. Requests for extensions must be in writing and will become a part of the merit promotion case file.
- (d) If the position was advertised at more than one grade level, a separate promotion certificate will be issued for each grade level. Candidates for multiple grade positions must be ranked and referred for each grade in which they are best qualified.

.02 Selection

- (a) The Selecting Official will thoroughly review the applications of all certified candidates. Additional information may be obtained from the candidates past or present supervisor or from the servicing Human Resources Specialist.
- (b) For non-bargaining unit positions, the Selecting Official may or may not interview the referred candidates to obtain additional information. However, if the selecting official interviews one candidate, he/she must interview all candidates on that particular merit promotion certificate. For multiple grades, if the selecting

official interviews one candidate at a certain grade level, he/she must interview all of the candidates at that grade level.

- (c) Should candidates decline consideration for the position, the Selecting Official is required to document such declinations on the certificate prior to returning the certificate to the Human Resources Division.
- (d) The Selecting Official is not required to fill a vacancy by selecting a candidate referred on a merit promotion certificate. Additional recruitment efforts or other personnel actions may be initiated to fill a vacancy, e.g., by reinstatement, transfer, or selection of an employee entitled to priority consideration.
- (e) A USCCR employee selected from a merit promotion certificate, competitive or non-competitive, should be released to the new assignment within a maximum of one full pay period of the date of request.
- (f) The Selecting Official is not authorized to make an offer of salary or position. The official offer must be made by the Human Resources Division who will in concurrence with the Selecting Official request and establish the official entrance on duty date.

SECTION 11. DOCUMENTATION AND RECORDS

Each action taken under this plan will be maintained and documented in a Merit Promotion Case File with information sufficient to allow reconstruction of the case. At a minimum, each case file will include: a copy of the initial SF-52, Request for Personnel Action; signed position description(s); job analysis; crediting plan(s); vacancy announcement; initial candidate ranking sheet; candidate ranking sheet; certificate of eligibles; copy of the SF-52 with the selectee's name; copy of all applicant's (qualified/not qualified) application (alphabetical order); copies of notification letters informing applicants of status of qualifications; copy of the selection/confirmation of employment letter; any other documents relevant to the case file.

SECTION 12. PRIORITY CONSIDERATION TO CORRECT PROCEDURAL VIOLATION

- .01 If an employee of an organization covered by this Plan fails to receive proper consideration in a promotion action, the employee, if qualified, will be considered for the next appropriate vacancy in the same grade (with no higher promotion potential), title and series and commuting area. Employees may be considered concurrently with any other employees with similar entitlement. However, those entitled to priority consideration under CTAP or ICTAP take precedence.
- .02 Although the Selecting Official is not required to select these employees, the official should consider each employee carefully. An employee is entitled to only one

instance of this priority consideration for each instance of selection consideration lost. Priority consideration means the consideration given to an employee who, through administrative error, was not given proper consideration for an announced vacancy. Such an employee will be referred for the next appropriate vacancy for which he/she is qualified, before a certificate of eligibles is issued to the Selecting Official. The employee will be notified in writing of the position he/she is being given priority consideration, and all pertinent information. If the employee declines the priority consideration offer for any reason, he/she will lose consideration for the announced vacancy. A written document will be sent to the employee informing him/her that the priority consideration has been terminated.

SECTION 13. COMPLAINTS AND CORRECTIVE ACTIONS

The grievance procedures prescribed in Administrative Instruction 2-7, USCCR Grievance Procedure Program, negotiated union grievance procedures where applicable, or the EEO complaints process will apply to complaints arising out of the operation of this Plan. When there is a failure to adhere strictly to the provisions of procedures described above or this Plan, the Human Resources Division will effect corrective action promptly.



LES JIN
Staff Director

Issued: APR 15 1994

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-2

EMPLOYEE DEVELOPMENT AND TRAINING

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to set forth the policies of the U.S. Commission on Civil Rights (USCCR) for employee training and development.

This policy in general does not repeat provisions set forth in law, Executive Order, the Code of Federal Regulations. Therefore, this policy should be read in conjunction with the authorities cited below.

SECTION 2. AUTHORITY

Executive Order 11348 establishes the U.S. Government policy on the development of employees.

Chapter 41, Title 5, United States Code sets forth the law concerning employee training.

Title 5, Code of Federal Regulations Parts 410 and 412 implement the law by providing uniformed regulations concerning employee training.

SECTION 3. SCOPE

This policy applies to all full-time and part-time, GS, GM, and SES Commission's employees with the exception of those persons appointed by the President and employees who are on a temporary appointments such as students.

SECTION 4. POLICY

It is the policy of the Commission to provide training opportunities in a fair and equitable manner to all employees without regard to political preference, race, color, religion, sex, marital status, age, national origin, or handicapping condition. It is the USCCR policy that:

- all employees avail themselves of training opportunities that will improve individual and organizational performance that assist in achieving the agency's mission and performance goals.

Directed training is training taken when the Agency asks or requires an employee to undertake the training because of job requirements. Job related training will be considered above all other training requests.

Mission-related training is training that supports Commission's goals by improving organizational performance at any level, as determined by the Staff Director.

Retraining is training and development provided to address an individual's skills obsolescence in the current position and/or training and development to prepare an individual for a different occupation, in the same agency, in another Government agency, or in the private sector.

Continued service agreement means a written and signed agreement between the employee and the Commission which states that the employee will continue in the service of the agency after the end of the training period for a period at least equal to three times the length of the training period unless the employee is involuntarily separated from the service to the agency; and pay to the Government the of the additional expenses incurred by the Government in connection with the training if the employee is involuntarily separated from the service of the agency before the end of the period for which the employee has agreed to continue in the service of the agency.

Interagency training means training provided by one agency for other agencies or shared by two or more agencies.

State means a State of the United States, a territory or possession of the United States, the Commonwealth of Puerto Rico

Local government means a city, town, county, or other subdivision or district of a State.

SECTION 6. RESPONSIBILITIES

1. The Staff Director is responsible for:

- (a) Establishing a budget for, operate, maintain and evaluate a training program, and a plan for training agency employees by, in, and through Government and non-Government facilities;
- (b) Determining policies governing employees training, including a statement of broad purposes for agency training, the assignment of responsibility for seeing that these purposes are achieved, and the delegation of training approval authority to the lowest possible level;
- (c) Establishing priorities for training employees and provide for funds and staff according to these priorities;

- (l) Ensuring that the full range of training techniques are used for employee development such as mentoring, coaching, on the job training, etc....

3. The Human Resources Division is responsible for:

- (a) Administering training programs in compliance with statutory and regulatory requirements.
- (b) Planning and providing for the use of non-government facilities and for evaluating the effectiveness of the training received.
- (c) Providing guidance and assistance to supervisors and employees concerning their training needs.
- (d) Maintaining suitable records, showing dates, procedures used, finding and recommendations pertaining to the Agency's training program.
- (e) Establishing and keeping current career development plans for Commission employees.
- (f) Evaluating training that has been completed and facilities used for future use.
- (g) In conjunction with the Budget and Finance Division allocating training funds available.
- (h) Monitoring the training by categories, assuring that every employee receives consideration equally and that training is distributed equitably.
- (i) Obtaining space reservations information from other training facilities and notifying supervisors of action taken
- (j) Ensuring that the verification of completed training is included in the Official Personnel Folder (OPF) that is maintained in the Human Resources Division

4. Employees are responsible for:

- (a) Self development and self improvement.
- (b) Successfully completing and applying authorized training.
- (c) Completing and signing the Continuous Service Agreement when applicable.

2. The number of person years devoted to training by the Commission may not exceed one percent of the total number of years employment for the agency is one fiscal year.
3. In the event courses are not satisfactorily completed, the Staff Director will make the determination of whether the employee will be required to reimburse the agency for all costs incurred.
4. An employee selected for training that exceeds 80 hours within a single program is required to sign a Continuous Service Agreement. This agreement requires that employees receiving pay during a period of training shall agree to remain with the agency for a period of three times the training program. Non-government training, if less than 80 hours, does not require a Continuous Service Agreement.
5. Immediate supervisors shall notify the Human Resources Division when it appears that the provision of the Continuous Service Agreement are not going to be met.
6. Employees must be officially nominated for courses that are job-related and which will help employees in planned or future positions. The Training Officer from the Human Resources Division, is available to assist supervisors or employees on the job relatedness of courses.

SECTION 9. ACCEPTANCE OF AWARDS, SCHOLARSHIPS AND PAYMENTS FROM NON-GOVERNMENT ORGANIZATIONS

1. Employees may accept a contribution or award (in cash or in kind) or accept payment (in cash or in kind) for travel, subsistence, and other expenses incident to attendance at meetings from a non-government source only upon specific written authorization from the Staff Director. The following conditions must be met: acceptance would not reflect unfavorably upon the ability of the employee to carry out his/her official duties in a fair and objective manner and where acceptance would not compromise the honesty and integrity of Government programs or of Government employees and their official actions or decisions.
2. The employee or organization must submit documentation relevant to the expenditures in order to ensure no duplicate payments are made to any employee. Any necessary adjustment will be processed on an individual case basis.
3. Each request for an authorization to accept a contribution, award or payment related to training shall be submitted to the Human Resources Division and shall include the following information:
 - a. name, location, and tax status and the proposed grantor.

SECTION 11. EXECUTIVE, MANAGEMENT, AND SUPERVISORY DEVELOPMENT

This section applies to all incumbents of or candidates for supervisory, managerial, and executive positions in the General Schedule, the Senior Executive Services (SES).

The Commission will provide for initial training as an employee makes critical career transitions to become a new supervisor, a new manager, or a new executive that is consistent with the initial needs assessments. It will also provide for continuing learning experiences, both short - and long term, throughout the employee's career in order for the employee to achieve the full performance level for his/her current position.

The Commission will provide for the systematic development of candidates for advancement to a higher management level.

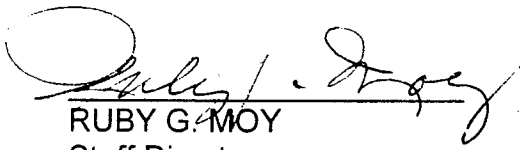
The Staff Director must submit his/her own request for training to the Office of Personnel Management for approval, since self-review constitutes a conflict of interest.

SECTION 12. ASSIGNMENT TO TRAINING

An employee assigned to training during normal duties is considered on duty for the period of the training, and no charge is made to leave. Even though the employee pays for the training, no charge is made to leave if the training is authorized to meet a performance improvement need. Employees may pay for their own training, because training laws allows agencies and employees to share the costs of authorized training.

SECTION 13. REPORTS

The Human Resources Division will maintain records of its training plans, expenditures and activities and report, as required by the Office of Personnel Management, its plan, expenditures and activities.


RUBY G. MOY
Staff Director

Issued:

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ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-3

EQUAL EMPLOYMENT OPPORTUNITY

SECTION 1. PURPOSE

The U.S. Commission on Civil Rights (the Commission) has a strong commitment to equality of opportunity for all employees and applicants for employment with the Commission. The purpose of this Administrative Instruction (AI) is to set forth the policy of the Commission with respect to equal employment opportunity as applied to employment within the Commission and to establish current procedures to carry out the policy.

Equal Employment Opportunity (EEO) complaints against Federal agencies are processed in accordance with 29 C.F.R. 1614, as amended, "Federal Sector Equal Employment Opportunity," which became effective November 9, 1999. This AI supplements § 1614, and Equal Employment Opportunity Management Directives (EEO-MD) 110 and 715.

All references to days below refer to calendar days unless otherwise noted.

SECTION 2. POLICY

01. It is the policy of the Commission to provide equality of employment opportunity for all persons and to prohibit discrimination because of race, color, religion, national origin, sex, age, or disability in all of the Commission's relationships with employees and applicants for employment and, where appropriate, to conduct a continuing program of affirmative action consistent with the law.

02. The measures of the Commission's program of equal opportunity shall be its results. Continuing appraisals shall be provided at all levels of program progress, achievements, and deficiencies in terms of the goals of the program; and all appropriate steps shall be taken to strengthen and improve the program as needed.

03. It is the policy of the Commission to take steps consistent with its available resources to offer an Alternative Dispute Resolution (ADR) Program as a means of dispute resolution in the management of EEO policies and procedures.

SECTION 3. AUTHORITY AND RESPONSIBILITIES

01. The Staff Director is responsible for developing and effectively implementing a strong equal employment opportunity program. S/he is responsible for placing into effect any changes in programs and procedures required to eliminate any discriminatory practices and conditions, strengthen and improve the Commission's overall equal employment opportunity efforts, and ensure Commission compliance with all applicable EEOC Management Directives, regulations, and guidance.

02. The Staff Director is responsible for ensuring that employment discrimination complaints are processed fairly, promptly and in strict accordance with the complaint processing procedures established in 29 C.F.R. Part 1614.

03. The Staff Director is responsible for issuing an annual written policy statement expressing the Commission's commitment to equal employment opportunity and to having a work place free of discriminatory harassment.

04. The Staff Director is responsible for appointing a Director of Equal Employment Opportunity (Section 4, below).

05. The Staff Director will appoint an Acting Director of EEO to act on complaints which name the Director of EEO as an alleged discriminatory official.

06. The Staff Director must ensure that the Commission's EEO program is free of any conflict of interest or even the appearance of a conflict of interest.

07. The Deputy Staff Director, along with the General Counsel, must ensure that appropriate compartmentalization exists between the complaint process and the EEO legal defense function to provide the Commission's EEO program with the necessary credibility. This compartmentalization does not, however, limit the obligation of the Office of General Counsel to provide the Director of EEO programs information from its internal case management system necessary for completing required EEO reports on the status of complaints in the EEO administrative hearing stage. Such information shall be provided in writing, upon receiving a written request from the Director of EEO programs, identifying what information is sought and for which report(s) the information is required.

08. The Staff Director is responsible for designating Special Emphasis Program Managers¹ and clerical and administrative support as may be necessary to

¹ Agencies of the Federal government observe the following Special Emphasis Months: Black History Month (February), Women's History Month (March), Asian/Pacific American Heritage Month (May), Hispanic Heritage Month (September 15 - October 15), National Disability Employment Awareness Month (October), and Native American Heritage Month (November). Some agencies also recognize Women's Suffrage Day (August 26th) and the Disabled Veterans of America (November 11th).

carry out the functions described in the regulation and this AI. The Staff Director may designate, for example, managers of the Program for People with Disabilities, the Federal Women's Program, Hispanic Employment Program, and such other programs as may be required by the Office of Personnel Management or the Commission. The Staff Director may delegate this responsibility to one or more designees.

09. The directors of operating offices and regional offices and the supervisors within those offices are responsible for carrying out, within their offices or units, the equal employment opportunity plans and policies of the Commission. It is the responsibility of any other supervisory employee to keep those employees under his/her supervision informed of the Commission's policy on equal employment opportunity.

10. The Director, Human Resources Division (HRD), is responsible for providing staff assistance and advice on recruitment, hiring, and personnel practices to the Staff Director, Director of Equal Employment Opportunity, office heads, regional directors and supervisors as they undertake the activities required of them by the Commission's equal employment opportunity and affirmative action programs. S/he is also responsible for assuring that the personnel programs of the Commission comply with Federal EEO law as well as EEOC and OPM policies, guidelines and regulations. HRD is responsible for providing information to the EEO Programs Office for various reports the Commission submits to EEOC and OPM. The Director of the Human Resources Division will deliver all such information under a cover letter certifying its accuracy within two weeks of receiving the data call or at least two weeks prior to the due date of the report, whichever is earlier.

11. The Office of General Counsel is responsible for providing periodic updates on the status of EEO complaints in the administrative hearing stage. The reports shall be provided pursuant to a schedule established by the Director of EEO and the General Counsel.

12. Each employee is responsible for remaining cognizant of the Commission's policy on equal employment and to make an affirmative effort to carry out this policy within his/her own areas of responsibility.

SECTION 4. DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

01. In order for the agency to implement a continuing program to promote equal employment opportunity and to identify and eliminate discriminatory practices and policies, the Staff Director shall appoint a Director of Equal Employment Opportunity. The Director of Equal Employment Opportunity shall be in a direct reporting relationship with the Staff Director and the Staff Director shall provide input into the performance review of the Director of EEO.

02. The Director of EEO, as a result of the direct reporting relationship with the Staff Director, has independent authority to execute the duties and responsibilities of the position. The duties and responsibilities of the Director of EEO include:

- a. developing plans, procedures and regulations necessary to carry out the Commission's program;
- b. advising the Staff Director on the preparation of plans, procedures, regulations, reports, internal assessments, data collection, and other matters pertaining to the equal employment opportunity program, including the policies and programs described in this AI;
- c. reviewing and evaluating the equal employment opportunity program operations of the Commission and making changes designed to eliminate discriminatory practices and improve the Commission's programs of equal employment opportunity;
- d. appraising the Commission's personnel operations at regular intervals to ensure their conformity with the policy and procedures set forth in this AI;
- e. providing for counseling, through in-house or contract EEO counselors, of any aggrieved employee or aggrieved applicant for employment who believes that s/he has been discriminated against because of race, color, religion, national origin, sex, age or disability;
- f. providing for the training of in-house EEO counselors in accordance with EEO-MD-110;
- g. ensuring the continuing availability of Alternative Dispute Resolution during both the pre-complaint and formal complaint process;
- h. providing for the receipt of complaints of discrimination and for the receipt and disposition of general allegations by organizations or other third parties of discrimination in agency personnel matters;
- i. deciding on accepting or dismissing, in whole or in part, formal complaints filed after the counseling period has expired without a resolution of the dispute between or among the parties;
- j. arranging, through the Administrative Services and Clearinghouse Division, for a contract investigator to investigate any formal complaint that is accepted in whole or in part;
- k. making recommendations to the Staff Director as s/he considers necessary when not authorized to make the decisions for the Staff Director, while maintaining an appropriate distance between the fact-finding and defensive functions of the agency in order to enhance the reliability of the EEO Programs Office and the integrity of the EEO complaint process;
- l. publicizing to all Commission employees the names of the EEO Counselors, their availability to counsel an employee or applicant for employment

who believes that s/he has been discriminated against, and the requirement that an employee or qualified applicant for employment must consult with an EEO Counselor before filing a formal complaint; and

m. participating as needed in the agency task force that coordinates Special Emphasis Month Programs.

03. The Commission, through the Staff Director, must avoid conflicts of position or conflicts of interest as well as the appearance of such conflicts. The same agency official(s) responsible for executing and advising on personnel actions cannot also be responsible for managing, advising or overseeing the EEO pre-complaint or complaint process. In order to maintain the integrity of the EEO investigative and decision-making processes, those functions must be kept separate from the personnel function.

04. The Commission, through the Director of EEO, shall have the authority to designate EEO Counselors and clerical as well as administrative support as maybe necessary to carry out the functions described in the regulation and this AI.

05. EEO officials of the Commission must maintain a neutral role in the resolution of discrimination complaints. Accordingly, these officials cannot serve as representatives for complainants or for the Commission in connection with the processing of discrimination complaints.

06. The Solicitor shall conduct legal sufficiency reviews and provide legal advice to the Director of EEO.

SECTION 5. THE INFORMAL COMPLAINT PROCESS

01. A Commission employee or applicant for employment seeking to pursue a claim of employment discrimination against the Commission must first contact the Director of EEO or an EEO Counselor at the Commission within 45 days of the alleged discriminatory act or, in the case of a personnel action, within 45 days of the effective date of the action.

02. The Commission will extend the 45-day time limit when the complainant shows that s/he was not notified of the time limits and was not otherwise aware of them, that s/he did not know and reasonably should not have know that the discriminatory mater or personnel action occurred, that despite due diligence s/he was unable to adhere to the time limits due to circumstances s/he could not control, or for other reasons the Commission considers sufficient.

03. At the initial counseling session, Counselors must advise the complainant in writing of his/her rights and responsibilities.

04. At the initial interview, Counselors must advise the complainant that, where the Commission agrees to offer ADR in the particular case, s/he may choose between participation in the ADR program and traditional EEO counseling; how ADR works; and that the complainant has the right to file a formal complaint should ADR not resolve the matter.

05. If the complainant chooses the use of EEO counseling, unless the complainant agrees to extend the counseling period, the Counselor shall conduct the final interview with the complainant within 30 days of the date of his/her first contact with the EEO office to request counseling. If the matter has not been resolved, the Counselor will issue a Notice of Right to File Discrimination Complaint. Prior to the end of the 30-day pre-complaint period, the complainant may agree in writing with the Commission to extend the counseling period for an additional period of no more than 60 days.

06. If the complainant chooses ADR, the pre-complainant processing period shall be 90 days. This period cannot be extended. If there is no resolution, the Counselor will issue a Notice of Right to File a Discrimination Complaint.

SECTION 6. THE COUNSELING PROCESS

01. At the initial session, Counselors must advise all complainants in writing of their rights and responsibilities, including:

- a. the right to anonymity during the counseling process, unless waived;
- b. the right to representation by an attorney or other representative throughout both the pre-complaint and formal complaint process (the EEO Counselor should make clear to the complainant that an EEO Counselor acts strictly as a neutral and is not an advocate for either party in the case);
- c. the right to choose between ADR or EEO counseling, where the Commission agrees to offer ADR in the particular case, and information about each process;
- d. the right to elect either the negotiated grievance procedure set forth in the Commission's Collective Bargaining Agreement or the EEO complaint procedure, but not both, pursuant to § 1614.301, if applicable;
- e. the right to file pursuant to § 1614.302, if applicable, within 30 days after the initial EEO Counselor contact or 15 days of receiving the Counselor's Notice of Right to File a Discrimination Complaint, a mixed case complaint with the Commission, i.e., a complaint of employment discrimination related to or stemming from an action that can be appealed to the Merit Systems Protection Board (MSPB) and may contain only an allegation of discrimination or contains additional

allegations that the MSPB has jurisdiction to address; or, within 20 days from the date of the alleged discriminatory act, a mixed case appeal with the MSPB, i.e., an appeal alleging an appealable agency action was effected in whole or in part because of discrimination, but not both;

f. the right to notice of intent to sue when age is alleged as a basis for discrimination and of the right to file a lawsuit under the Age Discrimination in Employment Act of 1967 (ADEA), as amended, pursuant to § 1614.201 (a) instead of an administrative complaint of age discrimination;

g. the right to go directly to a court of competent jurisdiction on claims of sex-based wage discrimination under the Equal Pay Act even though such claims are also cognizable under Title VII and may be processed administratively under Part 1614;

h. the right, prior to the end of the 30-day pre-complaint period, if the complainant chooses EEO counseling, to agree in writing with the Commission to extend the counseling period for an additional period of no more than 60 days;

i. the right to a period of 90 days, with no extension, to complete the pre-complaint process, if the complainant chooses ADR;

j. the right to receive a Notice of Right to File a Discrimination Complaint after completing the EEO counseling or ADR procedures, and that this notice must advise the complainant in writing:

1. of the right to file a formal discrimination complaint;
2. that the complaint must be filed within 15 days of receipt of the notice;
3. that the complainant must inform the Commission immediately if s/he retains counsel or a representative;
4. that the complaint must be signed by the complainant or his/her attorney;
5. of the name and address of the appropriate Commission official with whom to file the complaint;
6. of the identity and address of the EEOC field office to which a request for a hearing must be sent in the event that the complainant files a formal complaint and requests a hearing pursuant to § 1614.108(g);
7. of the name and address of the Commission official to whom

the complainant must send a copy of the request for a hearing, and that the complainant must certify to the Administrative Judge (AJ) that s/he provided the Commission with a copy of the request;

8. that rejection of any offer of resolution made by the Commission pursuant to § 1614.109(c) may result in limitation of the agency's payment of attorney's fees or costs; and

9. of the time frames of the complaint process;

k. the right to allege any or all claims raised in the pre-complaint stage (or issues or claims like or related to them), but only those claims, in a subsequent formal complaint;

l. the duty to mitigate damages, e.g., that interim earnings or amounts that could be earned by the individual with reasonable diligence generally must be deducted from an award of back pay, as well as to mitigate administrative and court time frames;

m. the duty to keep the Commission and the EEOC informed of his/her current address and to serve copies of appeal papers filed with the EEOC to the Director of EEO at the Commission;

n. the right to request, in accordance with § 1614.108(f), a hearing and decision from an EEOC Administrative Judge, except in a mixed case, after 180 days from the filing of a formal complaint or after completion of the investigation, whichever comes first;

o. the right to an immediate final decision from the Commission after an investigation in accordance with § 1614.108(f);

p. the right to go to U.S. District Court after 180 days from the filing of a formal complaint or appeal; and

q. that the Commission must consolidate two or more complaints filed by the same complainant in accordance with § 1604.606 after giving appropriate notice to the complainant and that:

1. the Commission will complete the investigation of a consolidated complaint within 180 days of the filing of the last complaint or 360 days of the filing of the first complaint, whichever is earlier; and

2. the complainant may request a hearing before an AJ

at any time after 180 days of the filing of the first complaint.

02. The Counselor will not attempt in any way to restrain the complainant from filing a formal complaint.

03. The Counselor will not reveal the identity of the complainant except when authorized to do so by the complainant or until the Commission has received a formal complaint from the complainant on the same matter.

04. At the initial counseling session, or within 7 days of the initial counseling session, the complainant must elect between the EEO counseling process and the ADR process, where the Commission agrees to offer ADR in that particular case. The election must be made in writing on the appropriate Commission form, which must be attached to the EEO Counselor's report. The complainant's election to proceed through counseling or ADR is final.

05. Whether EEO counseling or ADR is chosen by the complainant, the Counselor must:

- a. determine the claim(s) and basis(es) of the potential complaint;
- b. conduct a limited inquiry to determine jurisdictional questions, including issues related to timeliness, information concerning the claim(s) and basis(es), and if appropriate, consulting with respondents and all levels of supervision up to and including the Executive Staff and the Office of the Staff Director so as to enable the agency to properly identify the legal claim(s) raised in the event the complainant files a formal complaint;
- c. advise the complainant of his/her right to file a formal complaint of discrimination if the dispute is not resolved through ADR or EEO counseling; and
- d. within 15 days after the end of the pre-complaint process, prepare a written report sufficient to determine that required pre-complaint procedures have been followed and resolve any jurisdictional questions that may arise in the formal complaint process.

06. If EEO counseling is used, the Counselor must seek resolution of the matter at the lowest possible level and:

- a. if the dispute was resolved, document the resolution in his/her report; or
- b. if there was no resolution, document in his/her report the fact that no resolution was achieved and provide the complainant with a written Notice of Right to File a Discrimination Complaint.

07. If ADR is used, the Counselor's report need not provide a summary of the informal resolution attempt other than to indicate that the complainant elected to use the ADR process and whether or not the dispute was resolved. If it was not, the Counselor must provide the complainant with a written Notice of Right to File a Discrimination Complaint.

SECTION 7. THE ADR PROCESS

01. The complainant must elect within 7 days of the first counseling session to use ADR, if the Commission agrees to offer it in that particular case. The election of ADR in lieu of counseling is final and ADR must be used throughout the pre-complaint process.

02. Prior to referring the dispute for ADR processing, the EEO Counselor will complete appropriate intake functions:

- a. determine the claim(s) and basis(es) of the potential complaint;
- b. conduct a limited inquiry to determine jurisdictional questions, including issues related to timeliness, information concerning the claim(s) and basis(es), and if appropriate, consult with respondents and all levels of supervision up to and including the Executive Staff and the Office of the Staff Director so as to enable the agency to properly identify the legal claim(s) raised in the event the complainant files a formal complaint.

03. The EEO Counselor will then notify the Director of EEO in writing, and attach a copy of the election form to the notice.

04. The Director of EEO will coordinate with the Administrative Services and Clearinghouse Division to arrange for the services of the ADR neutral(s) from outside the Commission.

05. The Director of EEO will inform the Counselor whether or not the dispute was resolved during the ADR process.

06. The EEO Counselor will document whether or not the dispute was resolved and, if there was no resolution, issue the Notice of the Right to File a Discrimination Complaint.

SECTION 8. THE COUNSELOR'S REPORT

01. The Counselor will submit a report to the Director of EEO within 15 days of the end of the pre-complaint process.

02. The report must include:

- a. a precise description of the claim(s) and basis(es) identified by the complainant;
- b. pertinent documents gathered during the inquiry, if any;
- c. specific information bearing on the timeliness of the counseling contact;
- d. if timeliness appears to be a factor, an explanation for the delay;
- e. an indication as to whether or not an attempt was made to resolve the complaint, and if so, whether it was through the counseling process or ADR;
- f. if EEO counseling was used, a summary of the resolution effort which includes, to the extent possible, a brief date-specific chronicle of the counselor's activities sufficient in detail to determine what transpired and when; and
- h. whether or not the dispute was resolved.

03. The Director of EEO will keep the report in the case file for the complaint.

SECTION 9. THE FORMAL COMPLAINT PROCESS

01. If the matter is not resolved informally in the pre-complaint process, the complainant may file a formal complaint with the Director of EEO within 15 days of receiving the Notice of Right to File a Discrimination Complaint. If no notice is provided and no extension of counseling is available or secured, the complainant may file a formal complaint any time after 30 days from the date of the initial request for counseling, or 90 days if the complainant chose ADR.

02. A complaint must:

- a. be in writing;
- b. be sufficiently precise to identify the complainant and the Commission, and to generally describe the action(s) or practice(s) that form the basis(es) of the complaint;
- c. be based only on claims established during the pre-complaint process;
- d. contain an address and telephone number where the complainant or his/her attorney can be reached; and
- e. be signed by the complainant or the complainant's attorney.

03. Complaints will be deemed filed on the date received or on the date postmarked if mailed to an official designated to receive them.

04. A complainant may amend a complaint at any time prior to the conclusion of the investigation to include issues or claims like or related to those raised in the complaint.

05. After requesting a hearing, a complainant may file a motion with the AJ to amend a complaint to include issues or claims like or related to those raised in the complaint.

06. The Commission, through the Director of EEO, will immediately acknowledge receipt of a complaint or an amendment to a complaint in writing. This acknowledgment, a copy of which will be placed in the investigative file, will inform the complainant of:

- a. the date the complaint or amendment to a complaint was received;
- b. which claim(s) will be investigated or, if the Commission so determines, that the entire complaint or a portion of the claim(s) have been dismissed, the rationale for that determination, and that the dismissed claim(s) will not be investigated; and
 1. that such a determination is reviewable by an AJ if a hearing is requested on the remainder of the complaint, but is not appealable until final action is taken on the remainder of the complaint;
 2. that the complainant has 30 days after receipt of the Commission's dismissal or final action within which to file an appeal; or
 3. that the complainant has the right to file a civil action in Federal district court within 90 days of receipt of the dismissal.
- c. the address of the EEOC office where the request for a hearing shall be sent; and
- d. that the Commission is required to conduct an impartial and appropriate investigation of the complaint within 180 days of the filing of the complaint unless the parties agree in writing to extend the time period or, when a complaint has been amended, within the earlier of 180 days after the last amendment to the complaint or 360 days after the filing of the original complaint, except that the complainant may request a hearing from an AJ on the consolidated complaints any time after 180 days from the date of the first filed complaint.

SECTION 10. THE INVESTIGATION

01. The investigation of complaints shall be conducted by the Commission.

02. The investigation must compile an impartial and factual record upon which to make findings on the claims raised by the written formal complaint. An appropriate factual record is one that allows a reasonable fact finder to draw conclusions as to whether discrimination occurred.

03. Any investigation will be conducted by investigators with appropriate security clearances.

04. The Commission will complete its investigation within 180 days of the date of filing of a complaint or within the time period contained in an order from the Office of Federal Operations on an appeal from a dismissal pursuant to § 1614.107. By written agreement within the applicable time period, the complainant and the Commission may voluntarily extend the time period for not more than an additional 90 days.

05. The Commission will provide the complainant with a copy of the investigative file within the following time periods:

- a. within 180 days from the filing of the complaint; or
- b. if the complaint was amended, within 180 days of the last amendment to the complaint or 360 days after the filing of the original complaint; or
- c. within the time period contained in an order from the Office of Federal Operations on an appeal of a dismissal; or
- d. within any period of extension of an investigation.

06. The Commission will notify the complainant that, within 30 days of receipt of the investigative file, s/he has the right to request a hearing and decision from an AJ or an immediate final decision pursuant to § 1614.110 from the Commission, and indicate the EEOC office where the request should be filed. After receiving this notice, or at any time after 180 days have elapsed from the filing of the complaint, the complainant may request a hearing by submitting a written request directly to the indicated EEOC office.

07. If the complainant decides to request a hearing and decision from an AJ, the complainant must send a copy of the request for a hearing to the Commission's Director of EEO. Within 15 days of receipt of the request for a hearing, the Commission shall provide a copy of the complaint file to the EEOC and, if not previously provided, to the complainant.

08. If the complainant does not request a hearing and decision by an AJ, the Commission will issue a final decision in accordance with Section 11 of this AI.

SECTION 11. OFFER OF RESOLUTION

01. The Commission may make an offer of resolution to the complainant in accordance with § 1614.109(c):

a. if the complainant is represented by an attorney, any time after the filing of a written formal complaint but not later than the date an AJ is appointed to conduct a hearing; or

b. whether or not the complainant is represented by an attorney, any time after the parties have received notice that an AJ has been appointed to conduct a hearing, but not later than 30 days prior to the hearing.

02. If the complainant fails to accept the offer of resolution and the relief awarded in the AJ's decision, the Commission's final decision, or the EEOC's final decision on appeal is not more favorable than the offer, then, except where the interest of justice would not be served, the complainant shall not receive payment from the Commission of attorney's fees or costs incurred after the expiration of the 30-day acceptance period.

03. An acceptance of an offer must be in writing and will be timely if postmarked or received within the 30-day period.

04. The offer of resolution shall be in writing and shall include:

a. an explanation of the possible consequences of failing to accept the offer;

b. compensation for attorney's fees and costs;

c. any non-monetary relief;

d. any monetary relief which, can be offered as:

1. a lump sum covering all forms of monetary liability; or

2. an itemized list of amounts and types of monetary relief being offered; and

e. notification of the time period for accepting the offer.

05. Where a complainant fails to accept an offer of resolution, the Commission may make other offers of resolution and either party may seek to negotiate a settlement of the complaint at any time.

SECTION 12. THE HEARING

01. When a complainant requests a hearing, the entire complaint file is transferred by the Director of EEO to the Office of General Counsel where designated attorneys are responsible for defensive litigation on behalf of the agency.

02. After receiving a hearing request, the EEOC will appoint an Administrative Judge (AJ) to conduct the hearing in accordance with § 1614.109. Upon appointment, the AJ assumes full responsibility for adjudication of the complaint.

03. The AJ may dismiss the complaint pursuant to § 1614.107, on his/her own initiative, after notice to the parties, or upon the Commission's motion to dismiss.

04. The AJ shall notify both parties of the right to seek discovery prior to the hearing. Unless the parties agree in writing concerning the methods and scope of discovery, the party seeking discovery shall request authorization from the AJ prior to commencing discovery.

05. The Commission shall provide for the attendance at a hearing of all employees approved as witnesses by an AJ.

06. The complainant, Commission, and any Federal employee must produce such documentary and testimonial evidence as the AJ deems necessary.

07. When the complainant, the Commission, or a Commission employee fails without good cause shown to respond fully and in a timely fashion to an order of an AJ, requests for documentation, or the attendance of witnesses, the AJ may:

- a. draw an adverse inference against the party failing to respond;
- b. consider related matters to be established in favor of the opposing party;
- c. exclude other evidence offered by the party failing to respond;
- d. issue a decision fully or partially in favor of the opposing party; or
- e. take other actions as appropriate.

08. The Commission shall arrange and pay for verbatim transcripts of the hearing.

09. All documents submitted to and accepted by the AJ at the hearing shall be made part of the record of the hearing:

a. if the Commission submits a document that is accepted, it shall furnish a copy to the complainant; and

b. if the complainant submits a document that is accepted, the AJ shall make the document available to the Commission representative for reproduction.

10. The AJ will issue a decision on the complaint and shall order appropriate remedies and relief where discrimination is found within 180 days of receipt of the complaint file from the Commission, unless s/he makes a written determination that good cause exists for extending the time for issuing a decision.

11. The AJ will send copies of the hearing record, including the transcript, and the decision to the parties.

12. If the Commission does not issue a final order within 40 days of receipt of the AJ's decision in accordance with § 1614.110, then the decision of the AJ shall become the final action of the Commission.

SECTION 13. THE FINAL ACTION OF THE COMMISSION

01. The final action of the Commission may be either a final order or a final decision.

02. The Commission will issue a final order under the following circumstances and guidelines pursuant to § 1614.110(a) within 40 days after receipt of the hearing file and the final decision of the AJ after s/he has issued a decision under § 1614.109(b), (g) or (i).

03. The final order shall notify the complainant whether or not the agency will fully implement the decision of the AJ and shall contain notice of:

- a. the complainant's right to appeal to the EEOC;
- b. the complainant's right to file a civil action in Federal district court;
- c. the name of the proper defendant(s) in any such lawsuit; and
- d. the applicable time limits for appeals and lawsuits.

04. If the final order does not fully implement the decision of the AJ, the Commission must simultaneously file an appeal in accordance with § 1614.403 and append a copy of the appeal to the final order.

05. The Commission will also attach a copy of EEOC Form 573, Notice of Appeal/Petition to the Equal Employment Opportunity Commission, to the final order.

06. The Commission will issue a final decision under the following circumstances and guidelines pursuant to § 1614.110(b):

- a. immediately upon the Commission's dismissal of an entire complaint;
- b. within 60 days of the Commission's receipt of a request for a final decision from the complainant; or
- c. within 60 days after the 30 day time period for the complainant to request a hearing or decision if the complainant has requested neither.

07. A final decision shall contain notice of:

- a. findings by the agency on the merits of each issue in the complaint or, as appropriate, the rationale for dismissing any claims in the complaint;
- b. appropriate remedies and relief if discrimination is found;
- c. the complainant's right to appeal to the EEOC;
- d. the complainant's right to file a civil action in Federal district court;
- e. the name of the proper defendant(s) in any such lawsuit; and
- f. the applicable time limits for appeals and lawsuits.

08. The Commission will also attach a copy of EEOC Form 573, Notice of Appeal/Petition to the Equal Employment Opportunity Commission, to the final decision.

SECTION 14. RECORDS MANAGEMENT

01. Case records, including all notes, drafts, and other records of counseling efforts, will be maintained by the Commission after counseling is completed for a period extending to four years after final action.

02. After four years, case records will be destroyed.

SECTION 15. OTHER RIGHTS AND RESPONSIBILITIES

01. The complainant and his/her representative, if any, shall be free from restraint, interference, coercion, discrimination or reprisal throughout the EEO process.

02. The EEO Counselor and Director of EEO shall be free from restraint, interference, coercion, discrimination or reprisal throughout the EEO process.

03. An employee or applicant who wishes to utilize the EEO process may be advised and accompanied by a representative of his/her own choosing throughout the process.

04. Representatives who are themselves employees of the Commission will be given a reasonable amount of official time to provide adequate representation to complainants during all stages of the process. The Commission may, however, disqualify the complainant's designated representative in cases where the representation of the complainant would conflict with the official or collateral duties of the representative. Disqualifications must be justified in writing and approved by the Director of EEO.

05. If the complainant is an employee of the Commission, s/he will have a reasonable amount of official time to prepare the complaint if otherwise on duty.

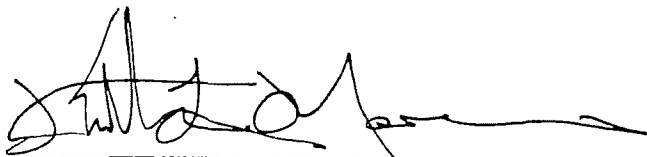
06. The Commission is not obligated to change work schedules, incur overtime wages, or pay travel expenses to facilitate the choice of a specific representative or to allow the complainant and representative to confer. However, the complainant and representative, if employed by the Commission and otherwise in a pay status, shall be on official time, regardless of their tour of duty, when their presence is authorized or required by the Commission during the investigation, informal adjustment or hearing on the complaint.

07. The complainant has the duty to mitigate damages, e.g., that interim earnings or amounts that could be earned by the individual with reasonable diligence generally must be deducted from an award of back pay, as well as to mitigate administrative and court time frames.

08. The complainant has the duty to keep the Commission and the EEOC informed of his/her current address and to serve copies of appeal papers filed with the EEOC to the Director of EEO at the Commission.

09. At any stage of the EEO process, the complainant and the Commission may resolve or settle any claim of discrimination. If a resolution is reached, it shall be reduced to writing and signed by the parties involved and the Director of EEO.

10. All notes, drafts, and other records of counseling efforts will be maintained by the Commission after counseling is completed for a period extending to four years after final action.

A handwritten signature in black ink, appearing to read 'Kenneth L. Marcus', is written over a horizontal line.

KENNETH L. MARCUS
Staff Director

Issued: APR 15 1999

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-4

CAREER SENIOR EXECUTIVE SERVICE REDUCTION-IN-FORCE

SECTION 1. PURPOSE

This Administrative Instruction (AI) establishes policy and procedures to determine how career senior executives shall be removed in the event of a reduction-in-force (RIF) within the Commission.

SECTION 2. COVERAGE

- .01 This procedure applies to career appointees including probationary employees in the Senior Executive Service (SES).
- .02 This instruction does not apply to senior executives serving under noncareer, limited term, limited emergency appointments, and re-employed annuitants holding any type of appointment under the SES. These executives have no entitlement to the placement rights provided for the career appointees. For removal of executives under the above category, the Commission shall refer to 5 CFR, Part 359, Subpart I - Removal of Noncareer and Limited Appointees and Re-employed Annuitants.

SECTION 3. AUTHORITY/SCOPE

5 CFR, PART 359 - Removal from the Senior Executive Service...SUBPART F- Removal of Career Appointees as a Result of Reduction-In-Force.

SECTION 4. DEFINITIONS

1. Appointee: Any member of the SES regardless of whether under a career, noncareer, limited term or limited emergency appointment or a re-employed annuitant.

2. Career Appointee: A senior executive who has completed the required 1 year probationary period or was exempt by virtue of conversion to the SES system at the time of its inception.
3. Probationary Appointee: A career member of the SES who has not completed the 1-year probationary period.
4. Competitive Area: The geographic area that defines the boundaries of competition for RIF purposes. Since all SES positions in the Commission are located in Washington, the area of consideration would be the Washington, DC metropolitan area.
5. Competitive Level: All the positions in a competitive area that are so alike in qualification requirements, duties and responsibilities that the agency may readily assign an employee in one position to any of the other positions without changing the terms of the employee's appointment and without unduly interrupting work.
6. Performance Rating: The higher of the senior executives two most recent official SES performance ratings, for the year beginning October 1 and ending September 30, as reviewed by the performance review board and approved by the Staff Director (except that the most recent official SES performance rating, for the year beginning October 1 and ending September 30, will be used if that rating was unsatisfactory). Executives who for any reason do not have an annual performance rating will be assigned a presumptive rating of Fully Satisfactory.
7. Service Computation Date: As used in this instruction, the date used to identify an appointee's total creditable civilian and uniformed service for retention standing in RIF competition. In the Commission, creditable service for RIF is determined in the same manner for SES as in the General Schedule using FPM 296-33, subchapter 6.
8. Surplus Position: An SES position which becomes surplus to the needs of an organization and is abolished due to lack of work or curtailment of a function; shortage of funds; reorganization; determination that the appointee's position no longer meets the definition for an SES position because of a change in duties or responsibilities; or other action which results in the elimination or modification of one or more SES positions.
9. Reduction-in-Force: The elimination or modification of a position due to a reorganization, due to a lack of funds or curtailment of work, or due to any other factor.
10. Executive Resources Board (ERB): Members appointed by the Head of the Commission. The members must be Commission employees, and should be top line management officials. Additionally, to the extent practicable, the membership should include, a mix of Presidential and SES appointees, career and noncareer appointees and the Human Resources Director. The ERB should have general

oversight of the management of executive personnel in the Commission. They also function as an advisor to the Staff Director in executive personnel planning, utilization of executive resources, executive development, and evaluation of executive personnel programs.

SECTION 5. REDUCTION-IN-FORCE INFORMATION AND PROCEDURES

1. The Commission shall establish competitive procedures in writing to determine who will be removed from the SES in any reduction-in-force of career appointees within the Commission.
2. Competitive procedures are not required if the Commission is being abolished, without a transfer of functions, and all SES appointees are separated at the same time or within 3 months of abolishment.
3. If a position occupied by a career senior executive is abolished the appointee is entitled to be offered any vacant SES position in the Commission for which he/she meets qualification requirements. If there is more than one vacant SES position, the Commission has the option of which position to offer the appointee.
4. An appointee who has completed the probationary period must be retained over an appointee who has not completed the probationary period if they both have the same retention standing.
5. Career and probationary appointees who occupy surplus positions and who have not been placed by reassignment into vacant SES positions are entitled to compete for job retention. Upon the Staff Director's determination of a RIF situation, the Executive Resources Board will prepare a list, called a retention register. This list consists of the incumbents in the Commission who occupies career SES positions for which the incumbent of the surplus position is qualified. These persons along with the incumbent of the surplus position, will be listed on the retention register in accordance with the retention groups and subgroups defined in Appendix A with performance given priority consideration. All affected employees will be advised in writing of their retention group and subgroup placement on the register.
6. Such competitive procedures shall be based primarily on performance. When performance ratings are used, they shall be the final ratings (i.e., the rating of record assigned by an appointing authority after considering the recommendation of a Performance Review Board).
7. If there are appointees occupying positions for which the surplus appointee is qualified and who are in a lower retention subgroup as determined through the competitive process, the appointee in the surplus position will displace (take the position of) the appointee with the lowest retention standing. If there are no appointees in such positions who have a lower retention standing, there is no displacement. No displacement will be affected without prior approval from the

Executive Resources Board of the technical qualifications of the surplus appointee for the position in which the surplus appointee is being placed.

8. After the internal RIF procedures have been followed the Staff Director shall immediately notify the Office of Personnel Management (OPM) in writing of the name of the senior executive displaced and certify that no position is available within the Commission in which to place the displaced career senior executive.
9. OPM will attempt to place the appointee for a period of 45 days commencing on the day that the certification is acknowledged by OPM. However, it is the continuing responsibility of an agency that has the surplus career appointee(s) to place the employee in a vacant SES position, even after the appointee is certified to OPM.
10. Senior executives referred to OPM for placement remain on the Commission's payroll in the SES during the time that OPM tries to place the executives in a position for which he/she qualifies.
11. As provided by U.S.C. 3595(b)(3), OPM may have the Commission to take any action which OPM considers necessary to carry out any such placement.
12. A career appointee may be removed from the SES and the civil service due to a RIF if:
13. The career appointee declines a reasonable offer for placement by the OPM. OPM's placement efforts will cease. The appointee may be removed from the SES at the expiration of the Commission notice period.
14. The career appointee is not placed in another SES position by OPM within 45 days after the OPM acknowledging the receipt of the certification from the Staff Director that the senior executive cannot be placed in the Commission.
15. Based on prior competitive service, a displaced or RIFed senior executive may be offered an opportunity to exercise reinstatement eligibility to a vacant position in the General Schedule, provided that the Staff Director, acting on discretionary authority to rule in such cases, decides that such fallback is the best interest of the Commission.

SECTION 6 NOTICE REQUIREMENTS

- 01 Each career appointee subject to removal is entitled to a specific written notice at least 45 days before the effective date of the removal. The notice shall state:
 - a. The action to be taken and its prospective effective date.
 - b. The nature of the competition, including the appointee's competitive area, and standing on the retention register.

- c. The place where the appointee may inspect the regulations and records pertinent to the action.
 - d. Placement Rights within the agency and through OPM, including how the employee can apply for OPM placement assistant.
 - e. The appointee's appeal rights, including the time limit for appeal and the location of the Merit Systems Protection Board.
- .02 A career appointee who has received a RIF notice is entitled to a second notice in writing at least one day before removal from the SES. This notice should include at a minimum :
- a. Basis for removal;
 - b. Effective date of the removal;
 - c. Placement rights outside the SES, and when applicable, the appointee's eligibility for discontinued service retirement in lieu of placement; and
 - d. Reminder of the appointee's appeal rights.

SECTION 7. APPEALS

A career appointee is entitled to appeal to the Merit Systems Protection Board (MSPB) whether the reduction-in-force complies with the information described in Section 5.

SECTION 8. ELIGIBILITY FOR DISCONTINUED SERVICE ANNUITIES

A career senior executive is considered involuntarily separated from the rolls and entitled to a discontinued service annuity (provided the eligibility requirements of Part 831, Title 5, CFR, are met) under the following circumstances:

- a. Declination of an offer of reassignment to another senior executive position in the Commission that is outside of the commuting area.
- b. Declination of a reasonable offer by OPM for another SES position elsewhere in the Government for which the appointee is deemed qualified.
- c. Expiration of the OPM placement time periods, as discussed in Section 5.
- d. Retirement upon receiving a specific notice that the appointee's position is to be abolished and that the appointee faces involuntary separation from the position as a result.

SECTION 9. REINSTATEMENT

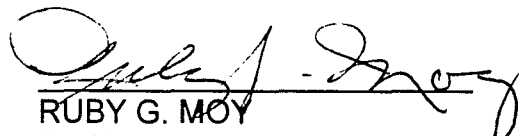
- .01 A career appointee removed through RIF is entitled to be reinstated to any vacant SES position within the Commission for which he/she is qualified if he/she applies for that position within one year after OPM receives the Staff Director's certification discussed in Section 4.06.
- .02 A career appointee who has completed the probationary period as of the time of removal, for a period of one year from date of removal will receive priority consideration for any vacant SES position within the Commission for which he/she is qualified.
- .03 The Human Resources Division will for a period of one year from date of removal, forward to any SES appointee removed through RIF a copy of all Commission SES vacancy announcements.
- .04 SES probationary appointees who are RIFed from their positions are not entitled to further placement consideration for SES positions. Such employees who were appointed to the SES from a civil service position held under a career or career-conditional or equivalent tenure appointment are entitled to be placed in a continuing civil service position at GS or GM-15 or above the General Schedule as long as such placement would not cause the separation or reduction in grade of any other employee. The probationary employee so placed is entitled to receive basic pay at the highest of the following rates of basic pay:

The rate of basic pay in effect for the General Schedule position in which placed;

- b. The rate of basic pay in effect at the time of the placement for the civil service position held immediately before being appointed to the SES; or
- c. The rate of basic pay in effect for the probationary appointee immediately before being placed in the General Schedule position upon separation from the SES.

SECTION 10. RECORDS

The Human Resources Division (HRD) shall maintain current records needed to determine the retention standing of its competing appointees. The HRD will allow the review of its retention registers and related records by an appointee to the extent that they have a bearing on the appointee's situation. The HRD will preserve intact all registers and records relating to a reduction-in-force for at least two years from the effective date of the action


RUBY G. MOY
Staff Director

RETENTION REGISTER GROUPING

APPENDIX A

GROUP 1. Career appointees, not serving on probation:

Subgroup IA: Executives with Outstanding performance ratings, in descending order of service computation dates.

Subgroup IB: Executives with Commendable performance ratings, in descending order of service computation dates.

Subgroup IC: Executives with Fully Successful performance ratings, in descending order of service computation dates.

GROUP II. Probationary appointees with performance ratings of Fully Successful or better.

Subgroup IIA: Probationary appointees with Outstanding performance ratings; in descending order of service computation dates.

Subgroup IIB: Probationary appointees with Commendable performance ratings, in descending order of service computation dates.

Subgroup IIC: Probationary appointees with Fully Successful performance ratings, in descending order of service computation dates.

GROUP III. All executives with Minimally Successful performance ratings

Subgroup IIIA: Career appointees listed in descending order of service computation dates.

Subgroup IIIB: Probationary appointees listed in descending order of service computation dates.

GROUP IV. All executives with Unsatisfactory performance ratings

Subgroup IVA: Career appointees listed in descending order of service computation dates.

Subgroup IVB: Probationary appointees listed in descending order of service computation dates.

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-5

STANDARDS OF CONDUCT

SECTION 1. PURPOSE

.01 *Purpose.* This Administrative Instruction (AI) provides a general description of the standard of conduct rules. If an employee has a potential standards of conduct problem he/she should examine the Office of Government Ethics (OGE) and the Commission regulations dealing with standards of conduct and consult with the designated agency ethics official (DAEO).

SECTION 2. LEGAL BASIS

.01 *Statutory*

Ethics in Government Act of 1978, 5 U.S.C., app § 101 et. seq.

.02 *Executive Order*

Executive Order 12674, April 12, 1989, Part 1-Principles of Ethical Conduct

.03 *Regulatory*

OGE Standards of Conduct for the Executive Branch, 5 C.F.R. § 2635
U.S. Commission on Civil Rights Ethics Regulation, 45 C.F.R. § Part 706,
Employee Responsibilities and Conduct

SECTION 3. ACCOUNTABLE OFFICIALS

.01 *Designated Agency Ethics Officer (DAEO).* The DAEO, the alternate DAEO, and any deputy ethics official to whom the DAEO has delegated the authority to issue advisory opinions or to receive and review reports filed according to OGE regulations.

SECTION 4. ACCEPTANCE OF GIFTS FROM OUTSIDE SOURCES

.01 *Solicitation of gifts.* A Commission employee may not solicit or accept gifts from prohibited sources or gifts given because of the employee's official position. Gifts include any tangible or intangible items, such as favors, gratuities, loans, entertainment, travel, or travel related expenses.

.02 *Prohibited source.* Any person who: (1) is seeking official action by the Commission; (2) does business or seeks to do business with the Commission; (3) has

interests that may substantially be affected by performance or nonperformance of the employee's official duties. It also includes (4) an organization, the majority of whose members are described in (1) - (3) of this section.

.03 *Exceptions.* There are some limited exceptions to the general prohibition against accepting gifts from outside sources. These exceptions include:

- a. Unsolicited gifts of market value \$20 or less per occasion, with a yearly maximum of \$50. This exception does not apply to gifts of cash or investment interests;
- b. Waiver of conference fees for the day of participation when the employee is scheduled as a speaker in an official capacity;
 - (1) Fee attendance at widely attended gatherings when the agency designee determines that the employee's attendance is in the interest of the agency.
- c. Discounts and similar benefits that are offered to the public, to other groups that the employee belongs to, or a widely diverse group of government employees;
- d. Gifts based on outside business or employment relationships when it is clear that the benefit is not offered or enhanced because of the employee's official position;
- e. Gifts given by friends or relatives when the reason for the gift is based on a personal relationship;
- f. Awards and honorary degrees valued at more than \$200 require the approval of the DAEO;
 - (1) Gifts with an aggregate market value of \$200 or less pursuant to an award for meritorious public service or achievement, provided that:
 - (a) the award is not given by a person or organization that may be substantially affected by the performance or nonperformance of the employee's official duties, and
 - (b) the gift is not in the form of cash or an investment instrument.
- g. Gifts in connection with political activities permitted by the Hatch Act Reform Amendments;
- h. Social invitations at which food, refreshments, and entertainment are

provided and the function is attended by several persons, if: (1) the invitation is not from a prohibited source, and (2) no fee is charged to any attendee.

SECTION 5. GIFTS BETWEEN EMPLOYEES

.01 Limitations on Giving Gifts. Commission employees may not directly or indirectly give a gift to, solicit or contribute a gift for, coerce the offering of a gift, or make a donation toward, a gift for a supervisor. A supervisor is someone who is above the employee in the chain of command and/or can affect the employee's performance appraisal, awards, or job assignments.

.02 Limitations on Accepting Gifts. An employee may not directly or indirectly accept a gift from an employee receiving less pay than himself/herself unless: (a) the two employees are not in a subordinate-official superior relationship, and (b) there is a personal relationship between the two employees that would justify the gift.

.03 An official superior may not coerce the offering of a gift from a subordinate.

.04 Acceptance of gifts. On an occasional basis, including any occasion in which gifts are traditionally given or exchanged, employees may give an official superior and an official superior may accept from a subordinate or employee receiving less pay, gifts in the following categories:

- a. Items, other than cash, with an aggregate market value of \$10 or less per occasion;
- b. Items such as food to be shared in the office among several employees;
- c. Items given in connection with the receipt of personal hospitality at a residence, of a type and value customarily provided to personal friends; or
- d. Where the gift is leave transferred under the Commission leave sharing plan.

.05 Accepting of Gifts for Special Occasions. A gift appropriate to the occasion may be given to an official superior or accepted from a subordinate or other employee receiving less pay:

- a. In recognition of infrequently occurring occasions of personal significance such as marriage, illness, or the birth or adoption of a child; or
- b. Upon occasions that terminate a subordinate - official superior relationship, such as retirement, resignation, or transfer.

SECTION 6. GIFTS FROM FOREIGN SOURCES

.01 *Prohibition.* Commission employees may not accept or encourage the tender of a gift from a foreign government.

.02 *Allowed gifts.* The following gifts from a foreign source may be accepted by Commission employees:

- a. Gifts of minimal value;
- b. Transportation taking place entirely outside the United States;
- c. Educational scholarships;
- d. Medical treatment; or
- e. On any occasion where refusal would cause embarrassment either to the United States or to the Government which is offering the gift.

SECTION 7. ACCEPTANCE OF TRAVEL AND RELATED EXPENSES

.01 *General rule.* All official travel must be paid for from Commission appropriated funds.

.02 *Exception.* See Administrative Instruction 3-10 and 5 C.F.R. S 304-1 allowing executive departments to accept reimbursement from non-Federal sources for an employee's transportation expenses to certain functions related to the employee's official duties.

.03 *Frequent Flyer Bonuses.* If an employee joins a frequent flyer program and any flight mileage paid for by government is credited toward that account, then that mileage is the property of the government and may not be used for personal travel. An employee may not use frequent flyer bonus miles accrued on government travel for personal upgrades.

.04 *Commingling of funds.* Employees who commingle personal and official mileage in the same account must keep accurate records in order to use personal miles for personal travel.

SECTION 8. OUTSIDE EMPLOYMENT OR OTHER ACTIVITY

.01 Outside employment and other activities must not prevent the employee from devoting his/her primary interests, talents, and energies to the accomplishment of his/her work for the Commission, or create a conflict or apparent conflict between his/her private interests and his/her official responsibilities.

.02 *Prior approval.* Prior approval to engage in outside work from the employee's supervisor is required. Employees must obtain the supervisor's approval prior to engaging in paid, outside employment.

.03 *Authorized leave required.* All outside work must take place wholly outside official duty hours or while the employee is on authorized leave. Leave without pay generally will not be granted for the purpose of private employment, with the exception of service with non-Federal public or quasi-public organizations.

.04 *Non-career employees.* Certain non-career employees are limited in the amount of outside income that they may earn. See 5 C.F.R. § 2635.804.

SECTION 9. HONORARIA

.01 *General rule.* Commission employees may accept honoraria for an appearance, speech or article, provided that the activity does not relate to the employee's official duties. Employees are subject to other restrictions on the receipt of honoraria in certain circumstances, including the prohibition on receiving compensation for teaching, speaking and writing that relates to their official duties.

SECTION 10. TEACHING, SPEAKING, AND WRITING

.01 *General rule.* A Commission employee may not accept compensation from sources other than the Government for teaching, speaking, or writing that is related to his/her official duties.

.02 *Related to official duties.* Teaching, speaking, or writing is related to official duties if:

- a. The invitation was extended directly or indirectly by someone who has interests that may be substantially affected by the performance or nonperformance of the employee's official duties;
- b. The invitation to teach, speak, or write was extended primarily because of the employee's official position with the Commission rather than his/her expertise on the particular subject matter;
- c. The subject matter deals significantly with any ongoing or announced policy, project, or operation of the Commission;
- d. The information to be presented draws substantially upon nonpublic information.

SECTION 11. OUTSIDE ACTIVITIES

.01 *Endorsements.* Outside activities have the same requirements as outside work. Outside activities are those that are not on a standardized schedule. Many times they are volunteer activities. Employees are prohibited from endorsing, in an official capacity, the proprietary products or processes of a manufacturer, or the services of commercial firms for advertising, publicity, or sales purposes.

.02 *Limitations.* Official support should be limited to charitable and other fundraising activities administered by the Office of Personnel Management under its delegation from the President. Employees may endorse any outside program in their private capacity, provided that they do not use their official title or position with the Commission.

.03 *Fundraising.* Commission employees may not take any action in their official capacity which may result in or create the appearance of using public office for private gain, losing independence or impartiality, or causing the public to lose confidence in the integrity of the Government.

.04 *Officers in outside organizations.* Employees may serve as officers in an outside organization if they are participating in their private capacity and not on government time, no prior notice or approval is necessary. An employee's supervisor may allow official time to attend outside functions, such as conventions or meetings, when it is in the best interest of the government. When official time is granted for service in a private sector organization, especially service as an officer, the primary beneficiary must be the programs and operations of the Commission.

SECTION 12. GAMBLING ON GOVERNMENT PREMISES

.01 *Prohibition.* Gambling by Government employees is prohibited at all times on Government premises including those leased by the Government. This includes raffles, lotteries, numbers rackets, football pools, etc.

SECTION 13. TESTIMONY

.01 *Authorization from Designated Agency Ethics Official (DAEO).* In order for a Commission employee to testify as an expert witness, in any judicial or administrative proceeding in which the U.S. is a party, the employee must first obtain authorization from the DAEO.

.02 A Commission employee may serve as a fact witness when subpoenaed by an appropriate authority.

SECTION 14. POLITICAL ACTIVITY

.01 Authorized activities. Commission employees may participate in the following political activities:

- a. Run for public office in nonpartisan elections;
- b. Register and vote in any election;
- c. Express their personal opinion, privately or in public, on political subjects and/or candidates, as long as it is clear that it is their personal opinion;
- d. Attend a political convention, fund-raising function, or any other such gathering;
- e. Sign a political petition;
- f. Make a financial contribution to a political party or organization; or
- g. Campaign for or against referendum questions, constitutional amendments, municipal ordinances, etc.

.02 Unauthorized activities. Commission employees, may not:

- a. Run for public office in partisan elections;
- b. Use Government funds to support political activity;
- c. Directly or indirectly solicit campaign contributions from the general public;
- d. Solicit/receive campaign contributions on federal property;
- e. Solicit or accept a campaign contribution or campaign support in exchange for a promise to appoint someone to a federal job;
- f. Promise or withhold federal benefits based on political support or nonsupport;
- g. Penalize employees or withhold employment in order to induce them to make a political contribution or participate in a political activity.

.03 Career senior executive service employees or special employees. In addition to the provisions that apply to all employees, an employee in the senior executive service or a special government employee may not:

- a. Serve as an officer of a political party or Political Action Committee;

- b. Serve as a delegate, alternate, or proxy at a political convention;
- c. Drive voters to the polls on behalf of a political party or candidate;
- d. Solicit votes in support of, or in opposition to, a candidate for public office in a partisan election, or a candidate for political party office; or
- e. Take an active part in political management or in partisan political campaigns.

SECTION 15. LOBBYING ACTIVITY

.01 Matters of personal interest. Commission employees are prohibited from using appropriated funds to lobby a Member of Congress on matters of personal interest. This includes matters of concern to any outside organization in which they are a member or officer.

.02 Official duties. This does not prevent the employee from communicating with any Member of Congress or from responding to a request from Congress, on any official matter in their official capacity, when they are responding on behalf of the Commission.

SECTION 16. USE OF OFFICIAL TITLE

.01 Official capacity. Commission employees may use their official title when they are acting in their official capacity as a representative of the Commission. This may be on written documents, in verbal introductions, or other forms of address.

.02 Private capacity. Commission employees may not use their official title in their private capacity, or endorse in an official or private capacity the proprietary products or processes of manufacturers, or the services of commercial firms for advertising, publicity, or sales purposes.

SECTION 17. PROCUREMENT ACTIONS

.01 Unauthorized Actions. Employees may not procure goods and services for the government, or obligate government funds, without appropriate authorization. Employees who incur such unauthorized expenditures without authorization may be held personally responsible for payment.

SECTION 18. MISUSE OF GOVERNMENT TIME, EQUIPMENT, AND INFORMATION

.01 General rule. Each Commission employee is responsible to protect and conserve Government time, property, and information, and to use them economically and for authorized purposes only. Government property includes any property in which the Government has an ownership, leasehold, or other property interest. It includes office

supplies, telephone and other telecommunications equipment and services, the Government mails, automated data processing capabilities, printing and reproduction facilities, and Government records.

SECTION 19. NEPOTISM

.01 *General rule.* Commission employees may not appoint, employ, promote, or advocate appointment, employment, promotion, or advancement, of their relatives in, or to a position in, the Commission over which they exercise jurisdiction or control.

.02 *Definition of relative.* Relative means an individual who is related to an employee as a father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

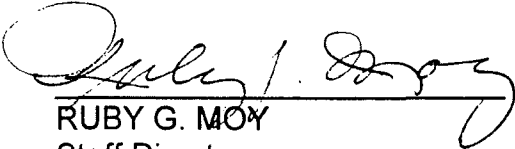
.03 *Exceptions.* An exception may be possible for preference eligible veteran or when there is an urgent need resulting from an emergency situation.

SECTION 20. NEGOTIATING FOR NON-FEDERAL EMPLOYMENT

.01 *General rule.* Commission employees may not negotiate for future or outside employment with any outside party with whom they deal in their official capacity, without prior approval from their supervisor.

.02 *Period of Negotiation.* Negotiation begins when there is a mutual interest in further discussions. Negotiation concludes when the possibility of employment is rejected, or two months have passed after an unsolicited resume or proposal is sent to a prospective employer.

.03 *Disqualification while seeking employment.* If the employee affects the financial interests of a prospective employer by performing or not performing his/her official responsibilities, the employee must be disqualified before entering negotiations. This requires notification by the employee to the supervisor of the intent to disqualify himself/herself.


RUBY G. MOY
Staff Director

Issued: February 11, 2004

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-6

EMPLOYEE RECOGNITION AND INCENTIVE AWARDS PROGRAM

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to motivate employees to increase productivity and creativity; and to encourage excellence in performance by rewarding those whose accomplishments, high level and quality of performance, and adopted ideas have benefited the Agency and the Federal government.

SECTION 2. AUTHORITY

Chapters 43, 45 and 54 of Title 5, United States Code, provide the basis for the Federal government's and the Commission's Employee Recognition and Incentive Awards Program. Chapter 53 of Title 5 provides authority to grant quality step increases.

SECTION 3. POLICY

01. It is the policy of the Commission on Civil Rights to:

- a. Use the Employee Recognition and Incentive Awards Program as an integral part of management and to grant recognition in keeping with the value of the contribution to the Federal government and to the Commission.
- b. Consider employee contributions for application throughout the Federal government.
- c. Assure that awards are not used as a substitute for pay or other personnel actions.
- d. Give consideration to awards granted in the competitive promotion of employees.

SECTION 4. SCOPE

While the Recognition Program applies in whole or in part to all employees, former employees or deceased employees (SES, GM, GS and Prevailing Rate), not all types of recognition apply to all employees. Each section includes information on eligibility. For a summary of employee eligibility for various types of recognition, see Appendix A, Summary of Employee Eligibility.

SECTION 5. DEFINITIONS

For the purposes of this program the following terms are defined:

- .01 "Award" or "Superior accomplishment award" means a monetary or non-monetary award for a contribution resulting in tangible benefits or savings and/or intangible benefits to the government.
- .02 "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.
- .03 "Intangible benefits" means benefits to the government which cannot be measured in terms of dollar savings.
- .04 "Non-monetary award" means a medal, certificate, plaque, citation, badge, or other similar item that has an award or honor connotation.
- .05 "Performance award" means a cash payment to an employee based on the employee's rating of record. A performance award does not increase base pay.
- .06 "Performance award budget" means the amount of money allocated by the Agency for distribution as performance awards to covered employees.
- .07 "Performance Management Plan" means the description of the Commission's methods which integrate performance, pay, and awards systems with its basic management functions for the purpose of improving individual and organizational effectiveness in the accomplishment of the Agency's mission and goals.

- .08 "Quality step increase" (QSI) means an increase in a GS, or GM employee's rate of basic pay from one step of the grade of his/her position to the next higher step of that grade in accordance with Title 5 U.S.C. 5336, in recognition of overall outstanding performance, as evidenced by a current rating of record.
- .09 "Rating of record" means the summary rating required at the time specified in the Performance Management Plan or at such other times as the plan specifies for special circumstances.
- .10 "Special act or service" means a contribution or accomplishment in the public interest which is in connection with or related to official employment.
- .11 "Tangible benefits" means benefits or savings to the government that can be measured in terms of dollars.

SECTION 6. RESPONSIBILITIES

- .01 The Staff Director retains approval authority for the following:
 - a. Approval of Senior Executive Service (SES) performance awards.
 - b. Approval of performance awards for GM, GS, and Prevailing Rate employees.
 - c. Quality step increases for GS and GM employees.
 - d. Approval of Superior Accomplishment awards (i.e., special act or service awards and all suggestion awards).
 - e. Recommendations to the Office of Personnel Management (OPM) for Presidential awards.
 - f. Recommendations to OPM for all cash awards over \$10,000.
- .02 Consistent with individual budgetary allocations and subject to a written delegation of authority, the Staff Director may delegate to designated Office Heads, the authority to approve some awards for members of their staffs.

.03 Other Program Responsibilities:

- a. The Assistant Staff Director for Management (or in his or her absence or if a vacancy in the position, the Director of Human Resources) is responsible for:
 - (1) Providing administrative assistance and formulating budgetary proposals for approval by the Staff Director which are appropriate and necessary for effective and efficient program operation.
 - (2) Assuring that proposed program changes which are of a policy nature (or have substantial budgetary impact) are properly presented for approval to the Staff Director.
 - (3) Making program announcements to Agency employees through the use of facilities in the Agency.
 - (4) Providing information and/or training for managers, supervisors, and employees concerning the effective use of the Employee Recognition and Incentive Awards Program.
 - (5) Reviewing and submitting the annual report of the program activities to the OPM and submitting any new plans or changes as required.
- b. Responsibility of Management Review Panel: The decision to recommend an adoption or non-adoption of a suggestion is the responsibility of a Management Review Panel. The panel members will be designated by the Staff Director from among the senior officials of the Commission. The Director of Human Resources in consultation with the Director of EEO programs, will designate a person to serve as Executive Secretary of the panel. The Director of Human Resources, or his/her designee, will forward all suggestions to the panel. The Office Head to whose area of operation the suggestion applies will be required to report to the panel on the suggestion after appropriate testing and/or evaluation. When a decision is made to recommend adoption of a suggestion, the panel will submit the suggestion, analysis, and award recommendation to the Staff Director for review and approval. If a suggestion is not recommended for adoption, the panel will also notify the Director of Human Resources of the reasons. The Director of Human Resources, or his/her designee, will notify the employee of the

Panel's decision and of the reasons. The Director of Human Resources will also notify the employee of the final action of the Staff Director.

- c. Responsibilities of Supervisors and Managers: Each supervisor and manager will be responsible for securing effective participation of his/her staff in the Employee Recognition and Incentive Awards Program and for making award recommendations. Specific responsibilities of supervisors and managers include:
- (1) A full understanding of the purpose of the program.
 - (2) Recommending recognition based solely on merit.
 - (3) Assuring equity of consideration of awards within their organization.
 - (4) Preserving their and the program's credibility and motivating others by publicly making known the reasons recognition is granted.
 - (5) Setting up systematic reviews to identify the operations of programs that show superior results. If superior results are realized, especially in units where production can be objectively measured, then a recommendation for a special act or service award should be initiated.

SECTION 7. RECORDS

Nominations and dispositions of award nominations under this program shall be documented in the employee's appropriate folders. Approved awards and supporting documentation under this program shall also be documented in the employee's appropriate folders. The Agency will inform employees annually of the number of quality step increases granted in the Agency by grade level.

SECTION 8. TRAINING

In order to ensure effective management and implementation of the performance appraisal systems and the Employee Recognition and Incentive Awards Program, managers, supervisors, and employees will receive appropriate training and information on the appraisal process and on the Employee Recognition and Incentive Awards Program. Copies of relevant and appropriate written issuance covering this program will be made available to employees, supervisors, and managers and employee representatives.

SECTION 9. TYPES OF RECOGNITION

The following section outlines the wide range of the types of recognition available to reward employees' performance and superior accomplishments, including special acts, years of service, and suggestions.

.01-Performance Awards and Quality Step Increases (QSIs)

(a) Performance Awards

- (1) Nature of Recognition: Monetary, accompanied by a certificate signed by the Staff Director.
- (2) Eligible Employees: All employees in the General Schedule, GM employees, and employees paid under Prevailing Rate.
- (3) Eligibility: To be eligible for consideration for a performance award, an employee must be in a position covered by the applicable performance appraisal system on the last day of the current performance appraisal period for which performance award determinations are being made. The employee's rating of record must be Level 5 (Outstanding), Level 4 (Commendable), or Level 3 (Fully Successful) with one critical element rated Outstanding or two critical elements rated Commendable. An employee with a Level 2 (Minimally Successful) rating of record or Level 1 (Unacceptable) rating of record is ineligible for a performance award.
- (4) Funding of Performance Awards: In the absence of a budget increase for this purpose, the amount of money available for performance awards is dependent upon the funds available at the end of the fiscal year.

A performance award is a lump sum cash award and is in addition to an employee's regular pay and does not increase his/her base pay. The award amount will be calculated as a percentage of the unadjusted rate of basic pay for each grade. Locality rates of pay, over and above basic pay rates, will not be used in the calculation. The award is subject to the withholding of taxes.

(5) Criteria: Awards under this part must be based on an employee's rating of record for the current appraisal period for which performance pay decisions are being made.

Employees at the same grade level, with the same rating, should receive the same performance award amount. At each grade level and within the same performance award Pool, the smallest performance award for an employee with a Level 5 (Outstanding) rating must be greater than the largest performance award for an employee with a Level 4 (Commendable) rating. At each grade level and within the same Pool, the smallest performance award for an employee with a Level 4 (Commendable) rating of record must be greater than the largest performance award for an employee with a Level 3 (Fully Successful) rating of record.

(6) Nomination Procedure: The appraising or reviewing official(s) may recommend or nominate an employee for a performance award. If the recommendation and rating of record meet the criteria requirements of the appraisal system, it will be forwarded to the official with final approval authority (normally the Staff Director).

(7) Approval Authority: The Staff Director has final authority. He/she may delegate this authority to designated Office Heads.

(b) Quality Step Increases (QSI's)

(1) Nature of Recognition: An increase in an employee's rate of basic pay from one step of the grade of his/her position to the next higher step of the grade which is accompanied by a certificate and letter signed by the appropriate official(s).

(2) Eligible Employees: GS and GM employees who are not on time limited appointments of 1 year or less.

(3) Criteria: A QSI under this Program may be granted only to an employee who has a current rating of record which is "Outstanding." Pursuant to 5 U.S.C. 5336, a quality step increase may not be granted to an employee who has received a QSI within the preceding 52 consecutive calendar weeks or who is at the step 10 of the grade.

(4) Nomination Procedure: The appraising or reviewing official(s) may nominate an employee for a QSI based on the employee's current rating of record of "Outstanding." The written nomination must be accompanied by a copy of the performance appraisal. After approval by the appropriate authority, the documents should be forwarded to the Human Resources Division. The QSI will be effective the first pay period following the date of approval by the appropriate authority.

(5) Approval Authority: The Staff Director has final approval authority. He/she may delegate this authority to designated Office Heads.

.02 SES Performance Awards

a. Bonuses

(1) Nature of Recognition: Monetary award accompanied by a certificate signed by the Staff Director.

(2) Eligible Employees: All career appointees in the Senior Executive Service with a rating of record of at least "Fully Successful" during the most recent appraisal period are eligible for consideration for SES performance awards, i.e., SES bonuses. Employees with a rating of record of "Minimally Satisfactory" or "Unsatisfactory" are not eligible for performance awards.

(3) Funding of Awards: The total amount of performance awards paid under this part during a fiscal year by an agency may not exceed the greater of:

(i) Three percent of the aggregate career SES basic pay as of the end of the fiscal year prior to the fiscal year in which the award payments are made; or

(ii) Fifteen percent of the average annual rate of basic pay for career SES appointees as of the end of the fiscal year prior to the fiscal year in which the award payments are made. The amount of a performance award paid to an individual career appointee may not be less than 5 percent nor more than 20 percent of the appointee's rate of basic pay as of the end of the performance appraisal period.

An SES bonus is in addition to regular pay and does not increase an employee's base pay. The award is subject to the withholding of taxes.

Agencies must submit information on their distribution of performance awards, the total amount of the awards, and the aggregate payroll or average rate of basic pay as computed under (1) or (2) above to OPM after the pay out.

(4) Nomination Procedure: Recommendations for consideration for performance awards (bonuses) are made by the Performance Review Board. An employee should not be advised of an award nomination prior to its final approval by the appropriate Agency official(s).

(5) Approval Authority: The Staff Director, as the appointing authority, has the final approval authority for SES performance awards for the Commission.

b. Superior Accomplishment Awards

To be awarded under this Section, the contribution must:

- (1) Have been made while the contributor was a Federal government employee;
- (2) Be supported by a written justification separate from the employee's rating of record; and
- (3) Be approved at a management level higher than that of the individual who recommended use of the suggestion or invention, or recommended the award, except when there is no one at a higher level.

Consideration must be given to wider application of suggestions, inventions and superior accomplishment and adopted ideas both within the Commission and government-wide and prompt referral of these contributions should be provided, when appropriate.

Acceptance of a monetary award constitutes an agreement that the use by the government of the idea, method or device for which the award is paid does not form the basis of a further claim against the government.

An award under this Section is a lump-sum payment and is in addition to regular pay and does not increase an employee's base pay. The award is subject to the withholding of taxes.

When an award is approved for an employee of another agency, the Commission shall make arrangements to transfer funds to the employing agency to cover the award. If the administrative costs of transferring funds would exceed the amount of the award, the employing agency shall absorb the award costs and pay the award.

An annual report on program activities and expenditures for the past fiscal year and the amount budgeted for the current fiscal year will be submitted to OPM.

.03 Special Act or Service Award (5 U.S.C. 4503)

a. Nature of Recognition: Monetary award and/or honorary recognition, such as a certificate or plaque.

b. Eligible Employees: All Commission employees including SES, GM, GS and Prevailing Rate.

c. Criteria: A special act or service award under this program must be based on a contribution in connection or related to official employment.

d. Nomination Procedure: The supervisor or any other higher level authority may nominate an employee for a special act or service award. The nomination must be in writing and must state the nature of the contribution, the benefits to the Federal government, and, if possible, provide documentation of specific tangible benefits. If the reviewing official(s) concur, the nomination should be forwarded through appropriate supervisory/managerial channels to the official with final approval authority. If approved, the Office Head will forward the nomination along with the documented approval to the Human Resources Division. That Division will process the award, and assure that the original recommendation and approval is filed in the employee's Official Personnel Folder (OPF). An employee should not be advised of an award nomination prior to its final approval by the appropriate Commission official(s).

c. Approval Authority: The Staff Director has final approval authority for all such awards for subordinate Commission staff. He/she may delegate this authority to designated Office Heads. Approval of awards under this Superior Accomplishments Awards Program over \$10,000 must be submitted to OPM by the Staff Director.

.04 Suggestions

a. Nature of Recognition: Monetary award and/or honorary recognition including certificate and letter signed by appropriate management official.

b. Eligible Employees: All Commission employees including SES, GM, GS and Prevailing Rate.

c. Criteria: Suggestions must be submitted in writing in order to be considered for an award. Suggestions may be submitted for consideration directly to the Director of Human Resources, or through supervisory channels. Suggestions should contain ideas and recommendations that directly contribute to overall economy, efficiency, or directly increase effectiveness of Federal government operations.

d. Procedure: Suggestions may be initiated by any employee by a memorandum or by use of OF-303. The memorandum may be submitted through supervisory channels or directly to the Director of Human Resources. The Director of Human Resources, or his/her designee, will acknowledge receipt of all suggestions promptly. All suggestions will be forwarded to the Management Review Panel for evaluation.

Following the Panel's review, including any technical evaluation of the feasibility and/or cost effectiveness of the suggestions, the Director of Human Resources or his/her designee, will inform the employee of the action taken (adopted or not adopted), and the reasons therefor. At the time the Review Panel decides to recommend adoption of a suggestion, it will also recommend the type of award and the amount, if monetary. A copy of each commendation letter to an employee concerning his/her suggestion will be placed in his/her OPF.

Approval Authority: The Staff Director has final approval authority for all suggestion awards.

.05 Career Service Recognition

a. Nature of Recognition: Pin and certificate of service or plaque, as appropriate.

b. Eligible Employees: All Commission employees.

c. Approval Authority: Director of Human Resources

d. Criteria

(1) Federal Service: Career service recognition will be granted to each Commission employee who has completed, 10, 15, 20, 25, 30, 35, 40, 45, and 50 years of Federal service. Eligibility will be based on total Federal government service including all honorable military service. Service is recognized with a career service pin and a certificate.

(2) Retirement: Upon retirement from the Federal service, each employee will normally receive a plaque.

(3) Procedure: The Division of Human Resources will determine, on an annual basis, those employees who meet the length of service requirement for career service recognition. Certificates of service will be prepared for those employees reaching the various milestones in their Federal careers. The certificates of service and appropriate service pins will be forwarded to the various Office Heads for appropriate presentation.

.06 Other Awards

a. Time Off Award

(1) Nature of Recognition: excused absence granted without loss of pay or charge to leave to recognize a superior accomplishment or other personal effort that contributes to increased quality and effectiveness of the Commission's programs such as:

- Making a unique contribution involving a difficult or important assignment;
- Displaying special skill or initiative in completing an assignment or project before the deadline;
- Using initiative or creativity in making improvements in a product, activity, program, or service through action, or an employee suggestion; or
- Ensuring the mission of the unit is accomplished during a difficult period by successfully completing additional work or a project assignment while maintaining the employee's own workload.

Each division head is authorized to award time off up to a total of a half day per full-time employee under his/her supervision.

(2) Eligible Employees: All Commission employees.

b. Staff Director's Award

Special act or service award to be presented to an individual or group for sustained extraordinary performance. This can be recognized through a on-the-spot cash award, plaque, and/or certificate.

c. On-the-spot-cash award

This award is designed to be extremely simple for managers to award their employees. The paperwork should be kept to an absolute minimum and the awardee will receive the award's check within a few days (5 U.S.C. 4503).

d. Presidential Awards

(1) Monetary and Honorary Awards

- Nature of Recognition: Monetary award paid by the agency(ies) primarily benefiting from the employee's contribution.
- Eligible Employees: All Commission employees.
- Criteria: An award under this section is granted to an employee who contributes to the efficiency, economy, or other improvement of Federal government operations or

achieves a significant reduction in paperwork by a suggestion, invention or other personal effort or performs an exceptional meritorious special act or service in the public interest in connection with or related to official employment. A Presidential Award in this section may be in addition to an Agency award under Section 8 above.

- iv. Nomination Procedure: Nominations may be made by any employee through supervisory channels. The Staff Director must make the recommendation for the Presidential Award to the Office of Personnel Management. OPM shall review the Commission's recommendation and determine if a Presidential Award is merited. The Office of Personnel Management has the authority to determine the activity or activities primarily benefiting from any suggestion, invention or other contribution which forms the basis for a Presidential Award.

(2) SES Presidential Rank Awards

To recognize prolonged, high quality accomplishment and performance of career members of the Senior Executive Service, 5 U.S.C. 4507 authorizes the President to approve the awarding of ranks and accompanying monetary awards to a select number of executives who hold SES career appointments. A lump sum paid under this section is in addition to basic salary. Two types of awards are available under section 4507:

- Meritorious Executive for sustained accomplishment; this award includes a lump sum payment of \$10,000.
- Distinguished Executive for sustained extraordinary accomplishment; this award includes a lump sum payment of \$20,000.

A certificate signed by the President and a distinctive pin will also be presented to each Presidential Rank Award recipient.

- i. Eligible Employees: All SES career appointees are eligible for consideration for the Presidential Rank Awards of Meritorious or Distinguished Executive if they are on the nominating agency's rolls as career SES employees on February 15, the normal deadline for submission of

nominations. The performance for which a nomination is submitted shall have been sustained over a minimum period of at least 3 years. Any individual who received a rank of either Meritorious Executive or Distinguished Executive shall not be entitled to receive that same award during the following four (4) fiscal years. Generally, agencies should not grant both performance awards (bonuses) and rank awards to the same individual in a given fiscal year. The only exception would be if the total amount for both did not exceed 20% of base pay.

- ii. Nomination Procedure: The Staff Director may nominate up to two of the career SES members for either Meritorious or a Distinguished Rank award. Government-wide, only 5% of the career SES can receive a Meritorious Rank and 1% can receive a Distinguished Rank Award. Nominations are submitted to the Office of Personnel Management no later than February 15 except for those years when there is a change in Presidential administration. Nominations will be considered on the basis of relative merit government-wide and not on the basis of agency size. The agency must indicate for each nominee which rank is being recommended. When an agency submits more than one nomination for the same rank, the agency's order of priority must also be indicated.

e. Employee Recognition Awards

- (1) Nature of Recognition: The proposed Employee Recognition awards will not be connected to the performance appraisal system; they are intended to provide the agency, through its supervisors, a means of nominating employees for quality government service, demonstrated through 1) direct furtherance of the agency's mission and goals; and 2) actions, contributions or suggestions which have led to agency/office improvements or cost savings.
- (2) Eligible Employees: All Commission Employees. Any employee serving on the selection committee who also is nominated must recuse him/herself during evaluation of his/her nomination.

(3) Criteria:

Mandatory Factors:

- An outstanding rating for the latest performance cycle.
- Employee must not have been promoted within the calendar year. (It is presumed that such employees' contributions would have been considered in their promotion justification; and these awards are intended to encourage supervisors to nominate employees who did not receive recognition through other means.)
- Act or accomplishment must have occurred during the six months preceding the awards deadline. (Nine for the first awards given under this program.)
- Act or accomplishment must have improved the efficiency or effectiveness of the agency/office.
- Act or accomplishment must have led to a significant agency or office outcome.

Optional/Discretionary Factors:

- Act or accomplishment directly furthered a Commission office's or the agency's mission and goals.
- Act or accomplishment led to cost savings for the agency.
- Employee was source of suggestions, which enhanced the overall productivity of the agency.
- Employee offered ideas or implementation of programs or activities that improved the team spirit or the work environment. (Example: Employee conducted an in-house training, briefing, or held an event that benefited the agency or other employees.)

(4) Nomination Procedure:

- Supervisors may submit a one-page or less justification to the awards committee for each nominee. (The Committee will not accept or consider extraneous attachments or supporting documentation unless it has contacted the nominator and requested such material.)
- Supervisors may only submit one nomination for any given employee in an awards cycle.
- Team contributions are permissible. In those cases, supervisors must submit separate nominations for each member who showed extraordinary team effort.
- Nominations may be made at any time during the year. The committee will provide managers 10 days notice of its intention to meet and make selections.

- Supervisors and others associated with the process shall **not** communicate nominations to employees before the committee has approved the awards.
- The awards committee will evaluate all nominations within 30 days of the deadline for submissions.
- The awards committee will determine recipients, types, and amount of awards.
- The awards committee will communicate approvals to nominators (supervisors or managers).
- Within 1 week of notification, the supervisor or manager must complete an SF-52 referencing "spot cash award" and submit it to the Staff Director's office for signature.
- Upon the Staff Director's approval (signature), the SF-52 will be forwarded to BFD. HRD will be notified and will process the award for distribution in the first pay period after approval.

Monetary:

Nominations may be made at any time during the year.

For the initial program awards (those that will be given during the first cycle in 2004), the committee will consider employee actions taken during the preceding nine months. For any awards cycle thereafter, the committee will consider employee actions taken during the preceding six months.

Subject to availability of funds in any given year, 4 levels of monetary awards will be available, based on the selection committee's estimation of relative significance of all acts under consideration. The total award pool will not exceed \$7,500 for either award cycle. In no case will any single award exceed \$1,000.00. Following are the levels:

LEVELS 1-2. ACCOMPLISHMENTS THAT BENEFITED AN OFFICE DIVISION

Level 1: \$100.00 - \$250.00

Level 2: \$250.00 - \$500.00

LEVELS 3-4. ACCOMPLISHMENTS THAT BENEFITED THE AGENCY

Level 3: \$500.00 - \$750.00

Level 4: \$750.00 - \$1000.00

Non-monetary:

Some employee contributions, while notable, may not warrant a monetary award. The committee has the authority to grant the following:

- i. The committee may award an individual time off up to one day. The total number of time-off awards that the committee is authorized to grant in any awards cycle may not exceed 10 days collectively.
- ii. Certificate of Recognition

Awards Committee Membership: For planning and receiving nominations, the committee will consist of the director for HRD and the director of another division as assigned by the Staff Director. For review and selection, the union will be invited to add a representative.

The Staff Director, to insure compliance with criteria, will review all nominations recommended by the committee.

SECTION 10 EVALUATION OF THE EMPLOYEE RECOGNITION AND INCENTIVE AWARDS PROGRAM

.01 Employee Recognition and Incentive Awards Program Advisory Committee(s) may be established to conduct annual evaluations of the program as it affects employees. The objectives of this evaluation will be:

- a. to determine how effectively the Program is being used to encourage and recognize excellence in performance, exceptional achievement and constructive, cost-saving ideas;
- b. to identify specific strengths and weaknesses;
- c. to recommend improved policies and procedures; and,
- d. to recommend goals and objectives to direct future Program efforts.

.02 An evaluation report will be prepared by the Committee and presented by the Director of Human Resources to the Staff Director.



LES JIN
Staff Director

APPENDIX A. TANGIBLE BENEFITS AWARDS SCALE

Monetary awards (for special acts or suggestions) based on tangible savings shall not exceed amounts indicated by the following scale:

Estimated first year benefits to Government Award	Amount of
Up to \$10,000	10% of benefits
\$10,001 - \$100,000	\$1,000 for the first \$10,000 plus 3% of benefits over \$10,000
\$100,000 or more	\$3,700 for the first \$100,000 plus .5% of benefits over \$100,000

The minimum award is \$100.

- (1) The minimum award for tangible benefits may be granted only when the benefits reach or exceed \$250 or an agency-determined minimum. The minimum award for intangible benefits should require a comparably high standard.
- (2) Contributions recognized by cash awards based on intangible benefits must be comparable, in value to the Government, with those based on tangible benefits.
- (3) When a contribution has both tangible and intangible benefits, the amount of award is based on the total value to the Government.

Issued: APR 15 1991

ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 2-7
GRIEVANCE PROCEDURES

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish the administrative grievance procedures for employees not in the bargaining unit represented by AFSCME Local 2478. The grievance procedure for employees in the bargaining unit is contained in the collective bargaining agreement (CBA).

SECTION 2. AUTHORITY

Chapter 71 of Title 5, United States Code (USC);

Title 5, Code of Federal Regulations (CFR), Part 771.

SECTION 3. SCOPE

This AI applies to all full-time, part-time GS/GM, and SES Commission employees who are not covered by the negotiated grievance procedures. This AI does not apply to intermittent employees. It also applies to employees covered by the negotiated grievance procedure, should they wish to grieve a matter excluded from coverage in the negotiated procedure, but included under these procedures.

SECTION 4. POLICY

It is the policy of the U.S. Commission on Civil Rights to ensure full, objective, equitable, fair, and prompt consideration of each grievance, within reasonable time limits. It is the Commission's policy to provide a fair, equitable and timely forum, through this administrative grievance procedure, for internal review and resolution of disputes on employment-related matters arising within the agency.

SECTION 5. DEFINITIONS

.01 **Bargaining Unit Employee.** An employee included in an appropriate exclusive bargaining unit as determined by the Federal Labor Relations Authority for which a labor organization has been granted exclusive recognition. At the USCCR, the bargaining unit consists of "all employees in the National and regional offices, except

supervisors and management officials as defined in Executive Order 11491 as amended; employees engaged in Federal personnel work in other than a purely clerical capacity; and employees to which Section 3 of Executive Order 11491 as amended applies" (Article I, Section 2, CBA).

.02 **Employee**. For purposes of this AI, employee means one who is not in the bargaining unit, except in the rare and unusual case when a grievable matter is outside the scope of the collective bargaining agreement. It does include a former employee provided the employee can be given a remedy that is consistent with law.

.03 **Days**. Calendar days unless otherwise noted in this instruction.

.04 **Factfinder**. A person authorized to investigate and determine the disputed facts of a grievance.

.05 **Deciding Official**. The person responsible for issuing the decision of the grievance.

.06 **Grievance**. A request by an employee, or by a group of employees acting as individuals, for personal relief in a matter of concern or dissatisfaction relating to the employment of the employee(s) which is subject to the control of agency management (i.e., the agency has authority to grant relief). Any such matter of concern or dissatisfaction may be the basis for the grievance unless it is listed under exclusions in Section 16.02 below. Employees may join a group in submitting a grievance (i.e., a group grievance) as if the group were an individual when more than one employee is concerned or dissatisfied with the same matter. Only one decision will be rendered and will be applicable to all group members.

.07. **Grievance File**. A separate file established when a written grievance is filed, and contains all of the documents related to the grievance, including but not limited to:

- a. the written grievance filed by the employee(s);
- b. any statements of witnesses, records or copies thereof;
- c. the fact-finder's report, when fact-finding is used;
- d. the report of the hearing, when one is held;
- e. statements made by the parties to the grievance; and
- f. the agency's decision.

.08 **Representative**. A person, permitted by the rules, who has been chosen by the grievant and who has agreed to advise, assist, or represent the employee in presenting a grievance.

.09 **Personal Relief**. A specific remedy directly benefiting the grievant(s) and may not include a request for disciplinary or other action affecting another employee.

SECTION 6. RESPONSIBILITIES

- .01 The Staff Director is responsible for providing direction and review of USCCR grievance procedures.
- .02 The Director of Human Resources is responsible for:
 - 1. Monitoring operation of the grievance system and compiling management reports thereof;
 - 2. Ensuring that Human Resources staff, supervisors and managers are apprised of program and procedural changes and significant precedents; and
 - 3. Ensuring that employees are informed of their rights under the provisions of this AI.
- .03 Human Resources Division is responsible for:
 - 1. Counseling employees concerning procedures under this AI, assisting in training and assigning factfinders, and providing administrative support for factfinders, such as obtaining services of court reporters if necessary, and arranging for office space; and
 - 2. Supervisors and managers have the obligation to act promptly and fairly upon servicing employee's grievances at the informal stage and to seek the advice and assistance of their HRD representatives when necessary. They are responsible for obtaining prompt, authoritative answers so that grievances can be resolved quickly and effectively. While grievances are in both the informal and formal stages, supervisors and managers are to continue to actively attempt to resolve the problems/issue(s).
 - 3. Each employee is expected to make a maximum effort to achieve informal settlement of a grievance. Employees should bring grievance

matters to the attention of management promptly and proceed within specified time limits following proper procedures.

SECTION. 7 RIGHTS OF EMPLOYEES

.01 An employee and his/her representative are assured of freedom from restraint, interference, coercion, discrimination, or reprisal; in connection with the filing or processing of a grievance under this procedure.

.02 In presenting a grievance or preparing a challenge to a disallowable decision, an employee has the right to a reasonable amount of official time, if the employee is actively in a duty status. **Supervisory approval for the use of official time must be obtained in advance. This allowance of time does not extend to the preparation of a grievance.**

SECTION 8. RIGHT TO SEEK ADVICE AND COUNSELING

.01 An employee, in processing a grievance, is entitled to communicate with, and seek advice from, representatives of the Human Resources Division, the Director of EEO or EEO Counselor, and Office Directors. Human Resources representatives may counsel and advise employees on the procedural aspects and employee rights, with respect to submitting and processing grievances.

.02 Representatives of the Human Resources Division will also assist supervisors and managers responsible for considering and resolving grievances. The Director of Human Resources will act in an advisory capacity and in no way will assume another official's responsibility for resolving a grievance. The Director of Human Resources may, however, serve as a grievance official for employees directly under his/her supervision.

SECTION 9. RIGHT TO REPRESENTATION

.01 An employee covered by this procedure has the right to be accompanied, represented, and advised by a representative of his/her own choosing. An employee has the right to present a grievance either with or without representation.

.02 If the employee elects to be represented, such representative may be a private attorney, a Commission employee, or a non-attorney. However, if the representative is a Commission employee, the agency reserves the right to disallow the individual selected if the choice results in a conflict of interest or position, conflicts with the priority needs of the agency, or would give rise to unreasonable costs to the Federal government.

.03 If the individual is disallowed due to agency priorities, the grievant has the option of selecting another representative or delaying the grievance process for not more than thirty (30) days until the individual initially selected becomes available. If at the end of the thirty (30) day period the individual is still disallowed due to agency priorities, another individual must be selected if the grievant still elects to present the grievance with representation.

.04 In all cases, if the grievant elects to be represented, the name of the representative must be made known in writing to the first person to whom the grievance is presented.

.05 The Commission will not assume any liability for expenses incurred by an employee or his or her representative, in the exercise of rights under this procedure. An employee and an employee's representative will be given a reasonable amount of official time, however, to present the grievance if they are otherwise in a duty status.

SECTION 10. DISALLOWANCE DECISION PROCEDURES

A grievant's choice of representative may be disallowed because of: (1) priority needs of the Government; (2) unreasonable costs to the Government; (3) conflict of position; or (4) conflict of interest.

Timing of decision of disallowance.

A disallowance decision may be made at any time during the processing of a grievance, but it cannot be made retroactively.

Authority for disallowance decision.

A disallowance decision based on a (1), (2), or (3), above, shall be made by the Staff Director.

Priority needs of the Government.

If the representative's supervisor believes that the release of the employee to serve as the grievant's representative would have a significant impact on the ability to meet program goals, to provide required services, or to meet project deadlines authority for use of official time should be denied because of the priority needs of the Government.

Unreasonable cost to the Government.

If the representative's supervisor believes that the authorization of official time would involve substantial travel costs (travel outside of the normal commuting area) or other related expenses, authority for use of official time should be denied because of unreasonable costs to the Government.

Conflict of Position.

Conflict of Position refers to an incompatibility between the representative's official duties and the representative function. One example would be for a Human Resources Specialist or Director of Human Resources to serve as grievant's representative in a complaint concerning a personnel action over which he/she has some knowledge of it by virtue of his/her duties.

Conflict of Interest.

Conflict of interest can take many positions. One example is for a supervisor or other employee who is excluded from membership in a bargaining unit to be represented by an official of a labor organization that represents or has pending a petition to represent employees under his/her direction or control or with whom he/she has substantial contact and dealings, or by an officer or employee of an association with which such a labor organization is affiliated.

Informing of a disallowance decision.

The supervisor who makes the disallowance decision shall inform the grievant and the proposed representative in writing of the reason(s) for the decision and the procedure for challenging a disallowance decision.

Request to Overrule a Disallowance Decision.

The grievant may send a written request to the Assistant Staff Director for Management (if vacant or absent, the Director of Human Resources) within 10 days after receiving the written disallowance to overrule the disallowance. The grievant must include a copy of the disallowance decision, and provide any and all reasons as to why the disallowance should be overruled.

Response to the Request to Overrule a Disallowance Decision.

Within 10 days after the receipt for a request to overrule the disallowance decision, the Assistant Staff Director for Management or his/her designee shall issue the final agency decision on the request, or if the time limit cannot be met, the grievant shall be informed of the estimated date of the decision.

A disallowance decision serves to suspend the grievance processing time limits for at least 10 days. If the disallowance decision is contested within 10 days, the grievance process is suspended until the grievant receives the final agency decision on the request to overrule.

SECTION 11. ALLEGATION OF DISCRIMINATION

Allegations of discrimination because of race, color, religion, sex, age, disability, or national origin made in connection with a grievance filed under this procedure, are excluded from this procedure in accordance with 5 CFR Part 771. Such allegations must

be processed under provisions governing equal employment opportunity (EEO) complaints.

SECTION 12. OFFICIAL TIME

.01 An employee, if otherwise in active duty status, is entitled to a reasonable amount of official time to present the grievance.

.02 The employee's representative, if a Commission employee, is also entitled to a reasonable amount of official time, if otherwise in an active duty status, to assist in the presentation of the grievance.

.03 The amount of time allowed must depend upon the facts and circumstances of each individual grievance, such as the nature of the grievance and the volume of pertinent supporting evidence. The amount of official time granted the employee and his/her representative shall be determined by the person(s) responsible for authorizing leave for each.

.04 The amount of time authorized should normally not exceed eight (8) hours.

SECTION 13. PAYMENT OF TRAVEL AND PER DIEM

The grievant and his/her representative and/or witnesses at a hearing, are not entitled to payment of travel and per diem expenses by the Commission, in connection with the processing of a grievance under this administrative grievance procedure.

SECTION 14. ALTERNATIVE DISPUTE RESOLUTION

To the extent deemed appropriate and feasible, the agency will consider such alternative methods to dispute resolution as informal and voluntary resolution of employment-related disputes by use of counseling, mediation or settlement.

SECTION 15. GRIEVANCE COVERAGE

01. **Grievable Matters.** This administrative grievance procedure covers any matter(s) of concern or dissatisfaction relating to:

- a. the employment of an employee which is subject to the control of Commission management, including any matter on which an employee alleges that coercion, reprisal, or retaliation has been practiced against him/her for filing a grievance under this AI;
- b. the immediate work environment of the employee(s);

- c. situations which exist within the employee(s) work group;
- d. the application or impact of policies, regulations, and directives;
- e. in-service placement actions;
- f. the application of critical elements and performance standards and/or appraisals by management officials and supervisors.

.02 **Matters Not Grievable**. This grievance procedure does not apply to the following:

- a. **Commission Policy**. The content of published Commission regulations and policy issuances.
- b. **Other Appeal Rights**. A matter which the employee is or was entitled to grieve under a negotiated grievance procedure established under 5 USC 7121 or in which the employee is entitled to file an appeal or other formal challenge for which the following agencies have authority to grant remedy: the Merit Systems Protection Board (MSPB), the Office of Human Resources Management (OPM), the Federal Labor Relations Authority (FLRA), or the Equal Employment Opportunity Commission (EEOC).
- c. **Non-selection for Promotion**. Non-selection for promotion or reassignment from a group of properly ranked and certified candidates or failure to receive a noncompetitive position (e.g., career ladder promotion).
- d. **Preliminary Warning**. A preliminary warning notice of an action which, if effected, would not be covered under this grievance procedure or would be excluded from coverage under Section 16.02. b. (e.g., an oral admonishment or a notice of proposed adverse action for which no decision has been rendered).
- e. **Return from the Senior Executive Service (SES)**. A return of a career SES appointee to the General Schedule or another pay system during the one year period of probation or for less than "fully successful" executive performance under 5 USC 3592.

- f. **Performance-Based SES Reassignment.** The reassignment of an SES appointee following the appointee's receipt of an unsatisfactory performance rating under 5 USC 4314.
- g. **SES Recertification Actions.** The failure to be recertified under 5 USC 3393a; or the conditional recertification of a career SES appointee under 5 USC 3393a.
- h. **Expiration of a Temporary Promotion.** An action which affects the expiration of a temporary promotion within a maximum period of two years and returns the employee to the position from which the employee was temporarily promoted, or reassigns or demotes the employee to a different position that is not at a lower grade or pay than the position from which the employee was temporarily promoted. The employee must be informed in advance of the temporary nature of the promotion or termination.
- i. **Expiration of a Term Promotion.** An action which affects the expiration of a term promotion at the completion of the project or the date specified, or at the end of a rotational assignment in excess of two years but not more than five years, and returns the employee to the position from which promoted or to a different position of equivalent grade and pay. The employee must be informed in advance of the temporary nature of the term promotion.
- j. **Content of a Performance Plan.** The substance of the elements and performance standards (i.e. the performance plan) or statement of work objectives.
- k. **Receipt of Awards.** (1) The granting of, or failure to grant, or the amount of an award granted under 5 CFR Part 430, Subpart E; or (2) the granting of, or failure to grant, or the amount of an award granted under Part 451 (i.e., superior accomplishment awards); or (3) the adoption of, or failure to adopt, an employee suggestion or invention under Part 451; or (4) the granting of, or failure to grant, a meritorious or distinguished executive rank award to a career senior executive under 5 USC 4507; or (5) the granting of, or failure to grant, or the amount of a performance award to a career SES appointee under 5 USC 5384 (i.e., an SES bonus); or (6) the receipt of, or failure to receive, a quality step increase under 5 USC 5336.
- l. **Termination During the Probationary Period.** The separation or termination of an employee serving in a probationary or

- administrative trial period. The termination, under 5 CFR Part 359, Subpart D, of an SES career appointee, during the one year probationary period, for unsatisfactory/unacceptable performance.
- m. **Expiration of an SES Limited Appointment.** An action which affects the expiration of an SES limited emergency or limited term appointment on the date specified or within the maximum period of 18 months or 36 months respectively.
 - n. **SES Performance Appraisal.** A performance evaluation of an SES appointee under 5 USC Chapter 43, Subpart II.
 - o. **SES Pay Increase.** The decision to grant, or not to grant, a Senior Executive Service pay rate increase.
 - p. **Recruitment and Relocation Bonuses, Retention Allowance and Supervisory Differential.** The payment of, or failure to pay, or the amount of a recruitment bonus, a relocation bonus, a retention allowance or a supervisory differential under 5 CFR 575.
 - q. **Voluntary Geographical Reassignment.** An action taken in accordance with the terms of a formal agreement voluntarily entered into by an employee which: (1) assigns the employee from one geographical location to another; or (2) returns an employee from an overseas assignment.
 - r. **Return of Probationary Supervisor.** The return of an employee from an initial appointment as a supervisor or as a manager to a non-supervisory or a non-managerial position for failure to satisfactorily complete the probationary period under 5 USC 3321 (a)(2) and 5 CFR Part 315, Subpart I.
 - s. **Other Separation Actions.** A separation action not already excluded above, (e.g., termination of a temporary or term appointment).
 - t. **Pay for Certain Senior Level Positions.** The decision to grant, or not to grant, a pay rate increase, to employees in certain senior level positions, under 5 USC 5376.
 - u. **Pay for Critical Positions.** The payment of, the failure to pay, or the amount of critical position pay under 5 USC 5377.

- v. **Redundant Procedures.** A matter which has been, or is being, appropriately processed under another procedure.
- w. **Matters Covered by the Collective Bargaining Agreement.** A matter which is within the scope of the collective bargaining agreement between the Commission and AFSCME Local 2478, and which is grievable under the negotiated grievance procedures by bargaining unit employee.
- x. **Matters Covered by Other Review Procedures.** A matter meeting the definition of a grievance but in which the employee files a complaint under another review procedure, reconsideration, or dispute resolution process within the agency.

SECTION 16. GRIEVANCE PROCEDURE - INFORMAL STAGE

.01 The purpose of the Informal Stage is to encourage the settlement of grievances at the lowest possible administrative level and in the shortest possible time.

.02 The grievant and/or his/her representative, shall present the informal grievance orally, or in writing, to the grievant's immediate supervisor.

.03 An employee may present a grievance concerning a continuing practice or condition at anytime. An employee shall present a grievance concerning a particular act or occurrence within 15 calendar days of the act or occurrence. This time limit may be extended if circumstances beyond the control of the grievant precluded timely filing of the grievance. A statement of intent to file is insufficient to meet the time limit requirement.

.04 The grievant and/or his/her representative must state, either orally or in writing:

- a. that a grievance is being filed;
- b. the matter, or matters, that are being grieved; and
- c. the personal relief sought.

.05 If the informal grievance is filed in writing, the supervisor must establish a grievance file. Upon request, the grievance file shall be made available to the grievant and/or his/her representative for review.

.06 The supervisor will accept a timely filed grievance for consideration if it contains all of the information in subsection .04 above and is not excluded from grievance consideration in Section 16.

.07 When the grievance fails to meet any of the foregoing criteria, the supervisor should meet promptly with the employee, and/or his/her representative, and attempt to clarify the grievance or remedy any defects so that the grievance can be understood and acted on, as appropriate. Failure on the part of the employee to clarify the grievance or provide the information necessary to understand, document and process the grievance may result in its rejection.

.08 A rejected grievance may be revised and resubmitted by the employee, in accordance with the time limits specified in subsection 03. above (i.e., 15 days from the act or occurrence which gave rise to the grievance). In this case it will be treated as a new grievance.

.09 If the matter grieved is within the scope of the supervisor's authority, an effort must be made to work out a mutually satisfactory solution.

.10 If the matter cannot be resolved, or if it is outside the scope of the supervisor's authority, the supervisor will inform the grievant in writing.

11. **Response of the Supervisor to the Grievant.**

- a. If the relief requested is to be granted, the supervisor will reduce the proposed resolution to writing in the form of a memorandum or other organized written document to the grievant within 15 calendar days of receipt of the grievance.
- b. If the relief requested is not to be granted, the supervisor will so inform the grievant within 15 calendar days of receipt of the grievance. If the supervisor cannot meet the prescribed time limits, he/she must notify the grievant and the representative in writing of the estimated date. The grievant and supervisor will enter into a written agreement of the extension statement which outlines the problem, the original date and sets the new date. Under no circumstances will there be more than one extension of this nature. The response will contain, at a minimum, the following:
 - (1) a brief summary of efforts to resolve the grievance including confirmation of any discussions between the grievant and the supervisor;
 - (2) the reason(s) why the relief requested cannot be granted; and
 - (3) instructions for filing the grievance at the Formal Stage of the administrative grievance procedure.

- c. If the supervisor does not have the authority to resolve the grievance, including granting the relief sought, he/she will so inform the grievant, in writing, within 15 calendar days. The response will contain the following:

- (1) an explanation of why the supervisor does not have the authority to either resolve the grievance or grant the relief sought; and

- (2) instructions on submitting the grievance at the Formal Stage of the administrative grievance procedure.

SECTION 17. GRIEVANCE PROCEDURE - FORMAL STAGE

01. **Initial Step.** If the grievance cannot be resolved at the Informal Stage, the employee must present the grievance, in writing, at the initial step of the formal process. The official at the Informal Stage will transmit the grievance file, if one was established at that stage, to the official at the initial step of the Formal Stage.

02. The grievant, or his/her representative, must present the grievance, in writing, within 10 calendar days of the date of receipt of notification of the written decision at the Informal Stage of the administrative grievance procedure.

03. The grievance may be presented, either:

- a. to the next higher level supervisor in the grievant's organization, as long as that official is at least an office head; or
- b. to the official in the Commission who has the authority to resolve the grievance including granting the relief sought, (for example, resolution of a technical travel issue, or a time and attendance problem, etc.).

04. The written grievance must include, at a minimum, the following information:

- a. name of the grievant;
- b. sufficient detail to identify and clarify the basis for the grievance;
- c. the personal relief sought by the grievant;
- d. name of the representative, if applicable; and

- e. signature of the grievant. (A group grievance must be signed by all individuals joining in the grievance and will be processed under the name of the first listed grievant).

05. Upon receipt of a written grievance at the Formal Stage, the official at the initial step will determine:

- a. whether the grievance is timely;
- b. is covered by the administrative grievance procedure; and
- c. has been processed through the Informal Stage.

06. If the grievance is returned for improper processing it must be done in writing with an explanation why it was improperly processed.

07. If the grievance is outside the scope of the administrative grievance procedure, it should be returned in writing to the employee.

08. If the grievance has been processed properly and timely and is covered by the grievance procedure, then the official at the initial step shall attempt to resolve the grievance.

09. If the grievance is resolved, the official at the initial step will normally issue a written decision to the grievant within 15 calendar days of receipt of the grievance. The decision will include a report of findings and reasons for the determination.

10. If the grievance cannot be resolved in a manner acceptable to the employee within 15 calendar days, the official must issue a written decision to that effect. The grievance may then be referred to the final step of the administrative grievance procedure.

11. The grievant has 5 work days from receipt of the decision at the Initial Step to file the grievance at the final step of the administrative grievance procedure. Attempts at informal resolution should be continued even after a formal grievance is filed.

12. **Final Step.** The Staff Director, or his/her designee, will normally be the deciding official on all grievances referred to the Final Step of this procedure. If the grievance is referred to the Staff Director, the grievance file will be forwarded by the official at the initial step.

13. The Staff Director will attempt to resolve the grievance. As deciding official, he/she may reject a grievance:

- a. which has not been filed in a timely manner;
- b. which has not been properly processed through the Informal Stage and the initial step of the Formal Stage; or
- c. which is not covered by the grievance procedure.

14. The notice of rejection must be in writing and must specify the reason(s) for the rejection.

15. If the Staff Director accepts the grievance, but does not grant the relief sought by the grievant, or otherwise resolve the grievance in a manner acceptable to the grievant, the Staff Director may do one of the following:

- a. institute the optional fact-finding procedure described below; or
- b. decide the grievance without use of a fact-finder.

16. **Optional Fact-finding Procedure.** The Staff Director, at his/her discretion, may refer the whole grievance, or some aspect(s) of the grievance, to a fact-finder. This will depend on the nature and complexity of the matter grieved. If the Staff Director elects to use a fact-finder, he/she will normally do so within 15 calendar days of the receipt of the documentation.

- a. **Fact-finder.** The fact-finder must be an individual who has not been involved in making or influencing a decision regarding the matter(s) being grieved or the grievance itself, and who does not occupy a position directly subordinate, organizationally, to any official who recommended, advised, made a decision on, or who otherwise is or was involved in the matter being grieved, unless the official is the Staff Director.

(1) The fact-finder must be at least at the GS-13 level. If the grievant is above the GS-13 level, the fact-finder should be at least at the same, or equivalent, grade level as the grievant.

(2) The Staff Director may appoint as a fact-finder, either a Commission employee, or an employee of an outside organization preferably, from another federal agency.

- b. **Scope of Fact-finding.** The fact-finder will conduct an inquiry of a nature and scope, appropriate to the matter(s) referred by the Staff Director for fact-finding.
- c. **Fact-finder's Inquiry.** The fact-finder may acquire evidence through any one or any combination of the following means to be chosen solely at the fact-finder's discretion:
 - (1) the securing of documents;
 - (2) personal interviews;
 - (3) a group meeting;
 - (4) a formal hearing; or
 - (5) any combination of the above.
- d. **Custody of the Grievance File.** The fact-finder will take custody of the grievance file upon receipt of the grievance or the matter(s) referred by the Staff Director for fact-finding. On completion of his/her inquiry, the fact-finder will make the grievance file available to the employee(s) and his/her representative for review and comment. The fact-finder may set a reasonable deadline for receipt of any such comments.
- e. **Grievance File.** When the fact-finding procedure is utilized, the grievance file, at a minimum, must contain the following:
 - (1) the written grievance;
 - (2) any documentation submitted by the official(s) at the Informal Stage and at the initial step of the Formal Stage;
 - (3) the employee's written request for review of the actions at the Informal Stage and at the initial step of the Formal Stage;
 - (4) reports of any personal interviews or group meetings;
 - (5) written designation of the fact-finder (or notice to the grievant of designation of the fact-finder);
 - (6) records, or copies of available records, relevant to the grievance;

- (7) the transcript or summary of any hearing;
- (8) comments filed by the grievant and his/her representative on the fact-finder's inquiry;
- (9) post hearing brief, if any;
- (10) the fact-finder's report of findings and recommendations;
- (11) a copy of the final grievance decision; and
- (12) any correspondence relating to a management disallowance of an employee's representative; to a grievant's challenge to a management disallowance; and to the decision to the challenge;
- (13) disallowance of an employee's representative; to a grievant's challenge of the management disallowance; and to the decision on the challenge.

f. **Fact-finder's Report.** The fact-finder will, within 45 calendar days of receipt of the grievance, or the matter(s) referred for fact-finding, prepare a report of findings and recommendations. This report, along with the grievance file, will be submitted to the Staff Director. A copy of the report and the grievance will, upon request, be furnished to the grievant or his/her representative. If a hearing is held, the fact-finder will have 75 calendar days to issue the report.

15. **Final Decision.** The Staff Director will consider the entire record and issue written decision which will include a report of findings and reasons for the determination.

- a. The same consideration will be accorded a grievance that was not submitted for fact-finding but was submitted to the Staff Director after the decision at the initial step of the Formal Stage.
- b. The Staff Director's written decision, will normally be made within 15 calendar days of either receipt of the fact-finder's report, or receipt of the employee's appeal to the initial step decision.
- c. The Staff Director's written decision will be issued to the grievant and his/her representative.

- d. The Staff Director's decision will be final and will not be subject to further review. (All members of a group grievance must accept any decision rendered on the grievance without further individual recourse available.)

SECTION 18. EXTENSION OF TIME LIMITS

All time limits in the administrative grievance procedure may be extended by mutual consent. The time limit provided for the Staff Director's decision may be extended due to the operating needs of the Commission.

SECTION 19. CANCELLATION OR SUSPENSION OF THE GRIEVANCE

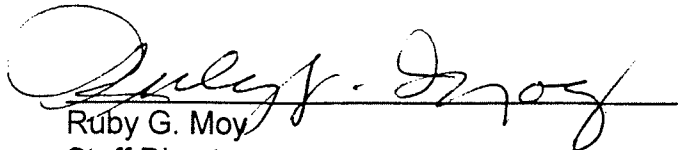
The Commission shall cancel, or temporarily suspend processing of, a grievance or a portion of a grievance:

- a. at the employee's request (cancel the grievance or suspend processing the grievance as requested);
- b. if the employee submits a grievance involving the same issue decided in an earlier grievance or under another formal dispute resolution process which has been filed by the same employee;
- c. if the employee later files a formal complaint, or other challenge on the same matter under this part or under another formal dispute resolution process;
- d. upon termination of the employee's employment with the Commission unless the personal relief sought by the employee may be granted after termination of his/her employment;
- e. upon the death of the employee unless the grievance involves a question of pay;
- f. for failure to prosecute if the employee does not furnish required information in sufficient detail to identify clearly the matter being grieved or specify the personal relief requested and duly proceed with the advancement of his/her grievance;
- g. where the employee requests that disciplinary or other detrimental action be taken against another employee, this improper portion of the grievance may be canceled; or

- h. for the failure of the grievant to comply with the appropriate time frames and procedures in the administrative grievance procedure (cancel the grievance if time frames are not met, or if other procedural deficiency(s), cancel or suspend processing until the deficiency is corrected by the grievant).

SECTION 20. REVIEW THE GRIEVANCE PROCEDURE

The Assistant Staff Director for Management and/or the Director of Human Resources will periodically review and evaluate the administrative grievance procedure to ensure that it is meeting the purpose and requirements of 5 CFR Part 771. Recommendations for improvements will be made to the Staff Director.



Ruby G. Moy
Staff Director

Issued: APR 1 5 2010

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-8

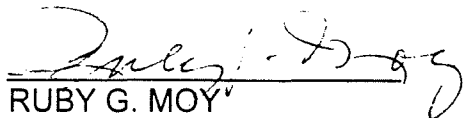
TROUBLED EMPLOYEE PROGRAM

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 2-8 effective immediately.

SECTION 2. POLICY

01. Employee information on the Commission's employee assistance program will be provided in the "Employee Handbook."
02. For questions concerning this instruction, contact the Human Resources Division.


RUBY G. MOY
Staff Director

Issued: APR 1 5 1995

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-9

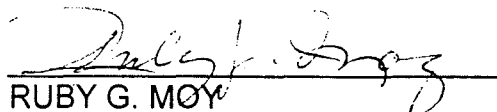
PERSONNEL MANAGEMENT EVALUATION IN THE USCCR

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 29 effective immediately.

SECTION 2. POLICY

01. Employee information on personnel management evaluation will be provided in the "Employee Handbook."
02. For questions concerning this instruction, contact the Human Resources Division.


RUBY G. MOY
Staff Director

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION-2-10

PERSONNEL SECURITY AND SUITABILITY

SECTION 1. PURPOSE

This Administrative Instruction (AI) sets forth the U.S. Commission on Civil Rights' (Commission) regulations and procedures for investigating/reinvestigating and adjudicating the suitability of applicants and employees; designating the sensitivity levels of positions; and for maintaining a personnel security program which is consistent with the interests of the national security. This AI is not a comprehensive document and it is not a substitute for the provisions of the 5 C.F.R 731, 732 and 736 which deals with personnel security and suitability.

This AI is divided into three parts. Part One covers Position Sensitivity, Part Two covers Personnel Suitability, and Part Three covers Personnel Security.

SECTION 2. AUTHORITIES

- a. Title 5, United States Code (USC) Parts 3301-3302, 7301, 7312, 7531-7533
- b. Title 5, Code of Federal Regulations (CFR) Parts 731, 732, 736, 754
- c. Executive Orders (E.O.) 10450 and E.O. 10577
- d. Office of Management and Budget (OMB) circular No. A-130

SECTION 3. SCOPE

This AI covers all candidates for employment and all employees of the U.S. Commission on Civil Rights.

SECTION 4. POLICY

It is the policy of the Commission to implement the security procedures required by E.O. 10450, E.O. 10577 and OMB Circular No. A-130 and to insure compliance with each. Adherence to the cited regulations will assure that the employment and continued employment of each Commission employee will "promote the efficiency of the service."

SECTION 5. DEFINITIONS

- a. Applicant--a person being considered for general employment eligibility or employment in a specific position.
- b. Appointee--a person who has entered on duty, but who is under the one-year subject-to-investigation requirement which follows any appointment to a competitive, excepted, or senior executive service position.
- c. Computer/ADP Position Risk Criteria-- the criteria used to determine the Public Trust Risk Level of Computer/ADP position.
- d. Background Investigation--a personnel investigation conducted to meet the requirements of the Office of Personnel Management's (OPM) regulations.
- e. Employee--a person in the competitive, excepted, or Senior Executive Service who has completed the one year subject to investigation requirement for his/her appointment.
- f. Personnel Investigation--an investigation, including background investigation, with regard to character, reputation, fitness, loyalty, qualifications, and other pertinent factors, conducted by personnel, voucher, letter, or electronic contact with the sources of information.
- g. Personnel Security--process in the Federal Government for complying with the national security interest requirements under E.O. 10450 or other authority with similar security interest requirements.
- h. Personnel Suitability Program--process for assuring that the employment and/or continued employment of each person in the competitive, excepted, or Senior Executive Service will "promote the efficiency of the service."
- i. Pre-placement Investigation--an investigation completed prior to placement (employment).
- j. Post-placement Investigation--an investigation completed after placement (employment).
- k. Security--as used in the context of this AI, means it is concerned with the employment and retention in employment of persons in positions the duties of which relate to the protection and preservation of the military, economic, and productive strength of the United States.

1. Security Investigations Index (SII) Inquiry-a search to determine if the OPM has a record of the subject.
- m. Sensitivity Levels-the three levels for designating positions both for ADP-Computer Security and national security related to the positions. These levels and the degree of risk to the national security (access to classified information and restricted facilities) include: Special Sensitive (SS); Critical Sensitive (CS); and Noncritical Sensitive (NCS).
- n. Suitability--requirement or requirements for Federal Government employment having reference to a person's character, reputation, trustworthiness, and fitness, as related to the "efficiency of the service."

SECTION 6. SECURITY RESPONSIBILITY

1. The Staff Director has designated the Director of Human Resources as the Commission's Security Officer with full delegated authority to carry out the responsibilities for operating and maintaining a personnel security and suitability program.
2. The Director of Human Resources, as the Commission's Security Officer, is responsible for: (a) determining the suitability risk designation and the position sensitivity levels in accordance with the OPM regulations and guidance; (b) initiating all security entry and in-service investigations and operating a periodic reinvestigation program; (c) reviewing and making security determinations consistence with OPM criteria; (d) complying with Commission, OPM, and OMB ADP-Computer security program administration requirements; and (e) otherwise providing for the establishment and maintenance of an effective personnel security program to ensure that the employment and continued employment of each individual in the Commission is clearly consistent with the interest of the national security and OPM and ADP-computer security requirements.
3. In the event that the post-placement background investigation results in unfavorable information, the Staff Director, in consultation with the Commission's Solicitor and the Security Officer, shall exercise final authority for determining whether the employee should be retained or removed.
4. Under a written agreement with the Commission, the OPM provides personnel investigative services as required in E.O. 10450 on a reimbursable basis.

PART ONE--POSITION SUITABILITY DESIGNATION

SECTION.1. PROCEDURES

Basis for Designation

The designations of a position must be based on an overall assessment of the damage that its incumbent, by occupying the position, could cause to the efficiency of the Service or the national security. "Efficiency of the service," the basic element of the assessment, involves consideration of the duties and responsibilities of the position as they impact on specific programs or operations of the Commission. National security interests, comprising the second element, involves consideration of the duties and responsibilities of the position as they impact directly or indirectly on the promulgation or implementation of war plans or foreign policy. This includes the need for access to classified information or access to sensitive, restricted facilities.

SECTION 2. DESIGNATING SENSITIVITY LEVELS

01. Position Assessment

The sensitivity levels of all Commission positions are assessed based on the positions' impact and scope as related to the "efficiency of the service"; the degree of risk upon the program in terms of the "efficiency of the service"; and any final adjustment factors.

.02 Program Placement (Impact on the "Efficiency of the Service")

- a. The sensitivity levels of positions will be determined:
 - (1) according to the primary focus (impact) of the area where the position is assigned;
 - (2) the scope of the operation of that area in terms of the "efficiency of the service"; and
 - (3) by combining the impact and scope for the actual program placement.

.03 Position Placement (National Security Risk)

a. In designating position placement, the duties and responsibilities of the position will be considered in the context of the program, and the risk the position has for damage or abuse to the program. A determination of the impact on the program will be made to determine the position's placement according to:

- (1) the degree of public trust;
- (2) fiduciary (monetary responsibility);

- (3) importance to the program;
- (4) program authority; and
- (5) the supervision received

.04 Final Adjustment

The final adjustment in the designation process will take into account unique factors specific to the position, including the E.O. 10450, access, OMB ADP-Computer Security requirements, and the organizational need for uniformity of operations.

.05 Sensitivity Level Placement

Based on the final results of Sections 2.03 through .04, positions will be placed at one of the following national security and Automatic Data Processing (ADP)-Computer sensitivity levels defined below:

a. Special-Sensitive (Level 4)--positions that have the potential for: (1) inestimable national security damage; and/or (2) inestimable adverse impact because they involve duties especially critical to the Commission's mission with broad scope and authority or other extremely important responsibilities which affect the overall "efficiency of the service."

(a) E.O. 10450. This includes any position which the Staff Director and/or the Security Officer determines to be in a level higher than Critical-Sensitive because of the greater degree of damage that an individual, by virtue of occupancy of the position, could effect to the national security, or special requirements concerning the position under authority other than E.O. 10450.

(b) OMB Circular No. A-130. This includes any position which meets the criteria of the above, or is determined by the head of the agency to impose a risk in terms of ADP-Computer security above that at the Critical-Sensitive level.

b. Critical-Sensitive (Level 3)--positions that have the potential for: (1) exceptionally grave damage to the national security; and/or (2) exceptionally grave adverse impact because they involve duties of clearly major importance to the Commission with major problem responsibilities which affect the "efficiency of the service."

(a) E.O. 10450. This includes positions involving any of the following:

1. access to Top Secret defense information;

2. 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;
3. development or approval of plans, policies, or programs which affect the overall operations of the Commission, that is, policy-making or policy-determining positions;
4. investigative duties, the issuance of personnel security clearances, or duty on personnel security boards; or
5. fiduciary, public contact, or other duties demanding the highest degree of public trust.

(b) OMB Circular No. A-130 This includes positions in which the incumbent is responsible for the planning, direction and implementation of a computer security program; has a major responsibility for the direction, planning, and design of a computer system, including the hardware and software; or, can access a system during the operation or maintenance in such a way, and with relatively high risk for causing grave damage or realizing a significant personal gain. Such positions may involve:

1. responsibility for the development and administration of agency computer security programs, and also including direction and control of risk analysis and/or threat assessment;
2. significant involvement in life-critical omission-critical systems;
3. responsibility for the preparation or approval of data for input into a system which does not necessarily involve personal access to the system, but with relatively high risk for effecting grave damage or realizing significant personal gain;
4. relatively high risk assignments associated with or directly involving the accounting, disbursement, or authorization for disbursement from systems of (a) dollar amounts of \$10 million per year or greater, or (b) lesser amounts if the activities of the individual are not subject to technical review by higher authority at the Critical-Sensitive level to insure the integrity of the system;
5. major responsibility for the direction, planning, design, testing, maintenance, operation, monitoring, and/or management of systems hardware and software; or as designated by the Director of Human Resources, relatively high risk for effecting grave damage or realizing significant personal gain.

c. Non-critical Sensitive (Level 2)--positions that the potential for: (1) damage or serious damage to the national security; and/or (2) moderate to serious adverse impact because they involve duties of considerable importance to the Commission's mission with significant program responsibilities which affect the efficiency of the service."

(a) E.O. 10450. This includes positions that involve at least one of the following:

--access to Secret or Confidential national security materials, information, etc...;

--duties that may directly or indirectly adversely affect the overall operations of the Commission; or

--duties that demand a high degree of confidence and trust.

(b) OMB Circular No. A-130 This includes positions in which the incumbent is responsible for the direction, planning, design, operation, or maintenance of a computer system, and whose work is technically reviewed by a higher authority at the Critical-Sensitive level to insure the integrity of the system. Such positions may involve:

--responsibility for systems design, operation, testing, maintenance, and/or monitoring that is carried out under technical review of higher authority at the Critical-Sensitive level, to insure the integrity of the system. This level includes, but is not limited to:

(1) access to and/or processing of proprietary data, information requiring protection under the Privacy Act of 1974, and Government-developed privileged information involving the award of contracts; or

(2) accounting, disbursement, or authorization for disbursement from systems of dollar amounts less than \$10 per year.

--as designated by the Director of Human Resources, a degree of access to a system that creates significant potential for damage or personal gain less than that in Critical-Sensitive positions.

d. Non-Sensitive (Level 1)--positions not designated sensitive in accordance with Part One Sections 1.01a through 1.01c. and have limited potential for adverse impact because they involve duties and program responsibilities of limited relationship to the Commission's mission that would affect the "efficiency of the service."

(a) E.O. 10450 This includes all positions not falling into one of the above sensitive levels.

(b) OMB Circular No. A-130 This includes all ADP-computer positions not falling into one of the above sensitive levels.

.06 The designated position sensitivity levels, as defined in Part One Section 2.05, for each Commission position will be coded on the position's Position Description (Optional Form 8) and on any Request for Personnel Action (Standard Form 52) and/or Personnel Action (Standard Forms 50/50B).

PART TWO--PERSONNEL SUITABILITY

SECTION 1. PROCEDURES

Suitability Authority

The Commission's Director of Human Resources has delegated authority and responsibility from the Staff Director to adjudicate the suitability of:

- a. applicants selected to occupy positions in which the Commission has direct hiring authority;
- b. applicants and eligibles for, and appointees to, Special-Sensitive, Critical-Sensitive, and Noncritical-Sensitive positions; but
- c. applicants selected from an OPM register, who may have disqualifying factors, will be referred by the Director of Human Resources to OPM for adjudication.

SECTION 2. SUITABILITY ADJUDICATION

.01 Suitability Criteria

- a. In adjudicating the suitability of persons, the Director of Human Resources will consider and assess all favorable and unfavorable information of record in terms of its relevance and seriousness. The overall objective of the process is to adjudicate fitness in a manner that will promote the "efficiency of the service" while assuring fair, impartial, and equitable treatment of the applicant/employee.
- b. The suitability determination will be based on whether the conduct of a person indicates a potential for behavior which would interfere with, prevent, or otherwise impact adversely on:
 - (1) the performance of the person in the position applied for or employed in;
 - (2) the performance of the duties and responsibilities of others in the Government; or
 - (3) the ability of the Commission to fully and effectively carry out its mandated responsibilities.
- c. In determining the potential impact on the "efficiency of the service," the Director of Human Resources will consider the following issues:

- (1) whether the conduct in question indicates a potential for inadequate or reduced performance of specific duties; and
- (2) whether the conduct indicates any immediate or long-term risk for abuse of the public trust in carrying out the responsibilities of the position to which assigned.

.02 Suitability Standards

- a. The basis for disqualification for employment or continued employment may include the following factors:
 - delinquency or misconduct in prior employment;
 - criminal, dishonest, infamous, or notoriously disgraceful conduct;
 - intentional false statement or deception or fraud in examination or appointment;
 - refusal to furnish testimony required by OPM rules;
 - habitual use of intoxicating beverages to excess;
 - abuse of narcotics, drugs, or other controlled substances; and/or
 - reasonable doubt of loyalty to the United States.
- b. The above factors provide a general framework for determining a person's suitability for employment. Each case will be determined on its individual merit.
- c. The follow special factors will be considered in determining employment or continued employment of persons:
 - kind of position applied for or employed in;
 - sensitivity of the position;
 - circumstances surrounding the conduct;
 - recency of the misconduct;
 - age of the person at the time of the misconduct;
 - contributing social or environmental conditions;
 - any recurrence of the same conduct and/or occurrence of other conduct; and/or
 - absence or presence of rehabilitation.
- d. When determining an applicant or a current employee's

suitability for Federal employment under the standards of the "efficiency of the service," the Director of Human Resources will: (1) review the information received or developed to identify any potentially disqualifying suitability issues; and (2) prior to the investigation, will adjudicate cases involving potentially disqualifying issues.

SECTION 3. ADVERSE SUITABILITY

.01 Adverse Actions

The Director of Human Resources, in consultation with the Solicitor, may take the following adverse suitability actions against an applicant, eligible, appointee, or an employee:

- a. rate an application ineligible and cancel any eligibility which may have been obtained as a result of filing the applications or other application;
- b. refer through the Solicitor to the Staff Director those cases involving removal of employees from the service or debarment action; and/or
- c. refer to the OPM those cases involving debarment of an individual from competing in competitive OPM examinations or accepting competitive civil service employment.

.02 Appeals

- a. Who may appeal--Any person against whom the Commission or the OPM has taken a suitability disqualification action or a debarment action under 5 CFR 731 and 5 CFR 754 has a right of appeal to the Merit Systems Protection Board (MSPB).
- b. Scope of appeal--The merits of any suitability disqualification decision and debarment decision under 5 CFR 731 and 5 CFR 754 may be appealed.
- c. Time limits on appeal--The appeal under this section must be filed within the time limits prescribed in the MSPB regulations.
- d. Procedure--The appeal will be filed in accordance with the regulations of the MSPB.

.03 Reemployment Eligibility

Persons who have been removed by the Commission on charges (other than security and/or loyalty) or have resigned upon learning that the Commission planned to prefer charges, or while charges were pending, may request the OPM-Federal Investigations

Processing Center (FIPC) to determine their eligibility for further employment in the competitive service, insofar as their suitability and fitness are concerned. The request will only be considered if it is made in writing and the person making the request meets the requirements of CFR 731.501(a). Action on the request by the OPM will be in accordance with 5 CFR 731.501(b).

PART THREE--PERSONNEL SECURITY

SECTION 1. PROCEDURES

.01 Investigative Requirements

a. The Commission will initiate the required pre-placement security investigations on persons selected to fill Special-Sensitive, Critical-Sensitive, or Non-Sensitive positions. In cases of emergencies and in the national interest, the Staff Director may waive this pre-appointment investigative requirement for all positions except those designated Special-Sensitive. If a waiver is granted, a post-placement investigation will be conducted in accordance with (b.) below.

b. All post-placement security investigations for persons selected to fill Non-Sensitive positions will be initiated within seven (7) working days from their entry on duty with the Commission.

c. Employees of the Commission, who occupy sensitive positions, will be subject to periodic reinvestigations (post-placement) at five-year intervals.

.02 Exempted Positions

The following Non-Sensitive positions are exempt from the investigative requirements of E.O. 10450:

- intermittent;
- seasonal;
- per-diem; and
- temporary (NTE an aggregate of 180 days in either a single continuous or series of appointments).

.03 Types of Security Investigations

a. National Agency Check (NAC)--consists of searches of the OPM Security Investigations Index (SII), the Federal Bureau of Investigation (FBI) Identification Division, FBI Headquarters investigation files, Defense Central Index of Investigations (DCII), and other sources as necessary to cover specific areas of a subject's background;

b. National Agency Check and Inquiries (NACI)--consists of an NAC, written inquiries, and record searches covering specific areas of a subject's background during the past five (5) years;

c. Minimum Background Investigation (MBI)--consists of an

NAC, credit search, written inquiries, and record searches covering specific areas of a subject's background in the past five (5) years. Telephone inquiries are made on selected employment whenever the initial written inquiries are not returned;

- d. Limited Background Investigation (LBI)--consists of an NAC, credit search, personal interviews of subject and sources, written inquiries of selected sources covering specific areas of the subject's background during the most recent three (3) years, and record searches for a total of five (5) years coverage;
- e. Background Investigation (BI) consists of an NAC, credit search, personal interviews of subject and sources, written inquiries, and record searches covering specific areas of the subject's background during the most recent five (5) years, and additional record searches for a total of seven (7) years coverage;
- f. Special Background Investigation (SBI) consists of an NAC, credit search, personal interviews of subject and sources, written inquiries, and record searches, which cover specific areas of subject's background during the past 15 years;
- g. Reimbursable Suitability Investigation (RSI) consists of an expanded investigation of a prior NAC, NACI, or MBI, at the request of the Commission, to provide additional information to resolve a suitability issue(s);
- h. Periodic Reinvestigation (PRI) consists of an NAC, credit search, personal interview of the subject, and selected record searches.
- i. Upgrade Investigation (SGI, BI Upgrade/BGI, LGI) consists of an NAC, credit search, personal interviews of the subject and selected sources, and record searches covering specific areas of the subject's background since the last background investigation. This investigation is for movement upward in sensitivity from 13 to 60 months of the previous investigation's closing date; and
- j. Update Investigation (SDI, BI Update/BDI, LDI,MDI) consists of the same type of case as the previous investigation (MBI, LBI, BI, and SBI) from 13 to 60 months of the previous investigation's closing date.

SECTION 2. SECURITY ADJUDICATION

.01 Standards for Sensitive Positions

- a. No person shall be employed or retained as an employee in the Commission in a sensitive position unless the employment is clearly consistent with the interests of national security.

b. In regard to an applicant for, or an incumbent of a sensitive position, any information that may preclude a finding that this employment is clearly consistent with the interest 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 any 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 the national security;
- (6) commission of any act of sabotage, espionage, treason, terrorism 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, terrorism, or sedition;
- (7) establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, terrorist or revolutionary, or with an espionage or other secret agent or representative of a foreign nation whose interests may be inimical to the interests 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 alteration of the form of government of the United States by unconstitutional means;
- (9) knowing membership, with specific intent of furthering the aims of, or adherence to and active participation in, any foreign or domestic

organization, association, movement, group, or combination of persons (hereinafter referred to as organizations) which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means;

- (10) intentional, unauthorized disclosure to any person of security information, or of other information disclosure of which is prohibited by law, or willful violation or disregard of security regulations;
- (11) performing or attempting to perform duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States; and/or
- (12) refusal by the individual, upon the ground of constitutional privilege against self-incrimination, to testify before a congressional committee regarding charges of alleged disloyalty or other misconduct.

c. It should be noted that because of Federal court decisions which have narrowed the backgrounds upon which an individual can be denied employment, the extent to which these factors can lead to disqualification is unclear.

.02 Security Determinations

a. The results of security investigations concerning a proposed appointee or an incumbent employee are forwarded from the OPM to the Commission for adjudication and are reviewed on their individual merits.

b. As Security Officer, the Director of Human Resources may grant security eligibility when the information received is clearly consistent with the interests of national security.

c. In consultation with the Solicitor, the Director of Human Resources recommends to the Staff Director whether an employee should be removed from employment because as a result of the investigation, the conduct indicates that employment is not clearly consistent with the interests of national security.

.03 Removals (National Security Risk)

a. In the interests of national security, pending final removal from employment, in consultation with the Solicitor, the Director of Human Resources will recommend to the Staff Director which employee should be removed from employment whose, conduct, as the result of investigation, indicates that employment is not clearly consistent with the interests of national security. As an interim step, the Staff Director

may authorize the suspension without pay, reassignment, or temporary detail of an employee to a Non-Sensitive position or to a position with sensitive duties deleted.

b. The following mandatory termination procedures will be followed:

(1) prior to initiation of a proposed removal or suspension procedures, the Staff Director will consult with the Solicitor for the Commission regarding legal ramifications;

(2) prior to removal, a Commission employee, who has a permanent, appointment, and has completed a probationary or trial period, and who is a citizen of the United States, shall be given, after suspension without pay, reassignment, or detail to a Non-Sensitive position or a position with sensitive duties deleted:

(a) a written statement, within 30 days after suspension without pay, or reassignment or detail to a Non-Sensitive position or a position with sensitive duties deleted, of the charges against him or her, which shall be subject to amendment within 30 days and which shall be stated as specifically as security considerations will permit;

(b) an opportunity within 30 days (plus an additional 30 days if the charges are amended) to answer the charges and to submit affidavits;

(c) a hearing, at the employee's request, by a duly constituted Commission authority for this purpose;

(d) a review of the case by the Staff Director (or designee) before a decision adverse to the employee is made final; and

(e) a written statement of the decision from the Staff Director.

(3) after suspension without pay, reassignment, or detail to a Non-Sensitive position or a position with sensitive duties deleted, under 5 U.S.C. 7532 and E.O. 10450, an employee, not covered by paragraph 2 above shall, to the extent the Staff Director determines that the interests of the national security permit, be notified of the reasons for suspension, reassignment, or detail. The employee shall have the opportunity within 30 days after the notification to submit any statements or affidavits to the Commission about why he/she should be restored to the sensitive position or, if the employee has been removed, why the former employee should be reinstated. The employee may be removed whenever, after suspension without pay, reassignment, or detail, the Commission determines that the removal is necessary or advisable in the interests of the national security.

Section 3. ADMINISTRATIVE DUE PROCESS

The Commission will ensure that applicants and employees are given sufficient information, and an opportunity to explain, refute, or mitigate security/suitability data that is developed in the course of an investigation before being rejected or nonselected on security/suitability grounds. Employees and/or applicants will generally:

- (a) receive written, non-classified, notice of the specific reason(s) for a negative security/suitability decision;
- (b) be accorded an opportunity to respond; and
- (c) receive notice of appeal rights.

SECTION 4. MAINTENANCE AND SAFEGUARDING OF SECURITY FILES/INFORMATION AND PRIVACY ACT CONSIDERATIONS

a. The Director of Human Resources (or specified designees) is authorized to request and receive investigative files from the OPM.

b. The Director of Human Resources is responsible for deciding what information in security files should be released to authorized Commission officials as needed to make informed suitability and security decisions. However, under no circumstances will a Commission official with less than a BI receive or handle any classified investigative report received from the OPM.

c. Investigative information will be handled in a manner that protects the privacy of individuals without compromising the capability of Commission officials to make informed suitability and security determinations and selection decisions.

d. The Human Resources Division will maintain, under a secured system, a record of each disclosure of the OPM investigative material which includes:

- (1) the name and title of the person to whom disclosure was made;
- (2) the type of background investigation conducted on the person to whom the material was disclosed;
- (3) the date(s) of disclosure; and
- (4) the reason(s) for the disclosure.

e. Employees and/or applicants will not receive information that reveals the identity of a source of information; any protected medical information; or any information that is exempt from release by the Privacy Act.

f. Security records/files are retained in the Personnel and EEO Division for at least two years from the date of the final adjudication process. All records/files are destroyed within a time period not to exceed five years after an employee leaves the Commission.

SECTION 5. REPORT REQUIREMENTS

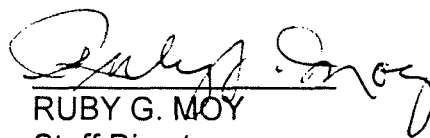
In compliance with required regulations, the following OPM pertinent reports will be furnished:

01. Commission conducted investigation--OPM will be notified when the investigation is initiated and will be provided a copy of the final adjudicative action taken;

02. File furnished as a result of SII check by the Commission--within 90 days of receipt of a file from the OPM, the Commission will report to the OPM the final adjudicative action taken;

03. OPM- conducted investigation--within 90 days from the date of receipt of an investigation from the OPM, the Commission will report to the OPM the final adjudication action taken; and

04. Cases not covered by the above--the Commission will report to the OPM any final adjudicative action taken under 5 CFR 731 and 754 on an individual not covered in .01 through .03.


RUBY G. MOY
Staff Director

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION-2-10

PERSONNEL SECURITY AND SUITABILITY

SECTION 1. PURPOSE

This Administrative Instruction (AI) sets forth the U.S. Commission on Civil Rights' (Commission) regulations and procedures for investigating/reinvestigating and adjudicating the suitability of applicants and employees; designating the sensitivity levels of positions; and for maintaining a personnel security program which is consistent with the interests of the national security. This AI is not a comprehensive document and it is not a substitute for the provisions of the 5 C.F.R 731, 732 and 736 which deals with personnel security and suitability.

This AI is divided into three parts. Part One covers Position Sensitivity, Part Two covers Personnel Suitability, and Part Three covers Personnel Security.

SECTION 2. AUTHORITIES

- a. Title 5, United States Code (USC) Parts 3301-3302, 7301, 7312, 7531-7533
- b. Title 5, Code of Federal Regulations (CFR) Parts 731, 732, 736, 754
- c. Executive Orders (E.O.) 10450 and E.O. 10577
- d. Office of Management and Budget (OMB) circular No. A-130

SECTION 3. SCOPE

This AI covers all candidates for employment and all employees of the U.S. Commission on Civil Rights.

SECTION 4. POLICY

It is the policy of the Commission to implement the security procedures required by E.O. 10450, E.O. 10577 and OMB Circular No. A-130 and to insure compliance with each. Adherence to the cited regulations will assure that the employment and continued employment of each Commission employee will "promote the efficiency of the service."

SECTION 5. DEFINITIONS

- a. Applicant--a person being considered for general employment eligibility or employment in a specific position.
- b. Appointee--a person who has entered on duty, but who is under the one-year subject-to-investigation requirement which follows any appointment to a competitive, excepted, or senior executive service position.
- c. Computer/ADP Position Risk Criteria-- the criteria used to determine the Public Trust Risk Level of Computer/ADP position.
- d. Background Investigation--a personnel investigation conducted to meet the requirements of the Office of Personnel Management's (OPM) regulations.
- e. Employee--a person in the competitive, excepted, or Senior Executive Service who has completed the one year subject to investigation requirement for his/her appointment.
- f. Personnel Investigation--an investigation, including background investigation, with regard to character, reputation, fitness, loyalty, qualifications, and other pertinent factors, conducted by personnel, voucher, letter, or electronic contact with the sources of information.
- g. Personnel Security--process in the Federal Government for complying with the national security interest requirements under E.O. 10450 or other authority with similar security interest requirements.
- h. Personnel Suitability Program--process for assuring that the employment and/or continued employment of each person in the competitive, excepted, or Senior Executive Service will "promote the efficiency of the service."
- i. Pre-placement Investigation--an investigation completed prior to placement (employment).
- j. Post-placement Investigation--an investigation completed after placement (employment).
- k. Security--as used in the context of this AI, means it is concerned with the employment and retention in employment of persons in positions the duties of which relate to the protection and preservation of the military, economic, and productive strength of the United States.

1. Security Investigations Index (SII) Inquiry-a search to determine if the OPM has a record of the subject.
- m. Sensitivity Levels-the three levels for designating positions both for ADP-Computer Security and national security related to the positions. These levels and the degree of risk to the national security (access to classified information and restricted facilities) include: Special Sensitive (SS); Critical Sensitive (CS); and Noncritical Sensitive (NCS).
- n. Suitability--requirement or requirements for Federal Government employment having reference to a person's character, reputation, trustworthiness, and fitness, as related to the "efficiency of the service."

SECTION 6. SECURITY RESPONSIBILITY

1. The Staff Director has designated the Director of Human Resources as the Commission's Security Officer with full delegated authority to carry out the responsibilities for operating and maintaining a personnel security and suitability program.
2. The Director of Human Resources, as the Commission's Security Officer, is responsible for: (a) determining the suitability risk designation and the position sensitivity levels in accordance with the OPM regulations and guidance; (b) initiating all security entry and in-service investigations and operating a periodic reinvestigation program; (c) reviewing and making security determinations consistent with OPM criteria; (d) complying with Commission, OPM, and OMB ADP-Computer security program administration requirements; and (e) otherwise providing for the establishment and maintenance of an effective personnel security program to ensure that the employment and continued employment of each individual in the Commission is clearly consistent with the interest of the national security and OPM and ADP-computer security requirements.
3. In the event that the post-placement background investigation results in unfavorable information, the Staff Director, in consultation with the Commission's Solicitor and the Security Officer, shall exercise final authority for determining whether the employee should be retained or removed.
4. Under a written agreement with the Commission, the OPM provides personnel investigative services as required in E.O. 10450 on a reimbursable basis.

PART ONE--POSITION SUITABILITY DESIGNATION

SECTION.1. PROCEDURES

Basis for Designation

The designations of a position must be based on an overall assessment of the damage that its incumbent, by occupying the position, could cause to the efficiency of the Service or the national security. "Efficiency of the service," the basic element of the assessment, involves consideration of the duties and responsibilities of the position as they impact on specific programs or operations of the Commission. National security interests, comprising the second element, involves consideration of the duties and responsibilities of the position as they impact directly or indirectly on the promulgation or implementation of war plans or foreign policy. This includes the need for access to classified information or access to sensitive, restricted facilities.

SECTION 2. DESIGNATING SENSITIVITY LEVELS

01. Position Assessment

The sensitivity levels of all Commission positions are assessed based on the positions' impact and scope as related to the "efficiency of the service"; the degree of risk upon the program in terms of the "efficiency of the service"; and any final adjustment factors.

.02 Program Placement (Impact on the "Efficiency of the Service")

- a. The sensitivity levels of positions will be determined:
 - (1) according to the primary focus (impact) of the area where the position is assigned;
 - (2) the scope of the operation of that area in terms of the "efficiency of the service"; and
 - (3) by combining the impact and scope for the actual program placement.

.03 Position Placement (National Security Risk)

a. In designating position placement, the duties and responsibilities of the position will be considered in the context of the program, and the risk the position has for damage or abuse to the program. A determination of the impact on the program will be made to determine the position's placement according to:

- (1) the degree of public trust;
- (2) fiduciary (monetary responsibility);

- (3) importance to the program;
- (4) program authority; and
- (5) the supervision received

.04 Final Adjustment

The final adjustment in the designation process will take into account unique factors specific to the position, including the E.O. 10450, access, OMB ADP-Computer Security requirements, and the organizational need for uniformity of operations.

.05 Sensitivity Level Placement

Based on the final results of Sections 2.03 through .04, positions will be placed at one of the following national security and Automatic Data Processing (ADP)-Computer sensitivity levels defined below:

a. Special-Sensitive (Level 4)--positions that have the potential for: (1) inestimable national security damage; and/or (2) inestimable adverse impact because they involve duties especially critical to the Commission's mission with broad scope and authority or other extremely important responsibilities which affect the overall "efficiency of the service."

(a) E.O. 10450. This includes any position which the Staff Director and/or the Security Officer determines to be in a level higher than Critical-Sensitive because of the greater degree of damage that an individual, by virtue of occupancy of the position, could effect to the national security, or special requirements concerning the position under authority other than E.O. 10450.

(b) OMB Circular No. A-130. This includes any position which meets the criteria of the above, or is determined by the head of the agency to impose a risk in terms of ADP-Computer security above that at the Critical-Sensitive level.

b. Critical-Sensitive (Level 3)--positions that have the potential for: (1) exceptionally grave damage to the national security; and/or (2) exceptionally grave adverse impact because they involve duties of clearly major importance to the Commission with major problem responsibilities which affect the "efficiency of the service."

(a) E.O. 10450. This includes positions involving any of the following:

1. access to Top Secret defense information;

2. 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;
3. development or approval of plans, policies, or programs which affect the overall operations of the Commission, that is, policy-making or policy-determining positions;
4. investigative duties, the issuance of personnel security clearances, or duty on personnel security boards; or
5. fiduciary, public contact, or other duties demanding the highest degree of public trust.

(b) OMB Circular No. A-130 This includes positions in which the incumbent is responsible for the planning, direction and implementation of a computer security program; has a major responsibility for the direction, planning, and design of a computer system, including the hardware and software; or, can access a system during the operation or maintenance in such a way, and with relatively high risk for causing grave damage or realizing a significant personal gain. Such positions may involve:

1. responsibility for the development and administration of agency computer security programs, and also including direction and control of risk analysis and/or threat assessment;
2. significant involvement in life-critical omission-critical systems;
3. responsibility for the preparation or approval of data for input into a system which does not necessarily involve personal access to the system, but with relatively high risk for effecting grave damage or realizing significant personal gain;
4. relatively high risk assignments associated with or directly involving the accounting, disbursement, or authorization for disbursement from systems of (a) dollar amounts of \$10 million per year or greater, or (b) lesser amounts if the activities of the individual are not subject to technical review by higher authority at the Critical-Sensitive level to insure the integrity of the system;
5. major responsibility for the direction, planning, design, testing, maintenance, operation, monitoring, and/or management of systems hardware and software; or as designated by the Director of Human Resources, relatively high risk for effecting grave damage or realizing significant personal gain.

c. Non-critical Sensitive (Level 2)--positions that the potential for: (1) damage or serious damage to the national security; and/or (2) moderate to serious adverse impact because they involve duties of considerable importance to the Commission's mission with significant program responsibilities which affect the efficiency of the service."

(a) E.O. 10450. This includes positions that involve at least one of the following:

--access to Secret or Confidential national security materials, information, etc...;

--duties that may directly or indirectly adversely affect the overall operations of the Commission; or

--duties that demand a high degree of confidence and trust.

(b) OMB Circular No. A-130 This includes positions in which the incumbent is responsible for the direction, planning, design, operation, or maintenance of a computer system, and whose work is technically reviewed by a higher authority at the Critical-Sensitive level to insure the integrity of the system. Such positions may involve:

--responsibility for systems design, operation, testing, maintenance, and/or monitoring that is carried out under technical review of higher authority at the Critical-Sensitive level, to insure the integrity of the system. This level includes, but is not limited to:

(1) access to and/or processing of proprietary data, information requiring protection under the Privacy Act of 1974, and Government-developed privileged information involving the award of contracts; or

(2) accounting, disbursement, or authorization for disbursement from systems of dollar amounts less than \$10 per year.

--as designated by the Director of Human Resources, a degree of access to a system that creates significant potential for damage or personal gain less than that in Critical-Sensitive positions.

d. Non-Sensitive (Level 1)--positions not designated sensitive in accordance with Part One Sections 1.01a through 1.01c. and have limited potential for adverse impact because they involve duties and program responsibilities of limited relationship to the Commission's mission that would affect the "efficiency of the service."

(a) E.O. 10450 This includes all positions not falling into one of the above sensitive levels.

(b) OMB Circular No. A-130 This includes all ADP-computer positions not falling into one of the above sensitive levels.

.06 The designated position sensitivity levels, as defined in Part One Section 2.05, for each Commission position will be coded on the position's Position Description (Optional Form 8) and on any Request for Personnel Action (Standard Form 52) and/or Personnel Action (Standard Forms 50/50B).

PART TWO--PERSONNEL SUITABILITY

SECTION 1. PROCEDURES

Suitability Authority

The Commission's Director of Human Resources has delegated authority and responsibility from the Staff Director to adjudicate the suitability of:

- a. applicants selected to occupy positions in which the Commission has direct hiring authority;
- b. applicants and eligibles for, and appointees to, Special-Sensitive, Critical-Sensitive, and Noncritical-Sensitive positions; but
- c. applicants selected from an OPM register, who may have disqualifying factors, will be referred by the Director of Human Resources to OPM for adjudication.

SECTION 2. SUITABILITY ADJUDICATION

.01 Suitability Criteria

- a. In adjudicating the suitability of persons, the Director of Human Resources will consider and assess all favorable and unfavorable information of record in terms of its relevance and seriousness. The overall objective of the process is to adjudicate fitness in a manner that will promote the "efficiency of the service" while assuring fair, impartial, and equitable treatment of the applicant/employee.
- b. The suitability determination will be based on whether the conduct of a person indicates a potential for behavior which would interfere with, prevent, or otherwise impact adversely on:
 - (1) the performance of the person in the position applied for or employed in;
 - (2) the performance of the duties and responsibilities of others in the Government; or
 - (3) the ability of the Commission to fully and effectively carry out its mandated responsibilities.
- c. In determining the potential impact on the "efficiency of the service," the Director of Human Resources will consider the following issues:

- (1) whether the conduct in question indicates a potential for inadequate or reduced performance of specific duties; and
- (2) whether the conduct indicates any immediate or long-term risk for abuse of the public trust in carrying out the responsibilities of the position to which assigned.

.02 Suitability Standards

- a. The basis for disqualification for employment or continued employment may include the following factors:
 - delinquency or misconduct in prior employment;
 - criminal, dishonest, infamous, or notoriously disgraceful conduct;
 - intentional false statement or deception or fraud in examination or appointment;
 - refusal to furnish testimony required by OPM rules;
 - habitual use of intoxicating beverages to excess;
 - abuse of narcotics, drugs, or other controlled substances; and/or
 - reasonable doubt of loyalty to the United States.
- b. The above factors provide a general framework for determining a person's suitability for employment. Each case will be determined on its individual merit.
- c. The follow special factors will be considered in determining employment or continued employment of persons:
 - kind of position applied for or employed in;
 - sensitivity of the position;
 - circumstances surrounding the conduct;
 - recency of the misconduct;
 - age of the person at the time of the misconduct;
 - contributing social or environmental conditions;
 - any recurrence of the same conduct and/or occurrence of other conduct; and/or
 - absence or presence of rehabilitation.
- d. When determining an applicant or a current employee's

suitability for Federal employment under the standards of the "efficiency of the service," the Director of Human Resources will: (1) review the information received or developed to identify any potentially disqualifying suitability issues; and (2) prior to the investigation, will adjudicate cases involving potentially disqualifying issues.

SECTION 3. ADVERSE SUITABILITY

.01 Adverse Actions

The Director of Human Resources, in consultation with the Solicitor, may take the following adverse suitability actions against an applicant, eligible, appointee, or an employee:

- a. rate an application ineligible and cancel any eligibility which may have been obtained as a result of filing the applications or other application;
- b. refer through the Solicitor to the Staff Director those cases involving removal of employees from the service or debarment action; and/or
- c. refer to the OPM those cases involving debarment of an individual from competing in competitive OPM examinations or accepting competitive civil service employment.

.02 Appeals

- a. Who may appeal--Any person against whom the Commission or the OPM has taken a suitability disqualification action or a debarment action under 5 CFR 731 and 5 CFR 754 has a right of appeal to the Merit Systems Protection Board (MSPB).
- b. Scope of appeal--The merits of any suitability disqualification decision and debarment decision under 5 CFR 731 and 5 CFR 754 may be appealed.
- c. Time limits on appeal--The appeal under this section must be filed within the time limits prescribed in the MSPB regulations.
- d. Procedure--The appeal will be filed in accordance with the regulations of the MSPB.

.03 Reemployment Eligibility

Persons who have been removed by the Commission on charges (other than security and/or loyalty) or have resigned upon learning that the Commission planned to prefer charges, or while charges were pending, may request the OPM-Federal Investigations

Processing Center (FIPC) to determine their eligibility for further employment in the competitive service, insofar as their suitability and fitness are concerned. The request will only be considered if it is made in writing and the person making the request meets the requirements of CFR 731.501(a). Action on the request by the OPM will be in accordance with 5 CFR 731.501(b).

PART THREE--PERSONNEL SECURITY

SECTION 1. PROCEDURES

.01 Investigative Requirements

a. The Commission will initiate the required pre-placement security investigations on persons selected to fill Special-Sensitive, Critical-Sensitive, or Non-Sensitive positions. In cases of emergencies and in the national interest, the Staff Director may waive this pre-appointment investigative requirement for all positions except those designated Special-Sensitive. If a waiver is granted, a post-placement investigation will be conducted in accordance with (b.) below.

b. All post-placement security investigations for persons selected to fill Non-Sensitive positions will be initiated within seven (7) working days from their entry on duty with the Commission.

c. Employees of the Commission, who occupy sensitive positions, will be subject to periodic reinvestigations (post-placement) at five-year intervals.

.02 Exempted Positions

The following Non-Sensitive positions are exempt from the investigative requirements of E.O. 10450:

- intermittent;
- seasonal;
- per-diem; and
- temporary (NTE an aggregate of 180 days in either a single continuous or series of appointments).

.03 Types of Security Investigations

a. National Agency Check (NAC)--consists of searches of the OPM Security Investigations Index (SII), the Federal Bureau of Investigation (FBI) Identification Division, FBI Headquarters investigation files, Defense Central Index of Investigations (DCII), and other sources as necessary to cover specific areas of a subject's background;

b. National Agency Check and Inquiries (NACI)--consists of an NAC, written inquiries, and record searches covering specific areas of a subject's background during the past five (5) years;

c. Minimum Background Investigation (MBI)--consists of an

NAC, credit search, written inquiries, and record searches covering specific areas of a subject's background in the past five (5) years. Telephone inquiries are made on selected employment whenever the initial written inquiries are not returned;

- d. Limited Background Investigation (LBI)--consists of an NAC, credit search, personal interviews of subject and sources, written inquiries of selected sources covering specific areas of the subject's background during the most recent three (3) years, and record searches for a total of five (5) years coverage;
- e. Background Investigation (BI) consists of an NAC, credit search, personal interviews of subject and sources, written inquiries, and record searches covering specific areas of the subject's background during the most recent five (5) years, and additional record searches for a total of seven (7) years coverage;
- f. Special Background Investigation (SBI) consists of an NAC, credit search, personal interviews of subject and sources, written inquiries, and record searches, which cover specific areas of subject's background during the past 15 years;
- g. Reimbursable Suitability Investigation (RSI) consists of an expanded investigation of a prior NAC, NACI, or MBI, at the request of the Commission, to provide additional information to resolve a suitability issue(s);
- h. Periodic Reinvestigation (PRI) consists of an NAC, credit search, personal interview of the subject, and selected record searches.
- i. Upgrade Investigation (SGI, BI Upgrade/BGI, LGI) consists of an NAC, credit search, personal interviews of the subject and selected sources, and record searches covering specific areas of the subject's background since the last background investigation. This investigation is for movement upward in sensitivity from 13 to 60 months of the previous investigation's closing date; and
- j. Update Investigation (SDI, BI Update/BDI, LDI,MDI) consists of the same type of case as the previous investigation (MBI, LBI, BI, and SBI) from 13 to 60 months of the previous investigation's closing date.

SECTION 2. SECURITY ADJUDICATION

.01 Standards for Sensitive Positions

- a. No person shall be employed or retained as an employee in the Commission in a sensitive position unless the employment is clearly consistent with the interests of national security.

b. In regard to an applicant for, or an incumbent of a sensitive position, any information that may preclude a finding that this employment is clearly consistent with the interest 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 any 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 the national security;
- (6) commission of any act of sabotage, espionage, treason, terrorism 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, terrorism, or sedition;
- (7) establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, terrorist or revolutionary, or with an espionage or other secret agent or representative of a foreign nation whose interests may be inimical to the interests 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 alteration of the form of government of the United States by unconstitutional means;
- (9) knowing membership, with specific intent of furthering the aims of, or adherence to and active participation in, any foreign or domestic

organization, association, movement, group, or combination of persons (hereinafter referred to as organizations) which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means;

- (10) intentional, unauthorized disclosure to any person of security information, or of other information disclosure of which is prohibited by law, or willful violation or disregard of security regulations;
- (11) performing or attempting to perform duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States; and/or
- (12) refusal by the individual, upon the ground of constitutional privilege against self-incrimination, to testify before a congressional committee regarding charges of alleged disloyalty or other misconduct.

c. It should be noted that because of Federal court decisions which have narrowed the backgrounds upon which an individual can be denied employment, the extent to which these factors can lead to disqualification is unclear.

.02 Security Determinations

a. The results of security investigations concerning a proposed appointee or an incumbent employee are forwarded from the OPM to the Commission for adjudication and are reviewed on their individual merits.

b. As Security Officer, the Director of Human Resources may grant security eligibility when the information received is clearly consistent with the interests of national security.

c. In consultation with the Solicitor, the Director of Human Resources recommends to the Staff Director whether an employee should be removed from employment because as a result of the investigation, the conduct indicates that employment is not clearly consistent with the interests of national security.

.03 Removals (National Security Risk)

a. In the interests of national security, pending final removal from employment, in consultation with the Solicitor, the Director of Human Resources will recommend to the Staff Director which employee should be removed from employment whose, conduct, as the result of investigation, indicates that employment is not clearly consistent with the interests of national security. As an interim step, the Staff Director

may authorize the suspension without pay, reassignment, or temporary detail of an employee to a Non-Sensitive position or to a position with sensitive duties deleted.

b. The following mandatory termination procedures will be followed:

(1) prior to initiation of a proposed removal or suspension procedures, the Staff Director will consult with the Solicitor for the Commission regarding legal ramifications;

(2) prior to removal, a Commission employee, who has a permanent, appointment, and has completed a probationary or trial period, and who is a citizen of the United States, shall be given, after suspension without pay, reassignment, or detail to a Non-Sensitive position or a position with sensitive duties deleted:

(a) a written statement, within 30 days after suspension without pay, or reassignment or detail to a Non-Sensitive position or a position with sensitive duties deleted, of the charges against him or her, which shall be subject to amendment within 30 days and which shall be stated as specifically as security considerations will permit;

(b) an opportunity within 30 days (plus an additional 30 days if the charges are amended) to answer the charges and to submit affidavits;

(c) a hearing, at the employee's request, by a duly constituted Commission authority for this purpose;

(d) a review of the case by the Staff Director (or designee) before a decision adverse to the employee is made final; and

(e) a written statement of the decision from the Staff Director.

(3) after suspension without pay, reassignment, or detail to a Non-Sensitive position or a position with sensitive duties deleted, under 5 U.S.C. 7532 and E.O. 10450, an employee, not covered by paragraph 2 above shall, to the extent the Staff Director determines that the interests of the national security permit, be notified of the reasons for suspension, reassignment, or detail. The employee shall have the opportunity within 30 days after the notification to submit any statements or affidavits to the Commission about why he/she should be restored to the sensitive position or, if the employee has been removed, why the former employee should be reinstated. The employee may be removed whenever, after suspension without pay, reassignment, or detail, the Commission determines that the removal is necessary or advisable in the interests of the national security.

Section 3. ADMINISTRATIVE DUE PROCESS

The Commission will ensure that applicants and employees are given sufficient information, and an opportunity to explain, refute, or mitigate security/suitability data that is developed in the course of an investigation before being rejected or nonselected on security/suitability grounds. Employees and/or applicants will generally:

- (a) receive written, non-classified, notice of the specific reason(s) for a negative security/suitability decision;
- (b) be accorded an opportunity to respond; and
- (c) receive notice of appeal rights.

SECTION 4. MAINTENANCE AND SAFEGUARDING OF SECURITY FILES/INFORMATION AND PRIVACY ACT CONSIDERATIONS

a. The Director of Human Resources (or specified designees) is authorized to request and receive investigative files from the OPM.

b. The Director of Human Resources is responsible for deciding what information in security files should be released to authorized Commission officials as needed to make informed suitability and security decisions. However, under no circumstances will a Commission official with less than a BI receive or handle any classified investigative report received from the OPM.

c. Investigative information will be handled in a manner that protects the privacy of individuals without compromising the capability of Commission officials to make informed suitability and security determinations and selection decisions.

d. The Human Resources Division will maintain, under a secured system, a record of each disclosure of the OPM investigative material which includes:

- (1) the name and title of the person to whom disclosure was made;
- (2) the type of background investigation conducted on the person to whom the material was disclosed;
- (3) the date(s) of disclosure; and
- (4) the reason(s) for the disclosure.

e. Employees and/or applicants will not receive information that reveals the identity of a source of information; any protected medical information; or any information that is exempt from release by the Privacy Act.

f. Security records/files are retained in the Personnel and EEO Division for at least two years from the date of the final adjudication process. All records/files are destroyed within a time period not to exceed five years after an employee leaves the Commission.

SECTION 5. REPORT REQUIREMENTS

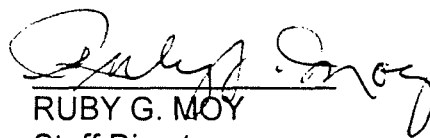
In compliance with required regulations, the following OPM pertinent reports will be furnished:

01. Commission conducted investigation--OPM will be notified when the investigation is initiated and will be provided a copy of the final adjudicative action taken;

02. File furnished as a result of SII check by the Commission--within 90 days of receipt of a file from the OPM, the Commission will report to the OPM the final adjudicative action taken;

03. OPM- conducted investigation--within 90 days from the date of receipt of an investigation from the OPM, the Commission will report to the OPM the final adjudication action taken; and

04. Cases not covered by the above--the Commission will report to the OPM any final adjudicative action taken under 5 CFR 731 and 754 on an individual not covered in .01 through .03.


RUBY G. MOY
Staff Director

Issued: APR 16 1998

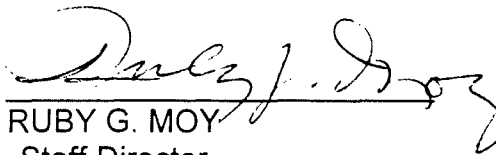
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-11

DELEGATION OF PERSONNEL AUTHORITY

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 2-11 effective immediately.



RUBY G. MOY
Staff Director

Issued: APR 15 1999

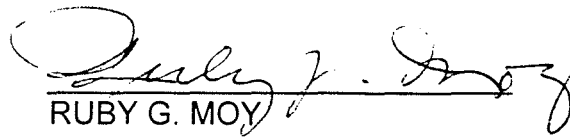
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-12

POSITION MANAGEMENT PROGRAM

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 2-12 effective immediately.


RUBY G. MOY
Staff Director

Issued: APR 15

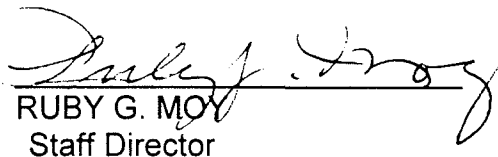
ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 2-13
EXIT INTERVIEWS

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 2-13 effective immediately.

SECTION 2. POLICY

01. Information related to exit interviews and clearances for employees leaving the agency will be incorporated into the "Employee Handbook."
02. For questions concerning this topic, contact the Human Resources Division.


RUBY G. MOY
Staff Director

Issued: MAY 17 1999

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-14

DISABLED VETERANS AFFIRMATIVE ACTION PLAN

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to set forth the policy of the U.S. Commission on Civil Rights (the Commission) regarding the disabled veterans affirmative action program (DVAAP). This program has been designed to promote Federal employment and advancement opportunities for qualified disabled veterans.

The Disabled Veterans Affirmative Action Program (DVAAP) is implemented in accordance with 38 U.S.C. 4214, as amended, and 5 CFR Part 720, Subpart C.

SECTION 2. POLICY

01. The Commission is committed to ensuring that preference in appointments is granted to all qualified veteran eligibles, and that veterans eligible for noncompetitive appointments—including those with 30 percent or more service-connected disabilities are given full consideration for such appointments.

02. It is the policy of the Commission to take steps consistent with its available resources to develop, implement, and monitor a program to provide equal employment opportunities to disabled veterans and persons with disabilities.

03. The Commission will:

a. ensure vacancies are well publicized and distributed to a variety of disabled veterans and special interest groups, organizations and to Government agencies;

b. refer qualified disabled veterans who are noncompetitive eligibles to the appropriate Commission selecting official(s) for consideration in filling vacancies;

c. provide disabled access to workplace facilities; reasonable accommodation for special needs of disabled employees when appropriate; and specialized equipment such as telephones and computers for disabled employees as needed;

d. advise employees who are disabled veterans of employee development opportunities to enhance placement or promotion potential; and

e. keep employees informed of the Commission's reasonable accommodation policy.

SECTION 3. AUTHORITY AND RESPONSIBILITIES

01. The Staff Director has overall program responsibility for the agency's efforts to recruit and provide advancement opportunities for qualified disabled veterans and for the DVAAP.

02. The Director of Equal Employment Opportunity (EEO) Programs is responsible for the development, evaluation and monitoring of the DVAAP. The Director of Human Resources (HRD) is responsible for an affirmative action program for the recruitment, hiring, placement, development, and career advancement of disabled veterans.

03. The directors of operating offices and regional offices, and the supervisors within those offices, are responsible for supporting the overall policies and objectives of the programs developed by the Director of Equal Employment Opportunity Programs and implemented by the Director of Human Resources for hiring disabled veterans.

04. The Director of Human Resources is responsible for providing assistance and advice to the Director of Equal Employment Opportunity Programs, office heads, regional directors and supervisors regarding the Commission's affirmative action program for disabled veterans. Additionally, the Director of Human Resources is responsible for assuring that these Commission programs fully meet all requirements of equal opportunity policies and regulations.

05. All employees are responsible for remaining cognizant of the Commission's policy on equal employment opportunities for disabled veterans and for making an affirmative effort to carry out or be sensitive to this policy as it relates to their own areas of responsibility.

SECTION 4. RECRUITMENT METHODS

01. The Commission will continue to establish a liaison with various veteran organizations as well as with special interest groups to inform them of employment opportunities at the Commission.

02. The Director of Equal Employment Opportunity Programs and the Director of Human Resources will develop and maintain a vacancy announcement mailing list of current organizations active in disabled veteran issues. The list will include local churches, universities, professional and business associations, civic associations, and government agencies as well as EEO Directors at the State, County, and Federal levels to maximize outreach efforts.

SECTION 5. HIRING AND PLACEMENT METHODS

01. The Commission will promote the use of the veterans readjustment appointment authority, as opportunities allow, to hire and place disabled veterans in positions for which they qualify.

02. The Commission will restructure positions, if possible, to accommodate employee applicants who are disabled veterans.

SECTION 6. INTERNAL ADVANCEMENT METHODS

01. The Commission will advise interested employees, including disabled veterans, of the amount and type of training they need to enhance their promotion potential. To the extent that it is appropriate and reasonably possible, the Commission will provide such training or, alternatively, advise employees on how the training might be obtained.

02. The Commission will ensure that veterans with disabilities and disabled persons are aware of the agency's reasonable accommodation program, which may assist them with advancement opportunities.

SECTION 7. INTERNAL REVIEW AND EVALUATION

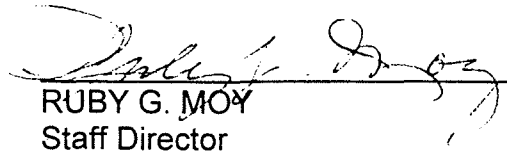
01. Annually, the Commission will analyze statistics and provide accomplishments on the employment of disabled veterans for the previous fiscal year to:

- a. verify vacancy mailing lists;
 - b. renew updated employment data and any changes in the Commission's mission or structure, and update the plan as necessary;
 - c. quantify training announcements within the agency of particular interest to disabled veterans;
 - d. quantify training requested by and provided to disabled veterans;
- and

e. quantify recruitment, hiring, placement and advancement of disabled veterans.

02. This review and evaluation will include all headquarters and regional employees with the following exclusions: Commissioners, Schedule C Appointees, Consultants and Intermittents.

03. This review and evaluation will be conducted jointly by the Director of Equal Employment Opportunity Programs and the Director of Human Resources.



RUBY G. MOY
Staff Director

Issued: 1/24/03

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-14A

DISABLED PERSONS AFFIRMATIVE ACTION PROGRAM

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to set forth the policy of the U.S. Commission on Civil Rights (the Commission) regarding its the Disabled Persons Affirmative Action Program (DPAAP). This program has been designed to promote Federal employment and advancement opportunities for qualified disabled individuals.

The Disabled Persons Affirmative Action Program is implemented in accordance with 38 U.S.C. 4214, as amended, and 5 CFR Part 720, Subpart C.

SECTION 2. POLICY

01. The Commission is committed to ensuring that preference in appointments is granted to all qualified disabled eligibles, and that disabled eligible for competitive appointments are given full consideration for such appointments.

02. It is the policy of the Commission to take steps consistent with its available resources to develop, implement, and monitor a program to provide equal employment opportunities to persons with disabilities.

03. The Commission will:

a. ensure vacancies are well publicized and distributed to a variety of special interest groups as well as to Government agencies;

b. refer qualified disabled persons who are competitive eligibles to the appropriate Commission selecting official(s) for consideration in filling vacancies;

c. provide disabled access to workplace facilities; reasonable accommodation for special needs of disabled employees when appropriate; and

specialized equipment such as telephones and computers for disabled employees as needed;

d. advise employees who are disabled of employee development opportunities to enhance placement or promotion potential; and

e. keep employees informed of the Commission's reasonable accommodation policy.

SECTION 3. AUTHORITY AND RESPONSIBILITIES

01. The Staff Director has overall program responsibility for the agency's efforts to recruit and provide advancement opportunities for qualified disabled persons and for the DPAAP.

02. The Director of Equal Employment Opportunity (EEO) Programs is responsible for the development, evaluation and monitoring of the DPAAP. The Director of Human Resources (HRD) is responsible for an affirmative action program for the recruitment, hiring, placement, development, and career advancement of the disabled.

03. The directors of operating offices and regional offices, and the supervisors within those offices, are responsible for supporting the overall policies and objectives of the programs developed by the Director of Equal Employment Opportunity Programs and implemented by the Director of Human Resources for hiring the disabled.

04. The Director of Human Resources is responsible for providing assistance and advice to the Director of Equal Employment Opportunity Programs, office heads, regional directors and supervisors regarding the Commission's affirmative action program for the disabled. Additionally, the Director of Human Resources is responsible for assuring that these Commission programs fully meet all requirements of equal opportunity policies and regulations.

05. All employees are responsible for remaining cognizant of the Commission's policy on equal employment opportunities for the disabled and for making an affirmative effort to carry out or be sensitive to this policy as it relates to their own areas of responsibility.

SECTION 4. RECRUITMENT METHODS

01. The Commission will continue to establish a liaison with various organizations as well as with special interest groups to inform them of employment opportunities at the Commission.

02. The Director of Equal Employment Opportunity Programs and the Director of Human Resources will develop and maintain a vacancy announcement mailing or e-

mail list of current organizations active in issues concerning the disabled. The list will include local churches, universities, professional and business associations, civic associations, and government agencies as well as EEO Directors at the State, County, and Federal levels to maximize outreach efforts.

03. The Commission will post vacancy listings on the Commission website.

SECTION 5. HIRING AND PLACEMENT METHODS

01. The Commission will restructure positions, if possible, to accommodate employee applicants who are disabled.

SECTION 6. INTERNAL ADVANCEMENT METHODS

01. The Commission will advise interested employees, including the disabled, of the amount and type of training they need to enhance their promotion potential. To the extent that it is appropriate and reasonably possible, the Commission will provide such training or, alternatively, advise employees on how the training might be obtained.

02. The Commission will ensure that persons with disabilities are aware of the agency's reasonable accommodation program, which may assist them with advancement opportunities.

SECTION 7. INTERNAL REVIEW AND EVALUATION

01. Annually, the Commission will:
 - a. update and analyze statistics on the employment of the disabled for the previous fiscal year;
 - b. review disabled access to workplace facilities and reasonable accommodation for special needs of disabled employees;
 - c. review announcement of training opportunities of particular interest to the disabled;
 - d. review training requests from and training provided to the disabled;
 - e. review any changes to the Commission's mission or structure as it relates to disabled employees;
 - f. adjust the DPAAP as appropriate; and
 - g. review and update the Commission's mailing list of agencies, organizations and special interest groups working with the disabled.

02. This review and evaluation will include all headquarters and regional employees with the following exclusions: Commissioners, Schedule C Appointees, Consultants and Intermittents.

03. This review and evaluation will be conducted jointly by the Director of Equal Employment Opportunity Programs and the Director of Human Resources.



LES JIN
Staff Director

Issued: APR 15 1999

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-15

EXPERTS AND CONSULTANTS

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish guidelines for the appointment of experts and consultants, and to communicate these guidelines to Agency managers.

SECTION 2. AUTHORITY

Title 5, United States Code (USC) Government Organization and Employees

Title 5, Code of Federal Regulations, Part 304

SECTION 3. POLICY

It is the policy of the U.S. Commission on Civil Rights (the Commission) to employ experts and consultants only as authorized by the Code of Federal Regulations, and within the spirit and intent of 5 U.S.C. 3109.

SECTION 4. DEFINITIONS

.01 Consultant means a person who serves primarily as an advisor to an officer or instrumentality of the Government, as distinguished from an officer or employee who carries out the Agency's duties and responsibilities. He/she provides views or opinions on problems or questions presented by the agency, but neither performs nor supervises performance of operating functions. The consultant's expertise consists of a high degree of broad administrative, professional, or technical experience indicating that his/her ability and knowledge makes his/her advice distinctively valuable to the Commission.

.02 Consultant position means a position which requires the performance of purely advisory consultant services, rather than performance of operating functions.

.03 Expert means a person with excellent qualifications and a high degree of attainment in a professional, scientific, technical, or other field. The expert's knowledge and mastery of the principles, practices, problems, methods, and techniques of his/her field are clearly superior to those usually possessed by ordinarily competent persons in that

activity. The expert's attainment is such that he/she usually is regarded as an authority or as a practitioner of unusual competency and skill by other persons in the profession, occupation, or activity.

.04 Expert position means a position which, for satisfactory performance, requires the services of an expert in the particular field, as defined in paragraph .03, and has duties that cannot be performed satisfactorily by someone not an expert in that field.

.05 Intermittent employment means (a) occasional or irregular employment (b) on programs, projects, problems, or phases thereof, requiring intermittent service. If a consultant or expert works more than one-half of full-time employment, i.e., he/she is paid for all or any part of a day for more than 130 days in a service year, the employment ceases to be intermittent and becomes temporary.

.06 Temporary employment means (a) employment for one year or less (b) on programs, projects, problems, or phases thereof, requiring temporary service for one year or less.

SECTION 5. GENERAL PROVISIONS

Careful analysis must be used to ensure that the requirements listed below are met:

01. Experts and consultants are not employed to perform full-time duties which are of a continuing nature or to perform duties that are more appropriately performed by regular employees of the agency.

02. Experts and consultants will not be employed: (a) to give a particular person temporary or intermittent appointment solely in anticipation of a competitive service appointment; (b) to avoid competitive employment procedures; or (c) to avoid General Schedule pay limits.

03. Experts and consultants will only be employed to provide needed expertise and specialized opinion in program areas not available within the existing workforce.

04. Consultants will be assigned to purely advisory work, rather than to operating functions.

05. Experts will be assigned duties which require the services of an expert in the particular field, as defined in Section 1.03 above.

06. Appointees clearly have the high level of expertise required to serve either as experts or consultants.

07. Pay rates assigned are appropriate and justifiable in terms of the level and difficulty of the duties to be performed, the qualifications of the appointees, and the availability of the services in the labor market.

08. Appointments of experts and consultants are made in conformity with conflict of interest regulations, as interpreted by the Commission's Solicitor.

09. Appointments will be restricted to no more than one (1) year with the expert or consultant working under either a temporary appointment (full or part-time) or an intermittent appointment not to exceed 130 days in the service year.

10. Intermittent appointments may be renewed from year to year; temporary appointments cannot. If an intermittent appointee ceases to be intermittent, as explained in Section 1.05 above, and becomes temporary, the employee may only be re-appointed in the next service year only on a purely intermittent basis. It is the policy of the Commission to employ consultants or experts on an intermittent basis only.

11. Re-appointments resulting in service for more than two years in a row, even on an intermittent basis, can give the appearance of continuing employment. Therefore, such re-appointments will be made only after careful review of all the circumstances involved.

SECTION 6. QUALIFICATIONS

In reviewing the qualifications of an expert or consultant, consideration will be given to:

1. His/her area of expertise and its relationship to the needs of the Commission.
2. Stature of the expert or consultant in his/her field.
3. His/her current salary or income.
4. His/her education when it is directly related to the job or when it has demonstrated needed research capabilities.

SECTION 7. COMPENSATION

Compensation for the services of experts or consultants will be based upon their expertise and contribution to the needs of the Commission.

.01 Pay will generally be computed at the first step of the grade in the General Schedule ranging from GS-11 to 15.

.02 Exceptions will be made and the rate of pay set at a higher step of a given grade when it would best reflect equal pay for equal work.

.03 The maximum rate for any expert or consultant will not exceed the maximum rate for GS-15 in the General Schedule.

.04 Any expert or consultant employed by the USCCR will be employed in accordance with current appropriation acts.

.05 Under its existing statute, the Commission shall not accept or utilize services of voluntary or uncompensated personnel as experts or consultants.

.06 Under 5 U.S.C. 5307, an expert or consultant is not entitled to a pay increase on the basis of an increase in the General Schedule pay rates.

.07 The expert or consultant must complete CCR Form 2A, Per Diem Salary Voucher, at the end of the pay period and return it to the Timekeeper of the office in which work is performed.

.08 The following information is to be recorded on CCR Form 2A:

- a. identify the project code, when possible, for activities performed. See 3-6, Appendix 4A, for Account Codes;
- b. cite the date(s) of Commission services performed;
- c. briefly and concisely describe the services performed;
- d. the number of hours worked for each project; and
- e. the signatures of the expert or consultant, the authorized approving official (i.e., office director), and the Staff Director must be on the Form 2A before any timecard documents are sent to the Timekeeper for compensation.

SECTION 7. PROCEDURES

.01 The procedures for hiring an expert or consultant are set forth in Appendix A to this Administrative Instruction.

SECTION 8. APPROVING AUTHORITY

.01 Only the Staff Director may approve the appointment of an expert or consultant.

.02 For each approved appointment, the Staff Director will sign and date an expert or consultant certificate (See Appendices F and G).

.03. When there are any questions concerning the appropriateness or propriety of the appointment of an expert or consultant, prior approval of the Office of Personnel Management (OPM) will be requested.

SECTION 9. RECORDS

.01 Personnel records will be maintained for all experts and consultants in the same manner as for career employees.

.02 The Official Personnel Folder (OPF) and related documents will be made available upon request to representatives of OPM for post audit purposes.

.03 The OPF of an expert or consultant employed by the USCCR will contain the following documents:

- a. a description of the position duties and responsibilities in enough detail to show that the position actually requires an expert's or consultant's services;
- b. either a Standard Form 171, or Standard Form 173 and detailed resume, that provides a description of the appointee's background and qualifications in enough detail to show that they qualify for the position;
- c. documentation showing the appropriateness of the recommended level of pay in relation to the work to be performed, the qualifications of the proposed appointee, and comparable salaries in the private sector;
- d. a Standard Form 50, Notification of Personnel Action, showing employment, and a Standard Form 50 showing termination of employment;
- e. a completed Certification Regarding Statement of Employment and Financial Interests, determining that no conflict of interest exists;
- f. the number of days worked in the previous service year for all intermittent experts or consultants who are reappointed; and
- g. a certification of personal review by the Staff Director.

SECTION 10. REVIEWS

.01 At least quarterly, a review, based on information provided by each Office Head (see Appendix K) for each consultant or expert, will be made by the Staff Director. The review of all experts and consultants currently employed will be to ensure that in each case:

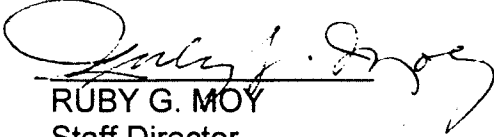
- a. all duties performed are still those of an expert or consultant;
- b. time limitations are being observed;
- c. documentation is kept current; and

d. duties of record are actually being performed.

.02 A record of review will be prepared for and signed by the Staff Director, which describes the following:

- a. the conduct of the review;
- b. summary of the findings; and
- c. any actions taken to correct deficiencies.

.03 The record of review shall be retained until examined by OPM.


RUBY G. MOY
Staff Director

APPENDIX A

PROCEDURES FOR HIRING CONSULTANT OR EXPERT TO BE FOLLOWED BY OFFICE DIRECTOR

I. Obtain Approval in Principle to Establish Consultant or Expert Position

A. Prepare Justification Statement, a memorandum that demonstrates the need for the proposed consultant or expert position and assures compliance with the relevant legal limitations and prerequisites. See the Code of Federal Regulations, Part 304 and 5 U.S.C. Section 3109. It is strongly recommended that CFR, Part 304, in particular, be studied carefully. A Checklist for Request and Approval for Consultant or Expert Appointment (hereinafter Checklists) to aid the execution of these procedures follows as Appendix B.

B. Submit Justification Statement, signed by office director, to Staff Director, and obtain Staff Director's approval to establish position.

II. Obtain Data & Completed Forms from Candidate

A. Either SF (Standard Form) 171, or SF 173 and detailed resume.

B. "Confidential Statement of Employment and Financial Interests" (For Use By Special Government Employees) (CCR Form 8, hereinafter "disclosure statement") (Appendix C).

C. "Applicants for Consultant or Expert Positions Determination of Rate of Pay" form (Appendix D).

III. Obtain Conflict of Interest Certification

A. Complete Part 1 of disclosure statement submitted by applicant. (N.B. No. 4, Period of Appointment, should give the starting date as "ASAP" (as soon as possible) rather than a specific date.)

B. Fill in section above "Human Resources Division" on form entitled "USCCR Employment of Consultant or Expert Certification Regarding Statement of Employment and Financial Interests" (hereinafter "conflict of interest form")(Appendix E).

C. On the checklist, fill in numbers 1 and 2. For number 3, provide a reference giving the title of the memorandum prepared as a Justification Statement.

D. Take the checklist, disclosure statement, and conflict of interest form to the Director of Human Resources, who should fill in section entitled "Human

Resources Division" on the conflict of interest form and put the date by "Received" under number 8 on the checklist.

E. Human Resources Division will submit the disclosure statement and conflict of interest form to the Solicitor's Office. The Solicitor will review the statement and if approved, will fill in the section entitled "Solicitor" on the conflict of interest certification form. Human Resources Division will put the date by "Approved" under number 8 on the checklist.

IV. Obtain Determination of Rate of Pay

A. Prepare a memorandum to the Director of Human Resources, recommending a GS (General Schedule) rate of pay. The memorandum must justify the rate based on the nature of the work, the qualifications of the applicant, the salary information provided on the form Applicants for Consultant or Expert Positions Determination of Rate of Pay and the availability of the services in the labor market. When more than one consultant or expert is to be hired with similar duties, it may be easier to divide the material, preparing one memorandum describing the nature of the work, which will apply to all consultants or experts, and then preparing separate memoranda for each candidate focusing on that particular candidate's qualifications. Depending on the situation, the availability of services in the labor market might be treated in either the general or the individual memoranda. On the checklist, provide appropriate memorandum title references under numbers 4, 5 and 6.

B. Assemble the checklist, the memorandum(a) described in IV(A) above, the completed form entitled Applicants for Consultant or Expert Positions Determination of Rate of Pay, and the completed SF 171, or SF 173 and detailed resume, and submit to the Human Resources Division. Having determined the rate of pay, the Human Resources Division states what the rate of pay is under number 7 on the checklist form.

V. Approval of Consultant or Expert Appointment by the Staff Director

A. Prepare the form entitled "U.S. Commission on Civil Rights Consultant Certificate. (Appendix F) or U.S. Commission on Civil Rights Expert Certificate. (Appendix G) and an SF 52 for the Staff Director's signature. (The SF 52 must include the office director's signature as requesting official.)

B. Prepare a "Memo of Approval" to the Staff Director which is a short cover memorandum noting that the requisite paperwork is attached and requesting approval.

C. Assemble these together with all other forms and memoranda generated as described above. The package is then submitted through the Director of Human Resources and the Deputy Staff Director to the Staff Director. The date of this

submission should be marked by "Requested" under number 10 on the checklist form.

D. If the Staff Director approves the appointment, his/her signature should be placed on both the SF 52 and the Consultant or Expert Certificate. The date of the Staff Director's approval or disapproval should be marked in the appropriate place under number 10 on the checklist form.

E. After the Staff Director's signature is obtained, submit all materials to the Human Resources Division, which will then process the appointment.

VI. Notify Applicant and Obtain Forms for Start of Employment

A. Assemble packet of materials to send to appointee. This should include the following:

1. Letter notifying applicant of appointment and rate of pay, and requesting that enclosed forms be completed and returned.
2. Sheet entitled FORMS TO BE COMPLETED, WITH INSTRUCTIONS (Appendix H).
3. Two copies of "Statement of Conditions of Intermittent Appointment (Appendix I). (One is to be kept by the applicant.)
4. One copy of each of the other forms mentioned on " FORMS TO BE COMPLETED ..." sheet.
5. Brochure showing the pay periods for the current year.
6. Several copies of CCR Form 2 (entitled " PER DIEM SALARY VOUCHER")(Appendix J).

VII. Start Consultant or Expert's Employment

When all completed forms have been returned to the Human Resources Division, prepare a letter authorizing the new consultant or expert to start work. The effective date of the appointment will be the date of the signatures on the appointment affidavit. Appointee should not work before that date.

APPENDIX B

**CHECKLIST FOR REQUEST AND APPROVAL
FOR CONSULTANT OR EXPERT APPOINTMENT**

1. Name and Social Security Number:

2. Period of Proposed Appointment:

(a) Work Schedule (check one):

___ Intermittent ___ Part-time ___ Full-time

(b) Estimated Number of Days to be Worked:

3. Justification: (Narrative Required):

4. Duties (Narrative Required):

5. Qualifications (Narrative Required):

6. Recommended Salary (Proposed Grade, Step & Salary; Current Salary Data and Justification; Applicant's Determination of Rate of Pay form attached):

7. Approved Salary Level (Basis):

8. Conflict of Interest Statement Received and Approved (Dates):

_____ Received _____ Approved

9. Certification of Appropriateness of Consultant or Expert Duties ("Consultant Certificate. or Expert Certificate. attached)

10. Final Action Requested and Received (Dates):

_____ Requested _____ Approved
_____ Disapproved

Issued: APR 1 8

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-16

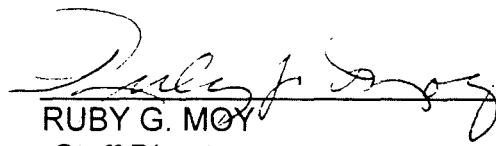
EMPLOYMENT APPLICATION PROCEDURES

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 2-16 effective immediately.

SECTION 2. POLICY

01. It is Commission policy to utilize employment application procedures consistent and in accordance with regulations, procedures, and policies developed by the Office of Personnel Management for government-wide compliance.
02. For questions concerning this topic, contact the Human Resources Division.


RUBY G. MOY
Staff Director

Issued: APR 16 2011

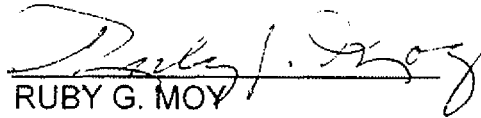
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-17

ADVERSE ACTIONS

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 2-17 effective immediately. Information on adverse actions can be found in AI 2-7, Grievance Procedures.


RUBY G. MOY
Staff Director

Issued: April 1, 2011

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-18

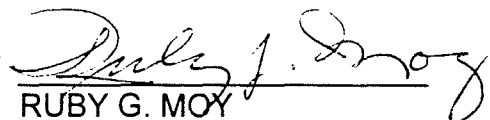
WORKER'S COMPENSATION

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 2-18 effective immediately.

SECTION 2. POLICY

01. Employee information on worker's compensation will be provided in the "Employee Handbook."
02. For questions concerning this program, contact the Human Resources Division.


RUBY G. MOY
Staff Director

Issued: APR 1 1999

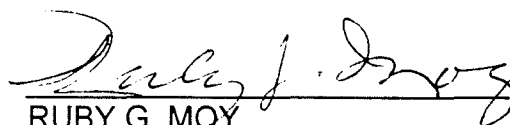
ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 2-19
TIME-IN-GRADE REQUIREMENTS

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 2-19 effective immediately.

SECTION 2. POLICY

01. The Commission policy for determining time-in-grade requirements will be in accordance with current government-wide statute, rule and/or regulation as interpreted by the Office of Personnel Management.
02. Information on time-in-grade requirements is contained in 5 CFR Chapter 300.
03. Employees are encouraged to discuss any questions they may have concerning time-in-grade requirements with the Human Resources Division.


RUBY G. MOY
Staff Director

Issued: APR 10 2014

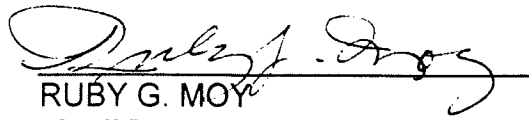
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-20

PROBATIONARY PERIOD FOR MANAGERS AND SUPERVISORS

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 2-20 effective immediately.


RUBY G. MOY
Staff Director

Issued: APR 15 1999

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-21

PERFORMANCE APPRAISAL SYSTEM FOR SENIOR EXECUTIVE SERVICE (SES) EMPLOYEES

SECTION 1. PURPOSE

This performance appraisal system for Commission SES employees will be used as a tool for executing basic performance management responsibilities by: communicating and clarifying organizational goals and objectives; identifying individual accountability for the accomplishment of Agency goals and objectives; evaluating and improving individual and organizational accomplishments; and using performance appraisal as a basis for adjusting base pay, training, rewarding, reassigning, retaining and removing employees.

SECTION 2. AUTHORITY

OPM regulations 5 CFR Part 430 Subpart C, Performance Appraisal for the Senior Executive Service.

SECTION 3. SCOPE

This performance appraisal system covers all Commission SES employees including those serving on career, non-career, and limited emergency or limited appointments.

SECTION 4. POLICY

The performance of each member of the Senior Executive Service will be appraised and rated annually on individual performance, and on the achievement of organizational goals and objectives of the Commission. Performance ratings will be based on a comparison of performance against written standards containing criteria related to critical elements of each position with emphasis on quality, increased productivity, timeliness, and cost effectiveness of Agency programs, as set forth below. Performance ratings will constitute the basis for retention in the SES and reduction-in-force actions and may provide a basis for pay, bonus and award determinations, reassignments, and other personnel actions taken by the Appointing Authority.

SECTION 5. DEFINITIONS

- .01 Appointing Authority: With respect to decisions related to the SES performance appraisal system, the Staff Director is the appointing authority for all SES members except for his/her own position. The Chairman exercises that authority for the Staff Director for the Commission.
- .02 Appraisal: The act or process of reviewing and evaluating the performance of a senior executive against the described performance standard(s).
- .03 Appraising Official: The first supervisory official responsible for recommending the initial appraisal of an SES member, unless the SES member reports to the Staff Director in which case the Appraising Official is the same as the Appointing Authority. The Chairperson is the same for the Staff Director.
- .04 Appraisal Period: The period of time established by an appraisal system (normally one year) for which the senior executive's performance will be reviewed. The Commission's normal appraisal period is from July 1 to June 30 of the following year. However, there is also established a minimum appraisal period of 90 calendar days.
- .05 Appraisal System: A performance appraisal system established under Subchapter II of Chapter 43 of Title 5, United States Code, and Part 430 of Title 5, Code of Federal Regulations, is a system which provides for identification of critical and non-critical elements, establishment of performance standards, communication of elements and standards to senior executives, establishment of methods and procedures to appraise performance against established standards, and appropriate use of appraisal information in making personnel decisions.
- .06 Bonus See "Performance Award."
- .07 Critical Element: A component of a job consisting of one or more duties and responsibilities which contributes toward accomplishing organizational goals and objectives and which is of such importance that "Unsatisfactory" performance on the element would result in "Unsatisfactory" performance in the position.
- .08 Final Rating: The rating of record assigned by the Appointing Authority after considering the recommendations of the Performance Review Board (PRB).
- .09 Initial Rating: The summary rating made by the senior executive's supervisory official and provided to the Performance Review Board.
- .10 Non-Critical Element: A component of a senior executive's position which does not meet the definition of a critical element, but is of sufficient importance to warrant written appraisal. These are optional and may be used at the Agency's discretion.

- .11 Performance: The senior executive's accomplishment of assigned work as specified in the critical elements of the executive's position in comparison to his/her performance plan.
- .12 Performance Appraisal: See "Appraisal."
- .13 Performance Appraisal System: See "Appraisal System."
- .14 Performance Award: A performance based cash payment to a career senior executive based on a recommendation by the PRB, with the final rating and cash payment to be decided by the Appointing Authority.
- .15 Performance Management Plan: The description of the Agency's methods which integrate performance, pay, and awards systems with basic management functions for the purpose of improving individual and organizational effectiveness in the accomplishment of the Agency's mission and goals.
- .16 Performance Plan: The sum total of the senior executive's written critical and, non-critical elements and performance standards.
- .17 Performance Requirements: See "Performance Standard."
- .18 Performance Standard: 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, quantity, cost efficiency, timeliness, and manner of performance.
- .19 Progress Review: A review of the senior executive's progress toward achieving the performance standards.
- .20 Rating of Record: means the Final Rating.
- .21 Summary Rating: The written record of the appraisal of each critical and non critical element and the assignment of a summary rating level.

SECTION 6. TRAINING

All senior executives and other appropriate senior appointees will be issued a copy of this SES Administrative Instruction promptly following its first availability or upon each individual's entry into a covered position, if entering after the initial distribution. In order to ensure effective management and implementation of the SES Performance Appraisal System, senior executives will receive training and information concerning the relevant laws and regulations. The other senior appointees will also receive timely briefings and appropriate written material. After evaluation of the effectiveness of the SES Performance Appraisal System, adjustments in training will be made as appropriate.

SECTION 7. RECORDS OF EXECUTIVE PERFORMANCE

As required by 5 CFR 293.404(b) (1), the Agency shall maintain all performance related records for senior executives for no less than five years from the date the rating is issued. If a senior executive leaves the Agency during the appraisal period, all appropriate performance related documents five years old or less, including the current performance rating of record, shall be forwarded in the Employee Performance File along with the individual's Official Personnel File. A summary rating covering the work performed in this Agency during the appraisal period shall be prepared as described in Section 11.05. This summary rating must be taken into consideration by the gaining agency when deriving the next rating of record. Performance appraisal records of those senior executives who leave the Federal service will be retained/disposed of in accordance with OPM instructions.

SECTION 8. EVALUATION

The SES Performance Appraisal System will be evaluated periodically with regard to the adequacy of guidance provided and the effectiveness in meeting the objectives of 5 USC 4311-4315. To this end, management will review and assess the effectiveness of the performance appraisal system and its linkage to performance-based actions. The Human Resources Division will compile, for internal use and/or reporting purposes, annual data on the performance distribution and performance awards. Based on the results of the evaluations, improvements will be implemented as needed.

SECTION 9. PERFORMANCE PLANS

Performance plans including critical elements, non-critical elements (optional), and performance standards will be established annually, and updated as changes occur. These plans are developed by the initial appraising official of each senior executive in consultation with each executive. For individual performance plans, any reasonable means of consultation in the development of the plan may be used. Examples of appropriate methods include but are not limited to: the senior executive and the appraising official discuss and develop the performance plan together; the senior executive comments on a draft performance plan prepared by the appraising official; or the senior executive prepares a draft performance plan for the consideration of the appraising official.

- .01 Critical elements, non-critical elements (optional), and performance standards will be based on the expectations and/or requirements of the senior executive's position, and will be established for the upcoming rating year during May and June of each year. In order to appraise senior executives on their success in accomplishing organizational objectives, it is necessary that such organizational objectives, goals, and plans be incorporated into individual performance plans to be effective during July of each year.

- .02 The proposed elements and standards shall be in writing and, except when initiated by the Appointing Authority, shall be approved by a reviewing official at a higher level than the initial appraising official, or by the PRB. The senior executive may add written comments for consideration by the reviewing official.
- .03 Critical elements, non-critical elements (optional), and performance standards will be communicated to the senior executive on or before the beginning of each appraisal period, and a written copy should be provided within 30 days of the beginning of the appraisal period.
- .04 Critical elements, non-critical elements (optional), and performance standards should be written and provided to the senior executive no later than 30 calendar days after the beginning of a detail or temporary assignment within the agency, when it is expected that the duration of such will be at least 120 calendar days. If a senior executive is detailed or temporarily assigned to another agency or outside organization, reasonable effort must be made to obtain relevant appraisal information from that organization.
- .05 Revised critical elements and performance standards may be appropriate under any of the following circumstances:
 - a) change in position;
 - b) change in initial appraising official; and
 - c) significant change in organizational and/or program priorities.

In the event one or more of these changes take place, action to revise the performance plans should be initiated within 30 days of the change, and follow the procedures in .02 through .04 of this Section. The revision process must include consultation with the senior executive, and the revised performance plan shall be approved by a reviewing official at a higher level than the initial appraising official except when initiated by the Staff Director of the Commission. The revised performance plan becomes effective upon approval by the reviewing official or the PRB, as appropriate. A decision to revise performance plans should take into consideration the need for viable elements and standards for a reasonable period of time prior to evaluation (at least the minimum appraisal period of 90 calendar days).

SECTION 10. CRITERIA FOR PERFORMANCE STANDARDS

Performance standards will be established to evaluate individual and organizational performance, and will be in accordance with the critical elements and non-critical elements (optional) of the senior executive's position.

- .01 Each performance standard will be in terms of the desired outcome, stated insofar as feasible in specific quantifiable and qualitative terms. For critical and non-critical

(optional) elements, standards will be written at the "Commendable," "Fully Successful," and "Minimally Satisfactory" level for each element.

(a) organizational performance standards will include such factors as:

efficiency of organizational performance, including consideration of timeliness, cost savings, productivity, and controls to prevent fraud waste, and abuse; and

quality of services rendered or work performed; and

achievement of major goals or program objectives of the organization managed by the senior executive.

(b) Individual performance standards will include such factors as:

demonstrated leadership of the organization and staff;

assuring that all appropriate officials are kept fully informed of office activities under their supervision;

specific actions to encourage and develop excellence of staff;

representing the Commission in furthering the program objectives of the agency with the general public, clientele groups or representatives of other Federal, State and local governmental agencies;

meeting affirmative action goals, and achievement of equal employment opportunity requirements;

effectiveness in staff relations, employee development, and labor management relations programs; and

achievement in special projects or assignment properly assigned or undertaken.

.02 Each standard will take into account the resources which will be made available, and the authority to affect action to achieve the standard.

SECTION 11. PERFORMANCE APPRAISAL PROCESS

The initial appraising official for each senior official will prepare written performance ratings each appraisal period. The appraisal period will normally commence on July 1 and terminate on June 30 of the next year. However, if on June 30 the senior executive has not been under his/her current performance plan for the minimum appraisal period of 90 calendar days, the appraisal period shall be extended for the amount of time

necessary to meet the minimum appraisal period at which time a rating of record shall be prepared. There are a number of circumstances which could bring about this situation including the appointment or assignment of the senior executive to his/her position of record after April 3, the participation by the senior executive in long-term training, extended absences, LWOP, etc.

.01 A progress review shall be held for each senior executive approximately midway through the annual appraisal period. At this time each senior executive will be informed if performance is below "Fully Successful" and will be counseled regarding the improvement needed to obtain a rating of Fully Successful. The appraising official and the senior executive should discuss the senior executive's performance during that portion of the appraisal period preceding the progress review, any performance problems that may exist, and plans for the remaining portion of the appraisal period including strategies for improving performance.

.02 Critical elements must be included and non-critical elements may be included in individual performance plans. A senior executive must be appraised on each critical element in his/her performance plan unless he/she has had insufficient opportunity to demonstrate performance on the element. Performance ratings will be based on a comparison of the senior executive's performance against the written performance standards established for the position for the appraisal period being rated. Initial ratings should be prepared for each senior executive who was on the agency's rolls at the end of the annual appraisal period (June 30) and who completed the minimum appraisal period (90 days).

.03 Performance ratings must be prepared based on critical elements, non-critical elements (optional), and performance standards developed and issued to a senior executive who is on detail or temporary assignment within the agency, for an anticipated period of at least 120 days. These ratings, based on performance during the detail or temporary assignment, must be considered in deriving the senior executive's next rating of record. A reasonable effort should be made to incorporate this performance into the element ratings and supporting narrative based on performance in the position of record, in proportion to the part of the appraisal period that this performance represents. A copy of the rating covering the detail or temporary assignment shall be attached to the initial rating by the appraising official prior to submission to the senior executive and the PRB.

.04 If a senior executive has served in an SES position in the Commission for the minimum appraisal period of 90 calendar days and that senior executive is detailed to another agency or outside organization, a performance rating must be prepared by the appraising official. If relevant appraisal information covering the detail can be obtained from the outside agency or organization, that information shall be considered in deriving the senior executive's next rating of record in the same manner as described above in Section 11.03. Any such appraisal information obtained from an outside agency or organization shall be attached to

the initial rating prepared by the appraising official prior to submission to the senior executive and the PRB. In situations where the senior executive has not served in the Commission for the minimum appraisal period but has served in an SES position for the minimum appraisal period in the agency or organization to which detailed, a reasonable effort must be made to prepare a rating based on information obtained from the outside agency or organization.

.05 In the case where a senior executive changes positions within and during the appraisal period and he/she was in the former position for the minimum appraisal period of 90 calendar days, a summary rating shall be prepared covering the work performed in the former position. This summary rating should be completed within 30 days of the date the senior executive left the former position and a copy shall be forwarded to the new appraising official. This summary rating shall be taken into consideration in deriving the next rating of record. A reasonable effort should be made to incorporate the summary rating into the rating prepared by the new appraising official based on performance in the position of record, in proportion to that part of the appraisal period that the performance in the former position represents. The summary rating shall not be considered an initial rating, but it shall be attached to the initial rating by the new appraising official and forwarded to the senior executive and the PRB.

.06 Prior to preparation of the initial rating by the appraising official, the senior executive may submit comments concerning significant accomplishments and/or extenuating circumstances. The appraising official will assign an initial rating on each critical element and non-critical element (optional) except in situations where the senior executive has had insufficient opportunity to demonstrate performance on a particular element. A summary rating of the overall level of performance of the senior executive will also be assigned as set forth in Section 12, below. This should be prepared as soon as practicable after the end of the annual appraisal period (June 30).

.07 The appraising official will provide the senior executive with a copy of the initial rating and supporting narrative along with written notification of the right to respond in writing and to request a higher level review before review by the PRB. Such documents must be provided to the senior executive at the time they are prepared.

.08 Except when prepared by the Staff Director or ether appropriate senior authority, the senior executive may have the initial ratings and supporting narrative and any written response reviewed at a higher level prior to forwarding them to the PRB. The reviewing official will review the performance appraisal package to insure that the supporting narrative relates the senior executive's performance to the performance plan, and is a sufficient and appropriate basis for the individual element ratings. The review may involve any of several actions including agreeing with the element ratings and supporting narrative as submitted, identifying specific problems and/or insufficiencies with the ratings and

narrative, discussing these problems and requesting additional information or input from the senior executive and/or appraising official, and revising the ratings and narrative.

.09 Where higher level review has not been requested, the initial performance rating and supporting narrative along with any comments made by the senior executive should be forwarded by the appraising official to the PRB. Where higher level review has been requested, the reviewing official's recommendations and comments must be added to the above and forwarded to the senior executive (at the time prepared), the appraising official, and the PRB by the reviewing official.

.10 The PRB shall review and evaluate the initial rating, the senior executive's written response, if any, and the written comments, if any, and the initial rating by a higher level executive, and will conduct such further review as necessary. The PRB will then make written recommendations on ratings of record and performance awards (bonuses) to the Staff Director.

.11 The Staff Director will make final decisions on ratings of record, performance awards, and pay adjustments.

.12 The Staff Director may shorten the appraised period (not less than 90 calendar days) where it is determined that an adequate basis exists in which to appraise a senior executive's performance.

SECTION 12. PERFORMANCE RATING

Each senior executive will be assigned one of five summary rating levels of performance as well as a rating for each critical and non-critical (optional) element as follows: "Outstanding," "Commendable," "Fully Successful," "Minimally Satisfactory," and "Unsatisfactory."

.01 A senior executive's summary rating shall be derived from his/her element ratings. Conversion of element ratings to a summary rating must be made using the following criteria:

OUTSTANDING (Level 5) Constantly performs at a level that is of such exceptionally high quality that it substantially exceeds the normal expectations of the position. In the overall rating, all critical elements are rated outstanding or all but one of the critical elements are rated outstanding and no critical element is rated less than commendable.

COMMENDABLE (Level 4) Consistently performs at a level that is of such high quality that it substantially exceeds the normal expectations of the position. In the overall rating, all critical elements are rated commendable or all except one element which must be rated fully successful.

FULLY SUCCESSFUL (Level 3) Consistently performs at a level that fully, competently, and completely meets the normal expectations of the position. Achievement of this element rating typically indicates overall competence in the position. In the overall rating, all critical elements are rated fully successful or higher.

MINIMALLY SATISFACTORY. (Level 2) Performs at a level which falls below the normal expectations of the position. In the overall rating, one or more critical elements are rated minimally satisfactory and no critical element is rated unsatisfactory.

UNSATISFACTORY (Level 1) Performs at a level that is of such poor quality that significant duties and responsibility are not being performed and thus fall significantly below the normal expectations of the position. In the overall rating, one or more critical elements are rated unsatisfactory.

.02 Performance standards and ratings for all senior executives should promote equitable treatment under the appraisal process, and should reflect comparable levels of quality, difficulty, and complexity for performance standards written at the same element rating level. The supporting narrative for each element rating must reflect appraisal against the established performance plan, and must contain sufficient and appropriate justification for the element rating. Performance at the "Fully Successful" level should indicate overall competence in the position and performance that is fully appropriate to the senior executive's level of responsibility. Only those senior executives whose performance exceeds normal expectations should be rated at levels above "Fully Successful." The reviewing official must be satisfied that the ratings accurately reflect the range of quality of work accomplished by the senior executive during the appraisal period. The reviewing official must ensure that supporting narratives and ratings are accurate, and that rating decisions and application of performance standards are handled equitably among all of the senior executive under his/her purview. The review process will assess performance standards in relation to organizational and individual performance requirements including quantity, quality, and timeliness of work, and consistency for senior executive positions with comparable responsibilities. Under 5 CFR 430.306(d), the Agency may not prescribe a distribution of levels of ratings.

.03 Assistance in improving performance shall be provided to those senior executives who are rated at the "Minimally Satisfactory" or "Unsatisfactory" levels. The individual element(s) where the performance problems are occurring shall be identified and management shall then provide assistance related to these particular elements. The assistance may be provided in a number of ways including, but not limited to, formal training, on the job training, counseling, and closer supervision. Any senior executive who receives an "Unsatisfactory" annual performance rating shall be reassigned, transferred within the SES, or removed from the SES. Any senior executive who receives less than a "Fully Successful" rating of record twice in any period of three consecutive years shall be removed from the SES. Any senior executive who receives a second "Unsatisfactory" rating of record in any period of five consecutive years shall be removed from the SES.

SECTION 13. PERFORMANCE REVIEW BOARD (PRB)

The Performance Review Board will be established for the purpose of making recommendations to the Appointing Authority on the performance ratings of Commission senior executives.

.01 Make-up of the PRB

- (a) The PRB shall have at least three but no more than five members appointed by the Appointing Authority. In addition to Commission senior executives, senior executives from other Federal agencies will be appointed to serve on the PRB.
- (b) Notice of appointment to the PRB must be published in the Federal Register.
- (c) Such review and evaluation shall be limited to an assessment of the individual's performance in relation to rating elements established under Section 9.02 of this issuance.
- (d) A quorum for the purpose of conducting business shall be three members. In the case of an appraisal of a career appointee, more than one half of the voting members present shall consist of career SES appointees.
- (e) If feasible, at least one member will be a Commission senior executive.
- (f) Senior executives shall not participate on a PRB that is deliberating on that individual's initial rating.
- (g) Neither the appraising official nor reviewing official shall be members of the PRB reviewing the ratings either prepared or reviewed by them. They may, however, be called upon to consult with the PRB as part of the review process.
- (h) In the case of the review of the initial performance rating of a career appointee, notwithstanding any other provision herein, more than one half of the membership of the PRB shall consist of career SES appointees.
- (i) Each SES member of a PRB must have a current rating of record of "Fully Successful" or better, and possess an understanding of the appraisal system.
- (j) Staff support and technical guidance for the PRB will be provided by the Human Resources Division.

.02 Functions of the PRB

a) The PRB will review and evaluate the initial ratings and supporting documentation for each senior executive, and make written recommendations to the Staff Director regarding the rating of record and a performance award.

(b) The PRB will consider the initial rating and supporting documentation made by the appraising official, any written response made by the senior executive, any additional written comments or recommendations made by the reviewing official, and such other information as the PRB finds necessary to make its final recommendation. If other information is relied upon by the PRB it shall be made part of the record; and

(c) The PRB recommendations concerning the senior executive's rating of record shall be in writing.

(d) The PRB will be responsible for reviewing representative performance plans and ratings each year to determine the quality and consistency of critical elements and performance standards including the relative difficulty and strictness of application of the performance standards.

SECTION 14. FINAL RATINGS

.01 A written rating of record (final rating) shall be made on an annual basis by the preparation. The rating of record shall be issued only after considering the Staff Director, and a copy provided to the senior executive at the time of recommendations of the PRB. There is no grievance or appeal from a final rating.

.02 The final ratings will be a basis for determinations by the Appointing Authority on SES performance awards (bonuses), nominations for Presidential Rank Awards, adjustment in SES pay levels, reassignments, reduction-in-force, retention, etc.

.03 In accordance with law, performance appraisals and final ratings of career executives may not be made within 120 days after the beginning of a new Presidential administration (5 U5C 4314b(1) (C)).

SECTION 15. PERFORMANCE AWARDS (BONUSES)

All SES career appointees on the Commission's rolls at the end of the appraisal period (June 30), whose most recent rating of record is "Fully Successful" or higher, are eligible for consideration for a performance award. Performance awards are paid annually on a fiscal year basis.

.01 The total amount that the Agency may expend during a fiscal year for performance awards may not exceed: (1) 3% of the aggregate amount of basic pay paid to career SES appointees during the preceding fiscal year (computed by

using 3% of agency career SES payroll on September 30 of each year) ; or (2) 15% of the average annual rates of basic pay to career appointees for the preceding fiscal year.

.02 The amount of a performance award paid to an individual career SES appointee may not be less than 5% nor more than 20% of the appointee's rate of basic pay.

.03 Recommendations for consideration for performance awards are made by the PRB to the Staff Director.

.04 Approval authority within the agency for performance awards is with the Staff Director.

.05 A senior executive should not be advised of an award nomination prior to final approval by the Staff Director.

.06 Each bonus recipient will receive a check, and a signed certificate in recognition of the high level of performance the bonus represents.

SECTION 16. SUPERIOR ACCOMPLISHMENTS AWARDS

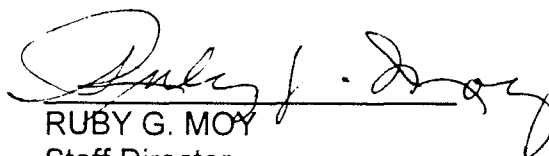
Information concerning Superior Accomplishment Awards is contained in AI 2-6, Employee Recognition and Incentive Awards Program.

SECTION 17. PRESIDENTIAL RANK AWARDS

Information concerning Presidential Rank Awards is contained in the Administrative Instruction, Employee Recognition and Incentive Awards Program.

SECTION 18. COMPENSATION

Compensation for senior executives is subject to 5 USC 5383 and 5 CFR 534.401.


RUBY G. MOY
Staff Director

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-22

**PERFORMANCE APPRAISAL SYSTEM
FOR GS-1 THROUGH GS/GM-15
AND PREVAILING RATE EMPLOYEES**

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish a performance appraisal system that supports the use of performance ratings of record as the basis for adjusting basic pay, determining performance awards, and for a variety of management decisions and personnel actions.

The system also facilitates communication and clarification of Commission goals and objectives, identification of individual accountability for accomplishing these goals and objectives, and evaluation and improvement of individual and organizational accomplishments.

Overall, the performance appraisal system provides a useful tool that assists in the accomplishment of various supervisory and managerial responsibilities, and provides a basis for recognizing and rewarding high levels of performance through performance awards and other types of incentive awards.

SECTION 2. AUTHORITY

The procedures prescribed are issued under the following authorities:

Public Law (PL) 95-454, Title II;
Title 5, United States Code Government and Organization of Employees (USC),
Chapter 43; and
Title 5, Code of Federal Regulations (CFR), Parts 430, 451

Procedures and linkages described in this AI relate specifically to performance-based decisions and activities. Management decisions and personnel actions undertaken on other basis may be subject to additional or substitute statutory, regulatory, or FPM provisions. This includes but is not limited to: adverse actions taken to promote the efficiency of the service (FPM Chapter 752); performance of a participant in the agency's employee assistance program (FPM Chapter 792); certain aspects of RIF and furlough administration (FPM Chapter 351);

position classification (FPM Chapter 511); superior accomplishment awards (FPM Chapter 451); and management rights (5 USC 7106).

SECTION 3. SCOPE

These provisions apply to all Commission employees in GS-1 through GS-15, or prevailing rate positions, except employees in the excepted service who are serving in positions that are not reasonably expected to exceed 120 calendar days in a consecutive twelve month period. The specific procedures set forth in this system apply to all GS-1 through GS-15 and prevailing rate employees. It also covers GM supervisors and managers who were covered on October 31, 1993 by the Performance Management and Recognition System Termination Act.

SECTION 4. POLICY

It is the policy of the Commission to support and administer the provisions of P.L. 95-454, Title II, Sec. 203 - Performance Appraisal, and the Office of Personnel Management (OPM) regulations for Performance Management Systems (PMS). In support of PMS, the agency establishes this performance appraisal system as a part of the Agency Performance Management Plan.

This system provides for periodic, accurate, objective performance ratings and for linkage of performance appraisal results to a variety of management decisions and personnel actions. The Commission's Performance Management Plan utilizes performance management under PMS to integrate basic management functions with performance appraisal, compensation, performance award, and incentive award systems for the purpose of promoting individual and organizational effectiveness.

The Commission has established objectives such as quality, efficiency, and productivity goals which are attained through utilizing the provisions of the PMS regulations to recognize employee achievements and accomplishments. Performance plans (critical elements, performance standards, and, as appropriate, non-critical elements) consist of the responsibilities involved in and the levels of employee performance needed to accomplish the agency's objectives. The manner in which those responsibilities are carried out during the appraisal period is appraised to identify employees' accomplishments. The appraisal process results in ratings of record which serve as the basis for pay, award, and other personnel decisions. Thus, compensation is a result of the recognition of employees' achievements and contributions toward meeting the objectives which assist the agency to accomplish its mission.

SECTION 5 DEFINITIONS

The following definitions apply to the implementation and administration of this system:

- .01 Acceptable Level of Competence: fully successful performance by an employee of the duties and responsibilities of his/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.
- .02 Appraisal: the act or process of reviewing and evaluating the performance of an employee by the Appraising Official, Reviewing Official, and/or an approving official against the described performance standard(s).
- .03 Appraisal Period: the period of time established by an appraisal system for which an employee's performance will be reviewed and a rating of record will be prepared.
- .04 Appraisal Program: the specific procedures and requirements established under the policies and parameters of an agency appraisal system.
- .05. Appraisal System: the performance appraisal system, established by the Agency under Subchapter I of Chapter 43 of Title 5, USC and part 430 of Title 5, CFR which provides for identification of critical and non-critical elements, establishment of performance standards, communication of elements and standards to employees, establishment of methods and procedures to appraise performance against established standards, and appropriate use of appraisal information in making personnel decisions.
- .06 Critical Element: work assignment or responsibility of such importance the unacceptable performance on the element would result in a determination that an employee's overall performance is unacceptable.
- .07 Element Rating: the written record of the appraisal of a specific critical or non-critical element and the assignment of a rating level; critical element ratings, in the aggregate, determine the summary rating.
- .08 Non-critical Element: a component of an employee's position which does not meet the definition of a critical element, but is of sufficient importance to warrant written appraisal; these are optional. Such elements may include, but are not limited to, objectives, goals, program plans, work plans, and other means of expressing expected performance.
- .09 Performance: an employee's accomplishment of assigned work as specified in the critical and non-critical elements of the employee's position.
- .10 Performance Appraisal System: (See "Appraisal System.")
- .11 Performance Management Administrator: the Agency oversight's official(s) responsible for ensuring high quality and legal/regulatory compliance in the functioning of the PMS system.
- .12 Performance Management Plan: the description of the Agency's methods which integrate performance, pay, and awards systems with its basic management functions for the

purpose of improving individual and organizational effectiveness in the accomplishment of the Agency's mission and goals.

.13 Performance Management Pool: a grouping of organizations for the computation of and accounting for a performance award budget, and approval of performance-based personnel actions and performance awards.

.13 Performance Plan: An employee's written performance elements that set forth expected performance. A plan must include all critical and non-critical elements and their performance standards.

.14 Performance Rating: the written appraisal of performance compared to the performance standard(s) for each critical element on which there has been an opportunity to perform for the minimum period. A performance standard may include the assignment of a summary level.

.15 Performance Standard: 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, quantity, timeliness, and manner of performance.

.16 Progress Review: communicating with the employee about performance compared to the performance standards of critical and non-critical elements.

.17 Rating: (See "Summary Rating.")

.18 Rating of Record the summary rating required at the time specified in the Performance Management Plan or at such other times as the Plan specifies for special circumstances.

.19 Summary Rating: the written record of the appraisal of each critical element and the assignment of a summary rating level, as specified in 5 CFR 430.204(g)&(h).

SECTION 6. PERFORMANCE MANAGEMENT POOL(s)

The Commission currently has Performance Management Pools in recognition of Agency organizational and reporting channels. It can also be a single agency-wide pool. The applications of Pool breakout may include, but are not limited to, appraisal decisions, award determinations, budgeting for and funding of awards, and assembly of forecasts and reports. The Performance Management Pools will cover employees as follows:

Performance Management Pool #1 -

Commissioners' Staff

Performance Management Pool #2 -

Office of the Staff Director, Regional

	Programs Coordination Unit, and Congressional Unit and Public Affairs Unit
Performance Management Pool #3 -	Office of the General Counsel
Performance Management Pool #4 -	Office of Management including the Budget and Finance Division, Human Resources Division, and the Administrative Services and Clearinghouse Division
Performance Management Pool #5 -	All Regional Offices
Performance Management Pool #6 -	Office of Civil Rights Evaluation

SECTION 7. PERFORMANCE MANAGEMENT ADMINISTRATORS

The Performance Management Administrators are as follows:

- Performance Management Pool #1 - Staff Director
- Performance Management Pool #2 - Staff Director
- Performance Management Pool #3 - General Counsel
- Performance Management Pool #4 - Assistant Staff Director for Management
- Performance Management Pool #5 - Staff Director
- Performance Management Pool #6 - Assistant Staff Director for Office of Civil Rights
Evaluation

In the absence of an incumbent in Pools 3, 4 and 6, either the individual designated "Acting" or the Staff Director will serve as Pool Administrator.

SECTION 8. RESPONSIBLE OFFICIALS

The principal roles in the performance management process are the Appraising Official, Reviewing Official, and Performance Management Administrator. In addition to the following general descriptions of these roles, specific duties are detailed in the system set forth in this AI.

.01 Appraising Official

The Appraising Official is generally the first-line supervisor of the employees being appraised. He/she should be in a capacity that provides extensive, firsthand knowledge of the

employees' work assignments and accomplishments. The Appraising Official has the primary responsibility for gathering all information necessary to make complete and objective recommendations of overall summary levels and performance ratings.

This responsibility includes the review and incorporation of information about employees' work performed under the direction of other officials, and/or duties during the appraisal period that were substantially different than those of the position of record at the end of the appraisal period. Others who supervise or provide oversight for the work of one or more employees are also responsible for ensuring that the Appraising Official receives sufficient information on a timely basis to produce accurate ratings and supporting narratives within the deadlines established by the Agency.

The Appraising Official prepares the initial performance appraisal recommendations, including the proposed element ratings, summary ratings, supporting narratives, and ratings of record. However, the proposed ratings and supporting narratives are subject to the review and approval of the Reviewing Official, and the ratings of record for a pool must also receive approval from the appropriate Performance Management Administrator. Performance plans (critical elements, performance standards, and, as appropriate, non-critical elements) may also be originated by the Appraising Official, subject to the review and approval of the Reviewing Official and the oversight of the Performance Management Administrator.

However, this does not preclude decisions by the Staff Director, a Performance Management Administrator, or other appropriate official(s) to develop standardized performance plans, in whole or in part, and to use appropriate methods (e.g., a task force, committee, etc.) to do so.

.02 Reviewing Official

The Reviewing Official must be at least one level above the Appraising Official in the organization, and is responsible for:

- 1) ensuring that ratings and supporting narratives are, to the maximum extent feasible, accurate evaluations of job performance on the basis of objective criteria related to the employee's position;
- 2) ensuring that performance standards are applied consistently within their organizations;
- 3) reviewing and approving element ratings, summary ratings, ratings of record, and supporting narratives by established deadlines; and
- 4) for approving performance-based personnel actions.

Reviewing Officials' responsibilities for approval of performance plans are comparable to their appraisal responsibilities.

.03 Performance Management Administrator

Performance Management Administrators are responsible for supporting the objectives of performance management as described in this AI, and for ensuring that the performance

appraisal process is conducted with fairness and equity. They also have the authority and responsibility for ensuring their respective Pool's compliance with the Agency's OPM-approved Performance Management Plan and related laws and regulations. They provide oversight for the performance appraisal process and approval for their respective Pool's ratings of record and performance awards. Performance Management Administrators are also responsible for ensuring that their Pools meet the established deadlines.

SECTION 9. PERFORMANCE APPRAISAL CYCLE

The performance appraisal process includes the development and communication of performance plans, the provision of at least one progress review, and the periodic appraisal of job performance. Each of these actions is a scheduled event in the performance appraisal cycle. In section 15 of this AI there is a calendar of the major events during the performance appraisal cycle.

SECTION 10. TRAINING

Employees will be fully informed regarding the requirements and provisions of the Performance Management System through, for example, the distribution of this AI and other appropriate written materials. In order to ensure effective management and implementation of this appraisal system, employees will also receive timely briefings concerning the system and the relevant laws and regulations. Other employees who are involved in the PMS process, such as SES members, will receive appropriate training and written materials. After evaluation of this system, additional training will be provided, as appropriate.

SECTION 11. EVALUATION

The performance appraisal system contained in this AI will be evaluated periodically with regard to the adequacy of guidance provided and the effectiveness in meeting the objectives of 5 CFR 430.102. To this end, the Agency will assemble, for internal use and/or reporting purposes, whatever information may be deemed necessary or advisable for evaluation and reporting purposes. Based on the results of the evaluations, improvements will be proposed or implemented as needed. In view of the Agency's centralized personnel operations, assembly of data and reports will be the responsibility of Headquarters. However, individual Performance Management Pools may be requested to contribute information if needed.

SECTION 12. GENERAL PERFORMANCE APPRAISAL INFORMATION

The results of a performance appraisal serve as the basis for performance awards, and for a variety of personnel actions (Sections 18 and 20), management decisions, and planning activities. The appraisal process as a whole supports and promotes the mission of the Commission, organizational effectiveness, and the ongoing development of employees' competence, knowledge, and achievement.

SECTION 13. BASIC PROVISIONS

.01 Appraisal Period and Frequency of Appraisal

The normal appraisal period lasts twelve months, and employees are appraised annually. The appraisal period for all employees is from July 1 to June 30. The minimum appraisal period is 90 calendar days. Section 17 of this AI discusses situations resulting in abbreviated appraisal periods.

.02 Critical Elements and Non-critical Elements

Each employee receives a written performance plan that includes the critical elements and performance standards for the employee's position. Non-critical elements are not required, but may also be established, as appropriate. The number of critical elements must be kept at a manageable level, generally three to six, to ensure that a job element is significant enough to be a "critical element." Critical elements, as defined in Section 4.05 of this AI, are an identification of major and significant duties and responsibilities of an employee's position. A single critical element may include a range of related duties and responsibilities. A key point in identifying critical elements is that they must be of such importance to the fully successful performance of the employee's position that unacceptable performance of the element would result in unacceptable performance of the employee's position and/or assigned work. Responsibilities described in a non-critical element are limited to those items which do not have critical importance. Where appropriate, the critical and non-critical elements for each position should indicate how the elements support the achievement of Commission plans and objectives.

.03 Rating Levels

Employees receive three types of ratings: element ratings, summary ratings, and ratings of record. An element rating is given for each written critical or non-critical element that the employee has had the opportunity to perform during the appraisal period. Summary ratings and ratings of record are derived from the critical element ratings using the procedures and conversion chart discussed in Section 19 of this AI.

Element ratings, summary ratings, and ratings of record use the same five level scale.

Level 5 - Outstanding

Level 4 - Commendable

Level 3 - Fully Successful

Level 2 - Minimally Successful

Level 1 - Unacceptable

Element ratings are determined by comparing an employee's actual performance on a critical or non-critical element with the written performance standards for that element. Each performance standard is clearly identified as to the rating level it describes.

A summary rating is the written record of the appraisal of each critical element and the assignment of a summary rating level. Section 19 of this AI explains how an employee's critical element ratings will be converted to a summary rating. As discussed in Section 17, summary ratings are required, under certain conditions, following a detail or a change of position, performance plan, or Appraising Official. A summary rating is required to close out an employee's annual appraisal period.

The rating of record is the employee's summary rating at the end of the employee's annual appraisal period. If the employee has received one or more summary ratings during the appraisal, e.g., following a change of position or a detail, these summary ratings are considered in deriving the employee's rating of record. This topic is discussed in more detail in Section 17 of this AI.

.04 Performance Standards

Performance plans must include at least three written performance standards for each critical element. In all instances, there must be a written performance standard describing the "Fully Successful" level of performance. In addition, there must be a written performance standard for one of the two rating levels above "Fully Successful" and for one of the two rating levels below "Fully Successful." Management is encouraged to write the additional performance standards at the levels one level above and one level below the "Fully Successful" level, i.e., "Commendable" and "Minimally Successful." The following definitions of the rating levels should be used as guidelines for developing performance standards:

Outstanding: A level of performance that is of such exceptionally high quality that it substantially exceeds the normal expectations of the position and the grade level. Achievement of this element rating should be highly unusual, and the performance standards must be written in a manner which reflects the exceptional nature of this level of accomplishment.

Commendable: A level of performance that is of such unusually high quality that it exceeds the normal expectations of the position and the grade level. Achievement of this element rating should be unusual, and the performance standards must be written in a manner

which reflects the unusual nature of this level of accomplishment.

Fully Successful: A level of performance that fully, competently, and completely meets the normal expectations of the position and the grade level. Achievement of this element rating typically indicates overall competence in the position, and performance that is fully appropriate to the employee's grade level and responsibilities. The performance standards must be written in a manner which requires full competence in performance at the expected level of supervision.

Minimally: A level of performance that generally meets, but at successful times fails to meet, the normal expectations of the position and grade level. Performance at this element rating is typically deficient to a limited extent, e.g., the quality and/or quantity of work is not sufficient for the grade level or the employee needs more than the expected level of supervision. The performance standards must be written in a manner which requires reasonable, demonstrated competence on the part of the employee, while providing for the possibility of a deficiency that would make the employee's work of lesser quality, quantity, or dependability than normally expected for the position and/or grade level.

Unacceptable: A level of performance that is of such poor quality that significant duties or responsibilities set forth in the critical or non-critical element are not being adequately accomplished. Performance at this element rating level typically includes significant failures in work products or timeliness of work products; or a significant need for extra supervision or quality control; or competence or productivity that is significantly below the employee's grade level and could lead to removal of the employee from his/her position. The performance standards must be written in a manner which accommodates a variety of significant deficiencies. Since the specific nature of unacceptable performance may vary among poor performers, the performance standards must be flexible enough to cover a range of possible situations.

Overall, performance standards for all employees should promote fair and equitable treatment under the appraisal process. Performance standards throughout a pool and, to the extent possible throughout the Commission, should reflect comparable levels of

quality, difficulty, and complexity for performance standards written at the same element rating level. Absence of a written performance standard at a given rating level does not preclude the assignment of an element rating at that level. Under 5 CFR 430.208(d), an Agency may not prescribe a distribution of levels of ratings. In the application of performance standards, note that 5 CFR 430.208(f) specifies that the appraisal and rating of a disabled veteran may not be lowered because the veteran has been absent from work to seek medical treatment as provided in EO 5396.

.05 Designated Official

The Performance Management Administrator for each pool may designate one or more officials to perform certain administrative activities related to the provisions of this AI, and to assist in the coordination of the required clearances. The full range of responsibilities is determined by the Performance Management Administrator, and includes those mentioned in Section 16 of this AI. In addition, the designated official(s) will ensure that all ratings of record and performance award recommendations, if applicable, for a pool are referred to the Performance Management Administrator for approval, the approval is documented in writing, and that the Human Resources Division receives a copy of this documentation and the performance appraisal packages.

SECTION 14. PERFORMANCE PLANS

Employees are to be encouraged to participate in the development of performance plans (critical elements, performance standards, and, as appropriate, non-critical elements)(5CFR 430.205(d). However, the final authority for establishing critical and non-critical elements and performance standards rests with the supervisory officials. Generally, the development process is initiated by the Appraising Official. Proposed performance plans must be reviewed and approved by the appropriate Reviewing Official before being put in effect. In many instances performance plans are standardized, in whole or in part, as discussed in Section 14.01, below. Appropriate review and approval of proposed, standardized material must be provided in accordance with guidance from the Performance Management Administrator. To the maximum extent feasible, an employee's performance plan must permit accurate evaluation of job performance on the basis of objective criteria related to the employee's position.

.01 Standardized Performance Plans

It may be necessary or advisable to establish a degree of standardization in many performance plans, e.g., when a number of employees are in similar or like positions. Standardization, when used correctly, can facilitate fair and equitable ratings for employees, and can help to ensure that performance standards reflect consistent, appropriate

levels of quality and difficulty of work. If performance plans for a group of positions are to be standardized, in whole or in part, the development, review, and approval of the plans may be accomplished through a representative group of Appraising and Reviewing Officials. Likewise, the opportunity for employee participation in the development of performance plans may be met through the participation of a representative group of employees. Task forces or other groups developing, reviewing, or approving standardized performance plans must be established with the knowledge and approval of the Performance Management Administrator.

.02 Individualized Performance Plans

Performance plans developed, reviewed, and approved by individual Appraising Officials and Reviewing Officials may use any reasonable means of encouraging employee participation in the development of the performance plan. Examples of appropriate methods include, but are not limited to:

- the employee comments on a draft performance plan prepared by the Appraising Official;
- the employee provides a draft performance plan for the Appraising Official's consideration; and
- the employee and the Appraising Official discuss and develop the performance plan together.

.03 Content of Performance Plans

As discussed in Section 13.02 of this AI, a written performance plan will generally include three to six critical elements. Non-critical elements may also be used. As discussed in Sections 13.03 and .04 of this AI, there are five element rating levels. Performance standards for at least three of the element rating levels must be written into the performance plan. Section 13.04 specifies which performance standards must be included in the performance plan. In addition, the performance plan should be based on the employees' success in accomplishing organizational objectives through incorporation of objectives, goals, program plans, or work plans into the performance plans. Performance plans must be based on the requirements of the employee's position.

.04 Forms and Format

Form CCR ---- (Appendix 2) should be used to record the performance plan. Instructions for use of the form are printed on the back of the form. Equivalent documents may be used if they contain the same

information that is required on Form CCR ----, and the page size is not larger than 8 1/2" x 11".

.05 Issuing the Performance Plan

Written performance plans should be issued to the employee on or before the start of each appraisal period, but normally not later than 30 days after the beginning of the appraisal period. Consequently, the drafting of new performance plans and revisions to existing performance plans should be initiated early enough to allow sufficient time for the Reviewing Official's review and approval before the plan is issued. If it is jointly agreed that an employee's existing performance plan is still current and appropriate at the start of a new appraisal period, the plan does not have to be reapproved or reissued. However, that decision should be documented in writing by the Appraising and Reviewing Officials' signatures. If an employee is continuing on the same performance plan for additional appraisal periods, the Appraising Official should have the employee sign and date the office's file copy of the plan at the start of each appraisal period. The purpose of the signature and date is to confirm that the employee is aware that the same plan continues in use and that a new copy is available to the employee if the previous copy needs to be replaced. If the employee needs a new copy of the performance plan, it must be issued timely.

.06 Revision of Performance Plans

To the extent possible, performance plans should be revised only at the beginning of an appraisal period. However, it may sometimes be necessary or advisable to make revisions during an appraisal period, such as when the employee's assigned work is significantly changed, when a problem with the performance plan becomes obvious, or when Agency plans or objectives change or are revised in a way that will affect the employee's position. Employee participation in the revision of performance plans must be encouraged. The revised performance plan must be reviewed and approved by the Reviewing Official before it is effective. Whenever possible, revisions to current performance plans should not be made during the 90 calendar days before the end of the appraisal period. Details and changes to a different position (including promotions, temporary or otherwise) are not covered by this Section. Section 17 of this AI covers these situations.

Employees have the right, upon request, to meet with their supervisor to discuss performance standards prior to signing their initial performance plan or executing any rollover of their existing plan. This is the appropriate time for employee input in determining the elements of their performance plan. Bargaining unit employees have the right to

request Union representation for any meeting with a supervisor to discuss setting performance standards for that employee. If requested, employees should be given a reasonable amount of time to comment on the performance plan and provide written remarks if desired.

.07 Record Keeping

After a performance plan is written, reviewed, and approved, legible copies must be promptly given to the employee, the Human Resources Division (for reviewing and filing in the Employee Performance File), and to the Performance Management Administrator. Photocopies should include the dates and signatures of the Appraising Official, Reviewing Official, and employee. The original of the performance plan should be retained in the supervisory or office files. After a copy of the current performance plan has been given to the Human Resources Division, an additional copy of the plan does not have to be included with the performance appraisal package (rating of record, element ratings, and, as appropriate, the supporting narrative) when the performance appraisal package is forwarded to the Human Resources Division after the end of the appraisal period. However, if the employee is being appraised on the basis of a performance plan that has not been given to the Human Resources Division, a copy of the performance plan must be included in the performance appraisal package to ensure that the Employee Performance File contains the most recent performance plan that was issued to the employee.

SECTION 15. APPRAISAL CALENDAR

The complete performance appraisal cycle calendar is in Appendix 1 of this AI. Appraising Officials are encouraged to discuss performance and any needed improvements with employees throughout the appraisal period. However, there are four particular discussions which should take place during each appraisal cycle.

Performance - At the beginning of the appraisal period, the planning employee should be given a performance plan. If the plan will be revised for the new appraisal period, the development of the revised plan should begin far enough ahead for the final, approved performance plan to be issued on or before the beginning of the appraisal period. The employee must also be informed of the performance required for an "acceptable level of competence" determination for within grade increase purposes (or "satisfactory" rating for prevailing rate employees).

Progress Review Approximately midway through the appraisal period, and in no event later than six and one-half months from the beginning of the appraisal period, the Appraising Official and/or first-line supervisor must meet with the employee to discuss the employee's performance. At this time the supervisor may want to reiterate expectations, and any improvements that may be helpful. Additionally, the supervisor/manager should discuss in-depth work projects/products and performance throughout the performance rating period.

Preappraisal During the last two months of the appraisal period, the interview employee and the Appraising Official and/or first-line supervisor may meet to review the employee's accomplishments during the appraisal period for the purpose of ensuring that relevant accomplishments receive due consideration. Alternatively, the employee may be asked to submit a written summary of his/her accomplishments. A Performance Management Administrator may make either of these activities mandatory for all employees in his/her Performance Management Pool.

Issuance of the Rating As soon as practicable after the end of the appraisal period, the employee shall be given a copy of the performance appraisal package. At this time, the Appraising Official (or, alternatively, the employee's first-line supervisor if the Appraising Official is not the first-line supervisor) should make arrangements to meet with the employee to discuss the ratings, answer questions, and, as needed, discuss means of improving future performance.

Employees will not receive a minimally successful or unacceptable rating overall, or in any critical element, without 90 days notice in writing and a reasonable opportunity to demonstrate fully successful performance.

Communication is an essential part of establishing and maintaining an effective performance appraisal system. The four meetings described above are intended to foster useful discussions concerning employee performance and the Commission performance appraisal process. Additional meetings and discussions are encouraged during the appraisal cycle as needed or as requested by the employee, Appraising Official, or Reviewing Official. Constant feedback diminishes problems at the mid-year and end of the performance appraisal period. Also refer to Section 18 of this AI for related information when performance problems exist.

SECTION 16. PERFORMANCE APPRAISAL

A performance appraisal package is prepared for each employee who is to be rated. This package includes the employee's performance plan, unless already on file, an element rating for each critical or non-critical element and an overall rating of record. A supporting narrative, as required under Section 16.04, is also included in the performance appraisal package. This information is recorded on the following forms. Samples of these forms are appendices to this Administrative Instruction.

Form CCR---performance plan or supporting narrative (Appendix 1)

Form CCR---all critical and non-critical element ratings and the rating of record (based only on the critical elements) (Appendix 2)

The following subsections provide a summary of the process for reaching final rating of record decisions and the specific actions required of the Appraising Official and the Reviewing Official.

.01 Summary of the Process

The Appraising Official drafts the supporting narrative, and makes the initial proposal for the element ratings and the rating of record after the appraisal period ends. Employees must be rated on each critical element and, if applicable, each non-critical element from the performance plan that they have had the opportunity to perform. Section 17 discusses situations where some elements cannot be rated.

The performance appraisal package goes directly from the Appraising Official to the Reviewing Official. The Reviewing Official reviews the performance appraisal package and may take any of several actions. These actions include: adopting the proposed element ratings and rating of record, discussing the ratings and/or narrative with the Appraising Official, asking the Appraising Official to submit additional information or to make changes, and revising the ratings and/or narrative.

To the extent possible, changes or revisions in the ratings and/or narrative should be made with the participation of the Appraising Official. The performance appraisal package goes from the Reviewing Official to the Performance Management Administrator or an official designated by the Performance Management Administrator.

In accordance with the provisions of Section 13.05 of this AI, if the performance appraisal package is forwarded to a designated official, the designated official will assemble the materials to be forwarded to the Performance Management Administrator.

The designated official will be responsible for ensuring that all ratings of record and performance award recommendations, if applicable, are accurately reported to the Performance Management Administrator for his/her approval. Ratings of record may not be communicated to employees prior to approval by the Performance Management Administrator.

.02 Specific Appraising Official Actions

The Appraising Official must ensure that employees are rated timely and in accordance with relevant law, regulation, and this performance appraisal system. To this end, a variety of actions are required. Employees must have received written performance plans that meet the requirements of Sections 13 and 14 of this Administrative Instruction. Employees' performance must be appraised against these performance plans and reflected in the supporting narrative, where required. The required supporting narratives must be sufficient and appropriate justification for the proposed element ratings. Section 16.04 of this AI discusses when a supporting narrative is required. The Appraising Official must obtain input, as appropriate, from other officials who have supervised or provided oversight for the employees' work during the appraisal period. This input should be considered during the appraisal process. Substantial effort must be made to provide fair and equitable ratings, narratives, and applications of performance standards. The performance appraisal package must be prepared, signed and dated, and forwarded to the Reviewing Official in accordance with established deadlines.

.03 Specific Reviewing Official Actions

The Reviewing Official must ensure that employees are rated timely and in accordance with relevant law, regulation, and this performance appraisal system. The Reviewing Officials must ensure that employees have received written performance plans that have been reviewed and approved, and that meet the requirements of Sections 13 and 14 of this AI. The supporting narrative, where required, must reflect appraisal against the established performance plan, and must be sufficient and appropriate justification for the element ratings. The Reviewing Official must be satisfied that the ratings accurately reflect the range and quality of work accomplished by the employee during the appraisal period, including work performed under the direction of officials other than the Appraising Official. Substantial effort must be made to ensure that narratives and ratings are accurate, and that rating decisions and applications of performance standards are handled equitably among all of the employees under the purview of the Reviewing Official.

.04 Use of Supporting Narratives

A written supporting narrative must be included in the performance appraisal package for each critical or non-critical element on which the employee is rated either "Outstanding" or "Unacceptable." This requirement is established because these two levels represent the extremes in performance, and it is necessary to ensure, in either situation, that the applicable performance standard(s) has (have) been properly applied, that the element rating is justified and fully supported, and that these ratings are being used in a consistent manner throughout the Agency. Supporting narratives may be written for critical or non-critical elements rated at levels other than "Outstanding" and "Unacceptable." Performance Management Administrators may establish a pool-wide requirement for additional supporting narratives at other element rating levels.

.05 Revision of Ratings and/or Narratives

It is anticipated that, in most instances, the Reviewing Official will be able to review and propose final approval for element ratings and ratings of record, as received from the Appraising Official, on the basis of the supporting narrative and the performance plan. However, as noted in Sections 16.02 and .03 any narrative written must relate performance to the performance plan, and must be sufficient and appropriate to justify the element ratings. Also, as noted in Section 16.03, problems with the equitable application of performance standards sometimes occur. If there are any problems or insufficiencies related to the narrative, the element ratings, or both, appropriate changes must be made to resolve them. The specific problem/insufficiency should be discussed by the Appraising Official and the Reviewing Official to reach an appropriate solution. The performance appraisal package, or relevant parts thereof, are then forwarded to Performance Management Administrator for approval of the rating of record. When the narrative and ratings are issued to the employee, the forms and attachments must include only the final and approved version of the narrative and ratings. All individuals operating under or covered by this Performance Management Plan are reminded that they are prohibited to communicate the ratings of record to employees prior to approval by the final reviewer and the Performance Management Administrator. Until a rating of record receives this approval, any communication of that rating, however informal, is a violation of regulations; this also prohibits communication at any time of a proposed rating of record that is not adopted at the review and approval level.

.06 Communication of the Employee's Rating

Employees' ratings of record may not be communicated to them until after the ratings of record have received final approval, as documented by the signature of the Performance Management Administrator. Employees must be given copies of any narrative that supports the element ratings and of the signed and dated Form CCR----on which the final element ratings and rating of record are recorded. The Appraising and Reviewing Officials' signatures on Form CCR----are also the signatures for the supporting narrative. An employee should be given his/her Form CCR----and supporting narrative at the same time. Ratings will be issued to employees at the time prescribed by the Performance Management Administrator but, in any case, as soon as practicable after the end of the appraisal period.

.07 Record Keeping

The Appraising Official initiates the performance appraisal package as discussed in Section 16.01 of this AI. When the signed and dated package is forwarded to the Reviewing Official, the Appraising Official keeps a copy of the package. When the Reviewing Official has completed his/her review and approval, and has signed and dated the appraisal form (Form CCR----), the Reviewing Official keeps a copy of the form and the supporting narrative, and forwards the originals to the Performance Management Administrator or designated official. If forwarded to a designated official, this official proceeds in accordance with the provisions in Section 13.05 of this AI. When the Performance Management Administrator has completed the approval of the rating of record, as documented by his/her signature, the materials provided to the Performance Management Administrator are returned to the designated official or Reviewing Official. The Reviewing Official provides the materials to the Appraising Official. The Appraising Official gives the employee a copy of the approved element ratings and rating of record (on the signed appraisal form) and the supporting narrative at the time prescribed by the Performance Management Administrator. The appraisal should be issued as soon as practicable after the end of the appraisal period. If requested by the employee, a copy of the performance plan should also be provided. The Appraising Official should keep a copy of the documents issued to the employee.

To complete the appraisal process, the approved appraisal form (Form CCR----), any supporting narratives, and the documentation of the Performance Management Administrator's approval are forwarded to the Human Resources Division. If an employee's most recent performance plan has not previously been given to the Human Resources Division, a copy of the signed and dated performance plan should also be forwarded at this time, as discussed in Section 14.07. Each Performance Management Administrator may make his/her own decision concerning

which offices or officials will receive and maintain copies of the documentation of the performance appraisal records. However, within each Performance Management Pool one complete set of the final documents (the material forwarded to the Human Resources Division) must be maintained by the Performance Management Administrator.

SECTION 17. EXCEPTIONS TO THE NORMAL PERFORMANCE APPRAISAL PROVISIONS

In some instances an employee will not have been in the same position or on the same performance plan for the entire twelve month appraisal period. The following subsections outline the provisions and processes that apply in such instances. Eligibility for a career ladder promotion, as described in Section 17.07, can also result in an exception to the normal performance appraisal provisions for recently hired employees.

.01 Performance Plans

When an employee is appointed, promoted, reassigned, demoted, or transferred, the employee must receive a performance plan developed under the provisions of Section 14. This requirement also applies to Commission employees receiving temporary promotions to a different GS or prevailing rate position, and to Commission employees who are detailed from one GS or prevailing rate position to another GS or prevailing rate position if the temporary promotion/detail is expected to last the minimum appraisal period or longer. In any of the preceding situations, the performance plan must be developed and issued to the employee as quickly as possible but no later than 30 days after the employee's official assignment to the new position.

.02 Minimum Appraisal Period

The minimum appraisal period for employees is 90 calendar days. When an employee goes from one covered position to another covered position and the employee has held the former position for at least 90 calendar days, the employee must be rated on the work performed in the former position. This rating must include all applicable element ratings, a summary rating, and supporting narratives as required by Section 16.04. It must reflect performance since the start of the current appraisal period (or whatever later date the employee was assigned to the position) up to the time that the employee left the position. This rating must be completed within 30 days of the date that the employee left the position. Promptly upon completion, the above rating and a copy of the applicable performance plan must be forwarded to the employee's new Appraising Official. The employee should also receive a copy of this rating. A summary rating prepared under this Section is not the rating of record,

and may not be used instead of the rating of record for linkage to any personnel actions.

The new Appraising Official should consider all performance in positions covered by this appraisal system (for periods of 90 calendar days or more) during the appraisal period when rating the employee for the appraisal period. An employee receiving a career ladder promotion to a position with the same title and the same critical elements may be excluded from these requirements unless the promotion results in a change of Appraising Official. As discussed in Section 17.05 of this AI, these provisions may also apply when a change of Appraising Official occurs without the employee changing positions. An employee, who enters a GS or prevailing rate position from a Commission position that was not covered by this appraisal system, must have been covered by an appropriate performance plan for 90 calendar days or more before being rated in the new position. When an employee changes positions by means other than promotion,¹ including employees transferred to the Commission from another agency, there may be fewer than 90 calendar days (the minimum appraisal period) remaining before the end of the employee's appraisal period. If the employee cannot be rated for the minimum appraisal period in at least one GS or prevailing rate position held during the appraisal period then, under 5 CFR 430.206(e), the employee's appraisal period must be extended long enough to provide for completion of the minimum appraisal period, at which time a rating of record must be prepared.

This combination of circumstances is expected to be highly unusual, but can occur when an employee changes positions shortly after extended leave, long-term training, or an extended military leave. There may also be occasions when these types of approved leave (including leave without pay) or long-term training result in the inability to appraise the employee timely for the minimum appraisal period even though the employee has not changed positions. In such instances, the appraisal period must also be extended long enough to provide for the completion of the minimum appraisal period.

.03 Inclusion of Performance in GS, GM or Prevailing Rate Positions Other Than the Position of Record at the End of the Appraisal Period

Under 5 CFR 430.205(a)&(d) and 5 CFR 430.206(f), Appraising Officials and Reviewing Officials must consider all of an employee's

¹ This problem should not occur when the employee has been promoted since the promotion revises the dates of an employee's appraisal period.

performance in GS, GM or prevailing rate positions that occurred during the applicable appraisal period.

This includes performance outside of this Agency. A reasonable effort should be made to incorporate this performance into the element ratings and supporting narrative in proportion to that part of the appraisal period that the performance represents. For Commission positions, the summary rating discussed in Section 17.02 is the main source of information.

The Appraising Official may request additional input in writing from the officials who prepared and approved the summary rating, if warranted.

In addition, information concerning performance of employees detailed to GS or prevailing rate positions outside of the Agency must be solicited, considered, and, to the extent possible, incorporated. If a detailed or formerly detailed employee cannot meet the minimum appraisal period requirement on the basis of a Commission GS, GM or prevailing rate position to which he/she was detailed, reasonable effort should be made to rate the employee for the appraisal period on the basis of the performance plan for the detail position. Otherwise, the appraisal period must be extended to permit completion of the minimum appraisal period as discussed in Section 17.02. Summary ratings for employees transferred to the Commission must also be considered.

.04 Change of Performance Plan without Change of Position

When an employee's performance plan is revised during the appraisal period and the employee was covered by each performance plan for at least the 90 day minimum appraisal period, the employee's performance must be rated against each performance plan. Specific instances or periods of performance must be appraised in comparison with the performance plan that was in effect at the time that the performance occurred. Performance under each plan should be factored into the element ratings and supporting narrative in proportion to that part of the appraisal period that the employee was under each performance plan. There is no fixed limit on the number of critical or non-critical element ratings. Appraising Officials and Reviewing Officials are encouraged to discuss how performance under each performance plan will be incorporated before the Appraising Official begins developing his/her proposed ratings.

.05 Change of Appraising Official without Change of Position or Performance Plan

When the Appraising Official changes during the appraisal period, he/she should document and provide the new Appraising Official with a written review of performance up to the time of the change. The Appraising Official who is responsible for preparing the performance appraisal package must make every effort to obtain accurate information concerning the employee's performance throughout the appraisal period. The previous Appraising Official should cooperate with the current Appraising Official's efforts to assemble complete and accurate performance information. Appraising Officials who will be unavailable at the end of the appraisal period should prepare summary ratings and element ratings for all employees who have completed at least the 90 day minimum appraisal period under their direction since the start of the current appraisal period.

.06 Employee Has Had Insufficient Opportunity to Demonstrate Performance on One or More Critical or Non-Critical Elements

Occasionally an employee may have a critical or non-critical element on which he/she has had insufficient opportunity to demonstrate performance during the appraisal period. This may be an indication that the performance plan should be revised. No rating may be given for a critical or non-critical element on which there was insufficient opportunity for the employee to demonstrate performance. Employees will generally be rated on the basis of no less than three critical elements. Non-critical elements are optional.

.07 Employee Eligible for Promotion Sooner Than One Year After Entry on Duty/Transfer to the Commission

In some instances employees become eligible for a career ladder promotion in less than one year after they enter on duty at the Agency. When this situation occurs and the employee is being recommended for promotion, the employee must be rated in order to document that the employee was performing at the "Fully Successful" level or better on each critical element. This rating will be governed by the provisions of Section 17.02 of this AI. The rating must include all applicable element ratings and a summary rating, and must cover at least the minimum appraisal period. A summary rating prepared under this Section is a rating of record.² Refer to Section 17.02 for a more complete discussion of the applicable provisions.

² Note that this rating of record is prepared to document eligibility for promotion. Ratings prepared for this purpose are not annual performance ratings or ratings of record for the purpose of computing additional service credit for reduction-in-force (RIF's).

.08 Conversion of Position to a GS or Prevailing Rate Classification

When an employee's position under any Federal pay system is converted to the GS or prevailing rate pay systems without a change of duties and responsibilities, then the employee's rating of record will be considered to have been derived under 5 USC 4302 and from the GS/prevailing rate position that the employee now occupies.

.09 Within Grade Increases

Refer to Section 20.06 of this AI for a discussion of when an appraisal period must be extended for within grade increase purposes.

SECTION 18. PERFORMANCE PROBLEMS

Under 5 USC 4302(b)(5), employees are entitled to assistance in improving "Unacceptable" performance. Under 5 CFR 430.207(c)(d), agencies are required to assist employees in improving performance rated at a level below the "Fully Successful" level, i.e., "Minimally Successful" and "Unacceptable." Such assistance may include, but is not limited to, formal training, on-the-job training, counseling, and closer supervision. An employee rated "Unacceptable" on a critical element must be reassigned, reduced in grade, or removed, but only after the employee has had a reasonable opportunity period to improve his/her performance on the critical element and to demonstrate sustained acceptable performance, as required by 5 USC 4302(b)(6). All performance problems must be discussed with the Reviewing Official when the situation arises. Proposed performance-based actions should also be discussed early in the process with the Reviewing Official.

.01 Identification of Unacceptable Performance

If an employee is performing one or more critical elements at the "Unacceptable" rating level the employee must be notified in writing that current performance is "Unacceptable" and must be informed of the performance standard(s) that must be reached and sustained in order to be retained. This includes providing to the employee a delineation of the specific areas in which the employee should improve and of the standards the employee is expected to meet. This also includes providing the employee a performance standard for "Minimally Successful" performance on the deficient critical element if not provided previously.

These actions must be accomplished for all "Unacceptable" critical elements, and, under 5 CFR 430.207(d)(1), must be accomplished at the time that the Agency identifies the critical element for which performance is "Unacceptable."

.02 Opportunity to Improve

When an employee³ has been notified in writing of "Unacceptable" performance on one or more critical elements, the employee must be provided with performance assistance and the employee must be given a "reasonable opportunity" period to improve and sustain his/her performance. If, by the end of the opportunity period, performance is still "Unacceptable", then the Agency must initiate a reassignment, reduction in grade, or removal action. Reduction in grade and removal actions are subject to the provisions of 5 USC 4303. If performance on all critical elements previously rated "Unacceptable" has been improved by the end of the opportunity period but is still only "Minimally Successful" on one or more of these critical elements, then the employee should continue to receive appropriate performance assistance to help the employee to improve performance on the deficient critical element(s) to the "Fully Successful" level or higher. Opportunity periods should normally be at least 90 calendar days long, the minimum appraisal period, unless exceptional circumstances apply.

The employee must be given written notification by the Appraising Official, that the performance is "Unacceptable", that an opportunity period is being initiated, the date that it is beginning, the date that it is expected to end, and the assistance to be provided.

SECTION 19. SUMMARY RATINGS AND RATINGS OF RECORD

An employee's summary rating is the direct result of the employee's critical element ratings. Non-critical elements, although rated, are not used in determining an employee's summary rating. Conversion of critical element ratings to a summary rating must be made using the following table:

OUTSTANDING - all critical elements are rated "Outstanding" or all critical elements are rated "Outstanding" except one, which must be rated "Commendable."

COMMENDABLE - all critical elements are rated no less than "Commendable" or all critical elements are rated no less than "Commendable" except one, which must be rated "Fully Successful."

³ This does not apply to Schedule C employees appointed under 5 CFR 213.3301.

FULLY SUCCESSFUL -all critical elements are rated no less than "Fully Successful."

MINIMALLY SUCCESSFUL - one or more critical elements are rated "Minimally Successful" and no critical element is rated "Unacceptable."

UNACCEPTABLE - one or more critical element(s) is (are) rated "Unacceptable."

The above table applies to all GS and prevailing rate employees.

SECTION 20. OTHER LINKAGE TO PERFORMANCE RATINGS

In addition to the linkages between element ratings/summary ratings/ratings of record and actions based on deficient performance, as stated in Section 18, performance plans and ratings must also be considered when making decisions regarding merit promotion actions, career ladder promotions, probationary periods, reductions-in-force, training and development, within grade increases, quality step increases, and performance awards. Under 5 CFR 430.206(c), performance-based personnel actions must be reviewed and approved by an official at a higher level in the organization than the Appraising Official. The following actions should be proposed through the Reviewing Official in accordance with established procedures (See Linkage Chart for Performance-based Personnel Actions in Appendix 1-3).

.01 Merit Promotion Actions

An applicant's performance plan, along with other staffing criteria, may be utilized in qualifications determination for merit promotion actions. The performance plan may be used as a basis for comparing the employee's experience with the requirements of the position to be filled. In order to be eligible for consideration for inclusion in the Best-Qualified group for a merit promotion action, an applicant's summary rating must be at least "Fully Successful" or higher. Also, 5 CFR 430.503(e) requires that performance awards must be given due weight when rating and ranking an employee for a promotion.

.02 Career Ladder Promotions

To be eligible for a career ladder promotion, an employee's current rating of record must be "Fully Successful" or higher on each critical element that is also critical to successful performance at the next higher grade level of the career ladder. The employee should also have demonstrated his/her readiness to handle the work of the next position in

the career ladder. In order to be eligible for a career ladder promotion the employee must meet all of the other minimum qualification and eligibility requirements for the position, i.e., type, quality, and length of experience and time-in-grade. Experience requirements are published in OPM's Handbook X-118. Time-in-grade requirements for advancement in competitive service positions are published under 5 CFR 300.602, and are summarized as follows:

- Positions at GS-12 and above require that the employee must have served a minimum of one year in the next lower grade.
- Positions at GS-6 through GS-11 require that the employee meet whichever one of the following two requirements applies to the position to which promotion is proposed. If the position is in a line of work properly classified at two-grade intervals, then the employee must have served a minimum of one year in a position two grades lower than the grade of the position to which he/she will be promoted. If the position is in a line of work properly classified at one-grade intervals, then the employee must have served a minimum of one year in a position at the next lower grade than the grade of the position to which he/she will be promoted.
- Employees may be promoted to positions at GS-5 and below provided that the position to which promotion is proposed is not more than two grades above the lowest grade that the employee has held within the preceding year under a non-temporary appointment.

The provisions of this Subsection apply to all GS-1 through GS and GM -15 employees and, to the extent that the provisions do not specifically address positions under the General Schedule, to all prevailing rate employees.

.03 Probationary Period or Administrative Trial Period

For new employees serving probationary periods or administrative trial periods, critical elements, performance standards, and the resultant element ratings and summary ratings will be the primary basis for making decisions regarding retention or removal, except in the event of conduct-related problems. "Fully Successful" or higher performance on all critical elements will be expected for satisfactory completion of a probationary period or administrative trial period. During the supervisory/managerial probationary period, new supervisors/managers will also be expected to maintain a "Fully Successful" or higher performance level on all critical elements in order to warrant retention in the position.

.04 Reduction-in-Force (RIF)

Employees will receive additional service credit based on annual performance ratings of record to the extent required by law and regulation. An employee's entitlement to additional service credit for performance, under 5 CFR 351.504(d), is based on the employee's last three annual performance ratings of record received during the three year period prior to the date of issuance of specific reduction-in-force notices. An employee who does not have three actual annual performance ratings of record prior to the date of issuance of specific reduction-in-force notices will receive service credit under the provisions of 5 CFR 351.504(c). All other employees will receive service credit as prescribed under the applicable provisions of 5 CFR 351.504. Because ratings of record will be used for service credit, they will be transferred to or from the Commission through the Human Resources Division when an employee transfers to or from the Agency. Ratings of record prepared for the purpose described in Section 17.07 are not annual performance ratings of record for RIF purposes. Any other ratings of record prepared primarily for career ladder or within grade increase linkage purposes are also excluded. Further, no rating of record will be assigned for the sole purpose of affecting an employee's RIF retention standing. In the event of a possible RIF, the Agency may, at its discretion, postpone completion of scheduled ratings of record temporarily in order to facilitate the timely establishment of retention registers.

.05 Training and Development

Progress reviews during the appraisal period and element ratings provide the basis for identifying employees' strengths and weaknesses. Employees with element ratings of less than "Fully Successful" must receive performance assistance to provide the opportunity or skills for improvement. Assistance provided to such employees may include, but is not limited to, closer supervision, counseling, on-the-job training, and formal training.

.06 Within Grade Increases (WGI)

To support the concepts of "equal pay for work of equal value" and maintenance of pay distinctions where warranted by "work and performance distinctions", the granting of within grade increases is dependent upon employees' rated performance. A prevailing rate (WG, WB, etc.) employee advances automatically to the next higher step if his/her rating of record is "Fully Successful" or better, and he/she is otherwise eligible for a within grade increase. GS and GM employee's performance must be at an "acceptable level of competence" to earn a within grade increase. "Acceptable level of competence" is defined in

Section 4 of this Administrative Instruction. An employee's most recent rating of record must be at least "Fully Successful" in order to be determined to be at an "acceptable level of competence." Sections 13.03 and 19 of this AI discuss ratings of record. If an employee will be determined to be at an acceptable level of competence at the time that such a determination is due, and the employee's most recent rating of record is less than "Fully Successful", then a new rating of record must be prepared. A rating of record used as the basis for an acceptable level of competence determination must have been assigned no earlier than the most recently completed appraisal period. In addition to the performance requirements, to receive a within grade increase an employee must have completed the required waiting period, must not have received an equivalent increase during the waiting period, and must be paid at less than step 10 of the grade of his/her position.

The acceptable level of competence determination must be delayed if an employee has not had a performance plan for his/her current position for at least the minimum appraisal period (90 calendar days) and has not been rated in any position within 90 calendar days before the end of the waiting period. The determination must also be delayed if an employee has been reduced in grade due to "Unacceptable" performance and has not completed the minimum appraisal period in the new, lower graded position. Whether prepared timely or following a delay, when an employee has been reduced in grade due to "Unacceptable" performance and has completed the minimum appraisal period in one position at the lower grade, the performance in the lower graded position will serve as the basis for the required acceptable level of competence determination. Whenever an acceptable level of competence determination will be delayed, regardless of the reason, the employee must be notified that:

- the determination will be postponed;
- the appraisal period is being extended; and
- performance sufficient for a "Fully Successful" rating of record will be required in order to receive a positive determination (include an explanation of the requirements for "Fully Successful").

The acceptable level of competence determination must be made upon the employee's completion of the minimum appraisal period, and must be based on the rating of record from the extended appraisal period. If the determination at this time is positive, then the within grade increase must be granted retroactively to the beginning of the pay period that followed the completion of the employee's original waiting period.

Under certain conditions the requirement for an acceptable level of competence determination is waived and a within grade increase is granted when an employee has not served in any eligible position for the minimum appraisal period during the final 52 calendar weeks of the waiting period. These situations include lack of appraisable performance due to:

- absences that are creditable service in the computation of a waiting period or periods under 5 CFR 531.406;
- paid leave;
- employee receiving service credit under the back pay provisions of 5 CFR 550, Subpart H;
- details to another agency or employer for which no rating has been prepared; or
- long-term training.

If a within grade increase has been withheld, the Appraising Official may, at any time thereafter, prepare a new rating of record for the employee and grant the within grade increase when it has been determined that the employee has demonstrated sustained performance at an acceptable level of competence. However, a determination as to whether or not the employee is performing at an acceptable level of competence must be made no more than 52 calendar weeks after the original eligibility date for the within grade increase, and, for as long as the within grade increase continues to be denied, this determination must be made after or no more than each 52 calendar weeks. However, where a continued denial has existed, it is not necessary to wait for the full 52 calendar weeks to elapse; if advisable or desirable, a new determination may be made at any time after the employee has completed a minimum appraisal period since the last negative determination.

.07 Quality Step Increases (QSI) and Performance Awards

Quality step increases and performance awards are also granted on the basis of employees' ratings of record. To be eligible for consideration for a quality step increase, an employee's current rating of record must be "Outstanding". See AI 2-6, Employee Recognition Program for procedures and linkage for quality step increases and performance awards GS and GM employees, who are not on time limited appointments, of one year or less, are eligible to receive QSI's.

SECTION 21. GRIEVANCE AND APPEALS

Non-bargaining unit employees must use the Agency's grievance procedure. With regard to these employees, in accordance with 5 CFR Part 771, the substance of the critical elements, the non-critical elements and the performance standards of the performance plan are not grievable.

The granting of, or failure to grant, or the amount of a performance award, a special act award, a quality step increase or a suggestion award are not grievable.

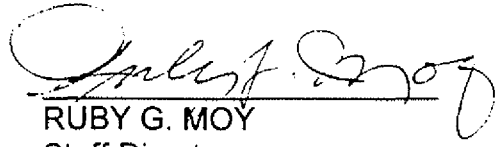
The performance rating(s) on a critical element(s) is/are grievable.

- a. Non-bargaining unit employees must file under the Commission's Grievance Procedure in accordance with the provisions of Administrative Instruction 2-7.
- b. Bargaining unit employees must file in accordance with the provisions of the negotiated grievance procedure, Article XXIV of the Collective Bargaining Agreement.

SECTION 22. AGENCY RECORDS OF EMPLOYEE PERFORMANCE

The Commission establishes and maintains an "Employee Performance File" (EPF) for each employee. The EPF includes performance plans, performance ratings, and supporting documents, which are not generally permanent records. Retention and disposition of these records are subject to the provisions of 5 CFR 293.404 and 5 CFR 293.405, respectively. Performance ratings of record, including the performance plans on which they are based, are retained for three years. Supporting documents may be retained for as long as the Agency deems appropriate, up to three years. Performance records that are superseded through an administrative or judicial procedure and performance-related records for former employees do not need to be retained for three years. Such superseded records must be destroyed by appropriate means. Records of former employees are transferred with the Official Personnel Folder (OPF) as described below, and any copies retained within the Commission are subject to the three year limitation. When an employee leaves the Agency and his/her OPF is sent to the new employing agency or the National Personnel Records Center, the Human Resources Division includes in the OPF all performance ratings of record that are three years old or less, the performance plan on which the most recent rating was based, and the summary rating prepared when the employee changed positions. The Human Resources Division also removes all performance ratings and performance plans that are more than three years old and any other performance-related records from the EPF and OPF. Performance-related documents that are not transferred and that the Agency does not intend to maintain for the remainder of their three year life are destroyed by appropriate means. All EPF documents for current and former employees are maintained as described above then disposed of within a reasonable period of time following the end of the three year retention period. The Commission also enters each

employee's ratings of record into the automated personnel records system, as required by OPM. These records are also maintained under the three year limitation. When an employee leaves the Agency, all of his/her automated records are removed from the system.



RUBY G. MOY
Staff Director

LINKAGE CHART FOR PERFORMANCE-BASED PERSONNEL ACTIONS

<u>Performance-based Action</u>	<u>Summary Rating Required</u>
Within Grade Increase (WGI)	Fully Successful (acceptable level of competence determination or "satisfactory" for prevailing rate employees)
Career Ladder Promotion	Fully Successful
Eligibility for Best Qualified List in Merit Promotion Action	Fully Successful
Retention during the Probationary or Administrative Trial Period	Fully Successful
Performance Award -	Eligibility for Fully Successful with one critical consideration only element rated Outstanding or two critical elements rated commendable
Quality Step Increase Eligibility	Outstanding for Consideration Only
Denial of Within Grade Increase	Minimally Successful or Unacceptable
Performance-based Removal from Position by Reassignment, Reduction-in-Grade, or Removal	Unacceptable

Issued: APR 15

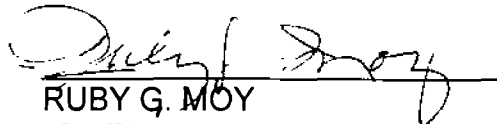
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-23

MERIT PAY-SUPERVISORS AND MANAGEMENT OFFICIALS

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 2-23 effective immediately.


RUBY G. MOY
Staff Director

Issued: APR 1981

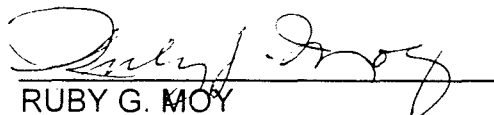
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-24

**FEDERAL EMPLOYEES PART-TIME
CAREER EMPLOYMENT ACT**

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 2-24 effective immediately. Information on part-time employment at the Commission can be gained by contacting the Human Resources Division. Each inquiry will be addressed individually but in accordance with regulation, policy and procedure established for government-wide use by the Office of Personnel Management.


RUBY G. MOY
Staff Director

Issued: APR 15 1991

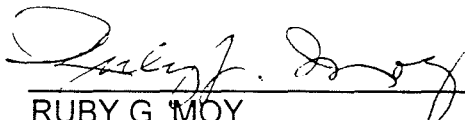
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-25

PRIMARY APPRAISAL SYSTEM

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 2-25 effective immediately. The policies subsumed in the canceled instruction are revised and incorporated in AI 2-22, Performance Appraisal System for GS-1 through GS/GM-15 and Prevailing Rate Employees.



RUBY G. MOY
Staff Director

Issued: AFM 3

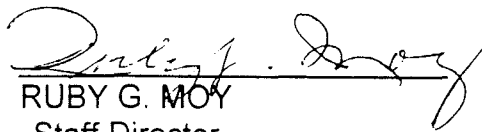
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-26

SUPERVISORY AND MANAGERIAL MOBILITY

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 2-26 effective immediately.



RUBY G. MOY
Staff Director

Issued: APR 15 1991

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-27

DETERMINING RATES OF BASIC PAY

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish the policy of the U.S. Commission on Civil Rights (USCCR) concerning rates of basic pay and to set forth procedures and guidance for use in the establishment of rates of pay and the application of permissible highest previous rates (HPR) of pay to individuals previously employed by the Federal Government.

SECTION 2. POLICY

It is the policy of the USCCR to establish rates of basic pay following appointment, change in appointment, conversion to new appointment, promotion, demotion/change to lower grade (CLG), transfer, reassignment, or reemployment at the minimum step or per annum salary required by law unless it is clearly in the interest of the Government to do otherwise.

SECTION 3. COVERAGE

The provisions of this instruction apply to all appointees to and employees of the USCCR whether in the competitive service, excepted service or the Senior Executive Service (SES).

SECTION 4. CANCELLATION

The provisions of this instruction cancel and supersede any conflicting provision(s) in any Administrative Instruction (AI) with an earlier issuance date.

SECTION 5. DEFINITIONS

- a. Promotion means a change of an employee, if General Schedule (GS) or Performance Management Recognition System (PMRS), pay prefix GM, (formerly, Merit Pay System), while continuously employed, from one GS/GM grade to a higher GS/GM grade or from a lower rate paid under authority other than GS/GM to a higher rate within the GS/GM. Promotion under the Federal Wage System (FWS) means a change of an employee while continuously employed from one grade to a higher grade within the FWS; from a job or grade under FWS to a job or grade

under another pay schedule with a higher representative rate; or from a job or grade under another wage schedule to a job or grade under the FWS with a higher representative rate. (Members of the SES are not "promoted" to the service; rather such members are "appointed")

- b. Demotion means a change of GS/GM employee while continuously employed from one GS/GM grade to a lower GS/GM grade with or without reduction in pay or from a higher rate paid under an authority other than GS/GM to a lower rate within the GS/GM. Within the FWS, demotions are denominated "CLG." A CLG in FWS is the change of an employee, while continuously employed, from one grade to a lower grade under FWS; from a job or grade under FWS to a job or grade with a lower representative rate under a different wage schedule; or, from a job or grade paid under the GS/GM or other statutory or regulatory pay schedule other than FWS to a job or grade under FWS with a lower representative rate.
- c. Existing GS/GM rate of basic pay or existing FWS scheduled rate of pay means the rate of pay received immediately before the effective date of a promotion, demotion/CLG, transfer, within grade increase (WGI), reassignment or revision of a wage schedule.
- d. HPR means the highest GS/GM rate of basic pay or the highest FWS shelled rate of pay previously paid to an individual while employed in a branch of the Federal Government (executive, legislative or judicial), a mixed ownership corporation or the government of the District of Columbia, regardless of whether or not the position was subject to the GS/GM/FWS schedules.
- e. New appointment means the first appointment, regardless of tenure, as an employee of the Federal Government or the government of the District of Columbia.
- f. Reassignment means a change of an employee, while serving continuously in the same agency, from one position to another without promotion or demotion.
- g. Reemployment means an employment, including reinstatement or another type of appointment, after a break in Federal service of at least one full workday.
- h. Transfer means a change of an employee, without a break in service of at least one full workday, from one branch of the Federal Government to another or from one agency to another.

SECTION 6. DETERMINING RATES OF PAY FOR NEW APPOINTMENTS

- 1. Except as provided in paragraph 6.02, a new appointment shall be made at the minimum step of the grade to which the employee has been appointed. In those cases where a special salary schedule has been established for a given occupational group or series, the salary will be set at the minimum step of the special salary schedule for the occupational group or series.

2. The Staff Director or Acting Staff Director may authorize the appointment of an employee to a position at GS-11 or above at a rate above the minimum rate of the appropriate grade based on such considerations as the candidate's existing pay, unusually high or unique qualifications or a special need of the Government for the employee's services. Authorization to appoint at an advanced rate is a matter solely within the discretion of the authorizing official.
 - a. Authorization to appoint at a rate of pay in excess of the minimum step of the appropriate grade must be requested and granted prior to the entry on duty of the employee concerned.
 - b. A request for authorization to employ at an advanced step is to be prepared and submitted by the office/unit for which the employee will be working. The request must set forth specifically and in detail the basis for the advanced step and include the current salary of the proposed hire and information concerning other job offers currently pending. Requests for advanced step in hiring rates are to be routed via the Human Resources Division. Approved authorizations are to be forward to the Human Resources Division for retention in the appropriate Official Personnel Folders (OPF).
 - c. Requests for advanced step in hiring rates for prospective employees of offices/units reporting to the Staff Director must be routed via the Deputy Staff Director.
 - d. Within the USCCR, except as otherwise noted in this subparagraph, the maximum permissible step under the above provision is the step coincident with or immediately above the prospective employee's current base salary. For purposes of this instruction, base salary is the hourly, weekly, biweekly, monthly or per annum salary exclusive of overtime, bonuses that are granted at the discretion of the employer and other fringe benefits. In extremely rare cases involving exceedingly unique qualifications, the Staff Director or Acting Staff Director may authorize appointment to a step up to, but not exceedingly \$2,500 above the prospective employee's current base salary. Such authorization must be expressly granted by the Staff Director or Acting Staff Director and fully justified in writing by the office/unit to which the prospective employee is to be assigned.
 - e. The above provisions of this instruction apply only to new appointments or to appointments made after a break in service from Federal employment or employment with the District of Columbia government of at least ninety (90) calendar days, except that an advanced step may be granted, if otherwise warranted, without regard to the requirement for a ninety (90) calendar days break in service if the Federal employment immediately prior to the proposed employment was as of the following:

1. an appointment as an expert or consultant under section 3109 of title 5, United States Code (U.S.C.);
 2. a temporary appointment affected primarily in furtherance of a post doctoral research program or affected as part of a predoctoral or postdoctoral training program;
 3. an appointment as a member of the Commissioned Corps of either the Public Health Service or the National Oceanic and Atmospheric Administration;
 4. an appointment which was neither full-time nor which constituted the principal employment of the candidate; or,
 5. an appointment under the Intergovernmental Personnel Act.
3. The Staff Director or Acting Staff Director may appoint an employee to a position in the FWS at a rate above the minimum rate of the appropriate grade in recognition of the special qualifications possessed by the applicant. The procedures set forth in paragraph 6.02 shall apply except that the request need not set forth the current salary of the proposed hire nor need the request identify other job offers currently pending. Prospective FWS employees shall not be employed at a step beyond step two of the FWS under the provisions of this section. Authorization to approve the appointment to an FWS position at an advanced step is a matter solely within the discretion of the authorizing official.

SECTION 7. DETERMINING RATES OF PAY FOLLOWING PROMOTION

1. This section does not apply to repromotion to an intermediate grade level or to a previously held grade level subsequent to an involuntary demotion/CLG not for cause or inefficiency. Demotions/CLG not for cause or inefficiency are those such as occasioned by reduction in force. Such actions are covered by the provisions of Section 9. HPR.
2. An employee promoted from one GS grade level to another GS grade level or from one GS grade level to a position in another pay schedule is entitled to have his/her rate in the new grade set at the step of the new grade which exceeds his/her existing rate by an amount equal to two WGI's of the grade from which he/she is being promoted, except that the employee shall not receive a rate of pay less than step one nor greater than step ten of the grade level to which promoted.
3. An employee promoted from one FWS position to another FWS position or to a position in another pay schedule is entitled to be paid at a step of the new grade which exceeds his/her existing scheduled rate of pay by at least four percent of the representative rate of the grade from which promoted.

4. An employee promoted into or within the PMRS will have his/her rate of pay established at a per annum salary which exceeds his/her current existing rate of basic pay by six percent that in no case will the salary be established at a rate less than the rate for step one greater than the rate for step ten of the equivalent GS pay schedule.
5. An initial appointment to the SES normally will be at pay level three or lower, except as warranted by Section 9. HPR.
6. Nothing in this section precludes the setting of pay following promotion under the provisions of section 9. HPR if individual circumstances warrant and pay setting is otherwise permitted under those provisions.

SECTION 8. DEMOTION/CLG

1. Pay setting following an involuntary demotion/CLG not for cause or inefficiency shall be in accordance with the provisions of Section 9. HPR.
2. Any demotion/CLG taken for cause or inefficiency shall result in the establishment of the rate of basic pay at step one of the grade to which demoted, except as otherwise permitted in paragraph 9.03.
3. An employee who voluntarily requests a demotion/CLG will have his/her rate of basic pay or scheduled rate of pay set to preserve the existing rate to the extent possible. However, in those situations where the employee accepts voluntary demotion/CLG with an established full performance level (FPL) that equals or exceeds the employee's FPL immediately preceding the demotion/CLG, the step at which pay will be set for the new position will be that step which, upon repromotion, will place the employee in the rate in the higher grade which he/she would have attained had he/she not requested the demotion/CLG. As an example:
 - a. Assuming the January, 1985, GS pay schedule is in effect and an employee earning at a rate of GS-08, step 3, \$21,056 per annum, requests a CLG to a GS-07 position with promotion potential to GS-09, the rate of pay for the employee would be set at GS-07, step 5, \$20,200 per annum.
 - b. By setting the pay following the CLG at the rate for GS-07, step 5, the result would be that following repromotion to GS-08, the employee would be entitled to GS-08, step 4, \$21,714 per annum, under this provision. This would also be the step the employee would have been entitled to following the waiting period for a WGI.

SECTION 9. HPR

1. HPR may provide an alternative means of establishing pay on initial appointment, a change in appointment, promotion, demotion/CLG, transfer, reassignment or reemployment. HPR may be used as the means of establishing pay at any time one of the identified personnel action is to occur, provided the prospective employee or employee has prior creditable service during which he/she earned at a rate higher than he/she is or would be entitled to under other pay setting policies.
2. HPR may be authorized in such a manner as to pay the prospective employee or employee a rate of pay that approximates all, part or none of the maximum rate of pay he/she would be entitled to under the provisions of this section.
3. The following limitation apply:
 - a. Basic rate of pay or scheduled rate of pay earned while serving under a temporary or term appointment, whether time limited or not, shall not serve as the basis for HPR pay setting, absent at least six months actual service in the temporary or term appointment. In cases of multiple temporary or term appointments, the six months actual service must have been in the temporary or term appointment which immediately precedes the appointment for which HPR is being considered. HPR will not be authorized for temporary or term appointments, regardless of length of actual service, that ended one year or more prior to the effective date of the appointment for which HPR is being considered.
 - b. Basic rate of pay or scheduled rate of pay earned while serving a temporary or term promotion shall not serve as the basis for HPR pay setting unless the temporary or term promotion was a single promotion for a continuous period of two years or greater and unless two years of actual service was performed under the temporary or term promotion. Extensions of temporary or term promotions even though aggregating two years continuous, actual service shall not serve as the basis for HPR pay setting.
 - c. Service as an expert or consultant under section 3109 of Title 5, U.S.C., shall not serve as the basis for HPR pay setting.
 - d. Regardless of type of appointment, service of less than 90 calendar days shall not serve as the basis for HPR pay setting.
 - e. When an employee's rate of pay is one established under section 5303 of title 5, U.S.C., as "special rate," the employee's HPR is the rate to which he/she would have been entitled had the special rate not applied.
 - f. HPR shall not be based on service from which the employee was terminated or received a demotion/CLG for cause or inefficiency, except as permitted by

statute and/or regulation in cases involving members of the SES removed from the SES for reasons of inefficiency.

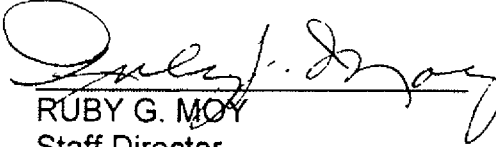
- g. Service in an appointment which is exempt from qualification, time in grade and other similar criteria, e.g., Schedule C appointments, shall not serve as the basis of HPR pay setting, except that such service can be considered for HPR purposes if the appointment for which the employee is being considered is of the same nature.
 - h. Following demotion as a result of failure to satisfactorily complete a supervisory or managerial probationary period, the rate of pay at the lower grade will be set at the step in the lower grade which represents the step that would have been payable had the promotion to the supervisory or managerial position not occurred.
- 4. The Staff Director or Acting Staff Director, the Deputy Staff Director, Office Directors, the General Counsel or Unit Director may authorize the establishment of pay based on HPR for positions under their supervision. Authorization to approve the setting of pay in total, part or not at all based on HPR is a matter solely within the discretion of the authorizing official.
 - a. Authorization to establish pay based on HPR must be secured prior to the effective date of the personnel action that will serve as the vehicle for pay setting, except that prior authorization is not required for pay setting purposes if the nature of action is reemployment or repromotion following involuntary separation or demotion/CLG for other than cause or inefficiency, reassignment or transfer.
 - b. The authorization to set pay based on HPR is to be prepared and submitted by the office/unit for which the employee will be working. The authorization must set forth the rationale for invoking HPR, e.g., consideration of the needs of the Agency, the quality of the employee's training and experience, equity among employees, availability of funds etc. Such written authorization is to be forward to the Human Resources Division prior to the effective date of the personnel action that will serve as the vehicle for pay setting. Copies of written authorizations will be retained in the appropriate OPF's.

SECTION 10. PAY ADJUSTMENTS FOR GS SUPERVISORS OF FWS EMPLOYEES

- 1. Section 5333 of Title 5, U.S.C., provides the authority under which agencies may make an upward adjustment in pay for a GS employee who regularly has responsibility for supervision (including supervision over the technical aspects of the work concerned) of FWS employees whose pay is higher than that of the GS supervisor. It is the policy of the USCCR that section 5333 adjustments shall not be made since no similar authority exists to adjust the pay of GS supervisors who supervise GS employees whose pay is higher than that of the supervisor.

SECTION 11. SIMULTANEOUS PAY ACTIONS

1. When an employee becomes entitled to two or more pay changes at the same time, e.g., comparability pay adjustment and WGI, promotion and WGI, etc., the changes will be processed insofar as permitted by statute and regulation in the order which will result in the greatest benefit for the employee.
2. Processing of personnel actions will not otherwise be delayed to provide a pay computation benefit under subparagraph 10.01.


RUBY G. MOY
Staff Director

Issued: APR 15 1999

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-28

REDUCTION IN FORCE (RIF)

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish policy and procedures for the U.S. Commission on Civil Rights (USCCR) concerning RIF and transfers of function, in accordance with 5 U.S.C. 3501-3504, Office of Personnel Management (OPM) rules and regulations.

SECTION 2. AUTHORITY

In accordance with 5 U. S. C.3501-3504 and 5 CFR Part 531.

SECTION 3. SCOPE

1. The provisions of local negotiated union agreement which differ from this AI shall take precedence over this instruction provided such provisions are not inconsistent with law, rule or government wide regulation.
2. The provisions of this instruction apply to all USCCR employee with the following exceptions:
 - a. employees in the Senior Executive Service (SES) (see Administrative Instruction 2-4); and
 - b. employees whose appointments are required by Congress to be confirmed by or made with the advice and consent, of the United States Senate.

SECTION 4. POLICY

It is the policy of USCCR to conduct reduction in force procedures equitably and in conformance with all relevant rules and regulations.

SECTION 5. DEFINITIONS

1. Competing Employee. An employee in tenure group I, II or III. (See Section 10.03)
2. Competitive Area. The geographic and/or organizational boundaries within which employees compete for retention. Within the USCCR, the competitive areas are:

- Headquarters/Eastern Regional Division - ERO
- Southern Regional Office - SRO
- Midwestern Regional Office - MWRO
- Central Regional Office - CRO
- Rocky Mountain Regional Office - RMRO
- Western Regional Office - WRO

This means, for example, that employees in positions in Headquarters compete only with other Headquarters employees.

3. Competitive Level. A competitive level consists of all the positions in a competitive area that are the same grade or occupational level that are so alike in qualification requirements, duties, responsibilities, pay schedule and working conditions that an employee in one position may be readily assigned to any of the other positions without changing the terms of the employee's appointment and without unduly interrupting the work program of the USCCR. Undue interruption is a degree of interruption that would prevent the completion of required work within the allowable limits of time and quality as determined by the USCCR.

4. Days. Calendar days.

5. Functions. All or a clearly identifiable segment of the mission of the USCCR (including all integral parts of that mission), regardless of how it is performed.

6. Local Commuting Area. The geographic area that usually constitutes one area for employment purposes. For the purpose of this instruction, the local commuting areas for USCCR employees who work in the following offices are:

- | | |
|----------------|-----------------------------------|
| • Headquarters | Washington, DC metropolitan area |
| • SRO | Atlanta, GA metropolitan area |
| • MWRO | Chicago, IL metropolitan area |
| • CRO | Kansas City, KS metropolitan area |
| • RMRO | Denver, CO metropolitan area |
| • WRO | Los Angeles, CA metropolitan area |

7. Performance Rating. An employee's current official annual performance rating or the rating provided before the issuance of the general notice of RIF as provided in Section 6.04b3.

8. Reorganization. The planned elimination, addition, or redistribution of functions or duties in an organization.

9. Representative Rate. The fourth step of the grade for a position subject to the General Schedule (GS).

10. Retention Register. A separate retention register is established for each competitive level containing the name of each competing employee (except employees on military duty with restoration rights) who is in the competitive level or temporarily promoted or detailed from the competitive level. Employees are listed on retention registers in the order of their retention standing.
11. Retention Standing. The identification of competing employees on a retention register by groups and subgroups on the basis of tenure of employment (length of service and performance appraisal) and veteran preference.
12. Rounds of Competition. The first round of competition is competition to remain in the employee's competitive level. The second round of competition is for assignment to a position in another competitive level.
13. Transfer of Function.
 - a. The transfer of the performance of continuing function from one competitive area and its addition to one or more other competitive areas or
 - b. The movement of the competitive area in which the function is performed to another commuting area.
14. Undue Interruption. A degree of interruption that would prevent the completion of required work by the employee 90 days after the employee has been placed in a different position under these procedures.

SECTION 6. RESPONSIBILITIES

1. The Staff Director or his/her designee is responsible for making the final decision as to which positions are required, where they are to be located, and when they are to be filled, abolished, or vacated. The Staff Director or designee determines when there is a surplus of employees at a particular location and/or in a particular line of work.
2. Office Directors are responsible for planning the work and organizing the work force to accomplish USCCR objectives within available resources and, with guidance from the Human Resources Division, determine the definition of and assignment of positions to competitive levels for subordinate organization(s).
3. The Human Resources Division is responsible for the administration and processing of any action covered by this AI.

SECTION 7. USE OF RIF PROCEDURES

1. A RIF occurs when an employee is released from his/her competitive level by separation, demotion, furlough for more than 30 days or reassignment requiring displacement, when lack of work or funds, reorganization, reclassification due to a change of duties or the need to make a place for a person exercising reemployment or restoration rights requires the USCCR to release the employee.
2. This instruction does not require the USCCR to continue or to fill any vacant position.
3. Reorganization.
 - a. If a reorganization causes the release of an employee from his/her competitive level through separation, demotion, furlough for more than 30 days, or reassignment requiring displacement, RIF procedures are applied to the employee.
 - b. If positions are eliminated or reduced in grade because of a reorganization but no employees are released from their competitive level (because, for example, they are all reassigned in grade), RIF procedures are not applied.
4. RIF procedures do not apply in the following situations:
 - a. reorganizations as described in paragraph 7.3b above;
 - b. termination of a temporary or term promotion;
 - c. return of an employee to a position from which he/she was promoted on a temporary or term basis;
 - d. reassignment or demotion of an employee to a different position which is not at a lower grade or level than the position from which he/she was promoted on a temporary or term basis;
 - e. the release from a competitive level of a National Guard Technicians under section 709 of title 32 U.S.C.;
 - f. to the placement of an employee serving on an intermittent, part time, on-call or seasonal basis in a nonpay status in accordance with conditions established at the time of the appointment; or
 - g. reemployed civil service annuitants. (A reemployed annuitant serves at the will of the agency and may be terminated at any time; however, if the reemployed annuitant is not otherwise terminated, his/her name is listed on the retention register and he/she is a competing employee for RIF purposes.)

- h. A change to a lower grade based on the reclassification of an employee's position due to the application of new classification standards or the correction of a classification error.
 - i. A change to lower grade based on reclassification of an employee's position due to erosion of duties, except that this exclusion does not apply to such reclassification actions that will take effect after agency formally announced a reduction in force in the employee's competitive area and when the reduction in force will take effect within 180 days.
- 5. When the grade of a position is reduced through the classification process, the reason for the change is determined and the action processed as follows:
 - a. Change in duties: If the record shows that the grade of a position must be reduced because of a deliberate change in duties and this causes an employee to be released from his/her competitive level through separation, demotion, furlough for more than 30 days, or reassignment requiring displacement, RIF procedures are applied to the employee who must be released.
 - b. Reclassification. If the record shows that the grade of a position must be reduced because of the application of new classification standards or the correction of classification error when, in either event, there is not change in the duties of the position, RIF procedures are not applied.
 - c. Erosion of duties. When the downward reclassification of a position is due to duties gradually drifting away from a position by a slow erosion process, RIF procedures are applied.

SECTION 8. RETENTION FACTORS

1. Competitive Areas.

- a. Competitive areas for USCCR employees covered under this instruction are defined in Section 5.2. Any changes to these competitive areas will be published as a change in this AI.
- b. Competitive areas will remain the same for the first round (within the competitive level) and the second round (bumping and retreating) of competition.

2. Competitive Levels.

- a. Competitive levels are established in accordance with OPM regulations maintained in the Human Resources Division.

- b. Separate competitive levels will be established for positions in the excepted service. Among the competitive positions and among the excepted positions, separate competitive levels are established for positions:
 - 1. under different pay schedules;
 - 2. filled on a seasonal basis;
 - 3. filled on a part-time basis;
 - 4. filled on an intermittent basis;
 - 5. filled on a full-time basis;
 - 6. filled by a supervisor or management official as defined in 5 U.S.C. 7103(a) (10) and (11) and
 - 7. filled by an employee in a formally designated trainee or developmental program having all the characteristics described in FPM 351. 4-6a.
- c. Among excepted positions, separate competitive levels are also established for positions filled under different appointment authorities.
- d. AI 2-29 identifies and describes each competitive level currently found in the USCCR and those competitive levels, although not currently established, that are likely to be established for recruiting or other purposes.

3. Tenure Groups.

- a. Tenure groups for the competitive service are different from those for the excepted service and are established in accordance with OPM regulations as follows:

1. Competitive service tenure groups:

- a. Group I. Career employees who are not serving probationary period under 5 C.F.R. 315, subpart H. A supervisor or managerial employee serving a probationary period required by 5 C.F.R. 315, Subpart I, is in Group I if otherwise eligible for this group.
- b. Group II. Employees serving a probationary period under 5 C.F.R. 315, Subpart H, and career-conditional employees.

- c. Group III. Indefinite employees, employees serving under temporary appointments pending establishments of registers (TAPER), employees in status quo and employees serving under other nonstatus nontemporary appointments.

2. Excepted service tenure groups.

- a. Group I. Permanent employees whose appointments do not contain a restriction or condition such as definite or indefinite, a specific time limitation, or a trial period.
- 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, i.e., without a specific time limitation, but not actually or potentially permanent, or with a specific time limitation of more than one (1) year; or employees who complete one (1) year of current continuous service under a temporary appointment limited to one (1) year.

a. Subgroups for the competitive and excepted service.

- 1. Subgroup AD. Includes each preference eligible employee who has a compensable service-connected disability of thirty (30) percent or more.
- 2. Subgroup A. includes each preference eligible employee not in subgroup AD.
- 3. Subgroup B. includes each nonpreference eligible employee.
- 4. A retired member of a uniformed service is considered a preference eligible for RIF only if he or she meets at least one of the conditions covered in the following paragraphs (a), (b), or (c):
 - a. The employee's military retirement is based on disability that either resulted from injury or disease received in the line of duty as a direct result of armed conflict or was caused by an instrumentality of war incurred in the line of duty during a period of war as defined in 38 U.S.C. 101 and 301.
 - b. The employee's military retirement does not include twenty (20) or more years of full-time active service, regardless of when performed. However, this total does not include periods of active duty for training.

- c. The employee has been employed continuously since November 30, 1996 in a position covered by this instruction without a break in service of more than thirty (30) days.
- d. An employee who would otherwise be considered a preference eligible under conditions in paragraphs b or c above is not, effective October 1, 1980, considered a preference eligible for purposes of this instruction if the employee retired at or above the rank of major or its equivalent.

4. Length of Service.

- a. The Human Resources Division is responsible for ensuring the accuracy of each employee's service computation date (SCD). Prior to any RIF, SCD's will be reviewed for accuracy by the Human Resources Division.
- b. Except for employees who have been issued a notice of proposed removal or reduction in grade based on unacceptable performance, each employee's performance rating of record on the date of issuance of a specific RIF notice determines the employee's entitlement to additional service credit for performance as follows:
 - 1. An employee will receive additional service credit for performance. The computation should be as follows: the mathematics average rounded in the case of a fraction to the next higher whole number of the employees last three (actual and/or assumed) annual performance ratings of record.
 - 2. An employee with a summary rating of Outstanding or the equivalent on his/her current official annual performance appraisal receives twenty (20) additional years of service toward his/her retention standing.
 - 3. An employee with a summary rating of Exceeds Fully Successful or the equivalent on his/her current official annual performance appraisal receives sixteen (16) additional years of service toward his/her retention standings.
 - 4. An employee with a summary rating of Fully Successful will receive an additional twelve (12) years.
 - 5. The retention standing of an employee with a notice of proposed removal or reduction in grade based on unacceptable performance will depend on management's decision at the end of the proposal period, i.e., the employee may receive either a decision letter to remove or

reduce him/her in grade or an acceptable performance appraisal. An acceptable performance rating results in the employee being listed on the register.

6. A single official date of issuance of all specific notices will be established in each RIF in each separate competitive area. The date is the same for all competing employees even when circumstances require the USCCR to issue some individual notices after the uniform date. With the exception of the situation described in subparagraph 6.4b4 above, employees' performance appraisals will be frozen as of this uniform date.

5. Order of Retention Standing

The relative retention standing of competing employees on retention registers is established in the following descending order:

- a. by groups, the order is Group 1, Group II , Group III
- b. within each group, the order is subgroup AD, subgroup A, subgroup B; and
- c. within each subgroup, retention standing begins with the employee having the earliest SCD.

6. Retention Register

- a. A retention register is established and maintained by the Human Resources Division from the current performance and retention records of employees in each competitive level. Employees are listed on retention registers in the order of standing described in Section 6.05
- b. Employees who are not subject to the provisions of chapter 43 of 5 U.S.C are considered to have satisfactory or unacceptable performance appraisals for purposes of determining their retention standing.
- c. Employees listed on retention registers.
 1. Except for employees on military duty with restoration rights, all competing employees officially assigned to positions in a competitive level are listed on the retention register for that level including employees on active duty, on detail to positions in other levels, on paid or unpaid

leave, on non-military furlough or on temporary or term promotions to positions in other competitive levels.

2. An employee's official position is the one in which he/she is carried on the rolls and from which his/her salary is paid or the position from which he/she has been promoted on a term or temporary basis.

d. Employees listed apart from the retention registers.

1. Employees who are not competing employees but who are officially assigned to positions in a competitive level for which a retention register is prepared are listed apart from the retention register but on the same document.

- a. In the competitive service, employees with temporary appointments with specific time limits are not competing employees; they are released before any competing employee by termination of appointment.

2. Listed separately from the retention register are the name and expiration date of the appointment or promotion of each employee serving in a position under a specifically limited temporary appointment or term promotion followed by the name of each employee serving in the competitive level with, as applicable.

- (a) a written decision of removal for unacceptable performance under 5 CFR 432.204 (a) or

- (b) a written decision to demote the employee for unacceptable performance under 5 CFR 432.204 (a). Such an employee competes from the position to which he/she will be demoted.

7. Effective Date of Retention Standing

(a). Any changes that will occur in the above listed retention factors, other than performance, during the period of advance notice must be anticipated in determining an employee's retention standing. Normally, the determination of retention standing on the basis of these factors is the date of release from the competitive level.

(b). Any errors discovered in the determination of an employees retention standing will be corrected and any

resulting erroneous RIF actions will be adjusted in accordance with the employee's actual retention standing. The corrected retention standing is effective on the date provided in paragraph 6.07a above.

SECTION 9. RELEASE FROM COMPETITIVE LEVEL

1. Order of Release Competing employees will be released from their competitive levels in the inverse order of their retention standing beginning with the employee having the lowest standing. In the case of a tie, management may release any tied employee.
2. Restrictions on Order of Release A competing employee will not be released from a competitive level while any of the following employees are retained in that level:
 - a. employees on a specifically limited temporary appointment or promotion;
 - b. employees on a term promotion; or
 - c. employees in receipt of an "Unacceptable" current annual performance appraisal or a written decision of removal or reduction in grade based on "unacceptable performance".
3. Use of Vacancies. In a RIF, management may choose to fill all the vacancies in a competitive area, only those it chooses to fill, or none,
4. Use of Furlough.
 - a. Furlough of a competing employee will be processed under the provisions of this instruction only when the USCCR intends to recall the employee within one (1) year to duty in the same position from which he/she was furloughed.
 - b. Employees may not be furloughed for more than one (1) year.
 - c. Employees will be furloughed in accordance with OPM procedures.
 - d. Furloughs for thirty (30) days or less because of lack of funds are not processed as RIF actions. Procedures outlined in this instruction will not apply to furloughs of thirty days or less.
5. Exception to Order of Release.

- a. Each group I or II preference eligible employee entitled to retention for one (1) year after restoration under 5 CFR 353 is retained over other employees in his/her subgroup until the end of the one (1) year period.
- b. Each group I or II non-preference eligible employee entitled to retention for either six (6) months or one (1) year after restoration under 5 CFR 353 is retained over other employees in his/her subgroup for the retention period.
- c. The reason for any change in order of release because of the above exceptions will be recorded on the retention register.
- d. When all positions in a competitive area will be abolished within three (3) months, employees will be released in subgroup order.

SECTION 10. ASSIGNMENT RIGHTS

1. Competitive Service

(a). Group I or II employees reached for release from their competitive levels will be offered an available position (see Section 8.01 b) in another competitive level if one exists; if one does not exist the employee is separated. When more than one available positions exist, the employee may be offered one of them. The employee has no right to choose his/her assignment. If a Group I or II employee refuses an offer which is in accord with his/her rights, he/she will be separated by RIF.

(b). An available position is one that has all the following characteristics:

- 1. it is in the same competitive area;
- 2. it is occupied by an employee subject to displacement (see Section 8.01d) by the released employee;
- 3. it is a position for which the released employee qualifies;
- 4. it will last at least three (3) months; and
- 5. it has a representative rate no higher than the representative rate of the position from which the Group I or II employee is being released.

c. Group III employees have no right of assignment when released from their competitive levels.

d. Displacement

1. Lower Subgroup (Bumping). An employee released from his/her competitive level may be offered a position in another competitive level for which he/she is qualified which is occupied by an employee in a lower subgroup. The position is no more than three grades or appropriate grade intervals or equivalent below the position from which the employee was released. The position into which the employee bumps must meet all the criteria of an available position as described in Section 8.01b.
2. Same Subgroup (Retreating). An employee released from his/her competitive level may be offered a position from or through which the employee was promoted (including positions substantially the same as a position from which he/she was promoted) and which is occupied by an employee with a later SCD in the same subgroup. This retreat right also extends to a position which the employee skipped over in a promotion of more than one grade. The following principles apply to the retreat right;
 - a. The position must be in the employee's current competitive area although entitlement to the retreat may have accrued while serving in a different area or in a different agency.
 - b. An employee may retreat to a position substantially the same as one he/she was promoted from or through in a different competitive area of the USCCR or in a different agency.
 - c. A position is considered substantially the same as a position the employee was promoted from or through when it is an additional identical position or when the two positions are alike enough that they would be in the same competitive level if they were in the same competitive area. When the released employee was promoted one grade to a different line of work, the line of retreat goes to the skipped grades in both lines of work.
 - d. The position into which the employee retreats must meet all the criteria of an available position described in Section 8.01b.

3. The employee is entitled to the right, bump or retreat, that results in the better offer. Where the result is the same, the USCCR will choose which action to take.
4. An employee released from his/her competitive level may bump or retreat into a position which has promotion potential (e.g., a career ladder position) greater than the position which the employee is being released. The employee could then be non-competitive to the full performance level as long as the employee meets all qualification requirements at the time of promotion

e. Level of Offer

1. When an employee is released from his/her competitive level and there is more than one available position, the employee is entitled to the position with the highest representative rate. When there are two or more positions all with the same representative rate the USCCR may offer any of them; the employee has no right of choice.
2. An employee has no right to assignment to a position with a grade or representative rate higher than his/her own. The employee is entitled to no further offer when he/she accepts an offer, rejects an offer, or fails to reply to an offer within the timeframe established in the notice.
3. The employee's assignment right is not satisfied by an offer of a position with a lower representative rate except when, with full knowledge of his/her entitlement to the higher, he/she willingly accepts the lower.

f. Qualifications for Assignment

1. To be entitled to assignment to a position in another level, an employee must meet OPM's qualifications standards and requirements, must be qualified physically for the position, must meet any special qualifying conditions OPM sets for the position, and any selective factors established by the agency. Also, the employee must have the capacity, adaptability, and any special skills required for satisfactory performance of the duties and responsibilities of the position without undue interruption to the activity.
2. To be considered qualified to bump into a formally designated trainee or developmental position as defined in 5 CFR 351, an employee must meet all of the conditions required for selection

and entry into the training or developmental program. It is impossible for an employee who has completed a course of training or is otherwise fully trained to bump or retreat back into the training or developmental position.

3. An employee who is carried on leave of absence because of a compensable injury and is released from his/her competitive level will not be denied an assignment right solely because the employee is not physically qualified for the duties of the position when the physical disqualification resulted from the compensable injury. Such an employee will be afforded appropriate assignment rights subject to his/her recovery by 5 U.S.C. 8151 and 5 CFR 353.
4. When an employee's right of assignment can be satisfied only by assignment to a sensitive position and the employee has no clearance, arrangements for any necessary investigation and determination on issuance of the clearance will be made as soon as possible. Whether a clearance is issued or not, the employee is assigned to the sensitive position on the date required by the RIF. When pending issuance of a clearance, an employee may not have access to classified material. In this situation, the employee may be assigned to perform the nonsensitive duties of the position, detailed to a nonsensitive position or set of duties, granted leave upon request, or suspended under E.O. 10450 when appropriate.
5. When it is determined that a preference eligible employee who has a compensable service-connected disability of thirty (30) percent or more is not able to fulfill the physical requirements of a position to which the employee would otherwise have been assigned, OPM will be notified of this determination. At the same time, the employee will be notified of the reasons for the determination and of the right to respond to OPM within fifteen (15) days of the notification. The USCCR will comply with the findings of OPM concerning the employee's physical ability to perform the duties of the position.

2. Excepted Service

Employees in the excepted service have no assignment rights when they are released from their competitive level.

SECTION 11. RIF NOTICES

1. Each competing employee selected for release from his/her competitive level under RIF procedures will receive a written notice at least sixty (60) full days before the effective date of his/her release.
2. An employee retained as an exception to the order of release (see Section 7.05) will receive a written notice at least sixty (60) full days before the end of his/her retention period. The notice will cite the date on which the retention period ends as the effective date of the employee's release from his/her competitive level.

3. General RIF Notice

A general RIF notice informs the employee that a RIF action may be necessary, but a specific action has not yet been determined in his/her case. The notice period begins the date after the employee receives the notice. A general notice will be supplemented by a specific notice before a RIF action is taken. An employee will not be released from his/her position until at least five (5) days after the employee receives the specific notice.

4. Specific RIF Notices

- a. A specific notice contains all the RIF information to which an affected employee is entitled (see paragraph 9.05 below). A specific notice may be a complete single notice, a notice with attachments, or a general notice supplemented by a specific notice.
- b. A RIF action will not be taken before the effective date given in the specific notice.

5. Content of Notice

The combine contents of the general and specific notices include the following information as applicable:

- a. the specific RIF action to be taken, the reasons for, and the effective date.
- b. the employee's competitive area, competitive level, subgroup, SCD, and the annual performance ratings received during the last 4 years;
- c. the place where the employee may inspect the regulations and records pertinent to his/her case;
- d. the reasons for retaining a lower standing employee in the same competitive level because of an exception;

- e. grade and pay retention information;
- f. the employee's grievance or appeal rights; and
- g. information on reemployment rights

6. Change of Action

- a. More severe action. An employee is entitled to a new specific notice of at least sixty (60) full days if a more severe action than first specified is to be taken.
- b. Less Severe Action. A less severe action may be substituted in the specific notice without issuing a new notice to the employee.

7. Expiration of RIF Notices

- a. A general notice expires on the date specified in the notice unless, on or before the effective date, the general notice is renewed or a specific notice is issued.
- b. A specific notice expires when it is followed by the action it specifies, an action less severe than it specifies or an action less severe than specified in an amendment made to the notice before the action is taken.

8. Status During Notice Period

Normally, an employee will be retained in an active duty status during the notice period. However, the employee may be placed:

- 1. on annual leave with his/her consent;
- 2. on annual leave without his/her consent when there is an emergency within the USCCR, i.e. , lack of funds or work for all or part of the notice period;
- 3. in a leave without pay status with his/her consent; or
- 4. in a nonpay status without his/her consent when in an emergency the USCCR lacks work or funds for all or part of the notice period.

Under Merit Systems Protection Board (MSPB) regulations, as appropriate, an employee who believes that they have been placed in a nonpay status in violation of controlling regulations may appeal such action.

9. Certification of Expected Separation

A Certificate of Expected Separation is issued as soon as it is determined that;

- a. There is a good likelihood that the employee will be separated under RIF procedures.
- b. Placement opportunities within the agency or other Federal agencies in the local commuting area are limited or nonexistent retained in his/her position, or placed in another position ; and
- c. If eligible for optional retirement the employee has not filled a retirement application or otherwise indicated in writing an intent to retire.

The Certification shall be addressed to each individual eligible employee and signed by the Staff Director. It must contain the expected date of reduction - in- force, a statement that all the factors mentioned above has been satisfied, and a description of Job Training Partnership Act programs, the Interagency Placement Program and the Reemployment Priority List.

This certification may be issued up to six (6) months prior to the effective date of the reduction in force. This certification may not be used to satisfy any of the notice requirements mentioned in this AI.

The agency may also enroll eligible employees in the Interagency Placement Program or the Reemployment Priority List up to six (6) months in advance of a reduction in force.

SECTION 12. APPEALS

Unless otherwise limited by the provisions of the negotiated agreement that requires the use of the negotiated grievance procedure, an employee who has been affected by a RIF action and who believes the controlling regulations (5 CFR 351) have not been correctly applied may appeal to MSPB under the provisions of MSPB's regulations. Employees may appeal any time during the period beginning with the day after the effective date of the action being appealed until not later than twenty (20) days after the effective date. The USCCR will comply with all applicable MSPB regulations in providing information concerning appeals procedures to affected employees.

SECTION 13. REEMPLOYMENT PRIORITY LIST (RPL)

The Human Resources Division will establish and maintain RPL(s) for each commuting area in which Group I or II full-time and other than full-time employees are separated

from competitive positions under the provisions of this instruction. RPL(s) will be established and maintained in accordance with applicable OPM regulations.

SECTION 14. MAINTENANCE OF RECORDS

The Human Resources Division is responsible for maintaining the current correct records needed to determine the retention standing of USSCR competing employees. Records will be maintained in accordance with applicable OPM regulations.

Any employee of the USSCR may inspect retention registers and related records to the extent that the registers and records are related to his/her case.

SECTION 15. TRANSFER OF FUNCTIONS

1. When an employee's work transfers he/she is entitled to transfer with it only if lack of an opportunity to do so would result in his/her demotion or separation.

2. Movement to a Different Competitive Area

Under the transfer of functions provisions, the operation of the function must cease in one competitive area and must be carried on in an identifiable form in another competitive area.

3. Movement within a Competitive Area

Movement of activities or assignments entirely within a competitive area are not transfers of functions, they are reorganizations. Reorganizations, however, that shift functions out of one competitive area and into another competitive area (or to any location outside the original competitive area where no similar activity was previously located) are transfers of functions.

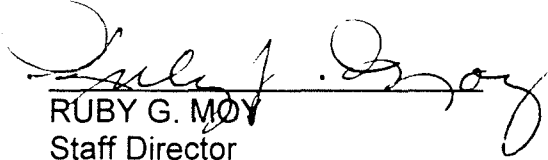
4. Movement of a Competitive Area

In the shift of an entire competitive area, a transfer of function occurs when the new location is outside the original commuting area. When a function moves from one building to another in the same commuting area, there is no transfer of function.

A transfer of function does not suspend management's inherent authority to assign its workforce to meet its needs. Management may move employees regardless of a transfer of function to different jobs and different duty stations where needed so long as their statutory and regulatory rights are not violated.

5. Rights of Employees Involved in Transfer of Functions

- a. The employee has no right to transfer with a function unless the alternative is separation or demotion.
- b. When a function is transferred, the transfer of function provisions do not apply to employees of the losing competitive area if the USCCR chooses not to separate demote or transfer them as a result of the loss of the function.
- c. An employee who is required to transfer with a function but who refuses to transfer will be separated under adverse procedures for his/her refusal and has no right to compete with other employees for retention should the transfer occur during a RIF. Such employees have no reemployment priority rights.
- d. The transfer of function regulations do not affect employees of the gaining competitive area if the transfer does not require a RIF on the gaining area. If the losing competitive area identifies and transfers more employees than the gaining competitive area needs to carry on the function, the gaining competitive area may follow RIF procedures to relieve the surplus. The determination of the rights of incoming employees is made from mingling of the retention registers; a physical relocation or a paper transfer to the gaining competitive area.


RUBY G. MOY
Staff Director

Issued: APR 15 1981

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-29

REDUCTION IN FORCE (RIF) COMPETITIVE LEVELS

SECTION 1. PURPOSE

.01 The purpose of this Administrative Instruction (AI) is to establish, identify and describe RIF competitive levels as required by Chapter 351 of the Federal Personnel Manual.

O2. The listing in this instruction consists of an occupational series, titles and/or grade levels for positions and is not to be considered as an affirmation of the classification of such positions.

SECTION 2. AUTHORITY

01. Title 5, United State Code (USC) Government Organization and Employees, Section

02. Title 5, Code of Federal Regulations (CFR), Part 351

SECTION 3. SCOPE

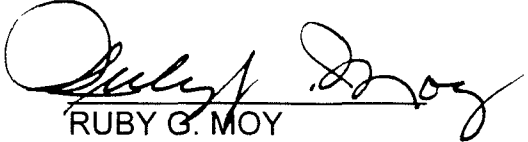
This instruction covers all established positions within the U.S. Commission on Civil Rights (USCCR) and those positions, although not currently established, that may be established for recruiting, detail or reassignment purposes.

SECTION 4. RIF COMPETITIVE LEVELS

Attached is Appendix A which identifies and describes each competitive level currently found within the USCCR. Appendix A also includes competitive levels for occupational grouping, series and/or grade levels for positions that may not currently exist or may not presently be encumbered. The appendix is intended to be sufficiently broad so as to avoid unnecessary updating.

SECTION 5. EFFECTIVE DATE

The competitive levels as set forth in Appendix A are established for record purposes effective with the date of the issuance of this instruction.



RUBY G. MOY
Staff Director

APPENDIX A

IDENTIFICATION OF RIF COMPETITIVE LEVELS

U.S. COMMISSION ON CIVIL RIGHTS

Each competitive level will be assigned a Competitive Level Code (Comp Lvl Code) which consists of three alphanumeric segments of two, two and three characters.

- a. In general, the first two characters (the first segment) will identify the occupational grouping to which positions in the competitive level belong. (As an example, the Code B3 identifies nonsupervisory economist positions, code F9 through J3 identify secretarial positions, etc.)
 1. Positions which are substantially identical but located in different commuting areas are given different codes since they are in separate competitive levels.
 2. Since supervisory positions are to be placed in competitive levels separate from nonsupervisory positions, supervisory positions are given different codes from nonsupervisory positions (even though the occupational series may be the same).
- b. The second group of two characters (the second segment) consists of two characters which identify the grade level of the positions since a competitive level consists of a single grade level.
- c. The third group of three characters (the third segment) provides information concerning work schedule (full or part-time), type of appointment (permanent or temporary) and whether the position is in the competitive service and, if not, the type of excepted service appointment.
 1. A numeric 1 in the first slot of the third segment will identify the position as a full-time position while a numeric 2 will identify the position as a part-time position. (Full-time positions are placed in competitive levels separate from part-time positions even though the work performed is identical.)
 2. A numeric 1 in the second slot of the third segment will identify the appointment as permanent, whether the position is in the competitive service or the excepted service. A numeric 2 in the second slot of the third segment will identify the appointment as a temporary one, whether in the competitive or excepted service. Employees serving in

temporary appointments are to be placed in separate competitive levels even though the work performed may be identical.

3. The third slot of the third segment will identify whether the position is in the competitive service or, if not, the third slot of the third segment will identify the type of excepted appointment. A numeric 1 in the third slot of the third segment will identify the position as in the competitive service. The legend for excepted service appointment is as follows:
 - a. A numeric 2 in the third slot of the third segment will identify those appointed to Schedule C positions.
 - b. A numeric 3 in the third slot of the third segment will identify attorney positions encumbered under the authority of 5 C.F.R. 213.3102(d).
 - c. A numeric 4 in the third slot of the third segment will identify positions encumbered under the authority of 5 C.F.R. 307.1-3(a), a Veterans Readjustment Appointment.
 - d. A numeric 5 will identify excepted service positions encumbered under other excepted authorities. These "other" excepted service positions will be separately placed in competitive levels based on the appointment authority.
 - e. Except for attorney positions, the competitive levels which follow are listed as if in the competitive service. Also, each position identified is shown as full-time, permanent.
 - f. The listing of competitive levels which follow includes occupational groupings/series and grade levels which may not currently exist or be encumbered. However, should occupational grouping/series and/or grade levels be created which are not listed in this appendix or occupational grouping/series and/or grade levels be permanently deleted, the appendix will be revised accordingly.

APPENDIX B

IDENTIFICATION OF RIF COMPETITIVE LEVELS

U.S. COMMISSION ON CIVIL RIGHTS

A1 THROUGH B1 - RESERVED

B2-05-111 GS-0101-05: This is an entry level position for which the duties provide the incumbent with an introduction to practices of and tasks related to the analyses of social science data. This position does not require a positive educational requirement.

B2-07-111 GS-0101-07: This is an advanced trainee position for which the duties involve small segments of larger projects requiring the analyses of social science data. This position does not require a positive educational requirement.

B2-09-111 GS-0101-09: This is the first journey level for the performance of work involving analyses of social science data. This position does not require a positive educational requirement.

B2-11-111 GS-0101-11: This position performs the full range of analyses involving social science data. The work assigned generally involves analyses which are covered by general guidelines. This position does not require a positive educational requirement.

B2-12-111 GS-0101-12: This position performs analyses of social science data which involves the application of unique or novel methodology, techniques, etc. Assignments may involve complex and major problems. This position does not require a positive educational requirement.

B2-13-111 GS-0101-13: This position serves as a senior analyst or team leader involving the analyses of social science data. The incumbent may be responsible for major projects involving complex issues and data. This position does not require a positive educational requirement.

B3-05-111 GS-0110-05: This is an entry level position for which the duties provide the incumbent with an introduction to practices of tasks related to analyses of a variety of social, economic and demographic data. This position requires a positive educational requirement.

B3-07-111 GS-0110-07: This is an advanced trainee position for which duties involve small segments of larger projects requiring the analyses of a variety of social economic and demographic data. This position requires a positive educational requirement.

B3-09-111 GS-0110-09: This is the first journey level for the performance of work involving analyses of a variety of social, economic and demographic data. This position requires a positive educational requirement.

B3-11-111 GS-0110-11: This position performs the full range of analyses involving social, economic and demographic data. The work assigned involves analyses that are covered by general guidelines. This position requires a positive educational requirement.

B3-12-111 GS-0110-12: This position performs objective analyses of social, economic and demographic data which involves the application of unique or novel techniques or methodology.

B3-13-111 GS-0110-13: This position as a senior economist or team leader, is responsible for the technical analyses of social, economic and demographic data involving complex issues and data. This position requires a positive educational requirement.

B4-05-111 GS-0160-05: This is an entry level position for which the duties are to provide the incumbent with an introduction to practices and tasks related to the analyses of data involving civil rights and equal protection issues. This position is located in Headquarters, USCCR. This position does not require a positive educational requirement.

B4-07-111 GS-0160-07: This is an advanced trainee position for which the duties involve small segments of work requiring the analyses of data concerning civil rights and equal protection issues. This position is located in Headquarters, USCCR. This position does not require a positive educational requirement.

B4-09-111 GS-0160-09: This is the first journey level for the performance of work involving analyses of data concerning civil rights and equal protection issues. This position is located in Headquarters, USCCR. This position does not require a positive educational requirement.

B4-11-111 GS-0160-11: This position performs the full range of tasks involving the analyses of data concerning civil rights and equal protection issues. This position is located in Headquarters, USCCR. This position does not require a positive educational requirement.

B4-12-111 GS-0160-12: This position performs analyses of civil rights and equal protection issues which requires the application of unique or novel methodology, techniques, etc. Assignments may involve complex and major issues. This position is located in Headquarters, USCCR. This position does not require a positive educational requirement.

B4-13-111 GS-0160-13: This position serves as a senior analyst, team leader or field representative responsible for the analyses of data concerning civil rights and equal protection issues involving complex issues and data. This position is located in Headquarters, USCCR. This position does not require a positive educational requirement.

B5-05-111 GS-0160-05: This position is similar to positions described in the B4-05 series except it involves field work and is located in Region I.

B5-07-111 GS-0160-07: This position is similar to those in the B4-07 series except it involves field work and is located in Region I.

B5-09-111 GS-0160-09: This position is similar to those in the B4-09 series except it involves field work and is located in Region I.

B5-11-111 GS-0160-11: This position is similar to those in the B4-11 series except it involves field work and is located in Region I.

B5-12-111 GS-0160-12: This position is similar to those in the B4-12 series except it involves field work and is located in Region I.

B5-13-111 GS-0160-13: This position is similar to those in the B4-13 series except it involves field work and is located in Region I.

B6-05-111 GS-0160-05: Same as B5-05 except this position is in Region II.

B6-07-111 GS-0160-07: Same as B5-07 except this position is in Region II.

B6-09-111 GS-0160-09: Same as B5-09 except this position is in Region II.

B6-11-111 GS-0160-11: Same as B5-11 except this position is in Region II.

B6-12-111 GS-0160-09: Same as B5-12 except this position is in Region II.

B6-13-111 GS-0160-13: Same as B5-13 except this position is in Region II.

B7-05-111 GS-0160-05: Same as B5-05 except this position is in Region III.

B7-07-111 GS-0160-07: Same as B5-07 except this position is in Region III.

B7-09-111 GS-0160-09: Same as B5-09 except this position is in Region III.

B7-11-111 GS-0160-11: Same as B5-11 except this position is in Region III.

B7-12-111 GS-0160-12: Same as B5-12 except this position is in Region III.

B7-13-111 GS-0160-13: Same as B5-13 except this position is in Region III.

B8-05-111 GS-0160-05: Same as B5-05 except this position is in Region IV.

B8-07-111 GS-0160-07: Same as B5-07 except this position is in Region IV.

B8-09-111 GS-0160-09: Same as B5-09 except this position is in Region IV.

B8-11-111 GS-0160-11: Same as B5-11 except this position is in Region IV.

B8-12-111 GS-0160-12: Same as B5-12 except this position is in Region IV.

B8-13-111 GS-0160-13: Same as B5-13 except this position is in Region IV.

B9-05-111 GS-0160-05: Same as B5-05 except this position is in Region V.

B9-07-111 GS-0160-07: Same as B5-07 except this position is in Region V.

B9-09-111 GS-0160-09: Same as B5-09 except this position is in Region V.

B9-11-111 GS-0160-11: Same as B5-11 except this position is in Region V.

B9-12-111 GS-0160-12: Same as B5-12 except this position is in Region V.

B9-13-111 GS-0160-13: Same as B5-13 except this position is in Region V.

C1-05-111 GS-0160-05: Same as B5-05 except this position is in Region VI.

C1-07-111 GS-0160-07: Same as B5-07 except this position is in Region VI.

C1-09-111 GS-0160-09: Same as B5-09 except this position is in Region VI.

C1-11-111 GS-0160-11: Same as B5-11 except this position is in Region VI.

C1-12-111 GS-0160-12: Same as B5-12 except this position is in Region VI.

C1-13-111 GS-0160-13: Same as B5-13 except this position is in Region VI.

C6-05-111 GS-0201-05: This is an entry level position for which the duties provide the incumbent an introduction to personnel management functions.

C6-07-111 GS-0201-07: This is an advanced trainee position for which the duties involve routine tasks associated with general personnel management actions.

C6-09-111 GS-0201-09: This is the first journey level for performance of personnel management tasks. Generally, tasks may involve routing aspects of any functional area.

C6-11-111 GS-0201-11: This position performs the full ranges of tasks associated with personnel management.

C6-12-111 GS-0201-12: This position serves as a team leader and is responsible for the personnel management needs of a number of organizational segments of the USSCR.

C6-13-111 GS-0201-13: This position serves as the senior technical specialist in all areas of personnel management.

C7-04-111 GS-0203-04: This position provides routing clerical personnel actions processing support.

C7-05-111 GS-0203-05: This position provides processing of personnel actions where limited knowledge of the technical aspects of personnel actions is required.

C7-06-111 GS-0203-06: This position provides personnel assistance where a thorough knowledge of the technical aspects of personnel actions involving one or more personnel functional areas are required.

C7-07-111 GS-0203-07: This position performs the full complement of tasks associated with one or more personnel subspecialties.

C7-08-111 GS-0203-08: This position served is similar to C7-07 except that the position is knowledge of the organization, its past history, etc., permit the position to understand and perform work in a variety of personnel subspecialties beyond that contemplated in the C7-07 series.

D4-03-111 GS-0303-03: This is a general clerical position which, in addition to the performance of clerical tasks such as filing, light bookkeeping, copying, etc. It requires the incumbent to possess typing skills in order to type simple correspondence such as memoranda, short business letters, etc. This position is in Headquarters.

D4-04-111 GS-0303-04: This is a general clerical position which requires the incumbent to possess a general knowledge that goes to the substance of clerical tasks performed. This position requires the incumbent to possess typing skills. This position is located in Headquarters.

D4-05-111 GS-0303-05: This is a general clerical position which requires the incumbent to possess a general knowledge of the technical aspects of the clerical tasks performed, and requires the incumbent to possess typing skills. This position is located in Headquarters.

D4-06-111 GS-0303-06: This is a general clerical position which requires the incumbent to possess a thorough knowledge of the technical aspects of the clerical tasks performed, and requires the incumbent to possess typing skills. This position is located in Headquarters.

D4-07-111 GS-0303-07: This is a general clerical position which requires the incumbent to perform a full complement of clerical tasks involving complex tasks and issues, and requires a specialized knowledge of clerical processing. This position requires the incumbent to possess typing skills. This position is located in Headquarters.

D5-05-111 GS-0303-05: This position is located in the Office of Civil Rights Evaluation. This position provides clerical support in processing allegations of civil rights and equal protection violations which have been misdirected to the USCCR. This position requires the incumbent to possess typing skills.

D5-06-111 GS-0303-06: This position is located in OCRE and provides clerical support in processing allegations of civil rights and equal protection violations which have been misdirected to the USCCR. This position requires the incumbent to possess a thorough knowledge of the technical clerical tasks associated with correctly routing such allegations. This positions requires the incumbent to possess typing skills.

D5-07-111 GS-0303-07: This position is located in OCRE and requires the incumbent to perform a full complement of clerical tasks which require the exercise of independent judgment and initiative in processing allegation of civil rights and equal protection violation with have been misdirected to the USCCR. This position requires the incumbent to possess typing skills.

D6-03-111 GS-0303-03: This is a general clerical position which performs a variety of clerical tasks such as filing, xeroxing, etc. This position does not require a qualified typist. This position is located in Headquarters.

D6-04-111 GS-0303-04: This is a general clerical position which requires the incumbent to possess a general knowledge of the substance of clerical tasks performed. This position does not require a qualified typist. This position is in Headquarters.

D6-05-111 GS-0303-05: This is a general clerical position which requires the incumbent to possess a limited knowledge of the technical aspects of the clerical tasks performed. This position does not require a qualified typist. This position is located in Headquarters.

D6-07-111 GS-0303-07: This is a general clerical position which requires the incumbent to perform a full complement of clerical tasks which involve complex tasks

and issues and requires a specialized knowledge of clerical processing. This position does not require a qualified typist. This position is located in Headquarters.

D7-03-111 GS-0303-03: Same as D4-03 except this position is in Region I.

D7-04-111 GS-0303-04: Same as D4-04 except this position is in Region I.

D7-05-111 GS-0303-05: Same as D4-05 except this position is in Region I.

D7-06-111 GS-0303-06: Same as D4-06 except this position is in Region I.

D8-03-111 GS-0303-03: Same as D4-03 except this position is in Region II.

D8-04-111 GS-0303-04: Same as D4-04 except this position is in Region II.

D8-05-111 GS-0303-05: Same as D4-05 except this position is in Region II.

D8-06-111 GS-0303-06: Same as D4-06 except this position is in Region II.

D9-03-111 GS-0303-03: Same as D4-03 except this position is in Region III.

D9-04-111 GS-0303-04: Same as D4-04 except this position is in Region III.

D9-05-111 GS-0303-05: Same as D4-05 except this position is in Region III.

D9-06-111 GS-0303-06: Same as D4-06 except this position is in Region III.

E1-03-111 GS-0303-03: Same as D4-03 except this position is in Region IV.

E1-04-111 GS-0303-04: Same as D4-04 except this position is in Region IV.

E1-05-111 GS-0303-05: Same as D4-05 except this position is in Region IV.

E1-06-111 GS-0303-06: Same as D4-06 except this position is in Region IV.

E2-03-111 GS-0303-03: Same as D4-03 except this position is in Region V.

E2-04-111 GS-0303-04: Same as D4-04 except this position is in Region V.

E2-05-111 GS-0303-05: Same as D4-05 except this position is in Region V.

E2-06-111 GS-0303-06: Same as D4-06 except this position is in Region V.

E3-03-111 GS-0303-03: Same as D4-03 except this position is in Region VI.

E3-04-111 GS-0303-04: Same as D4-03 except this position is in Region VI.

E3-05-111 GS-0303-05: Same as D4-05 except this position is in Region VI.
E3-06-111 GS-0303-06: Same as D4-06 except this position is in Region VI.
E8-03-111 GS-0303-03: Same as D6-03 except this position is in Region I.
E8-04-111 GS-0303-04: Same as D6-04 except this position is in Region I.
E8-05-111 GS-0303-05: Same as D6-05 except this position is in Region I.
E8-06-111 GS-0303-06: Same as D6-06 except this position is in Region I.
E9-03-111 GS-0303-03: Same as D6-03 except this position is in Region II.
E9-04-111 GS-0303-04: Same as D6-04 except this position is in Region II.
E9-05-111 GS-0303-05: Same as D6-05 except this position is in Region II.
E9-06-111 GS-0303-06: Same as D6-06 except this position is in Region II.
F1-03-111 GS-0303-03: Same as D6-03 except this position is in Region III.
F1-04-111 GS-0303-04: Same as D6-04 except this position is in Region III.
F1-05-111 GS-0303-05: Same as D6-05 except this position is in Region III.
F1-06-111 GS-0303-06: Same as D6-06 except this position is in Region III.
F2-03-111 GS-0303-03: Same as D6-03 except this position is in Region IV.
F2-04-111 GS-0303-04: Same as D6-04 except this position is in Region IV.
F2-05-111 GS-0303-05: Same as D6-05 except this position is in Region IV.
F2-06-111 GS-0303-06: Same as D6-06 except this position is in Region IV.
F3-03-111 GS-0303-03: Same as D6-03 except this position is in Region V.
F3-04-111 GS-0303-04: Same as D6-04 except this position is in Region V.
F3-05-111 GS-0303-05: Same as D6-05 except this position is in Region V.
F3-06-111 GS-0303-06: Same as D6-06 except this position is in Region V.
F4-03-111 GS-0303-03: Same as D6-03 except this position is in Region VI.

F4-04-111 GS-0303-04: Same as D6-04 except this position is in Region VI.

F4-05-111 GS-0303-05: Same as D6-05 except this position is in Region VI.

F4-06-111 GS-0303-06: Same as D6-06 except this position is in Region VI.

F9-05-111 GS-0318-05: This position is that of secretary. Generally, this position has been filled at this level for recruiting purposes. This position requires a qualified typist. This position is located in Headquarters.

F9-06-111 GS-0318-06: In general, this position provides secretarial services to project directors and others at similar organizational levels. A qualified typist is required. This position is located in Headquarters.

F9-07-111 GS-0318-07: In general, this position provides secretarial services to unit and division directors. A qualified typist is required. This position is located in Headquarters.

F9-08-111 GS-0318-08: In general, this position provides secretarial services to office directors reporting to the Deputy Staff Director. A qualified typist is required. This position is located in Headquarters.

F9-09-111 GS-0318-09: In general, this position provides secretarial services to those offices reporting directly to the Staff Director. A qualified typist is required. This position is located in Headquarters.

G2-06-111 GS-0318-06: This position is that of Secretary in Region I. Generally, this position has been filled at this level for recruiting purposes. This position requires a qualified typist.

G2-07-111 GS-0318-07: This position is that of Secretary in Region I. A qualified typist is required.

G4-06-111 GS-0318-06: Same as G2-06 except this position is in Region II.

G4-07-111 GS-0318-07: Same as G2-07 except this position is in Region II.

G5-06-111 GS-0318-06: Same as G2-06 except this position is in Region III.

G5-07-111 GS-0318-07: Same as G2-07 except this position is in Region III.

G6-06-111 GS-0318-06: Same as G2-06 except this position is in Region IV.

G6-07-111 GS-0318-07: Same as G2-07 except this position is in Region IV.

G7-06-111 GS-0318-06: Same as G2-06 except this position is in Region V.

G7-07-111 GS-0318-07: Same as G2-07 except this position is in Region V.

G8-06-111 GS-0318-06: Same as G2-06 except this position is in Region VI.

G8-07-111 GS-0318-07: Same as G2-07 except this position is in Region VI.

J4-03-111 GS-0305-03: This position provides general mail services to offices of the USCCR.

J4-04-111 GS-0305-04: This position provides general mail services to offices of the USCCR. This position requires the incumbent to possess a knowledge of the work performed by each organization element of the USCCR.

J4-05-111 GS-0305-05: This position serves as the senior mail clerk and has responsibility for resolving questions concerning mail, routing, etc. within the USCCR.

J5-02-111 GS-0322-02: This is an entry level clerk-typist position. This position is located in Headquarters.

J5-03-111 GS-0322-03: This clerk-typist position types routine memoranda, narrative letters in business format, etc. This position is located in Headquarters.

J5-04-111 GS-0322-04: This clerk-typist position types a wide variety of correspondence including columnar material. This position is located in Headquarters.

J5-05-111 GS-0322-05: This position types material such as reports, transcripts, etc. where footnoting, columnar material, specialized terminology, etc. are the norm. This position is located in Headquarters.

J6-02-111 GS-0322-02: Same as J5-02 except this position is in Region I.

J6-03-111 GS-0322-03: Same as J5-03 except this position is in Region I.

J6-04-111 GS-0322-04: Same as J5-04 except this position is in Region I.

J6-05-111 GS-0322-05: Same as J5-05 except this position is in Region I.

J7-02-111 GS-0322-02: Same as J5-02 except this position is in Region II.

J7-03-111 GS-0322-03: Same as J5-03 except this position is in Region II.

J7-04-111 GS-0322-04: Same as J5-04 except this position is in Region II.

J7-05-111 GS-0322-05: Same as J5-05 except this position is in Region II.

J8-02-111 GS-0322-02: Same as J5-02 except this position is in Region III.

J8-03-111 GS-0322-03: Same as J5-03 except this position is in Region III.

J8-04-111 GS-0322-04: Same as J5-04 except this position is in Region III.

J8-05-111 GS-0322-05: Same as J5-05 except this position is in Region III.

J9-02-111 GS-0322-02: Same as J5-02 except this position is in Region IV.

J9-03-111 GS-0322-03: Same as J5-03 except this position is in Region IV.

J9-04-111 GS-0322-04: Same as J5-04 except this position is in Region IV.

J9-05-111 GS-0322-05: Same as J5-05 except this position is in Region IV.

K1-02-111 GS-0322-02: Same as J5-02 except this position is in Region V.

K1-03-111 GS-0322-03: Same as J5-03 except this position is in Region V.

K1-04-111 GS-0322-04: Same as J5-04 except this position is in Region V.

K1-05-111 GS-0322-05: Same as J5-05 except this position is in Region V.

K2-02-111 GS-0322-02: Same as J5-02 except this position is in Region VI.

K2-03-111 GS-0322-03: Same as J5-03 except this position is in Region VI.

K2-04-111 GS-0322-04: Same as J5-04 except this position is in Region VI.

K2-05-111 GS-0322-05: Same as J5-05 except this position is in Region VI.

K8-07111 GS-0342-07: This is an advanced trainee position which is targeted for a grade 9 or higher Support Services Specialist position.

K8-09-111 GS-0342-09: This position provides the full range of support services including telephone services, energy, water, health and safety devices and mechanisms, etc.

K9-05-111 GS-0344-05: This position provides routing management clerical support and requires the incumbent to possess a limited knowledge of the technical support aspects of management activities such as reports and forms management, etc.

K9-06-111 GS-0344-06: This position requires the incumbent to possess a thorough knowledge of work involving forms, records and facilities management and surveys and similar work.

K9-07-111 GS-0344-07: This position requires the incumbent to perform a full complement of technical support work associated with management support such as forms management, management surveys, facilities management, etc. The incumbent must possess a detailed practical knowledge of management practices and techniques.

K9-08-111 GS-0344-08: This position is similar to K9-07 except the position's knowledge of the organization, its past history, etc. permit the position to understand and perform work in a variety of management analysis subspecialties beyond that contemplated by K7-07 series.

L1-07-111 GS-0361-07: This position is located in OCRE and is responsible for the USCCR program involving misdirected allegations of civil rights and equal protection violations. This position is generally filled at this level only for recruiting purposes.

L1-08-111 GS-0361-08: This position is located in OCRE and is responsible for the USCCR program involving misdirected allegations of civil rights and equal protection violations.

L1-09-111 GS-0361-09: This position is similar to L1-08 except that the incumbent's long-term association with the program permits the incumbent greater access to other Federal agencies to ensure follow-up in redirected allegations.

L3-04-111 GS-0503-04: This position provides limited fiscal accounting clerical assistance through computation of expenditures, reconciliation of accounts, etc.

L3-05-111 GS-0503-05: This position provides routine fiscal accounting clerical assistance which requires the incumbent to possess a limited knowledge of the technical aspects associated with clerical fiscal accounting tasks.

L3-06-111 GS-0503-06: This position requires the incumbent to possess a thorough knowledge of the technical support aspects associated with clerical fiscal accounting tasks.

L4-05-111 GS-0540-05: This position requires the incumbent to review and verify for payment a variety of vouchers for routinely ordered goods and services.

L4-06-111 GS-0540-06: This position requires the incumbent to review and verify for payment vouchers for goods and services, including those that represent unique or one-of-a-kind orders.

L5-05-111 GS-0560-05: This is an entry level position of which the duties provide the incumbent with an introduction to practices of and tasks related to analyses of budget and financial data.

L5-07-111 GS-0560-07: This is an advanced trainee position of which the duties involve small segments of larger projects requiring budget formulation, execution and administration.

L5-09-111 GS-0560-09: This is the first journey level position for the performance of work involving budget formulation, execution and administration.

L5-11-111 GS-0560-11: This position performs the full range of analyses involving budget and financial data.

L5-12-111 GS-0560-12: This position performs analyses of budget and financial data which requires the application of unique or novel techniques or methodology.

L5-13-111 GS-0560-13: This position is that of the senior technical specialist in all areas of budget.

L6-04-111 GS-0561-04: This position provides limited budget clerical assistance through posting expenditures, etc.

L6-05-111 GS-0561-05: This position provides routine budget clerical support requiring the incumbent to possess a limited knowledge of the technical aspects associated with the assigned tasks.

L6-06-111 GS-0561-06: This position requires the incumbent to possess a thorough knowledge of the technical aspects associated with clerical budget tasks.

L7-09-111 GS-1035-09: This position requires the performance of work such as preparation of responses to public inquiries, etc. where the subject matter is one involving a prior established USCCR policy or positions.

L7-11-111 GS-1035-11: This position requires the performance of the full range of public affairs work. In general, work performed by the incumbent involves prior established USCCR policy or positions.

L7-12-111 GS-1035-12: This position requires the performance of public affairs work involving sensitive issues and those where the USCCR has not formulated a policy or position.

L7-13-111 GS-1035-13: This position is that of a senior public affairs specialist. The incumbent is charged with responsibility for any issue arising.

L8-09-111 GS-1082-09: This position prepares routine articles, etc. which set forth prior established USCCR policy and positions. The incumbent edits articles, etc., prepared by others addressing prior established USCCR policy and positions for content, grammar, etc.

L8-11-111 GS-1082-11: This position performs the full range of writing and editing work. In general, work performed involves prior established USCCR policy and positions.

L8-12-111 GS-1082-12: This position requires the performance of writing and editing tasks involving sensitive issues and those where the USCCR has not formulated a policy or position.

M1-09-111 GS-1410-09: This position performs routine librarian tasks in support of the National Clearinghouse library. This position has a positive educational requirement.

M1-11-111 GS-1410-11: This position performs the full range of librarian tasks including bibliographical research, digest, etc. This position has a positive educational requirement.

M1-12-111 GS-1410-12: This position is that of senior librarian in the National Clearinghouse library. This position has a positive educational requirement.

M2-04-111 GS-1411-04: This position performs routing work in support of the National Clearinghouse library.

M2-05-111 GS-1411-05: This position provides routine library technical support which requires the incumbent to possess a limited knowledge of the technical aspects of library support operations.

M2-06-111 GS-1411-06: This position requires the incumbent to possess a thorough knowledge of the technical aspects of library support operations.

M2-07-111 GS-1411-07: This position provides library support at such a level that the incumbent is responsible for one or more library sub-functions.

M6-13-111 GS-0101-13: This position is that of a Supervisory Social Science Analyst.

M6-14-111 GM-0101-14: This position is that of a Supervisory Social Science Analyst.

M6-15-111 GM-0101-15: This position is that of a Supervisory Social Science Analyst.

M8-13-111 GM-0160-13: This position is that of a Supervisory Civil Rights Analyst.

M8-14-111 GM-0160-14: This position is that of a Supervisory Civil Rights Analyst.

M8-15-111 GM-0160-15: This position is that of a Supervisory Civil Rights Analyst.

M9-14-111 GM-0160-14: This position is that of Regional Director, Region I. This position is used for recruitment purposes only.

M9-15-111 GM-0160-15: This position is that of Regional Director, Region I.

N1-14-111 GM-160-14: Same as M9-14 except this position is in Region II.

N1-15-111 GM-160-15: Same as M9-15 except this position is in Region II.

N2-14-111 GM-160-14: Same as M9-14 except this position is in Region III.

N2-15-111 GM-160-15: Same as M9-15 except this position is in Region III.

N3-14-111 GM-0160-14: Same as M9-14 except this position is Region IV.

N3-15-111 GS-0160-15: Same as M9-15 except this position is in Region IV.

N4-14-111 GM-160-14: Same as M9-14 except this position is in Region V.

N4-15-111 GM-160-15: Same as M9-15 except this position is in Region V.

N5-14-111 GM-0160-14: Same as M9-14 except this position is in Region VI.

N5-15-111 GM-0160-15: Same as M9-15 except this position is in Region VI.

P1-13-111 GM-0160-13: This position is that of Deputy Regional Director, Region I. This position is used for recruitment purposes only.

P1-14-111 GM-0160-14: This position is that of Deputy Regional Director, Region I.

P2-13-111 GM-0160-13: Same as P1-13 except this position is in Region II.

P2-14-111 GM-0160-14: Same as P1-14 except this position is in Region II.

P3-13-111 GM-0160-13: Same as P1-13 except this position is in Region III.

P3-14-111 GM-0160-14: Same as P1-14 except this position is in Region III.

P4-13-111 GM-0160-13: Same as P1-13 except this position is in Region IV.

P4-14-111 GM-0160-14: Same as P1-14 except this position is in Region IV.

P5-13-111 GM-0160-13: Same as P1-13 except this position is in Region V.

P5-13-111 GM-0160-14: Same as P1-14 except this position is in Region V.

P6-13-111 GM-0160-13: Same as P1-13 except this position is in Region VI.

P6-14-111 GM-0160-14: Same as P1-14 except this position is in Region VI.

R7-12-111 GM-0301-12: This position provides staff assistance to the Deputy Staff Director, the Staff Director or a noncareer member of the Senior Executive Service (SES).

R7-13-111 GM-0301-13: This position is a nonsupervisory, managerial position providing staff assistance to the Deputy Staff Director, the Staff Director, or a noncareer member of the SES.

R7-14-111 GM-0301-14: This position is a nonsupervisory managerial position providing staff assistance over a broad range of subject matters to the Deputy Staff Director, the Staff Director, or a noncareer member of the SES.

R7-15-111 GM-0301-15: This position is a nonsupervisory managerial position providing staff and policy assistance to the Deputy Staff Director or the Staff Director.

S1-09-111 GS-0342-09: This position is that of the supervisor of support services, OM.

S1-11-111 GS-0342-11: This position is that of the supervisor of support services, OM.

S1-12-111 GS-0342-12: This position is that of the supervisor of support services, OM.

S2-14-111 GM-0560-14: This position is that of the Budget Officer.

S3-14-111 GM-1035-14: This position is that of the Public Affairs Officer. This position is used for recruitment purposes only.

S3-15-111 GM-1035-15: This position is that of the Public Affairs Officer, USCCR.

S5-12-111 GS-1410-12: This position is that of the Supervisory Librarian, National Clearinghouse Library. This position is used for recruitment purposes only.

S5-13-111 GM-1410-13: This position is that of the Supervisory Librarian, National Clearinghouse Library.

S7-09-113 GS-0905-09: This position is used for recruitment of attorneys with little or no experience other than admission to the bar. This position is located in Headquarters.

S7-11-113 GS-0905-11: This position is used for recruitment of attorneys with limited experience beyond admission to the bar. This position is located in Headquarters.

S7-12-113 GS-0905-12: This position performs a variety of tasks associated with legal review, provides legal advice and counsel concerning matters within the jurisdiction of the USCCR, etc.

S7-13-113 GS-0905-13: This position is that of a senior counsel within the USCCR.

T9-14-113 GS/GM-0905-14: This is the first level Supervisory Attorney position.

T9-15-113 GM-0905-15: This is a second level Supervisory Attorney position.

U1 THROUGH Z9 - RESERVED

Issued: 1/22/13

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-30

OVERTIME AND COMPENSATORY TIME

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish and prescribe procedures governing the use of overtime and compensatory time, how they are to be assigned or ordered, and how employees are to be compensated for overtime work. This AI is not a comprehensive document and it is not a substitute for the Federal Personnel Manual or the sections of the Federal Employee's Pay Act, 5 U.S.C. Chapter 55, and Fair Labor Standards Act, 29 U.S.C. Chapter 8 dealing with overtime. Supervisors or employees who have questions concerning overtime or compensatory which are not answered by this AI are encouraged to contact the Human Resources Division.

SECTION 2. AUTHORITY

This instruction is issued under the authority of Subchapter V of Chapter 55 of Title 5, United States Code (USC) Government Organization and Employees.

Title 5, Code of Federal Regulations (CFR) 550.111-114.

SECTION 3. SCOPE

This AI covers most Commission employees. There are two major exclusions: (1) intermittent employees who are not subject to the Federal leave laws and regulations; and (2) members of the SES who are not subject to the Federal overtime laws and regulations. Employees who are covered by the Fair Labor Standards Act (FLSA) may receive compensatory time in lieu of paid overtime only if they voluntarily make such a request in writing.

SECTION 4. POLICY

.01 It may be necessary to order, in writing, (1) overtime to perform unscheduled work of an irregular or an occasional nature or (2) work that arises to meet an emergency or temporary workload peak. Overtime shall not be ordered or approved for the performance of routine regularly scheduled work or for work which can be deferred and performed during normal working hours.

.02 Overtime shall not be ordered until every reasonable alternative method of performing the work has been explored and the relative merits of the alternatives weighed. Other approaches which should be considered before overtime is ordered include:

- a. Reassignment of work within an office;
- b. Employment of part-time or temporary help; or
- c. Requesting the Assistant Staff Director for Management (if vacant, the Director of Human Resources) to arrange for the temporary detail of persons from other offices.

.03 Overtime at home after regular work hours, weekends, and holidays is prohibited.

.04 When it is necessary to work overtime, employees are expected to be available for such work unless compelling personal or other reasons preclude working overtime.

.05 Overtime work shall be assigned to qualified employees on an equitable basis with full consideration of agency and employee needs and desires. To the extent possible, work will be rotated among employees based on their expressed interest in working overtime, and their objectively evaluated performance.

SECTION 5. DEFINITIONS

.01 Administrative Workweek means a period of seven consecutive calendar days designated in advance.

.02 Basic Workweek for full-time employees, means the 40-hour workweek.

.03 Call-back Overtime is unscheduled overtime work performed by an employee on a day when work was not scheduled for him/her or for which he/she is required to return to his/her place of employment.

.04 Compensatory Time is time off from a scheduled tour of duty instead of payment for an equal amount of time spent in irregular or occasional overtime work.

.05 Irregular or Occasional Overtime Work is overtime work that is not part of an employee's regularly scheduled administrative workweek.

.06 Overtime Work is work in excess of eight (8) hours in a day or in excess of 40 hours in an administrative workweek, provided that the employee's supervisor knows or has reason to know that the work is being performed.

.07 Premium Pay means additional pay authorized by Subchapter V of Chapter 55 of Title 5, United States Code.

.08 Regularly Scheduled Administrative Workweek for full-time employees, means the period within an administrative workweek within which those employees are required to be on duty regularly. For the Commission, this is generally Monday through Friday. For part-time employees it means the officially prescribed days and hours within an administrative workweek during which these employees are required to be on duty regularly.

.09 Time in Travel Status is time spent by an employee in travel away from his/her official duty station. This is considered as hours of employment for overtime pay purposes only (1) when travel is performed within the days and hours of his/her regularly scheduled administrative workweek, including regular overtime work, or (2) when the travel involves the performance of actual work while traveling, is incidental to travel that involves the performance of work while traveling, is carried out under arduous conditions, or results from an event which could not be scheduled or controlled administratively.

.10 Tour of Duty means the hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that are scheduled in advance and during which an employee is required to perform work on a regularly recurring basis.

SECTION 6. PROCEDURES FOR AUTHORIZATION OF OVERTIME

It is management responsibility to exercise its control for work performed outside the regular work hours, and as such inform the employee when it does not want the work to be performed. When an employee is ordered to work overtime, the supervisor or office director will execute, in ink or type, the top section of the Order and Report of Overtime (CCR Form 7) (available in the Human Resources Division). Where completion of CCR Form 7 is precluded by unusual or unforeseen circumstances before the overtime is worked, overtime may be approved by the office director by CCR Form 7 after it is completed. All overtime and compensatory time worked must be recorded on a CCR Form 7. There are no exceptions. Failure to adhere to this provision could result in the loss of compensated overtime.

SECTION 7. OVERTIME AT HEARINGS OR STATE ADVISORY COMMITTEE (SAC) MEETINGS

.01 Overtime may be necessary at hearings or SAC meetings because of workload pressure or scheduling difficulties. However, overtime must be kept to an absolute minimum.

.02 When an employee is required to work overtime, that employee is expected to report for work during normal duty hours following the overtime. When this is clearly not possible, the supervisor may authorize the employee to report late with the provision that the time not on duty must be charged to leave.

.03 At a hearing site or SAC meeting, the senior staff member in charge of the hearing or meeting will exercise the authority delegated to the office director by Sections 6 and 8 of this AI.

SECTION 8. PROCEDURES FOR REPORTING OVERTIME WORKED

.01 An employee who works officially ordered and approved overtime shall promptly complete the lower half of CCR Form 7 in ink or type and return it to the office director for whom the work was performed. An incomplete form or one completed in pencil must be returned to the employee unapproved.

.02 Paid overtime may be earned in minimum increments of 15 minutes of an hour.

.03 The office director for whom the work was performed shall sign CCR Form 7 and transmit copies in the following manner: the original and one copy to the employee's timekeeper; with the original sent by the timekeeper with the time and attendance worksheet to the Chief Timekeeper in the Human Resources Division; one copy retained in the office director's file; and the last copy sent to the employee who performed the overtime. The office director for whom the work was performed may be someone other than the employee's office director, but the timekeeper will always be the timekeeper of the employee who performed the work.

.04 The timekeeper shall use the CCR Form 7 as a basis for entering overtime on the time and attendance worksheet. The timekeeper cannot record time for payment from the form if the form is not filled out completely, including the required approval signature(s). Any incomplete form must be returned to the originating office for completion. Timekeepers should forward the original CCR Form 7 to the Chief Timekeeper and should retain, under lock and key, all the copies of the CCR Form 7's for a period of one year. The Chief Timekeeper in the Personnel/EEO Division will retain originals of CCR Form 7 for two years.

SECTION 9. REMUNERATION FOR OVERTIME

.01 By statute, no employee may earn in any one pay period more than the congressional limit set for the top step of a Grade GS-15. This aggregate salary limitation consists of a total of paid overtime and compensatory time earned in any pay period.

.02 For employees whose basic pay rate does not exceed the rate of a grade GS-10 step 1, the overtime rate is one and one-half times the basic hourly rate of their grade and step.

.03 For employees whose basic pay rate exceeds the minimum rate of a GS-10, the overtime rate is one and one-half times the rate of GS-10 step 1. This is the maximum rate at which any employee may receive overtime pay.

.04 Work performed by a full-time or a part-time employee in excess of 40 hours in pay status in an administrative workweek or in excess of eight hours in a day shall be considered and credited as overtime, in the form of pay or compensatory leave.

.05 Officially approved work performed by an employee on a holiday which occurs during the basic workweek is considered holiday pay. An employee will be paid at his/her base rate for any hours worked on a holiday up to eight (8) hours. This is in addition to the eight (8) hours base pay he/she will receive for the holiday. Officially approved hours worked in excess of eight (8) hours will be recorded and paid as overtime. Any work performed on a holiday must be recorded as a minimum of two (2) hours even if the employee worked less.

.06 An employee whose salary is not in excess of the top step of GS-10 may, at his/her option, receive overtime pay or compensatory time for overtime worked.

.07 All employees are entitled to a 45 minute lunch break within the core period (9:15 a.m. to 4:00 p.m.). If a supervisor nevertheless requires an employee to work through his/her lunch period, the supervisor must ensure that the employee is able to take a later lunch break. If the supervisor neglects this responsibility, the employee should not be penalized; if he/she is covered by the FLSA, then he/she must be compensated for the lunch period by paid overtime.

.08 Employees are not entitled to nor shall they receive compensation for time spent eating lunch or dinner during periods when they are doing overtime work. Generally, a minimum 45-minute break for meals must be taken when more than six (6) consecutive hours of overtime has been worked. This time should be deducted from the total number of hours on CCR Form 7. If more time is actually spent on meals, the actual amount will be deducted. If an employee is nevertheless required by the supervisor to work through the meal period while working overtime, the employee will be compensated.

.09 If an employee is called back to work by an office director to perform overtime work, any overtime work performed shall be considered to be at least two (2) hours in duration for purposes of overtime pay. This rule does not apply to overtime work scheduled and approved in writing in advance.

.10 It is the policy of the Commission to schedule official travel during an employee's administrative workweek. Overtime compensation for time an employee is away from the official duty station on "travel status" beyond the regularly scheduled administrative workweek will not be granted except in cases where one of the following conditions is met: (1) when travel is performed within the days and hours of his/her regularly scheduled administrative workweek, including regular overtime work; or (2) when the travel involves the performance of actual work while traveling, is incidental to travel that involves the performance of work while traveling, is carried out under arduous conditions; or (3) results from an event which could not be scheduled or

controlled administratively. Travel status in this context is defined as time spent en route to and from the travel destination. Therefore, proper scheduling and administrative planning should be exercised by supervisors to prevent the abuse of an employee's time by requiring him/her to travel without pay during non-duty time.

.11 Normally, travel to and from State Advisory Committee (SAC) meetings will be scheduled during and employee's official administrative workweek. It is the responsibility of supervisors to be aware of this to avoid employees being scheduled for unnecessary overtime. In those cases where overtime cannot be avoided within the definition of Section 9.09 above, overtime for travel may be appropriate if ordered and approved in writing in advance by an employee's supervisor or office director.

.12 The flexitime concept should not be routinely used as a device by supervisors to require employees to arrive early for meetings in order to avoid paying overtime or compensation time. Any employee who has worked eight (8) hours and is then required to attend a meeting is entitled to overtime compensatory. In scheduling meetings outside core hours, consideration should be given to childcare and transportation problems of employees.

SECTION 10. COMPENSATORY TIME

.01 An employee whose rate of basic compensation exceeds the maximum rate of grade GS-10 of the Classification Act of 1949, as amended, shall be compensated for overtime worked by compensatory time. An employee whose rate of basic pay is equal to or less than the maximum rate for grade GS-10 may request that he/she be granted compensatory time off in lieu of overtime pay.

.02 Supervisory or management officials at the GS/GM – 13, 14, or 15 level can be eligible to earn compensatory time. Approval for the compensatory time must be in advance and approved by the Staff Director. The reason and time spent must be documented.

.03 The following limitations will govern compensatory time:

- a. Compensatory time is earned in minimum increments of 15 minutes, at the rate of actual time spent in working overtime, i.e., 90 minutes worked equals 90 minutes of compensatory time earned.
- b. The maximum accumulation of compensatory time earned that may be carried over to the next pay period is 40 hours. In very rare circumstances, this provision may be waived. These rare circumstances include workload demands or exigency of the service, which prevented an employee from using compensatory time in excess of 40 hours before the end of the pay period. Such a waiver must be requested in advance and in writing from the office head through the Assistant Staff Director for Management (if the position is vacant, the Director of Human Resources)

to the Staff Director explaining why a waiver is necessary.

- c. When an employee has compensatory time to his/her credit, a charge will not be made to annual leave until the compensatory time has been used.
- d. Overtime worked for compensatory time must be recorded on the employee's time card in the same manner as paid overtime.
- e. If an employee in one office works overtime for another office, compensatory time shall not be approved as a form of remuneration without the written consent of the employee's office director.
- f. Compensatory time will not be transferred when an employee transfers to another Federal agency.
- g. Payment will not be made for unused compensatory time at the point when an employee separates from the Commission.
- h. To avoid forfeiture, compensatory time must be scheduled and approved in writing by the proper leave approving official before the start of the third bi-weekly pay period prior to the end of the leave year in which it is earned. In infrequent and unusual circumstances, the Assistant Staff Director for Management (or Director of Human Resources) may approve the restoration of a maximum of 40 hours of forfeited compensatory time for compelling reasons, such as (1) an exigency of public business that was so vital that the employee could not be excused from duty for its duration nor could another employee be assigned the duties; (2) an administrative error; or (3) the sickness of the employee. If approval for accumulation of more than 40 hours has been granted under Section 10.03b, the Assistant Staff Director for Management (or Director of Human Resources) may approve an equal amount of restored compensatory time.

.04 An employee who wishes to request restoration of compensatory time must submit a written request to the Human Resources Division, through his/her office director, accompanied by the following:

- a. evidence that the compensatory leave was scheduled and approved in advance but had to be forfeited due to an exigency of public business (i.e., a copy of the S-71, Application for Leave, which scheduled and approved the leave and a statement from the leave approving official);
- b. dates of the beginning and ending of the exigency, and
- c. the number of hours forfeited

If the request is consistent with this Administrative Instruction, the Human Resources Division will forward the request to the Assistant Staff Director for Management for a decision on restoration. If the position is vacant, the Director of Human Resources will make a decision on the request for restoration.

In the case of restoration of leave due to an administrative error or the sickness of the employee, additional information may be required. An employee who wishes to submit a request under these conditions, should contact the Human Resources Division.

A request for restoration of unused compensatory leave must be received in the Human Resources Division no later than pay period twenty-two (the second pay period in November) the year immediately after it was forfeited.

.05 The following procedures will be followed for granting the use of the compensatory time:

- a. Supervisors are responsible for assuring that employees use compensatory time which they have earned. Compensatory time should be granted as promptly as possible and ordinarily not later than the end of the fourth pay period following that in which the overtime work was performed.
- b. Compensatory time will be taken in increments of fifteen minutes, and generally should be used within the same leave year in which it is earned. Failure to use it within this time period without written approval (See Section 10.03h) or before an employee leaves the Commission will result in the forfeiture of the unused compensatory time.
- c. Employees who wish to use earned compensatory time must complete an Application for Leave (SF-71) (available in the Human Resources Division) for approval by his/her office head/immediate supervisor as far in advance as possible. The authorizing official(s) should act promptly on the request(s). While compensatory leave is a benefit, approval is subject to agency operating needs.

SECTION 11. ADJUSTMENT OF WORK SCHEDULES FOR RELIGIOUS OBSERVANCE


.01 An employee whose personal religious beliefs require the abstention from work during certain periods of the workday or workweek may elect to work compensatory overtime for the purpose of taking time off without charge to leave.

.02 Any employee who elects to work compensatory overtime for religious observance shall be granted (in lieu of overtime pay) an equal amount of compensatory time off (hour for hour) from his/her official workday.

.03 The employee may work the compensatory overtime before or after the grant of compensatory time off. A grant of compensatory time off must be repaid by the appropriate amount of compensatory overtime worked within the two subsequent pay periods.

.04 An employee who requests compensatory time off for religious observance must complete CCR Form 15 (available in the Human Resources Division) and obtain supervisory approval(s). When the request is approved, the supervisor will assist the employee in setting up a schedule to earn compensatory overtime either before the time off is taken or after the time off has been taken. Whenever possible, when time is to be made up, it will be accomplished by working a longer day under the flexitime provisions, when supervision is available.

.05 To the extent that an employee's request to work compensatory overtime does not interfere with the efficient accomplishment of the mission of the agency, the supervisor will grant the employee the opportunity to work compensatory overtime or to take compensatory time off for his/her religious observance.


LES JIN
Staff Director

Issued: 1/22/03

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-31

ABSENCE AND LEAVE POLICY

Section 1. Purpose

The purpose of this Administrative Instruction (AI) is to define the Commission's policy on leave and attendance, and establish procedures for the implementation of the policy.

Section 2. Authority

This AI is based on applicable regulations of the Office of Personnel Management and General Accounting Office decisions. This is a general instruction; further specifics of the above regulations and decisions referred to apply to the instruction even though they may not be mentioned.

5 Code of Federal Regulations, Part 630, Absence and Leave

Section 3. Scope

This AI applies to all full-time, part-time, GS, GM, and SES Commission employees who are subject to the Federal leave system. This does not apply to intermittent employees.

Section 4. Policy

Leave shall be administered uniformly and equitably within the scope of applicable laws and regulations.

Section 5. Definitions

The following are definitions most appropriate to this Administrative Instruction, and have been taken from the authority references at the beginning of this instruction.

Accrued Leave. Leave earned by an employee during the current leave year that is unused at any given time in that year.

Accumulated Leave. Unused leave remaining to the credit of an employee at the beginning of the leave year.

Annual leave is leave that has been earned to allow each employee to schedule an annual vacation or extended leave and/or to provide periods of time off for personal or emergency purposes. The amount annual leave is based on the years of federal service.

Full-time Employees. A full-time employee earns leave during each full biweekly pay period while in a pay status or in a combination of a pay status and a nonpay status.

Leave. An approved absence from work in the Federal government is known as leave. There are two basic types of leave - with and without pay. There are several types of leave with pay, but the two most commonly taken are annual and sick leave, both of which are earned on the basis of full biweekly pay periods.

Leave Year. This is 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 complete pay period in the following calendar year.

Medical Certificate. A written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, examination, or treatment, or to the period of disability while the patient was receiving professional treatment.

Part-time Employees. Hours in a pay status in excess of an agency's basic working hours in a pay period are disregarded in computing the leave earnings of a part-time employee.

Religious Leave. Employees whose religious beliefs require that they observe holidays other than the paid holidays granted all Federal employees will be permitted to be absent from work, if work requirements permit. Such absences may be charged to annual leave or, if the employee does not have sufficient annual leave, he/she may use leave without pay (LWOP). An employee may also elect to work compensatory overtime for the purpose of taking time off without charge to leave. The employee may work the compensatory overtime either before or after the time off for religious observance. Such a request must be submitted in writing to the supervisor in advance.

Sick Leave. Employees may use sick leave when they: (1) receive medical, dental, optical, or any other medical related examinations or treatment; (2) are incapacitated for the performance of duties by sickness, injury, or pregnancy and childbirth; (3) provide care for a family member who is incapacitated as the result of physical or mental illness, injury, pregnancy or childbirth, or who receives medical, dental, or optical examination or treatment; or (4) would jeopardize the

Health of others by their presence at their post of duty because of exposure to a contagious disease; or (5) make arrangements necessitated by the death of a family member or to attend the funeral of a family member.

Leave Without Pay (LWOP). Leave without pay (LWOP) is a temporary nonpay status and absence from duty granted upon an employee's request. LWOP may be granted only for those hours of duty, which comprise an employee's basic workweek.

Family and Medical Leave. An employee is entitled to 12 administrative workweeks of leave (annual, sick or leave without pay). During any 12-month period for one of the following reasons: birth of child and care of newborn (within 1 year after birth); placement of a child with employee from adoption or foster care (within 1 year after placement); care for spouse, son, daughter, or parent with a serious health condition; or serious health condition of employee that makes employee unable to perform duties of his/her position.

Absence Without Leave (AWOL). Absence without leave (AWOL) is charged if the employee is absent from duty without the authorization of the supervisor. If the employee is placed on AWOL, he/she will not be paid for those hours they are absent and a disciplinary action may be taken against the employee. AWOL is charged in one-hour increments.

Accrued Leave. The leave earned by an employee during the current leave year that is unused at any given time in that year.

Section 6. Responsibilities

.01 Division and Office Head shall:

- a. Ensure that leave is administered in accordance with the AI.
- b. Established appropriate internal administrative procedures for requesting and approving leave and specifying the supervisory prerogatives regarding the approval of leave.
- c. Establish internal policies within the framework of this AI.
- d. Ensure that employees are permitted to use all current accrued annual leave that would be forfeited at the end of the leave year.
- e. Be responsible for the areas covered in Section 6.02 for employees reporting directly to them.

.02 The immediate supervisor shall:

- a. Approve or disapprove the employee's request for leave.
 - b. Inform the employee of the procedure for requesting and using leave.
 - c. Ensure that absences from duty are charged to leave in accordance with this AI.
 - d. Establish leave schedules in January of each year to ensure that all employees are given an opportunity to take full advantage of all earned leave. In the event of conflict in scheduling annual leave among employees, first consideration will be given to work priorities and second to employee's Commission seniority.
 - e. Notify the office timekeeper about pending separations.
 - f. Provide accurate information regarding employees' leave to ensure leave recordation and leave documentation is accurate.
 - g. Review time cards for accuracy before authorizing it.
 - h. Ensure timely submission of the time cards (Friday before the end of each pay period, unless otherwise notified).
- .03 The employees shall obtain approval from their immediate supervisors in advance (most appropriate time frames, at least 3 days in advance for any annual leave, leave without pay (LWOP), or sick leave for medical, dental, or optical examinations or treatment. In cases of an emergency or illness when the absence could not be planned, or approved in advance, the supervisor shall be informed of the reason for the absence as soon as possible after the beginning of the workday. As soon as the employee returns for duty, he/she should fill out an Application for Leave.
- .04 The Human Resources Division shall:
- a. Inform all employees of their rights and responsibilities and of the administrative requirements on the use of leave.
 - b. Advise employees and supervisors on any questions about time and attendance.
 - c. Authorize Leave Without Pay for periods in excess of 30 days.

- d. Authorize advanced sick leave.

Section 7. Annual Leave

.01 Minimum Charge of Annual Leave.

Leave must be taken in increments of fifteen minutes.

.02 Earning Rates.

In order to be eligible to earn annual leave, an employee's appointment must be for a period of 90 days or longer.

- a. Full Time Employees. Full-time employees earn annual leave in amounts determined by their total years of creditable Federal service, including certain military service. The following table shows their earning rates:

<u>Years of Service</u>	<u>Leave Earned Per Year</u>	<u>Leave Earned Per Pay Period</u>
0 to 3	13 days	4 hours
3 to 15	20 days	6 hours*
15 and over	26 days	8 hours

**10 hours during the last complete pay period in the calendar year.*

- b. Part-time Employees. In order to earn annual leave, part-time employees must have a pre-scheduled tour of duty on at least one day of each week in a pay period. The following table shows the earning rates for those part-time employees who earn annual leave.

<u>Years of Service</u>	<u>Leave Earned</u>
0 to 3	1 hour for 20 hours in pay status
3 to 15	1 hour for 13 hours in pay status
15 and over	1 hour for 10 hours in pay status

.03 Increase in Earning Rate.

Once an employee completes either 3 or 15 years of service, he or she begins to earn leave at a higher rate at the start of the next pay period.

.04 Reduction in Amount Earned.

If a full-time employee accumulates 80 hours in a nonpay status during a single leave year, the employee loses the amount of annual leave (4, 6, 8, or 10 hours) which the employee would have earned during the pay period when the employee accumulated the 80th hour. This process recurs every time the employee accumulates another 80 hours in a nonpay status during the same leave year.

.05 Crediting Annual Leave.

Eligible employees earn annual leave from the time they begin their Federal Service. Leave is credited and may be used at the completion of each full bi-weekly pay period. In order to earn leave, an employee must be employed during a full biweekly pay period. This means that the employee must be on the rolls everyday falling within the pay period except holidays and other nonworkdays.

.06 Maximum Amount of Creditable Leave.

Employees are entitled to payment, on separation, for all accumulated annual leave to their credit. For this purpose, "accumulated annual leave" consists of the following: (1) the regular carryover balance from the previous leave year, if any, plus (2) accrued and unused annual leave during the current leave year, if any, plus (3) any unused restored annual leave maintained in a separate account in accordance with 5 U.S.C. 6304(d)(e)

.07 Restoration of Forfeited Annual Leave.

Normally, the maximum amount of annual leave that may be accumulated and carried forward from one year to the next is 30 (240 hours) days. SES employees are subject to a 90-days limit (720 hours). any leave to the employee's credit at the end of the leave year that exceeds the maximum accumulation is forfeited, except as outlined under the following four conditions:

- a. While Serving Under An Appointment in the Senior Executive Services (SES). SES Employees are subject to a 90-day limit (720 hours) carry over from one leave year to the next.
- b. Administrative Error. This provision permits an agency to restore to a current employee any annual leave that may have been forfeited because of administrative error on the part of the agency. In addition to permitting retroactive adjustment, this provision also grants continuing authority to permit the future restoration of all

annual leave to which an employee is entitled in correcting an administrative error.

A written request from the employee for restoration of the leave will be submitted to the Human Resources Division through the supervisor or office head accompanied by any available documentary evidence of the error. If official records are not available to substantiate the amount of annual leave to be restored, an estimate of the employee's annual leave account is acceptable when accompanied by official statements clearly reflecting the factors which form the basis for the estimate. After verification, the Human Resources Division will notify the National Finance Center that leave is to be restored and will notify the employee when the leave has been restored.

- c. Exigencies of Public Business. These cases shall be kept to an extreme minimum. Supervisors shall schedule leave well in advance to prevent situations in which an employee must forfeit annual leave through no fault of his/her own. Before annual leave may be restored, supporting documentation shall be submitted by the supervisor or office head that the exigency is of major importance and the annual leave could not be used by the employee to avoid forfeiture. There is a statutory requirement that the annual leave, in order to be restored, must have been scheduled, i.e., approved by the official who has the authority to approve leave, in writing before the start of the third bi-weekly pay period prior to the end of the leave year. Employees have an obligation to request annual leave in a timely manner to assure that the leave is in fact scheduled and approved for use. When an employee chooses not to request or to use annual leave to avoid forfeiture, he/she is not entitled to have the forfeited leave restored for later use.

The employee will submit a written request for restoration of leave to the Director of Human Resources through the supervisor or office head accompanied by (1) evidence that the leave was scheduled and approved in advance but had to be forfeited due to exigencies of public business; (2) dates of the beginning and ending of the exigency, and (3) the number of hours forfeited. The Human Resources Division will notify the National Finance Center that leave is to be restored and notify the employee when the leave is restored.

- d. Sickness of the Employee When Such Annual Leave was Scheduled in Advance. Annual leave may be restored only if the annual leave was scheduled in advance and the illness occurred at such a time, or was of such duration, as to prevent the rescheduling of annual leave before the end of the year to avoid forfeiture. The

employee or employee's supervisor will submit a written request for restoration of the leave accompanied by documentation including the date the annual leave was approved, the date(s) during which the leave was to be used, the amount of leave (days/hours) that was to be used, and a medical certificate so that the annual leave could have been rescheduled then the provisions under .07 would apply. The Human Resources Division will notify the National Finance that leave is to be restored and will notify the employee when the leave is restored.

Forfeited annual leave that is re-credited to an employee shall be restored to a separate leave account. The amount of the restored leave does not in any way increase or change an employee's normal maximum permissible carryover of annual leave into a new leave year. The restored annual leave shall be used no later than the end of the leave year ending two years after the following:

- (1) Date of the restoration of annual leave forfeited because of administrative error.
- (2) Date fixed by the Division or Office head, as the termination date of the exigency of the public business, which resulted in the forfeiture of annual leave.
- (3) Date the employee is determined to be recovered and able to return to duty if the leave was forfeited because of sickness.
- (4) Restored annual leave must be exhausted before annual leave is used.

.08 Transfers.

Annual leave credited to an employee in one Federal Agency shall be transferred with the employee to the new Agency. On entrance on duty an interim balance may be obtained from the employee's last leave and earnings statement, and will be available for immediate use. Correction of errors in the interim leave balance shall be done by the Human Resources Division when the official SF-1150, Record of Leave Data is received.

.09 Approval.

Normally, annual leave shall be requested by an employee and approved in advance of an absence. The SF-71, Application for Leave shall be submitted in advance, approved and furnished to the time and attendance clerk. When it is not possible to obtain prior approval, the leave approving

official may do so after the fact when the circumstances so warrant. In all cases, the time and amount of annual leave granted are subject to the approval of the supervisor. There is no automatic entitlement to use leave on the sole basis that unforeseen circumstances in the employee's opinion require his or her absence from duty.

.10 Annual Leave May Not Be Granted For The Following:

- a. When it is known the employee shall not return to duty.
- b. During active military duty, except for Reservists and National Guardsmen.
- c. As a disciplinary measure, without the employee's consent.
- d. Without the employee's consent, during the notice period before an adverse action or pending issuance of a proposed adverse action.

.11 Advance Annual Leave.

- a. Employees who are serving under a career, career conditional, or veterans readjustment appointment and who have been under the Civil Service Retirement Act (CSRA) or the Federal Employee Retirement System (FERS) for at least 1 year without a break in service since their most recent appointment, may be advanced for their use the total number of hours of annual leave which they are expected to earn by the end of the current leave year. The advance will be made at the beginning of the leave year to an employee who has at least one continuous year under the CSRA or FERS or at the beginning of the first pay period after the employee completes one such year of service. The advance is not made in the following cases:

- (1) The employee has accumulated 80 or more hours in a nonpay status during the previous leave year. Time spent in the following two types of nonpay status will not be counted in determining whether an employee has accumulated 80 hours:

- (a) Leave Without Pay (LWOP) used relative to an OWCP claim by employees who are injured in the job.

- (b) LWOP granted to a union official to conduct internal union business.

- (2) Circumstances are such that the Office cannot reasonably expect repayment of the advanced annual leave by crediting leave

earned during subsequent service.

- b. Procedures for Advanced Annual Leave. Employees should submit a SF-71, Application for Leave and other appropriate written justification in support of the request for advanced annual leave to their office head/immediate supervisor when the request is (a) for more than 3 days; or (b) for less than 3 days if the leave will span 2 pay periods.

.12 Lump Sum Payment Upon Separation

Upon separation from the Commission, an employee is paid a lump sum for all accumulated annual leave. This includes:

- a. Leave carried over from the previous year and not used in the current year, if any;
- b. Unused annual leave earned during the current leave year, if any;
- c. Unused restored annual leave, if any;
- d. Unused annual leave in excess of normal limits resulting from a backpay case, if any.

SECTION 8. SICK LEAVE

.01 Use

Sick leave is a qualified right of the employee if it is used for absences for the following reasons:

- a. Incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth;
- b. For medical, dental, or optical examination or treatment;
- c. Would, as determined by the health authorities having jurisdiction over or by a health care provider, jeopardize the health of others by his or her exposure to a communicable disease.
- d. To provide care for a family member as a result of physical or mental illness, injury; pregnancy; childbirth; or who receives medical, dental, or optical examination or treatment;
- e. Make arrangements necessitated by the death of a family member or attend the funeral of a family member.

- f. For purposes related to the adoption of a child.

.02 Accruals.

All full-time employees with a 40 hour basic workweek, regardless of their length of service, earn sick leave at the rate of 4 hours for each full biweekly pay period. An employee with a regular tour of duty who works less than a 40 hours workweek is credited with 1 hour of sick leave for each 20 hours in a pay status. Credit may not exceed 4 hours during any biweekly pay period.

.03 Credits

- a. There is no limitation on the amount of sick leave that may be carried forward from one year to another. Any sick leave that is not used remains to the employee's credit and is available for use any time before his/her separation.
- b. Any sick leave to an employee's credit on separation shall be credited and made available for use if the employee is re-employed in the Federal service.
- c. Sick leave that an employee has to his/her credit in one Federal Agency shall be transferred with the employee to the new Agency. An interim leave balance shall be obtained by the Human Resources Division on the most recent leave and earning statement. Corrections of errors in the interim balance shall be done by the Human Resources Division when the office SF-1150 is received.

.04 Availability

Sick leave is available as it is earned. Advance sick leave not to exceed 240 hours may be granted by the Director of Human Resources, if requested by the employee and approved by the appropriate supervisor of office/division head. All requests for advance sick leave must be in writing and accompanied with medical certification statement from a physician.

.05 Refunds

Earned sick leave which was not used is not refunded by the Government when an employee leaves Federal service. If an employee retires under Civil Service Retirement System, the time accumulated is added to the employee's time in service. If an employee leaves the Federal service and he/she has not earned enough sick leave to cover amounts used, the employee must repay the Government in a lump sum. Refund rates are

based on an employee's salary at the time the leave was taken. If an employee is granted advanced sick leave and then retires on disability or dies, the sick leave owed the Government is canceled.

.06 Approval

- a. Sick leave for absences because of illness, injury, or other circumstances of incapacity that could not be anticipated in advance shall be requested from the supervisor as soon as possible after the beginning of the illness, normally within the first hour or two after the start of the workday. What may be considered as acceptable evidence of incapacity is determined by the leave-approving official. If such evidence does not justify the approval of sick leave, the employee may be charged to use annual leave or LWOP with the employee's consent. The employee may also be charged absence without leave (AWOL).
- b. A disabled veteran who presents a medical certificate stating the medical treatment related to the disability is required shall be granted any accumulated annual leave and sick leave (including advance sick leave) permitted by law, plus any LWOP that may be necessary to undergo treatment.
- c. Reporting and approval of sick leave shall be accomplished by using the SF-71.

.07 Advance Sick Leave

In cases of serious disability or ailments, full-time employees may request advance sick leave up to the maximum of 240 hours. Part-time employees may be advanced the number of hours worked in a 6-week period. All paid leave (i.e., annual, sick, restored, compensatory time) must be exhausted first, before the advance sick leave can be used.

.08 Procedures for Advance Sick Leave

Employees must submit a written request with acceptable medical documentation to their immediate supervisor. The request should provide sufficient information on the medical condition and the expected duration before the supervisor approves the leave. If the advance sick leave is approved, the request must then be forwarded to the Human Resources Division for final approval. The Human Resources Division will ensure that all paid leave has been exhausted and inform the employee of such. If the advance sick leave is disapproved, the employee must discuss the reasons with his/her immediate supervisor for reconsideration. If the employee is not satisfied, he/she may go to the second line supervisor for final

reconsideration. If the second level supervisor is the Staff Director, the employee must meet with the Assistant Staff Director for Management (if vacant, the Director of Human Resources) for final reconsideration. The authorizing officials (i.e., immediate, second line, or the Director of Human Resources) shall consider: (a) the reasons for and the medical documentation to support the request; (b) the employee's previous use of leave and whether its use has been managed responsibly; and (c) the likelihood that the employee will be able to repay the indebtedness to the Federal Government that the advance sick leave represents.

.09 Abuses of Sick Leave

When there is a reason to believe that an employee is abusing sick leave, medical certification may be required for absences of leave if more than 3 days. This requirement is limited to individual cases of suspected abuse. When appropriate, progressive disciplinary action (such as letter of warning, leave restriction, suspension, etc.) may be taken. Additionally, if the supervisor feels that the medical certification fraud alert, the supervisor may consult with the Human Resources Division for additional advice.

.10 Sick Leave Restriction

- a. The possibility of sick leave abuse is generally raised when an employee uses an unusual amount of sick leave on personal certification or uses sick leave in an established pattern or under questionable circumstances. In making this determination, the supervisor must make common sense judgments based on the knowledge of the employee and his or her total leave record for the past 12 months. It should be noted that there is no set number of personal certifications which automatically requires an employee to be placed on sick leave restriction. Abuse must be determined on a case-by-case basis.
- b. If the supervisor feels that an employee may be abusing his/her sick leave, the supervisor will use the following procedures to determine if there is a possibility of abuse:
 1. When reviewing the sick leave records, the supervisor should avoid forming snap judgments and obtain all pertinent facts before deciding on a course of action. The presence of a questionable leave pattern does not in itself establish abuse of the sick leave privilege. Such a leave pattern may be the result of a legitimate health problem which causes recurring illnesses or necessitates frequent absences for medical, dental, or optical treatment.

2. Review the employees record for the last 12 months of sick leave usage. Particular attention should be paid to sick leave taken under the following circumstances.
 - (a) Before or after a weekend or holiday.
 - (b) When the workload is unusually heavy or a very difficult task has been assigned.
 - (c) When a special public event is scheduled.
 - (d) Immediately following denial of a day off.
 - (e) As soon as it is earned.
 - (f) Frequently for short periods.
 - (g) Consistently on the same day of the week.
 - (h) When the employee's annual leave balance is exhausted or low.
3. Interview the employee. After becoming familiar with the employee's record, the supervisor will hold a counseling session with the employee if there is a reason to suspect sick leave abuse. The session should be held in private and without interruption. This counseling session will enable the supervisor to:
 - (a) Inform the employee that he/she (the supervisor) is aware of and concerned about the employee's leave habits, and intends to administer the sick leave regulations on a sound and equitable basis.
 - (b) Ascertain whether or not there is a health problem or unusual physical condition which is contributing to the employee's absenteeism.
 - (c) Provide individual advice and instruction to the employee regarding the sick leave regulation to determine if the employee may have misunderstood them or needs clarification.
 - (d) Ask the employee what he/she intends to do about improving his/her sick leave record.

(e) If necessary, caution the employee against improper leave restrictions, and remind the employee of the penalties for abusing sick leave.

(f) Record the counseling session.

4. If the pattern of practice of sick leave abuse continues after the counseling session, the employee will be placed on leave restriction. The employee will be required to furnish an acceptable medical certification for each sick leave absence for periods of six months not to exceed a year. Employees placed on sick leave restriction will have a case review at the end of six months from the date of issuance of the official notice requiring an acceptable medical certification to determine if the restriction is still necessary. When it is determined that the leave restriction is no longer necessary the employee shall be notified in writing.

.11 Illness During Annual Leave

If illness occurs during a period of annual leave, sick leave that is supported by a medical certificate or the employee's certification showing satisfactory evidence of incapacity on the SF 71 may be substituted for annual leave. Sick leave immediately following a period of approved annual leave is not a substitution of sick leave for annual leave and may be granted under the general standards of granting sick leave.

SECTION 9. LEAVE WITHOUT PAY (LWOP)

LWOP is an approved absence from duty in a nonpay status granted upon the employee's request and at the discretion of the appropriate approving official. The permissive nature of leave without pay distinguishes it from unauthorized absence, which is a period of unapproved absence.

.01 Approval

Requests for LWOP are subject to the same procedures as those established for the use of annual or sick leave. The employee must submit an SF 71 and, if the request is for medical reasons a doctor's certificate, to the office head or supervisor. If the request is for more than 30 days and the office head/immediate supervisor approves the request, he/she must forward it to the Human Resources Division for final approval. The authorizing official should act promptly on the request.

.02 Use

LWOP shall be granted only when it is apparent that it will result in increased job ability, protection or improvement of the employee's health, or retention of a desirable employee. For example, LWOP is appropriate for the following:

- a. Educational purposes when the course study is appropriated to the type of work performed by the Commission, and is not in a federal agency during the work hours of that particular federal agency.
- b. Temporary service with a non-federal public or private enterprise, when it will contribute to the public welfare or when the experience gained will benefit the Commission.
- c. For recovery from illness or disability not of a permanent or disqualifying nature.
- d. For protecting the employee's status pending final action by the Office of Personnel Management (OPM) on claim for disability retirement after all sick leave and annual leave have been exhausted or pending final action by the Department of Labor's Office of Worker's Compensation Programs on a claim resulting from a job-connected injury or disease.
- e. Employees may schedule and take up to a reasonable amount of unpaid leave each year for child and elder care activities.
- f. Employees may schedule and take up to a reasonable amount of unpaid leave each year for participation in school activities, routine medical appointments, and elderly relatives' health needs.

SECTION 10. LEAVE FOR PARENTAL AND FAMILY RESPONSIBILITIES

.01 Absence for Maternity Reasons

- a. Pregnancy is viewed as a physical condition that may incapacitate an employee for the performance of duty and is chargeable to sick leave or a combination of sick leave, annual leave, and LWOP. In accordance with the Family-Friendly Medical Leave Act as amended, periods of absence for pregnancy and confinement following pregnancy, which are not medically certified as due to incapacitation for duty, shall be charged to annual leave, sick leave, or to LWOP if requested by the employee.

- b. Leave for maternity reasons may be a long-term absence that should be treated as any other long-term absence. Requests for leave shall be submitted to the supervisor in accordance with the policy and procedures established for annual leave, sick leave, and LWOP. With such submission, the employee shall include the certification of the attending physician of the expected date of delivery and the expected period of convalescence after the birth of the child.
- c. In determining the leave period, each case shall be examined individually, giving full consideration to the employee's needs as well as those of the office. The determining factor on dates for sick leave shall be based upon the attending physician's statement concerning the employee's physical capability to perform duties of the job.

.02 Absence for Paternity Reason

In accordance with the Family Friendly Medical Leave Act as amended, absence for paternity reasons shall be charged to annual leave, sick leave or LWOP. The type of leave used is dependent upon employee's SF 71, Application for Leave.

.03 Leave for Adoptive or Foster Parents

An employee, male or female, adopting a child or becoming a foster parent may desire a period of time off work in order to make necessary family adjustments and to make arrangements for child care. The use of available annual leave, sick leave or LWOP, is appropriate for such purposes.

.04 Leave for Child Care

- a. Well-baby Care. Sick leave, annual leave and LWOP are appropriate when a parent takes a child for periodic checkups.
- b. Routine Illness. Sick leave, annual leave and LWOP are appropriate when a parent must stay home with a sick child.
- c. Other Illness. Employees who must stay home to care for a child with a contagious disease for which public health officials require the child be quarantined, isolated, or restricted, or who are exposed to such disease, shall be granted sick leave.

.05 Leave for Other Parental and Family Responsibilities

- a. School Schedules and Activities. Supervisors should be flexible in granting annual leave or LWOP for parents to attend events such as, teacher conferences, school plays, sporting events, field trips, or other activities.
- b. Sitters. Parents who have to stay home when a sitter for their child/children is unavailable may be granted annual leave or LWOP.

.06 Leave to Care for Elderly Parents and Other Dependents

Annual leave, sick leave or LWOP are appropriate when an employee needs time off to attend to the medical and personal needs of elderly parent(s), and other dependents.

SECTION 11. UNAUTHORIZED ABSENCE FROM DUTY

Unauthorized absence (AWOL) is an absence from duty which is not approved or excused by the employee's supervisor. The employee loses pay for the entire period of absence, with time lost counted in multiples of one-half hour, and is subject to possible disciplinary action. It is the responsibility of the employee to provide the supervisor with sufficient information to determine if an employee's absence from duty is justified.

.01 Guidelines

- a. At the discretion of the supervisor, an employee may be charged for unauthorized absence for any unapproved absence.
- b. When an employee is instructed to work overtime and does not report for duty or is tardy, he or she may be charged with unauthorized absence.
- c. Disapproved tardiness must be charged as unauthorized absence. If not excused, approved tardiness may be charged to annual leave, sick leave, or leave without pay, as appropriate.
- d. When an employee fails to report to work, or leaves the worksite without prior approval, he or she should be charged with unauthorized absence subject to reconsideration after the employee presents an explanation. If it is then decided that the absence is excusable because of conditions which made prior approval impractical, the charge of unauthorized absence may be changed to annual leave, sick leave, or leave without pay, as appropriate.
- e. When an employee does not have advanced approval for leave and

does not contact his or her supervisor on the first day of absence, a charge to unauthorized absence should be made. If the employee later provides an acceptable reason for not calling in, the unauthorized absence may be changed to the appropriate kind of leave.

- .02 Counseling Except in cases (for example, when an employee's request for annual leave is disapproved and he or she fails to report for work anyway; or when an employee fails to report for work for several days without prior approval), it is recommended that the employee be counseled concerning one or more questionable absences within the preceding 12 months, or about recurring tardiness, before he or she is charged with unauthorized absence. A written record of this counseling should be kept.

SECTION 12. COURT LEAVE

Court leave is an authorized absence, without charge to annual leave or loss of compensation, from official duty for jury duty or for attending court in a nonofficial capacity as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, local, territorial, Commonwealth, or Trust Territory of the Pacific Islands Court.

- .01 Jury Duty. Court leave for jury duty may be granted to permanent and temporary employees, both full-time and part-time. Intermittent and WAE (when actually employed) employees are not entitled to court leave for jury duty. Part-time employees called to jury duty service during their regular tours of duty shall receive the compensation of their positions without charge to annual leave. Employees are entitled to reimbursement from the court for transportation and subsistence expenses.
- .02 Witness Service. Persons employed in a permanent or temporary basis, either full-time or part-time, may be carried on court leave and paid their regular salaries during periods of necessary absence while serving as a witness on behalf of any party in connection with any judicial proceeding to which the United States, District of Columbia, or State or local government is a party.
- .03 Approval.
 - a. To be granted court leave, an employee shall submit to the leave-approving official before the beginning date of his or her jury or witness service one of the following:
 - 1. A true copy of the subpoena.

2. A copy of the official summons evidenced by an official writing from the court authority responsible for the conduct of the proceeding.
 - b. An employee under the court's direction to serve on a jury shall be granted court leave for the entire period, from the date stated on the official request or on the subpoena requiring him or her to report to the time he/she is discharged by the court, regardless of the number of hours or days he or she actually serves on the jury. The term of jury service does not include hours during which the employee is excused or discharged by the court, either for an indefinite period subject to call by the court or for definite period in excess of 1 hour. When no hardship would result, the supervisor may require an employee to return to duty or be charged annual leave if he or she is excused from jury service for an excess of an hour.
 - c. When an employee is called as a witness to testify in his/her official capacity as a Federal employee, he/she shall be considered in an official duty status, as distinguished from a leave status, "court" or otherwise.
 - d. When an employee appears in court as a witness in his/her official capacity on behalf of a private party, he/she shall be considered in an official status.
 - e. When an employee appears in court as a witness not in his/her official capacity and one of the parties in the U.S., D.C. or a State or local government, his/her absence shall be charged to court leave.
 - f. When an employee is called to give a deposition or is otherwise summoned to testify in a case in which a party in the proceeding in the U.S., D.C., State or local government, the employee is considered a witness and is entitled to court leave for the time involved in giving deposition or witnessing. The time the employee spends testifying in his/her own behalf as a plaintiff, defendant, complainant or other party to a court proceeding does not meet the requirement of having been summoned, and his/her absence for that time shall be charged to annual leave or LWOP.
 - g. When an employee appears in court as a witness not in his/her official capacity and a party is not the U.S., D.C., or State or local government, his/her absence shall be charged to annual leave or LWOP. In this case, the employee is entitled to the usual fees and

expenses related to such witness service.

SECTION 13. MILITARY LEAVE

- .01 Military leave is absence with pay for active duty or active duty training with a Reserve component of the Armed Forces; i.e., the Army National Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard, the Air Force Reserve, and the Coast Guard Reserve.
- .02 Accrual. Leave accrues at the rate of 15 calendar days per fiscal year (FY). The military leave that is unused at the beginning of a FY is carried forward for use in addition to the days that are credited at the beginning of that FY. This gives a full-time employee the potential of 30 days of military leave during a FY. The rate at which military leave accrues for a part-time employee is based on the number of hours in the regular scheduled workweek of that employee and not on the number of hours he or she works.
- .03 Approval.
 - a. Full-time permanent, part-time and employees with temporary appointment of more than 1 year, shall be granted military leave when orders are presented to an appropriate leave-approving official. Employees holding temporary appointments pending establishment of a register (TAPER appointments) are eligible for military leave.
 - 1. The military duty is for:
 - (a) Training as members of Reserve Officers' Training Corps units of colleges or universities. Employees shall be carried in a LWOP status.
 - (b) Temporary Coast Guard Reserve.
 - (c) State National Guard Activities.
 - (d) Training with a State National Guard or other State military organization that is not a part of the National Guard or that was created to take the place of the National Guard during an emergency.
 - (e) Weekly drills.
 - (f) Civil Air Patrol.

- (g) Time taken on a workday to travel to the place of training (unless military orders encompass required travel time).
 - (h) Active duty as commissioned officer in the Reserve Corps of the United States Public Health Service (USPHS).
- .04 Advanced requests. Although military leave shall be granted to eligible employees, employees shall apply for military leave as far in advance as circumstances permit.
 - .05 Substantiation. On return to duty from military leave, employees shall submit a certified copy of orders indicating completion of military duty.
 - .06 Computation of Military Leave. Military leave may be taken intermittently, a day at a time, or as otherwise directed by military orders. Non-workdays wholly within a period of military leave are charged against the 15 calendar days allowed during the year; nonworkdays at the beginning or end of the training period are not. For example, an employee whose workweek is Monday through Friday receives orders for 2 weeks of active duty beginning and ending on a Saturday; Saturday and Sunday at the beginning and end of the tour, are **NOT** charged to military leave; Saturday and Sunday within the tour are charged; and the employee's total charge to military leave is 12 days.
 - .07 Sick Leave in Connection with Military Leave. An employee prevented from returning to his or her civilian position because of illness or injury that occurred while on active training is entitled to sick or annual leave during the period of absence resulting from such illness or injury.

SECTION 14. FUNERAL LEAVE

- .01 Sick leave and/or annual leave shall be granted to an employee to make arrangements for, or to attend the funeral of, or memorial service for, an immediate relative who died as a result of wounds, disease, or injury incurred as a member of the Armed Forces while serving in combat zone. Immediate relative is defined as the following:
 - a. Spouse, and parents thereof.
 - b. Children, including adopted children and spouses thereof.

- c. Parents.
 - d. Brothers and sisters, and spouses thereof.
 - e. Any person related by blood or affinity whose close association with the deceased was such as to have been equivalent to a family relationship.
- .02 Full-time employees may use sick leave up to 40 hours (5 workdays) or full-time employees who maintain a balance of at least 80 hours of sick leave will be able to use an additional 64 hours (8 workdays) for a total amount available for bereavement purposes to a maximum of 104 hours (13 workdays). Part-time employees or an employee with an uncommon tour of duty, the number of hours of sick leave normally accrued during a leave year. Combat zones are determined by the President in accordance with section 112 of the Internal Revenue Code.

SECTION 15. CONTINUATION OF PAY (COP)-OCCUPATIONAL INJURY

- .01 An injured employee is entitled to COP for up to 45 calendar days of disability following a traumatic injury. A traumatic injury is defined as when no other condition of the body is caused by external force, including stress or strain, and must have been caused by a specific event or incident or series of events or incidents within a single day or work shift. Supervisors cannot require an employee to use sick or annual leave during the 45-day period pending the Department of Labor's Office of Workers' Compensation Programs' adjudication of a claim. Exceptions are if the supervisor opposes the claim for one of the following reasons.
- a. The disability is a result of an occupational disease or illness.
 - b. The employee renders personal service to the United States and works without pay or for nominal pay, such as consultants, volunteers, or contract employees.
 - c. The employee is not a U.S. citizen.
 - d. The injury occurred off Government premises and the employee was not involved in "off-premises" duties.
 - e. The injury was caused by the employee's willful misconduct, or intent to bring about his/her injury or death or that of another person,

or the employee's intoxication was the proximate cause of the injury.

- f. The injury was not reported on Form CA-1, "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation" within 30 days following the injury.
- g. Work stoppage occurred 6 months, or more, following the injury.
- h. The employee reports the injury after his/her employment has terminated.
- i. The employee is enrolled in the Civil Air Patrol, Peace Corps, Job Corps, Youth Conservation Corps, Work Study Programs, or other similar groups.

.02 Employees covered by this AI shall inform their supervisors of the injury and complete form CA-1 expeditiously after the injury, but not later than 30 days after the occurrence.

SECTION 16. EXCUSED ABSENCES

Excused absence (administrative leave) is an absence administratively authorized or approved which does not result in a charge to sick or annual leave or in a loss of salary. Generally there is a legal or regulatory authority for an excused absence without charge to leave during work hours. Usually the granting of administrative leave will be related to the official duties of the employee or will involve civic duties, such as voting.

.01 Absences in the Public Interest

a. Voting and Registration

- 1. Local Commuting Area. As a general rule, an employee is not entitled to any excused time if the polls are open 3 hours before or after his or her normal working hours. If the polls are not open at least 3 hours before or after, the leave-approving official will grant sufficient time to vote in order to permit the employee to report for work 3 hours after the polls are open or leave work 3 hours before the polls are closed, whichever requires the least amount of time off.
- 2. Beyond Commuting Distance. If an employee's voting place is beyond normal commuting distance, and if voting by absentee ballot is not permitted, the supervisor will grant up to 8 hours of

excused absence for this purpose.

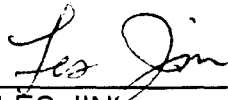
b. Blood Donation.

An employee who donates blood shall be excused for up to 4 hours, when the donation is made outside the Commission and is coordinated through the Human Resources Division.

.02 Additionally, management officials may excuse employees from duty,

- a. For reasonable amounts of time, normally not to exceed 8 hours, for obtaining information and assistance in the preparation of appeals and grievances when such assistance is available only during working hours.
- b. For attendance at hearings in connection with appeals and grievances when the employee is the appellant or a witness.
- c. For attendance at Merit Systems Protection Board hearing in connection with appeals and grievances when the employee is the appellant or a witness.
- d. For participation in State and local pre-emergency training programs, or test exercises for civil defense, not to exceed a total of 40 working hours during a calendar year.
- e. For registration under the "Military Selective Service Act" (Public Law 92-129) for the time necessary to register but not to exceed 1 day. Time in excess of 1 day is chargeable to annual leave.
- f. For examination for duty in the Armed Forces. If absence for that purpose exceeds 1 day, the employee shall be required to submit a statement from the examining office explaining the necessity for the additional absence.
- g. For all emergency duty in the State National Guard, or to participate in civil air patrol searches, or for other types of rescue or protective work, at the discretion of the Staff Director. The period of official time may not exceed a total of 40 working hours during a calendar year.
- h. For interviews under the Federal Merit Promotion Program in connection with employment within the Commission.

- i. For tardiness and brief absences of leave less than 1 hour.
 - j. For medical examinations to determine fitness for duty.
 - k. For visits to use various services of the Human Resources Division.
 - l. For alcohol or drug abuse counseling through the Employee Assistance Program.
 - m. To attend conventions, conferences and meetings when it is determined that the attendance will serve the best interests of the agency.
- .03 The Staff Director or his/her designee may authorize administrative leave when normal operations of the Office are interrupted by such unusual events as extreme weather conditions, serious interruptions of public transportation, or massive power failure.



LES JIN
Staff Director

Issued: _____

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-32

VOLUNTARY LEAVE TRANSFER PROGRAM

SECTION 1. PURPOSE

This Administrative Instruction (AI) implements Federal statute and regulation providing for voluntary leave transfer program in which the U.S. Commission on Civil Rights' (henceforth referred to as "the Commission") employees may transfer annual leave in accordance with 5 CFR 630 to an approved leave recipient who is or whose family member is experiencing a medical emergency.

SECTION 2. GENERAL PROVISIONS

1. Authorities and References.

- a. Title 5 Code of Federal Regulation (CFR) Part 630.901-630.912
- b. Public Law 100-566, the Federal Employees Leave Sharing Act of 1988 (October 31, 1988)
- c. Public Law 103-103, the Federal Employees Leave Sharing Amendments Acts of 1993 (October 8, 1993)
- d. Executive Order 12589 (March 18, 1987)
- e. 5 U.S.C. 2105
- f. 5 U.S.C. 6301 (2)
- g. FPM Bulletin 630-53 dated February 27, 1989
- h. Public Law 95-555, the Pregnancy Discrimination Act of October 31, 1978.

2. Definitions

- a. Accrued Annual Leave - for the purpose of this program, accrued annual leave is defined as leave that has been earned, but has not been used for scheduled use by the employee.

- b. Family Member - one of the following relatives of an employee: spouse, and parents thereof; children, including adopted children, and spouse thereof; parents; brothers and sisters, and spouses thereof; and/or any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
- c. Employee - has the meaning given that term in 5 U.S.C. 6301 (2), except an individual employed by the government of the District of Columbia.
- d. Leave Donor - an employee who voluntarily through written request for transfer of annual leave to the annual leave account of an approved Commission leave recipient is approved by his/her own employing agency.
- e. Leave Recipient - a current Commission employee whose application to receive annual leave from annual leave accounts of one or more donors has been approved by his/her supervisor and the Assistant Staff Director for Management or his/her designee.
- f. Medical Emergency - a medical condition of an employee, of their family member(s), which is likely to require the employee's absence from duty for a prolonged period of time (24 hours or more in the case of a full-time employee) and would result in substantial loss of income to the employee because of the unavailability of paid (annual, sick, restored) leave and recredited annual or sick leave.
- g. Paid Leave Status - the administrative status of an employee while the employee is using annual or sick leave accrued or accumulated or advanced.
- h. Substantial Loss of Income - loss of pay which results from an absence from duty without available paid leave which has been, or is expected to be, at least three (3) workdays in duration.
- i. Shared Leave Status - the administrative status of an employee while the employee is using transferred leave under a leave sharing program or transferred from a leave bank.

3. Coverage

This AI applies to all full-time and part-time employees of the Commission in the Senior Executive Service, General Schedule, and the Prevailing Rate System who are subject to the leave provisions under Subchapter I, Chapter 63 of Title 5, United States Code. This AI does not apply to the following employees:

1. Commissions;
2. Intermittent Employees; and
3. Temporary employees with an appointment of less than 90 days.

SECTION 3. PROCEDURES

1. Application to Become a Leave Recipient

- a. Employees affected by a medical emergency and has exhausted all paid leave may make a written application to become a leave recipient. In the event that an employee is not capable of making application on his/her own behalf, he/she may designate, in writing, a personal representative to act on his/her behalf. Each application is required to have the following information regarding each potential leave recipient: See attachment 1, CCR Form 1010, Application for Transferred Leave.
- b. An employee, or his/her designated representative, may file a written application at anytime a medical emergency exists which is likely to result in a substantial loss of pay.
- c. Each application must be submitted to the office head (or designee) of the potential leave recipient for consideration and must include:
 1. the name, position title, and grade or pay level of the potential leave recipient,
 2. the reasons why transferred leave is needed, including a brief description of the nature, severity, and anticipated duration of the medical emergency, and if it is a recurring condition, the approximate frequency of the medical emergency affecting the potential leave recipient;
 3. certification from one or more physicians, or other appropriate experts, with respect to the medical emergency;
 4. a statement of the potential leave recipient's current leave status; and
 5. an acknowledgment by the potential leave recipient that any leave received under this program will, in accordance with an IRS ruling, be treated as income subject to taxation.

2. Disposition of Leave Recipient Application

- a. The office head (or designee) shall initially review and certify the requester's current leave balances, and prepare a written recommendation approved or disapproved; and forward the application through the Human Resources Management Division to the Assistant Staff Director for Management. (see Section 3.02d below)
- b. The Director of Human Resources must review the application to determine if it meets applicable guidelines. This includes a determination that:
 1. the employee, or employee's family member, has been affected by a medical emergency;
 2. the employee's absence from duty without paid leave because of a medical emergency will, or is expected to, result in a substantial loss of income, i.e., at least three (3) workdays or 24 hours (or in the case of a part-time employee or an employee with an uncommon tour of duty, the average number of hours of work in the employee's scheduled weekly tour of duty);
 3. in making a determination as to whether a medical emergency is likely to result in a substantial loss of income, the Human Resources Division shall only consider if the absence from duty without available paid leave (disregarding any advanced leave) is, or is expected to be at least three (3) workdays; and
 4. that the application has been completed, signed, and dated.
- c. The Director of Human Resources will verify whether the application meets all applicable guidelines. If it does, it will be forwarded to the Assistant Staff Director for Management for final disposition. If the application does not meet all applicable guidelines, it will be returned to the employee through the office head.
- d. The Assistant Staff Director for Management will approve or disapprove a request for leave transfer. (In the absence of the Assistant and Staff Director for Management, or if the position is vacant, the Director of Human Resources will approve or disapprove the request for leave transfer).
- e. If an application is approved by the Assistant Staff Director for Management, the potential leave recipient employee's personal representative who made the application on behalf of the potential leave recipient shall be notified by the Human Resources Division of

the approval within ten (10) workdays, from the date the application was received by the Human Resources Division. The recipient shall also be advised that other employees in the Commission may now request the transfer of their annual leave to the leave recipient's account.

- f. If the application is disapproved by the Assistant Staff Director for Management, the potential leave recipient (or the employee's personal representative who made the application on behalf of the potential leave recipient) shall be notified of the disapproval within ten (10) workdays, from the date the application was received by the Human Resources Division. The potential leave recipient shall be advised of the reasons for its disapproval, and he/she may have the disapproval reviewed either through the Commission's grievance procedure or, if the potential leave recipient is a bargaining unit employee, through the negotiated grievance procedure.

3. Soliciting Leave Donations

- a. In some cases, a leave recipient may already have received an indication from other employees about their willingness to donate annual leave to the recipient. In those instances, it may not be necessary for the Human Resources Division to seek donation through public announcement of the recipient's medical emergency.
- b. Approved leave recipients who require assistance from the Human Resources Division to obtain leave donors are encouraged to permit the Human Resources Division to reveal information about the recipient's medical emergency in sufficient detail so that the general nature, severity, and duration of the emergency is made known. However, should the approved leave recipient not want such information revealed, the Director of Human Resources will issue a memorandum to the Commission employees. This memorandum certifying that the nature of the leave recipient's medical emergency will result in he/she being absent from work for a prolonged period, there is not sufficient paid leave available. Potential donors will be advised how to donate their accrued annual leave.

4. Leave Donations from Employees from other Agencies

- a. The Commission shall accept the transfer of annual leave from leave donors employed by one or more other Federal agencies when:
 - 1. A family member of the leave recipient is employed by another agency and requests the transfer of annual leave to the recipient;

2. In the judgment of the Commission, the amount of annual leave transferred from leave donors employed by the Commission may not be sufficient to meet the needs of the leave recipient; or
 3. In the judgment of the Commission, acceptance of leave transferred from another agency would further the purpose of the voluntary leave transfer program.
- b. The employing agency of a leave donor who wishes to donate annual leave to a leave recipient at the Commission shall verify the availability of leave in the leave donor's account, determine that the amount of annual leave to be donated does not exceed the number of hours of annual leave stated on the recipient's application or approved request for extension, and ascertains that the leave recipient's employing agency has made any determinations that may be required.
- c. The Director of Human Resources
1. verifies that the leave recipient will not receive more than one calendar year (2,087 hours) of donated annual leave for any given medical emergency;
 2. notifies the donor's servicing Human Resources Director of the amount to be subtracted from the donor's account;
 3. provides the recipient's supervisor and timekeeper with specific instructions for transferring the proper amount of donated leave to the recipient's account, including the pay period the transfer is to be made; and
 4. arranges for the leave recipient's account to be adjusted through the leave correction process in the same pay period the timekeeper credits the recipient's leave account.
- d. The Commission's Director of Human Resources and the timekeeper must not affect the leave transfer until the donor's servicing Human Resources Director and timekeeper have deducted the approved amount of leave from the donor's account.

5. Requests for Extension

In the case of a change in the anticipated duration of a medical emergency, the Director of Human Resources may extend the leave recipient's status. To receive an extension, a recipient must submit a written request through his/her

office head to the Director of Human Resources and provide acceptable documentation of the continuing medical emergency.

6. Application to Be a Leave Donor

- a. Prospective donors must submit to the Director of Human Resources a voluntary written application (Attachment 2, CCR Form 1011, Request to Transfer Leave) to donate a specified number of hours of annual leave to the leave account of a specified leave recipient subject to the provisions below.
 1. leave donors may not request the transfer of annual leave to the leave donor's immediate supervisor or any other official in his/her supervisory chain;
 2. a leave donor may not donate leave that has not been earned and is not already in his/her accrued annual leave account; and
 3. donations of annual leave must be in whole-hour increments.
- b. 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.
- c. A leave donor who is projected to have annual leave that would otherwise be subject to forfeiture at the end of the leave year, may donate the lesser of: (1) one-half of the amount of annual leave he/she would be entitled to accrue during the leave year that the donation is made; or (2) the number of hours remaining in the leave year, as of the date of the transfer of leave, for which the leave donor is scheduled to work and receive pay. Example: A donor wishes to donate 108 hours of leave subject to forfeiture two weeks before the end of the leave year. The donor may donate only 80 hours since there are only 80 work hours left in the leave year.
- d. The provision of 3.06b and 3.06c may be waived (1) in those situations involving family members; and in those circumstances where (2) the employee is participating in the Employee Assistance Program; (3) long-term medical treatment and rehabilitation are required; and (4) the waiver is concurred in by an Employee Assistance Counselor and a medical officer representing the Commission.

7. Disposition of Application to Be a Donor

- a. The Director of Human Resources must review the prospective donor's application to:

1. ensure that the donation is proper and complete, i.e., consistent with the provisions covered in this AI;
 2. ensure that the donor has sufficient leave to make the donation;
 3. assure that appropriate timekeeper(s) made deductions from the accrued annual leave account of the donor and properly document the transaction; and
 4. assure that the recipient's payroll office is notified of the donation.
- b. The Director of Human Resources must notify the donor of his or her decision on the application within ten (10) workdays after the date the application is received.

SECTION 4. USE OF TRANSFERRED LEAVE

1. A leave recipient may use annual leave transferred to his/her account in the same way and for the same purposes as if he/she had accrued regular annual leave, subject to supervisory approval. However, are annual and/or sick leave accrued or accumulated by the recipient (prior to the date the application to become a leave recipient was approved) during the medical emergency must be exhausted before any transferred annual leave may be used.
2. The approval and use of transferred annual leave is subject to the conditions and requirements of regularly accrued annual leave, except that transferred annual leave is not subject to the limit on accumulation (for most employees, 240 hours).
3. Annual leave approved for transfer under the leave transfer program may be used on a current basis, or to retroactively substitute for periods of leave without pay or to liquidate an indebtedness for advanced annual or sick leave.
4. **Monitoring the Use of Transferred Leave**
 - a. The leave recipient's supervisor and the Director of Human Resources shall continuously monitor the status of the medical emergency affecting a leave recipient to ensure that the leave recipient continues to be affected by the medical emergency.
 - b. When the medical emergency affecting a leave recipient terminates, not further requests for transfer of annual leave to the leave recipient

may be granted and any unused transferred annual leave remaining to the credit of the leave recipient will be restored to the leave donor(s) under the procedures of Section 7 of this AI.

- c. The leave recipient must submit to his/her leave approving official written monthly reports on the status of the medical emergency. Such reports must include his/her certification that the medical emergency continues to exist and a statement of its anticipated duration. The leave approving official must forward the status reports to the Director of Human Resources for inclusion in the leave transfer file. If a leave recipient is incapacitated and cannot submit the report, he/she may designate a personal representative to do so.
- d. A leave recipient must promptly notify his/her leave approving official and the Director of Human Resources when he/she begins to receive unemployment compensation benefits or workers' compensation related to the medical emergency, or when the medical emergency ends.

5. Transferred annual leave may not be:

- a. transferred to a leave recipient other than the person specified to receive the leave;
- b. transferred to another Federal agency if the leave recipient transfers from the Commission;
- c. included in a lump-sum payment upon a leave recipient's separation from the Commission;
- d. made available for recredit upon reemployment of a donor or leave recipient by a Federal agency; or
- e. used after the recipient's medical emergency is terminated.

SECTION 5. LIMITATION

- 1. Leave accrues to the credit of the employee at the same rate as if employee were in a paid leave status with the following limitations.
 - a. A leave recipient may not accrue more than five days (40 hours) of annual and five days (40 hours) of sick leave or, in case of a part-time employee or an employee with an uncommon tour of duty, the average number of hours of work in the employee's weekly scheduled tour of duty, for use after the medical emergency terminates; and

- b. Once the limits for annual and sick leave have been reached, while in a transferred leave status, no additional annual or sick leave is accrued.
- 2. Any annual or sick leave accrued by an employee under this section:
 - a. Shall be transferred to the appropriate leave account of the employee under subchapter I of chapter 63 of Title 5, U.S.C. and
 - b. shall become available for use by the employee, as of the beginning of the first applicable pay period beginning on or after the date on which the employee's medical emergency terminates; or
 - c. if the employee's medical emergency has not yet terminated, once the employee has exhausted all transferred leave made available to the employee.
- 3. Leave earned while in a shared leave status will continue to be credited to separate accounts until the leave recipient exhausts all donated leave or the medical emergency terminates.
- 4. An employee may not participate in the leave transfer program if he/she is receiving unemployment compensation benefits or workers' compensation for the medical emergency for which he/she requests transferred annual leave.

SECTION 6. TERMINATION OF MEDICAL EMERGENCY

Leave recipient status ends:

- a. on the date set forth on the original application (or approved extension) for transferred leave;
- b. at the end of the biweekly pay period in which the Commission receives written notice from the leave recipient, or from a personal representative of the leave recipient, that he/she is no longer affected by a medical emergency;
- c. when the leave recipient's employment with the Commission is terminated;
- d. at the end of the biweekly pay period in which the Commission is notified by the Office of Personnel Management (OPM) that it has approved the leave recipient's application for disability retirement under the Civil Service Retirement System or the Federal Employees Retirement System;

- e. at the end of the biweekly pay period in which the Commission determines, after written notice and opportunity, for the leave recipient (or, if appropriate, a personal representative of the leave recipient) to answer orally or in writing, that the leave recipient is no longer affected by a medical emergency; or
- f. on the date that the employee begins to receive unemployment compensation benefits or workers' compensation for the medical emergency for which he/she had been approved to become a leave recipient.

SECTION 7. RESTORATION OF TRANSFERRED ANNUAL LEAVE

1. To the extent that it is administratively feasible, any transferred annual leave remaining to the credit of a leave recipient when the medical emergency terminates must be transferred to the current annual leave accounts of those leave donors (to that specific recipient) who are employed by the Commission on the date the recipient's medical emergency ends. The amount of unused transferred annual leave to be restored to each donor must be determined as follows:
 - a. divide the number of hours of unused transferred annual leave by the total number of hours of transferred annual leave donated to the recipient by all donors. (Example: 50 unused hours divided by 200 donated hours + 25%);
 - b. multiply the ratio obtained in 7.01a by the number of hours of annual leave transferred by each leave donor eligible for restoration. Example: Mr. A donated 100 hours. He would be entitled to have 25 hours restored or 25%; and
 - c. round the result to the nearest hours.
2. If the number of donors eligible for restoration exceeds the number of hours of annual leave that is to be restored, no unused transferred annual leave will be restored. In no case will the amount of annual leave restored to a leave donor exceed the amount transferred to the leave recipient by the leave donor.
3. If a leave donor retires from Federal service, dies, or is otherwise separated from Federal service before the date that unused transferred annual leave can be restored, such leave will not be restored to that donor.
4. At the election of the leave donor, unused transferred annual leave restored to the leave donor may be restored by: (1) crediting the restored annual

leave to the leave donor's annual leave account in the current leave year; (2) crediting the restored annual leave to the leave donor's annual leave account effective as of the first day of the first leave year beginning after the date of election; or (3) donating such leave in whole or part to another approved leave recipient.

5. If a leave donor elects to donate the unused transferred annual leave in whole or in part to another leave recipient, a new donor application must be completed.
6. Transferred annual leave restored to a donor before the beginning of the third biweekly pay period before the end of the leave year shall be subject to the limitation imposed by 5 U.S.C. 6304(a). Donated annual leave restored to the donor after the beginning of the third biweekly pay period before the end of the leave year shall not be subject to the limitation imposed by 5 U.S.C. 6304(a), which specifies the amount of carryover annual leave permitted from one leave year to another.

SECTION 8. TAX LIABILITY OF DONATED LEAVE

1. For a leave recipient, any donated leave received is considered wages for the purposes of taxable gross income.
2. For a leave donor, donated leave does not authorize any deduction, loss, or other tax benefits.

SECTION 9. LEAVE TRANSFER FILES

1. Files maintained for this program constitute a system of records under the Privacy Act.
2. Files must be maintained in the Human Resources Division and must be kept separate from other human resources files.
3. The following documents must be kept in the leave transfer file of each leave recipient:
 - a. recipient application and all supporting documentation;
 - b. donor application(s);
 - c. copies of all recipient's time and attendance records for all pay periods during which the recipient participates in the program;

- d. monthly reports from the leave recipient on the status of his/her medical emergency as required by Section 4.04c;
 - e. written notice of termination of the medical emergency from the leave recipient to his/her office head (or designee) and the Director of Human Resources;
 - f. request(s) for extensions and the disposition of such requests;
 - g. notice that the Human Resources Director has verified that the recipient is not receiving workers' compensation or unemployment compensation benefits; and
 - h. any other correspondence associated with the case.
4. Files must be maintained for three (3) years after the medical emergency ends or three (3) years after the establishment of the file, whichever is later.
5. For the purpose of reporting pertinent information to the Office of Personnel Management (OPM) concerning the administration of the voluntary leave transfer program, the following information must be maintained:
- a. the number of applications approved for medical emergencies affecting the employee and the number of applications approved for medical emergencies affecting an employee's family member;
 - b. the grade or pay level of each leave recipient and leave donor and the gender of each leave recipient;
 - c. the total amount of annual leave transferred to each leave recipient's annual leave account;
 - d. the total amount of transferred annual leave used by each leave recipient;
 - e. the estimated direct and indirect cost of processing leave transfer requests; transferring leave between the accounts of leave donors and leave recipients; monitoring the use of transferred leave; restoring unused leave to the accounts of leave donors; and other activities related to administering the voluntary leave transfer program; and
 - f. the number of leave recipients who return to work after the termination of medical emergency.
 - g. the number of leave recipients who retired on disability retirement under the Civil Service Retirement System or the Federal Employee's

Retirement System within 6 months after the termination of the medical emergency.

- h. any additional information OPM may require.

SECTION 10. PROHIBITION ON COERCION

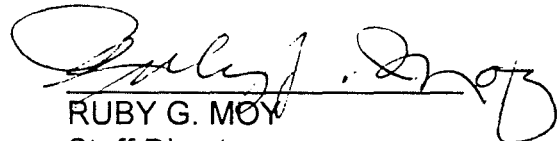
1. An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right such employee may have with respect to donating, receiving, or using annual leave under the voluntary leave transfer program. Such acts of coercion will be the basis for taking disciplinary action.
2. For the purpose of this AI, the term "intimidate, threaten, or coerce" includes promising to confer any benefit, (such as an appointment, promotion or compensation), or effecting or threatening to effect, any reprisal, (such as deprivation of appointment, promotion, or compensation), or any other form of attempted or actual coercion.

SECTION 11. CONFIDENTIALITY

Any person involved in the processing of a leave transfer action must protect the confidentiality of all related communication with the leave recipient and all other parties to the leave transfer, and the right of the individuals to privacy. Persons with access to information related to the leave transfer must not disclose that information to anyone except those who have a need to know and those with express written permission of the applicant or recipient for the release of specific information. Individuals granted access must be advised of the requirements of this section.

SECTION 12. EQUAL OPPORTUNITY

The Commission's leave transfer program will be administered without regard to race, sex, color, age, religion, national origin, disability, marital status, or political affiliation.


RUBY G. MOY
Staff Director

Issued: 1/22/03

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-33

ALTERNATIVE WORK SCHEDULES

SECTION 1. GENERAL PROVISIONS.

- .01 Purpose. The purpose of this Instruction is to prescribe the policies and procedures for the implementation and administration of Alternative Work Schedules (AWS) at the U.S. Commission on Civil Rights (USCCR).
- .02 Scope. This Instruction applies to all USCCR employees.
- .03 References.
 - a. 5 U.S.C. Chapter 61, Subchapter II.
 - b. 5 C.F.R. Part 610, Subpart D.
 - c. 5 C.F.R. Part 550.
- .04 Introduction and Policy. Congress stated in 5 U.S.C. § 6120 that had the use of flexible and compressed work schedules (jointly referred to as AWS) the potential to improve productivity in the Federal Government and provide greater service to the public. The President, by memorandum of July 11, 1994, "Expanding Family-Friendly Work Arrangements in the Executive Branch,"[59 Fed. Reg. 36017-18 (July 15, 1994)] stated that broad use of flexible work arrangements, including AWS, to enable Federal employees to better balance their work and family responsibilities, can increase employee effectiveness and job satisfaction, while decreasing turnover rates and absenteeism. The President encouraged the implementation of AWS, among other arrangements, in order to recruit and retain a Federal work force that will provide the highest quality of service to the American people. It is the position of the USCCR that AWS can enable individual offices and the Commission as a whole to provide increased customer service through extended office coverage while also allowing employees the flexibility in scheduling their activities. Accordingly, the USCCR's policy is to accomplish its mission while accommodating individual employee schedule needs to the extent possible, in

an atmosphere of a shared sense of accountability and responsibility among employees, supervisors, and managers.

.05 Responsibilities.

- a. Participants in the AWS Program. All employees, excluding supervisors, and managers may participate in the AWS program. (Throughout this Instruction, "employee" includes "employees, except Senior Executive Service members, supervisors, and managers" as participants.) Employees must submit any request for an AWS in specific terms and in writing to their immediate supervisor, and must obtain their supervisor's approval of the request before beginning to work under an AWS. Employees whose most recent performance rating of record is less than "Fully Successful" are not eligible to participate in an AWS. Employees are responsible for managing their schedules so that the actual time they work in each biweekly pay period equals the number of hours of their Basic Work Requirement (see section 1.06.b., below). Unless specifically prohibited in this Instruction, part-time employees may be participants.
- b. Supervisors. Supervisors are responsible for monitoring the work hours of subordinates and for ensuring compliance with AWS program policy (see A.4., above). Within 15 calendar days of receipt of a written request for an AWS, supervisors will, in writing, approve, disapprove, or approve with modifications such request, taking into consideration the positive factor of improved employee morale, and the other criteria set forth in this Instruction. (See also section 2.02, below.)
- c. Director of Human Resources. The Director of Human Resources is responsible for providing advice, assistance, and guidance to USCCR managers, supervisors, and employees on AWS program administration.

.06 Definitions.

- a. Alternative Work Schedules (AWS). AWS refers to both fixed and flexible work schedules as defined in this Instruction (see subsections d. and e., below).
- b. Basic Work Requirement (BWR). The BWR is the total number of hours in each biweekly pay period (80 hours) that a full-time employee is required to **account for by means of hours worked or leave**. Regardless of the type of schedule, a full-time employee works, 80 hours in a pay or leave status must be accounted for in each biweekly pay period. Part-time employees must account for the number of hours in

each biweekly pay period required by their approved work schedule.

c. Work Time.

- 1) Core Time. Core Time for the USCCR is from 9:15 a.m. to 4:00 p.m. Employees must be in a work status during Core Time unless they are on an approved absence or a scheduled day off.
- 2) Flexible Time Bands. Flexible time bands are the two bands of time before and after the Core Time defined in paragraph A.6.c.(1), above. The USCCR's morning flexible time band is from 6:15 a.m. to 9:15 a.m. The afternoon flexible time band is from 4:00 p.m. to 7:00 p.m. Employees on **flexible work schedules** can choose their arrival and departure times.
- 3) Lunch Period. Work time does **not** include a lunch period.

d. Fixed Work Schedules. The USCCR has established two types of work schedules, fixed and flexible (see subsection e, below). There are 2 basic **fixed work schedules** from which employees may choose their work schedule:

- 1) Compressed Work Schedule - A compressed work schedule is a **fixed work schedule** in which the biweekly BWR is scheduled for and satisfied in less than 10 workdays. The usual compressed work schedule is the "5-4/9." Based upon a Monday through Friday workweek, the "5-4/9" compressed work schedule allows for one day off per pay period by working five days one week of a biweekly pay period and four days the other week, with all but one of the days worked consisting of 9 hours, and the other day consisting of 8 hours. Absent special circumstances, use of other compressed work schedules will not be approved.

Examples include (illustrative only): (a) FIRST WEEK: Mondays through Fridays, arrival time of 7:15 a.m., and departure time of 5:00 p.m.; SECOND WEEK: Mondays through Wednesdays, 7:15 a.m. to 5:00 p.m.; Thursdays, 7:15 p.m. to 4:00 p.m.; and Friday off; **and** (b) FIRST WEEK: Mondays through Fridays, 9:00 a.m. to 6:45 p.m.; SECOND WEEK: every Monday off in the second week; Tuesdays, 9:00 a.m. to 5:45 p.m., and Wednesdays through Fridays, 9:00 a.m. to 6:45 p.m.

Note: This is a **fixed work schedule**. Once the work schedule for

the days and arrival and quit times for the 9-hour workdays, and that of the 8-hour work day is approved by the supervisor, the work schedule remains fixed until a different work schedule is approved by the supervisor. Likewise, while any workday in a biweekly pay period may be designated as the scheduled day off, once the supervisor has approved a scheduled day off, the designated day off remains fixed until the supervisor approves a different work schedule.

- 2) Fixed Tour Work Schedule - A Fixed Tour work schedule allows employees to establish a **fixed work schedule** based on their selection of a pattern of arrival times within the morning flexible time band. Full-time employees on fixed tour are scheduled to work Monday through Friday, 8 hours each day. (The daily hours for a part-time employee on fixed tour are dependent upon the employee's work schedule.) When requesting to work under a fixed tour work schedule, employees must specify their scheduled arrival times for each workday in the biweekly pay period. Once approved, employees must continue the fixed pattern of arrival times and work for 8 hours each day, until the supervisor approves a different work schedule. Employees may arrive up to 15 minutes after the scheduled arrival time without supervisory approval, provided the work schedule for that work day is extended by 15 minutes to satisfy the 8-hour work requirement. The supervisor must approve other adjustments to scheduled arrival time.

Examples include (illustrative only): (a) BOTH WEEKS: Mondays through Fridays, arrival time of 7:30 a.m., and departure time of 4:15 p.m.; (b) BOTH WEEKS: Mondays, 9:00 a.m. to 5:45 p.m.; Tuesdays through Fridays, 8:00 a.m. to 4:45 p.m.; **and** (c) FIRST WEEK: Mondays through Thursdays, 9:30 a.m. to 6:15 p.m.; and Fridays, 7:15 a.m. to 4:00 p.m.; SECOND WEEK: Mondays, 9:30 a.m. to 6:15 p.m.; and Tuesdays through Fridays, 8:30 a.m. to 5:15 p.m.

Note: *This is a **fixed work schedule**. Arrival times need not be uniform through each week, but once the supervisor approves the schedule of arrival times, the work schedule remains fixed until the supervisor approves a different work schedule.*

- e. FLEXIBLE WORK SCHEDULES. The Commission has established two types of work schedules, fixed (see subsection d., above) and flexible. Depending on the particular flexible work schedule approved by the supervisor, employees have the discretion, without prior approval by the supervisor, to change one or more of the following on a daily basis: (1) arrival time; (2) number of hours worked; and (3) departure time.

However, flexible work schedules may NOT vary the number of hours or days worked each week. There are two basic ***flexible work schedules*** from which employees may choose their work schedule:

- 1) Gliding Work Schedule - This ***flexible work schedule*** is similar to the fixed tour work schedule except employees may, on a daily basis without prior supervisory approval, vary arrival times within the morning flexible time band, and are within the core hours. A full-time employee on a gliding work schedule is scheduled to work 8 hours each day, and 40 hours each week. The daily work hours for a part-time employee on a gliding work schedule is dependent upon the employee's work schedule.

Example (illustrative only): A full-time employee who arrives for work anytime during the morning flexible time band of any work day could fulfill the fixed 8-8-8-8-8 hour Monday through Friday work schedule for each week of a biweekly pay period by: FIRST WEEK: Monday, arriving at 8:00 a.m. and departing at 4:45 p.m.; Tuesday, 9:15 a.m. to 6:00 p.m.; Wednesday, 8:15 a.m. to 5:00 p.m.; Thursday, 7:30 a.m. to 4:15 p.m.; and Friday, 7:45 a.m. to 4:30 p.m.; SECOND WEEK: Monday, 9:15 a.m. to 6:15 p.m.; Tuesday, 7:45 a.m. to 4:30 p.m.; Wednesday and Thursday, 8:15 a.m. to 5:00 p.m.; and Friday, 7:00 a.m. to 3:45 p.m.

Note: *This is a flexible work schedule. Once the supervisor approves the employee's request for working under a gliding work schedule, the employee is not required to obtain approval of day-to-day changes of arrival times within the morning flexible time band. It is further emphasized that employees on a gliding schedule are responsible for ensuring that the requisite number of hours in their workday is satisfied by means of hours worked, or leave used.*

SECTION 2. REQUEST AND APPROVAL.

- .01 Request. Employees who desire to work on a fixed or flexible work schedule must submit a memorandum to their immediate supervisor. The request must describe the particular work schedule desired. Employees must receive their supervisor's approval before working under an AWS.
- .02 Response to Request. Before approving an AWS for an employee, a supervisor must determine which of the work schedules described in this Instruction is being requested by the employee, because rules on holidays, overtime and premium pay, hours, and timekeeping requirements differ for

each type of work schedule. The supervisor must document this determination to avoid later confusion in the application of these rules. The supervisor and the employee are encouraged to discuss informally the impact of a proposed work schedule on work requirements. Within 15 calendar days of receipt of the memorandum, the supervisor will approve, disapprove, or approve it with modifications, in writing. In making this decision, the supervisor must consider the policy criteria in section 1.04., above, and the positive factor of improved employee morale. After the impact on employee work requirements has been resolved, conflicts in proposed work schedules among bargaining unit employees will be resolved based on Commission seniority, and, in the event of a tie, based on U.S. Federal Government seniority. The supervisor is responsible for the ongoing review of the employee's use of AWS to ensure that the duties and requirements of the employee's position are fulfilled. The supervisor will suspend an employee's participation in an AWS for the duration of an opportunity-to-improve-performance period, and for a further period of time, as necessary, until the supervisor determines that the employee's performance has met the Fully Successful level. Disapproval of an eligible employee's request, or involuntary termination of an approved AWS, shall be based only on the following criteria:

- a. Disruption in carrying out office functions / providing customer service. The proposed or previously approved AWS does not meet the office's current needs for coverage at reasonable times to provide customer service. **Example (illustrative only):** If a particular office needs employee coverage beginning at 8:30 a.m. but all of the proposed schedules begin at 9:00 a.m. or later, then one or more of the proposed schedules would not be approved in accordance with the procedures described in B.2., above; or
 - b. Abuse of the AWS privilege. **Example (illustrative only):** It is an abuse of the AWS privilege for an employee on a ***flexible work schedule*** to falsify the arrival and/or departure time.
- .03 Grievance Process. Any employee whose request for an AWS has been denied or modified, or whose AWS has been involuntarily terminated or modified involuntarily, may invoke the following grievance process:
- a. A meeting between the parties (the employee and the supervisor), either face to face or telephonically, will be arranged to attempt to resolve the grievance.
 - b. The meeting may include a facilitator and the parties, if deemed necessary.

- c. The parties will meet at mutually agreeable times to attempt to resolve the grievance.
 - d. Offers to settle and aspects of settlement discussions will not be used as evidence or referred to if the matter is not resolved by this process.
 - e. If the matter is resolved, the parties agree to immediately implement any agreements.
 - f. If the matter is not resolved, the matter may be processed through the appropriate process in the Administrative Instruction 2-7, Grievance Procedures.
 - g. This process will be completed within 15 calendar days unless mutually agreed otherwise.
- .04 Changes to Approved Work Schedules. An employee may request a different AWS at any time. Normally, changes should be limited to quarterly intervals to keep the AWS program manageable. A supervisor may approve temporary schedule variances in emergency situations. The need for frequent changes may indicate that a more flexible schedule would be appropriate. When a supervisor determines that it is necessary to change or to involuntarily terminate an employee's AWS, the supervisor shall provide the employee reasonable advance notice of the proposed action, and the reasons for it.
- .05 Abuse of AWS Privilege. Employees who abuse AWS will be subject to sanctions such as imposition of stricter time accounting methods, disqualification from continued participation in the AWS program, and/or appropriate disciplinary measures.

SECTION 3. DOCUMENTATION / RECORD MAINTENANCE.

The advantages of AWS require additional timekeeping and supervisory approval controls to ensure sufficient office coverage. Supervisors shall maintain files on written approvals and subsequent approved changes of the employee's AWS, and written records of earning and use. Approvals are required (but not necessarily in writing). The supervisor shall maintain in a record any documentation that the supervisor believes is necessary to support the employee's time and attendance under an AWS and to provide an adequate "audit trail" for any review of the AWS program that is appropriate.

SECTION 4. TIME AND ATTENDANCE.

The following provides guidance for the administration of the USCCR's AWS

program:

.01 General Administration.

a. Time Accounting.

1) Supervisors. Supervisors must establish and maintain a time accounting system for all employees on a work schedule, which has been approved under the provisions of this Instruction.

2) Participants in the AWS Program. Employees on **flexible work schedules** or on **fixed work schedules** must account for all scheduled work hours. If the number of hours actually worked is fewer than the number of hours the employee is scheduled to work, the employee must take appropriate leave during the same pay period, or by both actions. (See section 1.06.b., above.)

b. Sign-In and Sign-Out. Employees who elect a **fixed work schedule** (compressed or fixed tour) DO NOT sign-in and sign-out; however, they may be required to commit in writing to adhere to the work schedule approved by their supervisor before the schedule is implemented.

c. Scheduling Arrival and Departure Times. AWS provides the option of varying arrival and departure times within the flexible time bands, consistent with the duties and requirements of the employee's position and the needs of the office. Employees under a fixed work schedule must schedule their arrival and departure times in 15-minute intervals from the hour. Employees on gliding or variable day work schedules may arrive at any time within the morning flexible time band, and depart at any time within the afternoon flexible time band.

d. Work Schedules for Employees in Travel Status. Employees on **flexible work schedules** who are going on travel status may be required to come off of the AWS for the two weeks that the travel time is scheduled.

e. Work Schedules for Employees in Training. Employees on an AWS who are also scheduled for training must conform their work schedules to the hours of training as explained below:

1) Training for 2 or fewer days. If the scheduled training is off-site and does not exceed 2 days, an employee may continue AWS for the remainder of the pay period. **Example (illustrative only):** An

employee on a variable day work schedule has 2 days of training scheduled for Tuesday and Wednesday, of the last week of a pay period. For the 2 days of training, the employee's work schedule must conform to the hours and arrival and departure times of the training schedule. As an example, the employee's work schedule for the week that includes the training could be a 9-8-8-9-6 hour schedule, where the 8-8 hour schedule represents the 2 days of training.

Employees on a compressed work schedule must conform their work schedule to the hours and arrival and departure times of the training schedule. In doing so, an employee must ensure that he or she meets the required 80-hour BWR for the pay period. If the employee's scheduled day off falls on a training day, the day off must be rescheduled to another day within the same pay period. If the employee's scheduled 9-hour day(s) falls on 1 or more training days, the scheduled work hours in excess of the training may be rescheduled to another day(s) within the same pay period. This may result in the employee working 1 or more 10-hour days to meet the 80-hour BWR for the pay period. In either case, the employee must ensure that the BWR is met by hours worked or leave taken. Alternatively, the employee and/or supervisor may choose to forego the compressed work schedule for the entire pay period.

- 2) Training for more than 2 days. If the scheduled training for an employee on an AWS is for more than 2 days, the employee's AWS is suspended for the entire pay period, and the work schedule reverts back to a fixed schedule of five 8-hour days per week of the pay period.
- f. Work Schedules for Employees on Temporary Duty. Employees on a temporary duty assignment, such as a detail within the Commission can expect to maintain their AWS work schedule, absent special work schedule considerations in the office to which they have been assigned. It is expected that the employee on an AWS and the supervisor of the detail office will agree on a work schedule for the employee that accommodates to the maximum extent possible the employee's established AWS and the mission of the detail office.
- g. Maximum of 10 Hours Scheduled Per Day. No more than 10 hours of work may be scheduled in one day, excluding lunch, in order to avoid the possibility of fatigue and reduced productivity. Exceptions must be supported by special circumstances, and must be approved in advance by the employee's supervisor.

3. Sick/Annual Leave. The maximum amount of sick or annual leave charged to the employee is equal to the number of hours the employee is scheduled to work. When an employee working under a compressed work schedule is scheduled to take approved leave (sick or annual) on a workday, the employee may, upon written approval of the employee's supervisor, substitute the employee's scheduled day off for the absence instead of the employee's leave account being charged. Upon obtaining this written approval, the employee must provide a copy to the employee responsible for the office's Time and Attendance records. In the absence of such notice, the employee must be charged the appropriate leave for the number of hours scheduled but not worked.
4. Excused Absence/Emergency Leave. When employees are excused from duty for a whole or part day because of weather conditions, building security (emergency closing), or other reasons (military leave, court leave, etc.), the amount of leave to be granted will be based on: (1) the employee's normal work schedule; and (2) as a point of reference, the Commission's regular hours of work (8:30 a.m. to 5:15 p.m.).
5. Holidays.
 - a. Compressed Work Schedule. Employees under a compressed work schedule whose "predetermined and approved day-off" falls on a Federal legal holiday are given an "in lieu of" holiday: (1) if the official holiday falls on a Friday, the "in lieu of" holiday is the preceding Thursday; (2) if the official holiday falls on a Monday, the "in lieu of" holiday is the following Tuesday; and (3) if the official holiday falls on Tuesday, Wednesday, or Thursday, the "in lieu of" holiday is the day before the official holiday. Employees under a compressed work schedule, who, by reason of a Federal legal holiday, are prevented or relieved from working are entitled to pay for the number of hours not worked. Employees under a compressed work schedule are entitled to holiday pay if they are scheduled by management to work on a Federal legal holiday, or on an "in lieu of" holiday.
 - b. Flexible Work Schedule. Full-time employees under a flexible work schedule, who, by reason of a Federal legal holiday, are prevented or relieved from working are entitled to pay for the number of hours not worked, up to a maximum of 8 hours. Accordingly, for any biweekly pay period, which includes a Federal legal holiday, full-time employees must schedule a sufficient number of hours (normally 72 hours) in "pay status" (work hours or leave) in the other days of the biweekly pay period in

order to meet their BWR for the biweekly pay period. Employees under a flexible work schedule are entitled to holiday pay if they are scheduled by management to work on a Federal legal holiday.

- c. Part-Time Employees. Part-time employees whose workday fall on a Federal legal holiday and, as a result, are prevented or relieved from working are entitled to pay for the number of hours scheduled for work on that day, not to exceed 8 hours. Part-time employees are NOT entitled to pay or to an "in lieu of" holiday when a holiday falls on a non-work day.

6. Overtime, Compensatory Time Off, and Night Differential.

- a. Overtime. Overtime work and the compensation for such work is governed by the Commission's Administrative Instruction (AI) 2-30, Overtime and Compensatory Time. For the purposes of this AWS Instruction, the following provisions also apply: For employees on a fixed tour work schedule, or a flexible work schedule, overtime is the number of hours the employee is directed by the supervisor to work in excess of 8 hours in a day, or 40 hours in a week, but does not include credit hours. For employees on a compressed work schedule, overtime is the number of hours the employee is directed by the supervisor to work in excess of those specified hours, which constitute the compressed work schedule.
- b. Night Differential. Night differential is not authorized for any time worked past 6:00 p.m. if it occurs because an employee: (1) has elected to work under an AWS tour of duty which includes time after 6:00 p.m.; or (2) elects to work compensatory time.

SECTION 5. TRAINING.

- .01 Responsibility. The Human Resources Division is responsible for training all current and new managers, supervisors, and employees in the AWS program. A copy of this Instruction and any forms will be furnished to all trainees.
- .02 Managers, Supervisors and Employees. All current managers, supervisors, and employees will be trained in the AWS program before it is implemented. All employees will be trained in the AWS program before they may participate in the program.

SECTION 6. EVALUATION.

The AWS program will be periodically evaluated to ensure that it is in conformance with section 1.04., above, and with subsection .02, below.

.01 Responsibilities.

Human Resources Division. The Human Resources Division is responsible for generating the necessary data (for example, by periodic questionnaires to managers, supervisors, and employees who are participating in, or who administer the AWS program) on the AWS program.

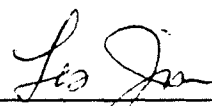
.02 Evaluation Criteria. The AWS program will be evaluated from two perspectives -- program improvement and work schedule termination.

- a. Program Improvement. It is anticipated that the AWS program as a whole, and particular work schedule offerings within the program, will require adjustments from time-to-time to ensure that it is in conformance with section 1.04., above, and with the criteria below. Recommendations for program and work schedule adjustment will be based on the methodology of comparing the AWS data received from the Human Resources Division against the criteria below, and then identifying specific changes necessary to better meet the criteria. The difficult but necessary task is to filter out all variables other than the work schedules that have an impact on the criteria. As the program should offer participants the maximum flexibility consistent with the mission requirements of the Agency.

- 1) Mission requirements. The following factors will be considered:
(a) neutral or positive impact on productivity in terms of the Agency, component, office, and individual; (b) promote enhanced service to customers external to the Agency with a concomitant positive public perception, by extended office coverage; (c) neutral or positive impact on coverage, availability, and timeliness regarding service to customers internal to the Agency; and (d) neutral or positive impact on the quality of service to all customers internal or external.
- 2) Management flexibility. The following factor will be considered:
neutral or positive impact on the ability of supervisors and managers to respond to the need for change in routine operations, and to extraordinary situations.
- 3) Work environment. The following factors will be considered:
(a) neutral or positive impact on an Agency-wide atmosphere of a

shared sense of accountability, responsibility, open communication, and accommodation for the sake of both the mission and individual needs among all managers, supervisors, and employees; and
(b) positive impact on employee morale.

- 4) Management of the AWS program. The following factors will be considered: (a) neutral or positive impact on AWS program participants' compliance with the BWR (including starting and quitting times, and use of lunch periods, break periods, and sick leave), and on the incidence of discipline for abuse of such considerations; (b) simple yet effective time accounting systems; and (c) balance ease of management of the AWS program with providing participants the maximum variety of options.
- b. Work Schedule Termination. A specific work schedule option will be terminated for the Agency, a component, or an office only if there is evidence showing that the work schedule option in question is causing an "adverse impact" as defined in 5 U.S.C. § 6131(b). "Adverse impact" means: 1) a reduction in the productivity of the Agency, a component, or an office; 2) a diminished level of services furnished to the public by the Agency, a component, or an office; or 3) an increase in cost of the operations of the Agency, a component, or an office (other than a reasonable administrative cost relating to the process of establishing and administering the work schedule in question).



LES JIN
Staff Director

Issued:

9 / 14 / 05

ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 2-34
TELEWORK PROGRAM

SECTION 1. PURPOSE, AUTHORITY AND SCOPE

Under section 359 of Public Law 106-346, the *Department of Transportation Appropriations Act, FY 2001*, agencies are required to establish a policy under which eligible employees of the agency may participate in telecommuting to the maximum extent possible without diminished employee performance. This program is designed to: reduce traffic congestion and improve the environment; improve employee morale and commitment; improve productivity and quality of work; help hire and retain employees; and enable employees to better arrange their use of leave. While teleworking is a management option and not an employee benefit, all employees may participate, with management approval.

SECTION 2. DEFINITIONS

- a. **Alternate work site** means a dedicated area within an employee's home.
- b. **Episodic telework** means teleworking to accomplish project-related work on a short term, non-recurring basis.
- c. **Regular telework** means teleworking according to a set schedule each pay period.
- d. **Telework and telecommuting** are used interchangeably in this Order and mean a work arrangement where an employee may work away from the regular workplace at an alternate site on an episodic or regular basis.
- e. **Supervisor** for the purposes of this policy, Commissioners are considered the supervisor for their Special Assistant.

SECTION 3. POLICY

- a. All eligible employees, except for supervisors, are permitted to telework on a regular basis. Regular teleworking consists of up to one day of teleworking per pay period (unless needed in the office for other reasons), provided sufficient work to be accomplished via teleworking is available in the pay period. Teleworking for more than 1 day per pay period may be granted under exceptional circumstances only

with prior approval of the Staff Director, or in the case of a special assistant, his or her Commissioner's prior approval.

- b. The CCR also will permit episodic teleworking for all eligible employees, including supervisors.
- c. Teleworking will be performed at the employee's residence.
- d. The actual day an employee teleworks is arranged with her/his supervisor.
- e. All teleworkers must work during core hours and are required to be working during the duty hours pre-established with the supervisor.
- f. Employee participation is voluntary and subject to management approval. Management has the right to end employee's use of teleworking if employee's performance declines or the arrangements no longer meet the organization's needs. Canceling the telework arrangement is up to the supervisor. Any such cancellation must be provided to the employee in writing. Additionally, employees can cease their participation at any time.
- g. Supervisors reserve the right to call back an employee to the primary work site or to temporarily or permanently suspend the telework option when in the estimation of the supervisor exigencies of the business so dictate.
- h. Employees are free to discuss any denials or other decisions on teleworking with the Director of Management. Additionally, any decisions on teleworking requests may be grieved by following the procedures described in AI-2-7, *Grievance Procedures*.

SECTION 4. RESPONSIBILITIES

- a. The **Staff Director** is responsible for establishing agency-wide policies and procedures for administering the program.
- b. The **Director of Management** is responsible for administering CCR policies and procedures for participation in the program.
- c. **Office heads and supervisors** are responsible for:
 - .01 Reviewing and approving/disapproving employee requests to telework. All teleworking requests are considered by the office heads (upon the recommendation of immediate supervisors), who have final approval authority. Such requests shall be responded to within one week, and supervisors shall advise employees of any reasons for denial. Upon approval of the employee request to telework, the office head will sign the Employee/Supervisory Agreement for the CCR and provide copies of all documentation to the Director of Management.

- .02 Assigning appropriate work to be performed at the alternate duty station, with a clear expectation of what is to be accomplished, and verifying that the teleworker has the information and equipment necessary to perform the work independently.
 - .03 Coordinating with the Administrative Services and Clearinghouse Division (ASCD) as to teleworkers' automated access to agency systems and any other IT issues. Such coordination should take place at least two days before each teleworking instance to ensure appropriate IT work can be accomplished.
 - .04 Ensuring that work-related documents in both hard copy and electronic form have been adequately secured within the remote work site.
 - .05 Monitoring teleworkers' availability while they are teleworking. This can be accomplished as the supervisor deems appropriate, e.g., telephone contacts, e-mail, visits, etc.
 - .06 Developing and amending performance work plans, as needed, for work performed away from primary official duty station.
 - .07 Evaluating work performance in a manner compatible with telework conditions, that is, measuring performance by results and without direct observation.
 - .08 Supporting the telework concept and working through minor problems or obstacles that may occur.
 - .09 Ensuring that teleworking does not impede the smooth functioning of their office, or burden staff remaining in the office.
 - .010 Periodically evaluating the efficacy of the teleworking arrangement.
- d. **Employees participating in the program**, either on a regular or episodic basis, are responsible for:
- 01. Completing and submitting *Employee Request for work/Telework Schedule* (see Appendix A). When applying for episodic telework, the employee need submit this form only once; details for day(s) to be teleworked should be worked out with the supervisor prior to each episode.
 - 02. Upon supervisory approval, completing *Teleworking Program Employee/Supervisory Agreement* (see Appendix B), and, *Self-Certification Safety Checklist for Home-Based Teleworkers* (see Appendix C).
 - 03. Observing agreed-upon hours of work in accordance with established policies. Teleworkers must be reachable while they are teleworking, preferably via telephone contact. If a teleworker's phone line is tied up by a

computer connection, then the employee must be available via email, and must periodically check her/his e-mail to ascertain if contact is being attempted.

- 04. Observing all policies applicable to requesting leave.
- 05. Using their own equipment, e.g., computer, telephone, furniture, etc.
- 06. Ensuring that work information in both hard copy and electronic form are adequately secured.
- 07. Demonstrating to their supervisor their productivity while they telework and how they accomplished their assigned work.
- 08. Ensuring that dependent care is provided by someone other than themselves during their telework schedule. Telework arrangements can provide valuable assistance in the management of work/family schedules, but is not a substitute for dependent care support.

SECTION 5. ELIGIBILITY FOR TELEWORKING

a. Nature of work.

- .01 Suitable work depends on job content, not job title. Work appropriate for teleworking includes, but is not limited to, analysis, preparing written documents, and computer-oriented work.
- .02 Other factors conducive to teleworking are:
 - Specific work activities are portable and can be performed as effectively outside the office;
 - Face-to face contact with other employees and clients is predictable or contact can be managed through telephone or e-mail communications;
 - Performance can be judged either through quality and timeliness of assignments, or quantity of tasks completed, or a combination of these factors;
 - Security and confidentiality of data, including sensitive, non-classified, Privacy Act information, can be adequately assured; and
 - Access to necessary reference materials is available through photocopying, faxing, or electronic transfer of documents.
 - Does not impede the smooth functioning of their office, or burden staff, etc.

.03 Circumstances normally not suitable for teleworking include: work requiring extensive face-to-face contacts, on-site actions, or meetings with or providing services to the public or CCR staff; the need to have frequent access to material that cannot be removed from the office; and work requiring special equipment or facilities that would be too costly or difficult to offer at the teleworking location.

.04 Whenever the employee teleworks, work must be available for the employee to perform which can be accomplished at the telework location.

b. Employee characteristics:

.01 To be eligible for teleworking, employees must:

- Be organized, highly disciplined, conscientious, and require minimal supervision;
- Have clearly defined performance standards; and
- Be working at a "Fully Successful" level or better.

.02 Teleworking probably is not suited to employees who need to be in the office to learn the organization, or who need on-the-job training or close supervision.

SECTION 6. WORK SCHEDULES

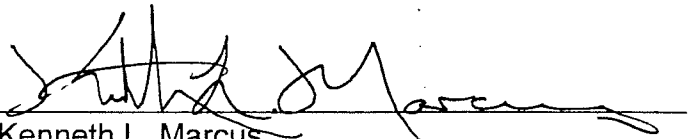
- a. Work away from the office will vary depending upon the individual arrangements between employees and their supervisors.
- b. A teleworker's schedule must identify the days and times the employee will work in each work setting. Work schedules can parallel those in the office or be structured to meet the needs of participating employees and their supervisors. The process of establishing work schedules permits periodic adjustments to achieve an optimal schedule suiting organizational and employee requirements. Developing fixed times during the day for supervisor/employee telephone conversations may be helpful to ensure ongoing communication.
- c. Care must be taken not to approve any schedule that is inconsistent with the hours of operation of the CCR. A schedule of offsite work hours must be established by the supervisor prior to the employee working offsite. Absences from the alternate worksite (e.g., visits on official business to attend meetings) must be coordinated with the supervisor at the earliest time practicable.

SECTION 7. APPLICABILITY OF OTHER LAWS AND DIRECTIVES

Provisions of this Order are subject to modification by changes in pertinent statutes, regulations and controlling issuances by authority outside the Commission. In such cases, and until the Order is modified, applicable provisions of the Order are considered automatically amended or superseded, effective on the date specified in such controlling issuances.

SECTION 8. EFFECT ON OTHER ORDERS

This Order is to be used in conjunction with Administrative Instructions (AI) 2-31 Absence and Leave Policy, and AI-2-33, *Alternative Work Schedules*.



Kenneth L. Marcus
Staff Director

**U.S. COMMISSION ON CIVIL RIGHTS
EMPLOYEE REQUEST FOR WORK
TELEWORK SCHEDULE**

To: _____

Supervisor

_____ I request that the following compressed work AND/OR telework schedule be approved for me. Please indicate 8-hour day, day off, or telework day, as appropriate. If requesting episodic teleworking, designate work hours and check the episodic teleworking line.

First week of pay period.

Monday : _____ a.m. to _____ p.m.

Tuesday : _____ a.m. to _____ p.m.

Wednesday : _____ a.m. to _____ p.m.

Thursday : _____ a.m. to _____ p.m.

Friday : _____ a.m. to _____ p.m.

_____ Episodic teleworking

Second week of pay period.

Monday : _____ a.m. to _____ p.m.

Tuesday : _____ a.m. to _____ p.m.

Wednesday : _____ a.m. to _____ p.m.

Thursday : _____ a.m. to _____ p.m.

Friday : _____ a.m. to _____ p.m.

Employee's Signature

Date

SUPERVISORY RECOMMENDATION

- Approve
- Approve as modified
- Disapprove (justification attached)

Supervisor's Signature

Date

— Approved

— Approved as modified

— Disapproved

Supervisor's signature

Date

U.S.COMMISSION ON CIVIL RIGHTS' TELEWORKING PROGRAM

EMPLOYEE/SUPERVISORY AGREEMENT

The following constitutes an agreement on the terms and conditions of teleworking between the Commission and (employee name) _____

This teleworking arrangement is on a regular/episodic (select one) basis.

Employee volunteers to participate in teleworking and agrees to adhere to all applicable agency guidelines and policies while teleworking.

Employee's participation as a teleworker is entirely voluntary and is available only as long as employee is deemed eligible at the CCR's sole discretion. There exists no right to telework, and supervisory decisions are not appealable or grievable, although employee may discuss any denial with the involved bureau/office head. The CCR may terminate employee's participation as a teleworker upon reasonable notice thereof.

The initial period for which this teleworking arrangement is made begins _____ and ends _____

Employee's official duty station is _____

The alternate work site is the employee's residence and is located at:

Telephone Number: _____

Employee is permitted up to 1 day of teleworking per pay period (unless needed in the office for other reasons), provided sufficient work to be accomplished via teleworking is available in the pay period. Teleworking for more than 1 day per pay period maybe granted under exceptional circumstances only with prior approval from the Staff Director, or in the case of a special assistant, his or her Commissioner's prior approval. Teleworking in any given pay period is conditioned upon work being available for the employee to perform at the teleworking site. CCR also will permit episodic teleworking as an exception to the rule. All specific criteria applicable to episodic teleworking must be approved by employee's office head/supervisor beforehand.

Employee must work during core hours and is required to be working during the duty hours pre-established with the supervisor. Employee is not authorized to work overtime while teleworking, unless previously approved by supervisor and senior management in accordance with established procedures.

Employee must be reachable while teleworking, preferably via telephone contact. If a teleworker's phone line is tied up by a computer connection, then the employee must be available via e-mail, and must periodically check her/his e-mail to ascertain if contact is being attempted.

Employee will complete all assigned work according to work procedures and requirements specified by the supervisor, and according to guidelines and standards stated in the employee's performance plan. Employee must be able to demonstrate productivity and accomplishment of specified assignments upon return from teleworking.

Supervisor is responsible for monitoring employee's availability while teleworking. This can be accomplished as the supervisor deems appropriate, e.g., telephone contacts, e-mail, visits, etc.

Employee must use her/his own equipment, e.g., computer, phone, furniture, etc., while teleworking.

If employee borrows CCR equipment, employee will protect the equipment appropriately. CCR equipment will be serviced and maintained by CCR. If employee provides own equipment, employee is responsible for servicing and maintaining it.

Employee must sign *,Self-Certification Safety Checklist for Home-Based Teleworkers*, by which the employee stipulates that her/his telework location meets specific safety standards.

Furniture, lighting, household safety equipment, etc., incidental to teleworking, software and supplies shall be appropriate for their intended use and shall be used and maintained in a safe condition, free from defects and hazards.

Employee agrees that CCR may make on-site visits to the remote work location for the purposes of determining that the site is safe and free from hazards; to maintain, repair, inspect or retrieve CCR-owned equipment, software, data and/or supplies; or to evaluate the telework arrangement. CCR must provide employee with at least 24-hours notice of an inspection and make inspections only during normal working hours.

Employee agrees that CCR will not be responsible for operating costs, home maintenance, or any other incidental cost (e.g., utilities, insurance) whatsoever associated with the use of the employee's residence or computer equipment.

Employee will apply approved safeguards to protect Government/agency records from unauthorized disclosure or damage and will comply with Privacy Act requirements set forth in the Privacy Act of 1974, P.L. 93-579, codified at section 522a, title 5 U.S.C. Under no circumstances may classified information leave CCR premises.

The CCR will not be liable for damages to an employee's personal or real property or to third parties while the employee is working at the approved alternative workplace, except to the extent the CCR is held liable under the Federal Tort Claims Act.

Employee may be covered under Federal Employee's Compensation Act if injured in the course of actually performing official duties at the official duty station or the alternate work site. Any accident or injury occurring at the alternate work site must be brought to the immediate attention of the supervisor, and the supervisor or other appropriate official will need to promptly investigate the nature and cause of the accident.

Teleworking 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 CCR assignments during the time he/she is teleworking.

Employee's Signature: _____

Date: _____

Supervisor/Office Head's Signature: _____

Date: _____

**SELF-CERTIFICATION SAFETY CHECKLIST
FOR HOME-BASED TELEWORKERS**

NAME: _____

OFFICE: _____

HOME ADDRESS: _____

HOME TELEPHONE: _____

The following checklist is designed to assess the overall safety of your alternate duty station. Please read and complete the self-certification safety checklist. Upon completion, you should sign and date the checklist in the space provided.

The alternate duty station is: _____

Generally describe the designated work area in the alternate duty station:

A. WORKPLACE ENVIRONMENT

Yes ___ No ___ 1. Are temperature, noise, ventilation, and lighting levels adequate for maintaining your normal level of job performance?

Yes ___ No ___ 2. Are all stairs with 4 or more steps equipped with handrails?

Yes ___ No ___ 3. Are all circuit breakers and/or fuses in the electrical panel labeled as to intended service?

Yes ___ No ___ 4. Do circuit breakers clearly indicate if they are in the open or closed position?

Yes ___ No ___ 5. Is all electrical equipment free of recognized hazards that would cause physical harm (frayed wires, bare conductors, loose wires, flexible wires running through walls, exposed wires to the ceilings)?

- Yes ____ No ____ 6. Will the building's electrical system permit the grounding of electrical equipment?
- Yes ____ No ____ 7. Are aisles, doorways, and corners free of obstructions to permit visibility and movement?
- Yes ____ No ____ 8. Are file cabinets and storage closets arranged so drawers and doors do not open into walkways?
- Yes ____ No ____ 9. Do chairs have any loose casters (wheels) and are the rungs and legs of the chairs sturdy?
- Yes ____ No ____ 10. Are the phone lines, electrical cords, and extension wires secured under a desk or alongside a baseboard?
- Yes ____ No ____ 11. Is the office space neat, clean, and free of excessive amounts of combustibles?
- Yes ____ No ____ 12. Are floor surfaces clean, dry, level, and free of worn or frayed seams?
- Yes ____ No ____ 13. Are carpets well secured to the floor and free of frayed or worn seams?
- Yes ____ No ____ 14. Is there enough light for reading?

WORKSTATION

- Yes ____ No ____ 1. Is your chair adjustable?
- Yes ____ No ____ 2. Do you know how to adjust your chair?
- Yes ____ No ____ 3. Is your back adequately supported by a backrest?
- Yes ____ No ____ 4. Are your feet on the floor or fully supported by a footrest?
- Yes ____ No ____ 5. Are you satisfied with the placement of your VDT and keyboard?
- Yes ____ No ____ 6. Is it easy to read the text on your screen?
- Yes ____ No ____ 7. Do you need a document holder?
- Yes ____ No ____ 8. Do you have enough leg room at your desk?
- Yes ____ No ____ 9. Is the VDT screen free from noticeable glare?
- Yes ____ No ____ 10. Is the top of the VDT screen eye level?
- Yes ____ No ____ 11. Is there space to rest your arms while not keying?

Yes ___ No___ 12. When keying, are your forearms close to parallel with the floor?

Yes ___ No___ 13. Are your wrists fairly straight when keying?

Employee's Signature Date

ISSUED: 10/26/09

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-35

AGENCY CORE COMPETENCIES

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to set forth the policies of the U.S. Commission on Civil Rights (USCCR) for the agency core competencies.

This policy in general does not repeat provisions set forth in law, Executive order, or the Code of Federal Regulation.

SECTION 2. SCOPE

This policy applies to all full-time and part-time, GS, GM, and SES Commission employees with the exception of those persons appointed by the President or Congress and employees who are on temporary appointments such as students.

SECTION 3. POLICY

It is the Commission's policy to establish agency core competencies in order to affect high performance from current and future agency employees; drive and support the identification and development of the best employees; and ensure the right skill sets in the right place. USCCR must grow to become the premier employer of choice and we must continue to program excellence. The agency core competencies will also serve as the catalyst for performance based interviews (PBI).

SECTION 4. DEFINITIONS

For the purposes of this program the following terms are defined:

01. **Competency** – an observable, measurable pattern of skills, knowledge, abilities, behaviors & other characteristics that an individual needs to perform work roles or occupational functions successfully.
02. **Benchmark** – a standard by which work is measured. Each competency has a separate benchmark for each career level, and the benchmarks vary across career levels on factors such as maturity of judgment, complexity, and autonomy. The benchmarks are progressively more difficult to reach across career levels and the benchmarks are cumulative. The benchmarks for the

general competencies were developed by OPM, with the technical benchmarks are developed by each work group of subject matter experts.

03. **Indicator** – an example of how the competency is demonstrated on the job. All of the indicators are developed by work groups of subject matter experts and validated by the management council and/or supervisors.
04. **Selection Indicator** – an example of work required for selection into the career level. In other words, an individual is expected to be able to demonstrate the specified indicator before entering the career level. As with the benchmarks, the selection indicators are cumulative and progressively more difficult across career levels.
05. **Development Indicators** – an example of work to be performed while an individual is at that career level. Since development is a continuous process across career levels, an individual is not expected to perform this work when entering the respective level but is expected to be able to demonstrate the behaviors specified in the indicator before leaving the career level and advancing to the next career level. Like the selection indicators, the developmental indicators are cumulative and progressively more difficult across career levels.
06. **Result-oriented Culture** - The Results-Oriented Performance Culture system focuses on having a diverse, results-oriented, high-performing workforce, as well as a performance management system that effectively plans, monitors, develops, rates, and rewards employee performance. A system that promotes a diverse, high-performing workforce by implementing and maintaining effective performance management systems and awards programs.

SECTION 5. RESPONSIBILITIES

01. The Staff Director retains approval authority for the agency general core competencies, competency models, benchmarks and performance indicators.
02. The Agency Management Council is responsible for developing all supervisory competency models, establishing benchmarks and performance indicators.
03. The Director of Human Resources is responsible for program management, training staff members on competencies development, and annual review of program effectiveness.
04. Division Heads, managers and supervisors are responsible for program implementation within their divisions ensuring that these basic agency core competencies are developed in all subordinates. Guidance on specific

supervisory responsibilities will be included in the Core Competency training and the revised GS Performance System.

SECTION 6. TRAINING

In order to ensure effective management and implementation of the core competency program, the Director of Human Resources will provide advice, ongoing training and development to all supervisors and manager.

SECTION 7. AGENCY GENERAL CORE COMPETENCIES

USCCR has adopted Eight (8) General Core Competencies” listed below. These general core competencies are mandatory skill sets needed for all Commission employees. All supervisors and managers are required to indoctrinate and develop their division personnel on these competencies.

1. **Mastery of Personal Skill:** Sets well-defined and realistic personal goals; displays a high level of initiative, effort, and commitment towards completing assignments in a timely manner; works with minimal supervision; is motivated to achieve; demonstrate responsible behavior.
2. **Technical Proficiency:** Necessary skills and abilities to perform required tasks, including basic literacy and computer skills. Understands the work processes of which he/she is a part.
3. **Interpersonal Efficiency:** Shows understanding, courtesy, tact, empathy; develops and maintains relationships; deals with difficult people; relates well to people from varied backgrounds; is sensitive to individual differences.
4. **Customer Service:** Works with customers to assess needs, provide assistance, resolve problems, satisfy expectations; knows products and services.
5. **Innovative Thinking:** Uses imagination to develop new insights into situations and applies innovative solutions to problems; design new methods where established methods and procedures are not applicable or are unavailable. The ability to think “outside the box.”
6. **Flexibility/Adaptability:** Is open to change and new information; adapt behavior or work methods in response to new information, changing conditions, or unexpected obstacle; effectively deal with ambiguity.
7. **Systems Thinking:** The ability to see the relationship of the part to the whole, to know how one’s actions affect others, and to grasp the “big picture.”
8. **Stewardship/Integrity:** Contributes to maintaining the integrity of the organization; displays high standards of ethical conduct and understands the

impact of violating these standards on an organization, self, and others; trustworthy.

The enclosed certificate provides the "Eight Core Competencies" of the agency, ensuring that these competencies are adhered to and applied to daily work routine. This certificate shall be given to all employees and placed in a conspicuous location.

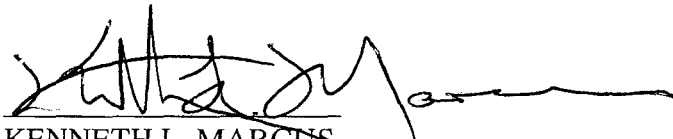
SECTION 8. PROGRAM INTERGRATION

The Agency Core Competencies will provide a major role in staff development and recruitment. Because USCCR is transforming to a result-oriented culture, the agency core competency must ensure a foundation of employee general skill requirements that reach all levels of program operation. One way to ensure standards program results is to ensure that all employees perform from the same competency skill sets. Agency core competencies will integrate with the following programs:

01. Performance Management - Each individual performance plan will be centered on the Agency Core Competencies. Critical elements will incorporate these critical core competencies, linking to mission objectives.

02. Recruitment - HRD will integrate the Agency Core Competencies within the Merit Promotion Plan/DEU Recruitment Program. Agency core competencies will play a major role in developing interview questions for Performance Based Interviews (PBIs).

03. Employee Awards - Agency Core Competencies will integrate with the awards program. Employee awards will be rewarded upon senior management decisions on how well employees achieve the core competencies.



KENNETH L. MARCUS
Staff Director

U.S. COMMISSION ON CIVIL RIGHTS

EIGHT

CORE COMPETENCIES

MASTERY OF PERSONAL SKILLS

TECHNICAL PROFICIENCY

INTERPERSONAL SKILLS

CUSTOMER SERVICE

INNOVATIVE THINKING

FLEXIBILITY/ADAPTABILITY

SYSTEMS THINKING

STEWARDSHIP/INTEGRITY

ISSUED: 10/26/03

**ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 2-36
SENIOR EXECUTIVE SERVICE (SES) MERIT STAFFING PLAN**

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to set forth the policies of the U.S. Commission on Civil Rights (USCCR) Senior Executive Service Merit Staffing.

SECTION 2. AUTHORITY

- a. 5 U.S.C. 3393(a), and 3391 through 3395
- b. 5 CFR 317.501-504

SECTION 3. SCOPE

This AI applies to all full-time, part-time current and prospective SES employees who are career, career-conditional, non-career appointments.

SECTION 4. POLICY

The *purpose* of Senior Executive Service (SES) Merit Staffing is twofold:

- (1) To recruit and appoint highly competent executives to fill specific Agency needs;
and
- (2) To assign executives where they will be of the most benefit to the accomplishment of the Agency's mission without regard to race, color, religion, sex, national origin, age, disability, sexual orientation, marital status, reprisal, or political affiliation.

SECTION 5. DEFINITIONS

1. Types of SES Positions:

- a. Career Reserved. A position that is required to be filled by a career appointee to insure impartiality, or the public's confidence in the impartiality of the Government.
- b. General. Any position other than a career reserved position. A general position may be filled by a career, non-career, limited term, or limited emergency

appointee. Career employees in general positions have the same status as career employees in career reserved positions.

SECTION 6. TYPE OF APPOINTMENTS

a. Career Appointee. An individual in SES whose appointment to the position or previous appointment to another SES position was based on approval by the Office of Personnel Management Qualifications Review Board (OPM QRB) of the executive qualifications of such individual or an individual who converted to an SES career appointment when the SES was first established.

b. Non-career Appointee. An SES appointee who is not on a career, limited term, or limited emergency appointment. A non-career appointee may be removed from the service at any time.

c. Limited Emergency Appointee. An individual appointed under a nonrenewable appointment for a period not to exceed 18 months to a position established to meet an unanticipated urgent need.

d. Limited Term Appointee. An individual appointed under a nonrenewable appointment for a term of three years or less to an SES position the duties of which will expire at the end of such term.

SECTION 7. ESTABLISHING SES POSITIONS

Obtaining Approval. Before initiating any recruitment action, Department Heads must receive position establishment approval from the Office of the Staff Director via the Director of Management.

SES Position Criteria. Positions are designated SES positions when they are classifiable at least to the GS-16 level of the General Schedule and not designated above Level IV of the Executive Schedule, or equivalent; they are not required to be filled by an appointment by the President by and with the advice and consent of the Senate; and they meet one or more of the following managerial criteria:

a. Direct the work of an organizational unit. This includes responsibility for organizing the unit, planning its operation, determining staff and budget needs, managing human resources, and accomplishing organizational goals.

b. Supervise the work of employees other than personal assistants. (See the supervisory definition in the Supervisory Grade Evaluation Guide, which is available for review in the servicing personnel office.)

c. Held accountable for the success of one or more specific programs or projects. This includes accountability for the quality, quantity, and timeliness of the work of the unit, as well as the effective use of resources.

d. Set goals for meeting the unit's responsibilities and for carrying out instructions from higher management, monitor progress toward those goals, and make adjustments as required.

e. Exercise other important policy-making, policy-determining, or other executive functions which directly relate to organizational and managerial effectiveness.

f. Serve as "Deputy" and "Assistant" when the duties shared with the head of the unit are described by one of the above factors.

SECTION 8. POSITION ESTABLISHMENT PROCEDURES

1. **New Positions**: Except as indicated, organizations having a new position requirement will submit the following documentation to the Director of Management:

a. Position Description (OF-8), signed Request for Personnel Action (SF-52), and qualifications standard incorporating managerial competencies.

b. Cover memorandum to OSD identifying the position plus an position evaluation statement.

c. Identification of the SES resource to be used (or justification for request for an additional space).

d. Request for certification of the position as an SES requirement.

e. Organization chart, mission and function statement, as appropriate.

f. Discussion of series and title selection.

g. Rationale and recommendation for designation of the position as Career, career conditional or non-career appointment.

h. Using the appropriate classification standard, evidence that the position is properly classifiable above the GS-15 level.

i. Positions will be reviewed for classification, position designation, and position management purposes by the responsible Executive Resource Specialist, who will prepare a recommendation memorandum for the Director of Management signature.

2. **Positions previously existing at the GS-15 level**: Organizations requesting the placement of existing GS-15 positions in the SES should submit the following:

a. For positions without major changes, all items as in section 8.1 above and justification for change in level.

b. For positions with major changes, all items as in subsection section 8.1, justification for change in level, and identification of source of additional responsibilities.

c. Positions will be reviewed for classification, position designation, and position management purposes, and a recommendation prepared for OSD approval. Although a GS-15 incumbent may have been performing duties now classified as an SES position, a “noncompetitive promotion” to the SES is not permissible. Initial entry into the SES is by appointment only since the SES represents a separate personnel system distinct from the competitive and excepted services.

3. **Recertification**: Except as indicated, organizations having SES vacancies should submit the following documentation for each position to the Director of Management:

a. Updated position description, new (signed) OF-8, signed SF-52, and qualifications standard incorporating managerial competencies.

b. Identification of previous incumbent, nature of separation, and date of separation.

c. Request for recertification as SES position.

d. Organization chart, mission and function statement, as appropriate.

e. Positions are reviewed for continued designation as SES. A staff member of the HRD Executive Resources prepares a recommendation for the Director of Management who submits to the Staff Director for approval.

SECTION 9. CAREER APPOINTMENTS

1. Competitive. Competitive recruitment for career appointment to an established SES position (designated as either Career Reserved or General) typically involves the following steps:

a. **Recruitment**: Upon certification or recertification of the position as SES, the Human Resource Division will assist the supervisor in the development of a recruitment plan, including minority and female affirmative action recruitment efforts. The following personnel will be entitled to priority consideration for a vacancy:

(1) Career executives whose positions are to be abolished as a result of a reduction in force; and

(2) Career executives referred by OPM *under 5 CFR 359.603*.

b. Positions will be advertised in accordance with 5 CFR 317.501(b). Qualifications standards for each SES position must be based the established position

rating schedule and job analysis that identifies the essential elements of the position in terms of duties, responsibilities, and performance expectations.

c. Develop the vacancy announcement. The area of consideration is All Qualified Eligibles. Announcements are normally open for a minimum of **21 days**. Arrange for receipt and screening of applications.

d. **Executive Resource Board**: Arrange for the evaluation of applications by Executive Review Board Panel (ERB). The ERB must consist of at least two (2) members of the SES with at least one member a career appointee. HRD will provide advisory services to the panel as appropriate.

e. The ERB will rank/rate all applicants in accordance with the position SES rating schedule and refer in writing the best qualified applicants to the Selecting Official. HRD will prepare the certificate and forward to the selecting official along with the individual candidate rating sheets.

f. After receiving the certificate, the selecting official interviews as appropriate, and makes a selection from among the group referred. It should be noted that if the supervisor is unable to make a selection from among those referred, the "best qualified" certificate may not be subsequently expanded without consent of the ERB members involved. Certificates are valid for 60 days only; extensions, in unusual circumstances, must be requested in writing and approved by the Director of Human Resources.

g. Selecting official returns the certificate to the human resource division, together with a memorandum setting forth reasons for the selection and a recommendation on the initial pay level.

h. Upon receipt of all internal approvals, the HRD Executive Resource Division, will take action to secure OPM QRB certification of the selectee's executive/managerial qualifications. Managerial competencies, which must be demonstrated, and appear in all Agency SES vacancy announcements.

i. Upon QRB approval, appointments are processed by HRD as administratively feasible.

j. The human resource division will notify the unsuccessful candidates.

SECTION 10. NON-COMPETITIVE APPOINTMENTS

1. A variety of alternatives to competitive staffing procedures are available to managers wishing to make career appointments. These include the following:

a. Reassignment of a current SES career member from within the CCR.

b. Transfer of a current SES career member from another Government Agency (including Military Departments).

c. Reinstatement of an employee who left the SES after acquiring SES reinstatement eligibility.

d. Selection from OPM Priority II referral listing. This is a listing of SES career appointees whose positions have been declared surplus by their employing Agency and who, therefore, are in risk of separation by reduction in force (RIF). If selection is made from the Priority II referral listing, the appointment would be by transfer and no further competitive procedures need to be followed. Selection from the Priority II referral listing is not mandatory. When an SES career appointee receives formal notification of RIF action, he or she moves to Priority I and is entitled to placement in a vacant SES position for which qualified in any Agency.)

2. Except as noted, all of the noncompetitive alternatives listed require Director of Management approval of the individuals' professional/technical qualifications. Such approval is not required in the case of a reinstatement of a former Presidential appointee to the SES position previously held within 90 days of the date of separation from the Presidential appointment. Director of Management approval of the individual's professional/technical qualifications, however, is required for reassignments due to a re-description of duties or changes in responsibilities, a substantial change in qualifications standards, or a reorganization resulting in a new position and/or changes in overall functional responsibilities or organizational level.

3. Requests for approval of a noncompetitive action will be forwarded to the Director of Management through the Director of Human Resources and should include: copies of a current position description (OF-8) and qualifications standards, a copy of the individual's application; and a memorandum, signed by the appropriate Department Head, indicating the reasons for selecting the individual and the proposed SES pay level.

4. A career SES member may be noncompetitively reassigned to any SES position for which qualified. By contrast, a non-career member may be reassigned only to another General position.

SECTION 11. NON-CAREER APPOINTMENTS

1. Non-career, limited term, and limited emergency appointments. Appointees may be assigned only to positions designated as General.

2. Non-career Appointments: The total number of non-career appointees in all Federal Agencies may not exceed 10 percent of the total number of SES positions. USCCR receives an allocation of non-career appointment authorities annually from OPM.

3. Non-career appointments, although not requiring competitive selections or ERB or QRB approvals, require approval of the individual's qualifications, SES pay level, and use of non-career authority by the Office of the Staff Director of his designee. This approval is obtained by memorandum submitted through the Director of Management.

4. Limited Term and Limited Emergency Appointments: Total number of limited term and limited emergency appointees in all Federal Agencies may not exceed 5 percent of the total number of SES positions. Therefore, OPM approval is required prior to using these appointing authorities.

SECTION 12. OTHER ACTIONS

1. The following do not require Director of Management approval, but require approval by the Director of Human Resources:

a. Position title changes or current updates not involving substantial change in duties, responsibilities, or qualifications standards.

b. Interchange of two SES individuals in accordance with an approved individual development plan.

c. Reassignments or transfers resulting from an approved transfer of functions.

SECTION 13. APPLICANT INQUIRIES

1. Upon written request to the Executive Secretary of the ERB, any applicant for a vacancy will be furnished the name of the selecting official, the individual selected, and the following information:

a. The qualifications requirements, including desirable as well as essential elements.

b. Whether he or she was eligible for the position.

c. Whether he or she was referred to the selecting official for consideration for appointment.

d. The nature of the procedures used in recruiting and selecting candidates for the particular position.

f. Qualification questionnaires or reports on qualifications inquiries about themselves.

g. Upon written request to the Executive Secretary of the ERB, applicants will be furnished full information regarding the nature of the procedures used in recruiting and selecting candidates for any particular position.


h. The Director of Human Resources will reply to routine inquiries.

SECTION 14. APPEALS

1. There is no appeal by applicants to the Office of Personnel Management against actions taken by an ERB or by appointing officials.
2. Complaints of civilian employees arising out of the SES merit staffing operation will be handled in accordance with prescribed Agency grievance procedures. A grievance concerning a particular act or occurrence must be presented within **15 calendar days** of that act or occurrence, or of the date the employee became aware of it.
3. Allegations of any personnel action which comes under the prohibited personnel practices provisions of 5 U.S.C. 2302, i.e., discrimination, whistleblowing (including disclosure of information), or political reprisal, may be made to the Special Counsel of the Merit Systems Protection Board.
4. Complaints of unlawful discrimination may be made in accordance with Agency procedures must be brought to the attention of the EEO counselor within **20 calendar days** of the date of the action giving rise to the complaint.
5. Requests for information pursuant to the provisions of the Freedom of Information Act will be forwarded to the Solicitor in the Office of the Staff Director.

SECTION 15. DOCUMENTATION AND RECORDS

As a minimum, minutes of all ERB meetings, and records of each competitive action will be maintained by the Human Resource Division for two years after an SES career appointment is made.



KENNETH L. MARCUS
Staff Director

Issued: _____

3/16/07

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-37

STUDENT VOLUNTEER PROGRAM (SVP)

SECTION 1. PURPOSE.

This Administrative Instruction sets forth laws, policies, guidelines, and procedures regarding voluntary and uncompensated services, provides guidance on accepting services which do not involve an employer-employee relationship, sets policy on citizenship requirements for student volunteers, and provides for written agreements in order to participate in the Student Volunteer Program.

SECTION 2. AUTHORITY

This instruction is issued under the authority of:

5 United States Code, section 3111.

The Civil Service Reform Act of 1978

SECTION 3. VOLUNTEER SERVICE

A. Generally speaking, Federal agencies are prohibited by law (section 1342 of title 31, United States Code) from accepting volunteer service. No person may provide unpaid service to the Government or provide service with the understanding that he or she will waive pay. Exceptions to this prohibition are provided only for:

1. employment in emergencies involving the protection of life or property;
2. employment of assistants to handicapped employees;
3. employment of experts and consultants; and
4. employment of students to further their educational goals

B. By statute, "an officer or employee of the United States Government . . . may not accept voluntary services . . . exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property" (31 U.S.C. 1342). In addition, some Federal agencies, such as the National Park Service and the Forest Service, have specific authorities to accept unpaid services for specific jobs or functions. Individuals who are interested in volunteering their services to the USCCR should contact the Student Volunteer Program office to inquire about specific opportunities.

C. U.S. Commission on Civil Rights offers unpaid training opportunities to students in high school, college, professional schools and graduate schools regardless of academic track or area of study. These opportunities provide work experience related to their academic program. The program allows students to explore career options as well as develop their personal and professional skills. As a student volunteer, they will be exposed to the Federal work environment and will learn about the missions and responsibilities of the agency and departments.

D. Service performed by an individual on a voluntary basis may not be used to displace or replace any employee in the agency's work force.

E. Minimum age. The Office of Personnel Management (OPM) requires the selection of student volunteers to conform with Federal, State, and local laws and standards regarding the employment of minors. The Agency's policy is that in general, volunteers should be at least age 16 or in the tenth grade or at an equivalent level of schooling. In situations deemed appropriate by a Director of Human Resources, students younger than 16 or at a level of schooling below the tenth grade or equivalent may serve. Under no circumstances, however, may a student younger than 14 serve, regardless of grade in school, without prior approval of the Director for Human Resources. Students who are between grades, as for example, during the summer, are considered to be in the grade or class in which they will next be enrolled.

F. Written agreements. Agency policy requires a written agreement between the host department, the educational institution of each student volunteer, and the student. The agreement must identify agency and school responsibilities and the conditions or limitations under which the student will serve. Host departments may establish agreements appropriate to their needs as long as the requirements of law and Agency policy are met. The agreement listed in Appendix A/E of the attached Student Volunteer Program Manual must be used to ensure conformity.

G. Citizenship. U.S. citizens and non-citizens may serve as student volunteers. If an agency may not hire citizens of a particular country, citizens of that country may not serve as student volunteers. Questions about the status of any country should be directed to the Human Resources Division. Any non-citizen volunteer must meet the same security and suitability requirements that apply to citizen hires.

H. The establishment of an SVP Personnel Folder is required for each student volunteer, but service is not creditable for leave accrual or for any other employee benefit. Volunteer service is creditable, however, for meeting qualifications requirements for future Federal employment.

SECTION 4: RESPONSIBILITIES

A. The Office of Management has overall program oversight for program effectiveness.
B. The Director of Human Resources is responsible for program implementation, effectiveness and evaluation.

C. Intern Supervisors are responsible for:

1. Developing position descriptions or statement of work

2. Maintaining student personnel folder or statement of work
3. Student evaluation
4. Program availability
5. Other responsibilities listed in the Student Volunteer Program (see section title: Supervisors Responsibilities)

SECTION 5. PROGRAM IMPLEMENTATION

The attached Student Volunteer Program Manual is hereby put into practice to all staff, regional offices and departments.



KENNETH L. MARCUS
Staff Director

Encl: Student Volunteer Program Manual

U.S. COMMISSION ON CIVIL RIGHTS

Student Volunteer Program (SVP)

Office of Management
Human Resource Division
Program Office

624 9TH Street N.W.
Suite 510
Washington, DC 20425
careers@usccr.gov
Office: 202-376-8364
Fax: 202-376-7577

Dear New Student Intern:

As your Host Employer, it is our pleasure to sponsor your academic aspirations. We are pleased that you have chosen to experience the rewarding career options available at the U.S. Commission on Civil Rights. Safeguarding the civil rights for all citizens is what we do. We provide quality work experience specifically geared to your academic goals, enabling you to be better prepared to fulfill your career dreams. On the following pages you will find information on the U.S. Commission on Civil Rights Student Volunteer Program (SVP) developed by the Office of Management, Human Resource Division. The information is designed to aid you during your internship and to prepare you for a possible career in the Federal Government. As an SVP Intern, you will be considered a professional and will be expected to participate in all aspects of the SVP program as requested by your supervisor. Your input is valuable to the overall success of the program at your assigned location, so do not hesitate to make suggestions for improvement. You are part of our team! If you have any problems or concerns during your internship, do not hesitate to contact your supervisor for assistance. It is our goal that your internship experience is a valuable one and that you will consider the career opportunities that the Federal Government offers.

Sincerely,
TINALOUISE MARTIN
Director of Management

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STUDENT VOLUNTEER PROGRAM
Emergency Point of Contact Information

Director of Management
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Director of Human Resource
Student Volunteer Program Manager
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Phone: 202-376-8366
Fax: 202-376-8364
tbeatty@usccr.gov

Division of Human Resources
SVP Program Coordination
624 9th Street N.W.
Suite 510
Washington, DC 20425
Phone: 202-376-8364
Fax: 202-376-8364

PURPOSE

The goal of the U.S. Commission on Civil Rights Student Volunteer Program is to provide students a pre-professional, practical experience within a federal government organization. It involves a 12 to 16 week experience and provides the opportunity for students to apply academic knowledge and skills in law, administration, planning, budgeting & accounting, and leadership under the guidance of a subject matter expert (SME) who acts as the intern's on-site supervisor.

SUPERVISOR RESPONSIBILITIES

- Your SVP supervisor serves as your local point-of-contact and mentor. As your local POC, your supervisor should:
- Provide "Welcome Aboard" e-mail and/or package, covering the department you will be working for, prior to your arrival.
- Provide orientation and tour of USCCR.
- Inform you of all personnel policies and procedures that affect you.
- Be the contact person and liaison with your university and the Human Resources Division in regard to your intern program.
- Provide emergency point-of-contact for local area.
- Have an initial conference with you to determine your specific needs and to adapt the internship to meet those needs and to meet needs of USCCR.
- Review the goals and objectives that you develop to verify whether they can be achieved during your internship. Goals and objectives which cannot be achieved within the USCCR organization will be returned to you for revision. Your supervisor will work with you to draft your goals and objectives.
- Confer with you at least once a week to review schedules, discuss work performance, analyze problems, and to provide feedback on your progress.
- Monitor your well-being and the quality of your contribution to the USCCR organization.
- Help you make the transition from student to practitioner.
- Assist you in meeting specific USCCR organization or university requirements.
- Allow you reasonable freedom of operation so that you get sufficient chance to learn by doing.

- Provide necessary program supplies and equipment for activities that you conduct.
- Evaluate your performance and submit the results on the form provided (Form G).
- Provide opportunities for creative programming.
- Draft Letter of Appreciation (LOA) (Appendix D) for OM signature.
- Present LOA to student prior to student's departure.

INTERN RESPONSIBILITIES:

- Complete University requirements as assigned **RESPONSIBILITIES**
- Develop and achieve internship goals and objectives (Form H)
- Perform daily work assignments given by your intern supervisor
- Complete the SVP Program Checklist. These are the basic areas you must cover during your internship. Have your intern supervisor initial each step when completed. Return to the Human Resource Division (Form A).
- Answer the SVP Weekly Questions. These questions require you to reflect on your experience and what you are learning. Send to the SVP Coordinator weekly (Form B).
- Plan and conduct a Special Project for your assigned program area. Use the Special Project Planning Worksheets (Form C) to aid you along the way. Upon conclusion, complete the Special Project After Action Report (Form D) and return to the SVP Coordinator.
- Ask questions and learn as much as you can about USCCR, its mission, operations and federal career opportunities
- Provide honest feedback on your supervisor via the evaluation forms provided (Form E)
- Evaluate the SVP program effectiveness (Form F)
- Bring any questions, concerns and/or potential problems immediately to the attention of your intern supervisor for assistance in resolution.
- Complete the student volunteer Time Sheet (Appendix B)

HOW SVP WORKS

Your supervisor knows how to do the job you will be asked to do, and will coach and mentor you. Your supervisor will help you manage your time and effort so you succeed. Your supervisor will also interface with the various program leads and co-workers with whom you will work. He or she will also arrange for a combination of on-the-job training (OJT) sessions, visits, lectures, materials and work space to make it as easy as possible for you to learn. That does not mean you can sit back and relax. The focus in this internship experience is on performance. You will actually do the things you are learning about. It will take more effort, but your reward will be that you can go back to the university with a comprehensive intern experience. You and your supervisor will set the pace of your internship. If you get something done quickly, get the task feedback and then move on. If you hit a snag, ask for help and spend the time needed to master the task before continuing. If you get dangerously far behind, your supervisor will let you know and offer extra help. Even under ordinary circumstances, you will probably have to put in some "extra time" to complete your assigned tasks.

ONE FINAL NOTE

Choose to make the most of the learning opportunities you encounter during your internship and you will succeed. All of us in the Student Volunteer Program Office wish you great success in your internship at USCCR.

I'M DONE WITH MY INTERNSHIP, NOW WHAT?

When you have completed the SVP to the satisfaction of your supervisor; and you have completed and submitted all of the requirements and evaluations in this manual, the SVP Office will send you a certificate. A copy of this certificate may accompany any resume or Federal Government job application you submit for federal positions. In addition, ask your Internship Supervisor to provide you with a letter of reference, citing specific accomplishments of your internship, which you can attach to your employment application packages as well.

FORM A

STUDENT VOLUNTEER PROGRAM CHECKLIST

Student Name: _____

Intern Session: _____

Supervisor name: _____

1. Orientation to SVP (complete within first week)

- _____ A. Meet USCCR staff
- _____ B. Review office procedures
- _____ C. Review Administrative Instructions (AI)
- _____ D. Review scheduling procedure
- _____ E. Review registration procedure

2. Attend Meetings

- _____ A. With supervisors
- _____ B. With staff
- _____ C. With Executive Staff Meeting
- _____ D. With Staff Director
- _____ E. Commission Meetings

3. Programming-Direct Leadership-Supervision

- _____ A. Conduct at least one USCCR program or special event

4. Publicity

- _____ A. Develop promotional materials (*flyers, e-mail, website, messages, etc.*)
- _____ B. Write news releases

Page 2: FORM A

- _____ C. Participate in the layout and printing of briefing reports or other CCR materials
- _____ D. Promote specified programs
- _____ E. Attend and/or conduct two new personnel indoctrinations

6. Administrative Review

- _____ A. Become familiar with budget system
- _____ B. Review purchasing procedures
- _____ C. Review revenue analysis
- _____ D. Become familiar with federal HR system

FORM B

STUDENT VOLUNTEER PROGRAM WEEKLY QUESTIONS

Please send a weekly e-mail to the SVP Program Manager, tbeatty@usccr.gov, answering the Question of the Week, in addition to passing along any necessary information or inquiries.

Welcome to _____: Orientation & Introductions

Question of the Week 1:

Week 1: First Impressions

What is your first impression of USCCR and the department to which you are assigned?

Week 2: Goals, Requirements and Assignments

Question of the Week 2:

What are your goals for this internship and how do you intend to meet them?

Week 3: Customer Service

Question of the Week 3:

What score do you think most customers give your program area on the Customer Report Card; and, what can you do to help the program area get A's and B's?

Week 4: Special Project

Question of the Week 4:

What are you working on for your special project and why did you choose it?

Week 5: Purchasing

Question of the Week 5:

What is the local procedure for purchasing the supplies you will need for your special project; and are there any special considerations that need to be made when planning purchases?

Week 6: Marketing and Publicity

Question of the Week 6:

What is the most effective form of publicity (getting the word out) for the target customers of your program area; and what is the least effective form?

Week 7: Administrative Instructions (AI)

Question of the Week 7:

What AI gives guidance for your program area; and how much flexibility does your program area have in interpreting that guidance?

Week 8: Budget

Question of the Week 8:

Provide a detailed budget for your special project. List all projected expenses and income. Based on your projected attendance, what would you need to charge per person if you wanted your event to break even?

Week 9: Goal Progress

Question of the Week 9:

How are you doing on your goals? Any revisions?

Week 10: Personnel and Supervision

Question of the Week 10:

What are some of the biggest challenges you have observed for program managers when it comes to balancing their responsibilities for the program and for supervising employees?

Week 11: Program Area Observations

Question of the Week 11:

What does your program area do very well for customers and what could be improved?

Week 12: Looking Back

Question of the Week 12:

Were your goals met; and what was the highlight of your internship experience?

SPECIAL PROJECT AFTER ACTION REPORT

Student Name: _____ Intern Session: _____

Supervisor name: _____ Date/Time: _____

Event/Activity: _____

of Participants: _____ Total Profit/Loss: _____

Describe Event: _____

What Went Well:

Suggestions for Improvement: _____

Please mail to:
U.S. Commission on Civil Rights
Student Volunteer Program
624 9th Street N.W.
Suite 510
Washington, DC 20425

SPECIAL PROJECT PLANNING WORKSHEET – TIME LINE

Task, step or Action:	Assigned To:	Date/Time Due:	Action To-Date	Date/Time Completed

NOTES:

U.S. COMMISSION ON CIVIL RIGHTS SUPERVISOR EVALUATION
(This form will be kept confidential)

Your Name: _____

Program Area: _____

Location: _____

Supervisor's Name: _____

(Place an X in the column to denote your evaluation)

QUALITIES	Not Applicable	Less Than Satisfactory	Satisfactory	Highly Satisfactory	Outstanding
Provided support as needed					
Mentor/Role Model					
Communication Skills					
Provided Feedback					
Ability to solve problems					
Honest/Fair					
Knowledgeable					
Leadership skills					
Worked as a team					
OVERALL RATING					

Would you recommend this person to serve as your supervisor next year? ____ Yes / ____ No

Was your experience working for the COMMISSION rewarding? ____ Yes / ____ No

Did you accomplish your academic goals while working for the COMMISSION? ____ Yes / ____ No

Comments/Suggestions for Program Improvement:

Please mail to: U.S. Commission on Civil Rights, HRD, 624 9th Street, N.W., Suite 510, Washington, DC 20425

STUDENT VOLUNTEER PROGRAM ASSESSMENT

Dear Student: Please take a few moments and assessment our SVP effectiveness. The results of your assessment will be able for CCR to improve the program we provide to student...so your feedback is very important.

1. What School do you attend? _____
2. Briefly describe your program assignment? _____
3. Considering your SVP interaction with U.S. Commission on Civil Rights, to what extent do you agree with the following statements?

	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	No Basis to Judge/NA
Met my expectations						
Challenged me						
The Student Volunteer Program responded to my academic needs						
Felt like I contributed positively to USCCR						
Intern Program Manual						
I would recommend other students to the SVP						
The SVP needs major restructuring						
What skills and/or knowledge learned during your internship experience do you feel will benefit you the most and how?						
What suggestions do you have for improving the CCR Student Volunteer program?						
Would you be interested in career opportunities with CCR as a result of your internship experience?						

Please mail your assessment survey to: U.S. COMMISSION ON CIVIL RIGHTS
 ATTN: Student Volunteer Program Manager
 624 9th Street, N.W.
 Suite 510
 Washington, DC 20425

FORM G**SVP INTERN FINAL EVALUATION**

Intern Student: _____ Intern Session: _____

Location: _____ Program Area: _____

Supervisor Name: _____

(Place an X in the column to denote your evaluation)

	Not Applicable	Less than Satisfactory	Satisfactory	Highly Satisfactory	Outstanding
Appearance					
Dependability					
Initiative					
Interpersonal Relations					
General Attitude					
Judgment					
Problem Solving					
Written Communication Skills					
General Knowledge of Program					
Leadership					
Customer Relations					
Promptness					
Innovativeness					
OVERALL EVALUATION					

Comments:

Would you recommend the Intern for a position with USCCR? ____ Yes / ____ No

Student Intern: _____ Date: _____

Supervisor: _____ Date: _____

Department Head: _____ Date: _____

(Note: Send all completed Intern evaluations forms to Human Resource Division)

FORM H

SVP INTERN PLACEMENT LISTING REQUEST

Intern Name: _____

Address: _____

Email: _____ College/University: _____

Program Area: _____ Location of Internship: _____

Intern Session: _____ Employment Program Preference: _____

Availability: _____

Specific Program Goals: _____

APPENDIX A:

STUDENT VOLUNTEER AGREEMENT

This agreement covers the acceptance of voluntary service under the Civil Service Regulation 308.103; 5 Code of Federal Regulations or Title 7, U.S. Code, Section 2272.

Name: _____ Social Security #: _____

Address: _____ City/State/Zip: _____

Phone: _____ Date of Birth: _____

I understand that my services are on a voluntary basis without compensation or reimbursement for any incidental expenses. I am permitted access to the work site only during the approved duty hours. I am not considered a Federal employee except for the purposes of the Federal Employees Compensation Act and the Federal Tort Claims Act. I am not eligible for health insurance, life insurance, retirement, or any other benefits. If I am later employed by the Federal Government, my volunteer service will not be credited for civil service retirement purposes, although the experience I gain may be credited to meet qualification requirements for employment. In the course of my internship, I agree to abide by the Standards of Conduct Regulations, Office of Government Ethics, and that I would be terminated for any violations

I understand that I must receive my supervisor's permission before operating any Government equipment, that the operation of such equipment will be for official purposes only, and that I may be held responsible for any damage. I am not authorized to represent the Agency on any matter or proceeding, nor expend any Government funds. Rights to any inventions, discoveries, research reports, or any other program efficiencies made during my assignment will be determined by the Agency. Prior approval must be obtained before publishing the results of any work, study or research. No research reports, floppy disk or other Agency information shall be remove from the work site, nor shall any such information be transmitted via email outside the Agency.

I understand that I serve under the supervision of a Federal official and that my services may be terminated at any time. Interns under the SVP cannot "blog" about their experience while volunteering for the Agency.

I understand and agree to the conditions of my service described above:

Signature: _____ Date: _____

If under 18 years of age, signature of parent/guardian:

Parent/Guardian: _____ Date: _____

APPENDIX A – Page 2

To be completed by Agency Official:

Location: _____

Duties: _____

Effective Date: _____ Hours/Weeks: _____

Signature: _____ Title: _____

APPENDIX B:**Time Sheet for Student Volunteers**

Name: _____ Location: _____

	Date	Time In	Time Out	Total Hrs.	Supervisor Initials
Week ____					
Week ____					
Week ____					
Week ____					
Week ____					
Week ____					

APPENDIX C:

COLLEGE/UNIVERSITY PARTNERSHIP AGREEMENT

Partnership in Education Program

This agreement with _____ (Name of Educational Institution) describes the nature and extent of the U.S Commission on Civil Rights mission area participation in the school volunteer and community service program

The USCCR participates in this program in order to promote knowledge of and interest in civil rights, law, social science, statistics, business management, accounting & finance, economics, and library science. USCCR hopes to encourage young people to increase their basic academic skills to enable them to pursue careers in these disciplines and perhaps in the future seek employment with USCCR and the Federal government. Participation in this program is consistent with USCCR's mission.

Activities may include research, presentations, law briefing, assistance with Commission hearings & briefings, library work, administrative assignments and mentoring. USCCR may also invite students to visit USCCR for an on-site orientation or to shadow federal officials.

The educational institution will manage the program, arrange assignments, make supplies and facilities available, and provide training and guidance to student volunteers as needed. Student volunteers serve at the discretion of the educational institution.

Nothing in this agreement shall be construed as requiring the expenditure of funds by either USCCR or the educational institution.

CCR Agency Official (Supervisor): _____ Date: _____

Education Institution Official: _____ Date: _____

APPENDIX D

(SAMPLE LETTER OF APPRECIATION)

Date

Name

Address

City, State Zip

Dear ,

Thank you for your assistance and diligent effort as a student intern in the (department). Your willingness to get involved in every aspect of day to day office tasks and take responsibility for specific activities has proven to be invaluable for the continued effectiveness and success of the Commission.

Your most obvious contribution was apparent in the (specific task that student participated in) allowing for more efficiency. Your work ethic and your friendly persona also added to a calm and enjoyable working environment.

The extra effort you made on behalf of the US Commission on Civil Rights is very much appreciated and I am confident you will enjoy a successful future.

Sincerely,

Tina Louise Martin
Director, Office of Management

ISSUED: 4/6/67

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-38

DELEGATED EXAMINING UNIT ACCOUNTABILITY PLAN

SECTION 1. PURPOSE

Delegated examining practices and procedures shall comply with the requirements described in the current Interagency Delegated Examining Agreement (CCR-1) between the Office of Personnel Management (OPM) and the COMMISSION; and the current installment of the OPM Delegated Examining Operations Handbook, *A Guide for Federal Agency Examining Units*.

This policy in general does not repeat provisions set forth in law, Executive order, or the Code of Federal Regulation.

SECTION 2. POSITIONS COVERED

Title 5 competitive service positions for all series and grade levels nationwide except Administrative Law Judge positions. Competitive examining for positions covered under the Luevano consent decree is subject to Section III of the Agreement (CCR-1).

SECTION 3. POLICY

When followed, the requirements and procedures shown in the Agreement and Handbook will provide properly announced vacancies, controls over the qualifications process, assignment of veterans' preference, a regulatorily correct certificate; valid audit trails through records construction and retention, and program oversight and assessment. Accordingly, the Agreement together with the Handbook will serve as the foundation of the delegated examining unit (DEU) evaluation program in the Commission.

SECTION 4. REQUIREMENTS

1. The DEU evaluation program of the Commission is a two-tiered system consisting primarily of annual self-assessments and periodic Staff Assistance Visits (SAVs) conducted on-site by outside DEU certified examiners and representatives of the OPM Center for Merit Systems Accountability. The self assessment shall be accomplished by human resource office staff that do not supervise and are not assigned to the DEU and who have completed OPM delegated examining operations training and maintains current certification. The on-site evaluation will focus on DEU operations, but the scope may be expanded if, in the view of the evaluation team leader, such action is warranted.

2. Activity self-assessments form the first tier of the evaluation process. A self-assessment will be accomplished no less frequently than once each twelve months. The initial self-assessment schedule as well as the exact scope and size of the sample, which must be broad enough to represent a valid indicator of performance, will be determined by the Director, Human Resources. The Application Review Worksheet, Certificate Review Worksheet, and the Program Evaluation Report templates shall be used for the annual self-assessment and maintained by the DEU until the next on-site evaluation. A written report of self-assessment findings will be prepared using the template provided by Director, Human Resources. The report and certification that the annual self-assessment has been completed shall be provided to the servicing OPM Service Center, the Office of the Staff Director, through the Director, Office of Management.

3. The templates contain information that must be verified from each certificate identified in the sample and a representative sample of the applications received in response to vacancy announcements. (See Application Review Worksheet for requirements of a representative sample). The sample size of cases to be reviewed or number of applications to be reviewed may be expanded at the discretion of the evaluation team leader. Items that do not apply to a specific certificate should be marked "not applicable"; there should be no blank items. It must also be shown that:

- ✦ Applicants had sufficient opportunity to receive vacancy information in sufficient time to apply before closing dates.
- ✦ Applicants were evaluated according to Merit System Principles, veterans' preference, other applicable laws, and OPM, and Commission requirements and procedures.
- ✦ Telephone numbers listed in vacancy announcements were operational during the period of the announcement.
- ✦ Any complaints received from applicants concerning a specific announcement were resolved and settlement documentation was filed in the announcement folder. Such documents shall be retained for review by cyclic evaluation teams.
- ✦ Approved of selective placement and quality ranking factors accepted by the DEU must be filed in the announcement folder and be available for review by the cyclic evaluation teams.
- ✦ Documentation of examining activities can be fully and readily reconstructed.

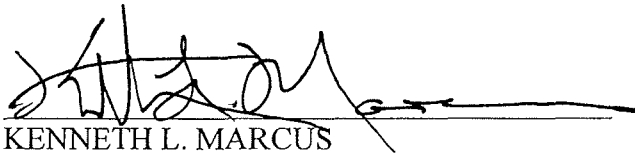
4. Major discrepancies identified during self-assessments, such as inconsistent application of operating instructions, serious violations (which include statutory violations and OPM regulations), and systemic problems, regardless of whether they lead to serious violations or major discrepancies, plus corrective actions, must be recorded in the report. Corrective action plans shall be tailored to address permanent solutions to identified major discrepancies and serious violations. While a corrective action plan is not mandated for minor discrepancies, the

use of a corrective action plan would be a valuable tool when used to eliminate recurring discrepancies. It can also serve as a valuable training instrument.

5. The second tier of the evaluation process is an on-site evaluation of DEU operations by a team composed of CCR and OPM representatives. This team, which will be led by CCR, will use standard worksheet templates to perform a full program review that will also rely on the results of the self-assessments conducted by the HR staff. The timeframe for and sample size of the on-site evaluation will be determined at the discretion of the evaluation team leader. The evaluation at a particular DEU may include any part of the examining process, including related staffing processes.

6. An agency led program investigation may be initiated by complaints or serious discrepancies when warranted by inquiries (Congressional, applicant, etc), OPM Service Center input, the identification of significant problems by on-site evaluation, or from information developed by the Agency. The results of an investigation will be forwarded to the Director, Human Resources for review and development of a corrective action plan which will be reviewed by the Director, Office of Management. If a follow-up inspection is warranted, as determined by the Director, Office of Management in coordination with the Director, Human Resources, the DEU will be either recertified or decertified, depending on the inspection results.

7. Reports resulting from on-site evaluations and a program investigation will be prepared using the standard Agency report templates and formats.



KENNETH L. MARCUS
Staff Director

APPLICATION REVIEW WORKSHEET

(DEU Organization Name, CCR Assigned DEU Number, and Location)

ITEM	YES	NO	COMMENT
AUTHORITY			
Delegation authority current?			
Current DEOH in use?			
DEU staff and evaluation team OPM certified?			
Annual audit conducted using only non-DEU team members?			
OPM certificates were obtained and used before any ACWA-covered position appointments were made?			
LOCAL PROCEDURES			
A DEU Accountability Program is in place (quality control, internal review of actions, etc.); documented?			
Local operating procedures are in compliance with DEOH and OPM-CCR DEA (see Update #10) covering -handling incomplete applications -handling late applications -reconsideration procedures -when to require proof of 5-point veterans' preference -tie-breaking procedures -classification procedures for DEU staff members, relatives, members of household who apply under DEU			
Special filing and consideration procedures for 10-point veterans' unsolicited applications and others eligible to file late are in place and followed			
Procedures are established for releasing information under FOI Act and Privacy Act			
Unsolicited RNO data was removed from applications and case files			
REPORTS			
Quarterly Workload Reports submitted to CPMS and OPM on correct form? Timely?			
Annual self-audit reported on Quarterly Workload Report?			
RECORDS MAINTENANCE			
Examining records/files secured?			
Records are destroyed on DEOH required destruction timeline			
OVERALL ASSESSMENT			
Recruitment activities yield a balanced pool of quality applicants equitably examined			
Cost of DE program is assessed			

Note: Locally identified items may be added to this checklist.

EVALUATOR

DATE

CERTIFICATE REVIEW WORKSHEET

Position, Title, Series, Grade _____ Announcement# _____

ITEM	YES	NO	COMMENT
AUTHORITY			
Covered duty location?			
ANNOUNCEMENT FILE			
SF-39 request copy (receipt date stamped; complete)			
RPL/PPP clearances documented (5 CFR Part 330)			
Position description			
Vacancy announcement (5 USC 3327)			
-Mandatory items (OPM DE Oper Handbook): title, series, grade, duty location, open/closing dates (open a minimum of 5 calendar days or documented if fewer), quals (KSAs), etc.			
-Additional items, if warranted (maximum entry age; physical requirements; mobility; etc.)			
-Application(s) received/postmarked by closing date (as required by announcement)			
-Targeted recruitment, if any. If yes, included.			
APPLICATIONS			
Date stamped upon receipt			
Late applications accepted (5 CFR 332)			
Late applications from preference eligibles (5 USC 3305)			
Consideration restricted to one gender (5 CFR 332.407)			
Applications from 10 pt veterans retained (5 CFR 332.311)			
Vet preference adjudicated (5 USC 2108)			
Mil spouse preference adjudicated (P.L. 99-145, section 806)			
Citizenship verified (5 CFR 338)			
If position restricted to vets, eligible applicants all veterans? (5 USC 3310)			
Incomplete applications processed consistently for each vacancy			
RATING/RANKING			
Validated Job Analysis & KSAs			
Correct Qualification Standard identified			
Selective qualification factors developed/justified			
Rating procedure/crediting plan documented			
Rating procedure participants names documented			
Veterans' preference applied			
Compensable veterans identified			
Tie-breaking method identified			
Applicant scores documented			
Notices of rating issued; copies retained			
STANDING REGISTERS			
Required information (exam title and number; position grade and geographic area; etc.)			
Order of candidates			
Candidate data revisions			
Record of terminated registers			
CERTIFICATIONS			

Certifying official signature, date			
Required information (certificate #, certificate issue and due date, title, series, grade, duty location, action/applicant consideration, numerical rating, vet preference code, applicant names)			
Correct number of Eligibles certified (5 CFR 332)			
Certification order (Professionals and Scientists GS-9 and above)			
Certification order (all others)			
Names removed or supplemental names added properly			
Supplemental certificate(s) issued properly SF-39 report accurately completed			
Declination and failure-to-respond documented			
Eligible objections properly processed (5 CFR 332)			
Veteran Passover properly processed (5 USC 3318(b))			
Selections documented			
Certificate audited; within 3 days?			
Register Cards reflect correct action (answer for registers only)			
RECORDS MAINTENANCE			
Records support reconstruction			
DEU staff, staff relative, or household member application properly treated (OPM-CCR-1)			
Quarterly OPM workload report: completed? timely?			
MISCELLANEOUS			
If selection of retired military within 180 days of retirement, waiver approved? (5 USC 3326) (n/a during periods of declared national emergencies)			

NOTE: References to specific forms include equivalents.

EVALUATOR

DATE

DEU PROGRAM EVALUATION REPORT TEMPLATE

U.S. Commission on Civil Rights Human Resource Division

Period Covered by Evaluation

I. INTRODUCTION

State the location of the DEU, the dates encompassed by the self-evaluation and the purpose of the evaluation. You may cite the requirement of the OPM-CCR Agreement.

Sample language: "This program evaluation was conducted at _____ and covered all aspects of its delegated examining activities during the period _____. The primary purpose of the evaluation was to assess the success of the delegated examining unit (DEU) in supporting the mission of the installation and its compliance with merit system principles and veterans' preference requirements. The evaluation program is designed to identify areas where process improvements should be made to increase overall efficiency and cost effectiveness of the DEU. It is also designed to identify systemic problems and DEU staff training needs."

Describe the evaluation team. Include names, organizational title and grade, normal assignment, location in the organization, and date each member completed OPM initial or refresher delegated examining operations training.

II. CCR ENVIRONMENT AND DEU ORGANIZATION

This paragraph will include information concerning environmental factors affecting DEU operation including the structure of the DEU office and its location in the organization and any sizable change in workload or serviced population (both current and anticipated). At a minimum, include the following:

- ✚ DEU organization: Office structure, location in the human resource office, location of the Agency. Include organization charts as an attachment.
- ✚ DEU Staff: number of FTE's supporting the DE operation, DE staff composition, level of expertise, annual turnover rate, and for each DE staff member, name, title, series, grade, years of DE experience, and date of most recent OPM DE training; and
- ✚ DEU activity: Number of applications processed, number of certificates issued, selections reported, Passovers/objections requested and number approved, number applicant-requested reconsiderations with number resolved in favor of applicant, and

- ✦ number of applicants granted priority consideration during the time period of the review as well as the number on the list at the end of the review period.

III. DATA SOURCES

State the sources used as the basis for the report. Summarize the evaluation methodology in this section. Sample language: “Evaluators used a variety of information gathering methods: (list those used which may vary from one DEU to another depending on DEU size, candidate pools, and the proximity of the DEU to the serviced installations):

- ✦ Interviews with DEU staff members;
- ✦ Interviews with selecting supervisors and applicants;
- ✦ A sample of (number) examining case files and related files maintained by the DEU (sample size should be 10% of all cases in the review period or a minimum of 25 files; include standing registers, if used. Sample should also be representative of the examining done – GS, Temporary, term and permanent, a few large cases, a variety of occupations);
- ✦ Lists from automated personnel systems indicating the nature of action code, the date, and appointment type of covered actions; and
- ✦ Complaint files relating to the operation of the DEU.

IV. OVERALL EVALUATION RESULTS AND FINDINGS

Expected Results:

When a DEU complies with the merit system principles and veterans’ preference requirements and other applicable law in conducting competitive examining:

- ✦ Recruitment methods yield a balanced pool of well-qualified applicants. Recruitment considers issues of diversity and imbalance in the workforce or candidate pools.
- ✦ There is fair and open competition for vacancies; the application process complies with merit principles and other related legal requirements. Surplus employee programs are properly applied.
- ✦ Candidates are assessed using the correct job-related qualification requirements that are equitably applied. Interview and placement practices do not favor or disfavor specific candidates or types of applicants.

- 4 Veterans' preference laws are properly applied in the ranking and selection processes.
- 4 The DEU is effective in filling positions with external candidates. The determination that the DEU is effective is supported by: selecting officials' opinions, timely certification, reasonable cost of operations, establishment and adherence to required local standard procedures, accurate and timely quarterly report submission, security of examining materials, and other locally identified measures.

Summarize the results of the self-evaluation based on criteria above and findings from case file, certificate, and application review. Cite any violations of law (Merit System Principles, the Veterans' Preference Act of 1944, as amended, Privacy Act, EEO, ICTAP, 5 USC 3305, 5 CFR, Subpart C, etc.) including corrective action recommended and taken.

V. FINDINGS AND CORRECTIVE ACTIONS

The findings and corrective actions identified through both program review and case specific analysis will be detailed in this section of the report. General findings on the program as a whole may require corrective action or, in those instances where efficiency and effectiveness matters are involved, may require only a recommendation from the evaluation team. The case specific findings will require corrective action. Both the findings and the specific corrective actions to be taken will be documented in this section of the report. The corrective action plan will be developed in conjunction with the Director, Human Resource. The Director, Office of Management will provide oversight to assure required actions completed in accordance with the plan.

Annual self-evaluation and reports prepared by the investigative teams (those sent to activities having serious discrepancies identified outside the two-tier evaluation program) will conform generally with the format described below, but may have significant variations, particularly when the investigation identified discrepancies adequate for DEU de-certification.

GENERAL FINDINGS:

FINDING

REQUIRED OR RECOMMENDED ACTION

CASE-SPECIFIC FINDINGS:

CASE FILE #1: EXAMINATION FILE

**SPECIFICS OF CASE (number of applications, number qualified and not qualified, number applications reviewed)
FINDINGS:**

**REQUIRED CORRECTIVE ACTION(S)
STATUS OF CORRECTIVE ACTION(S)**

CASE FILE #2:

(Continue as above listing all cases reviewed as part of the evaluation).

OTHER FINDINGS:

List any findings that have not been addressed in one of the sections above. This section of the report may be omitted if there are no findings that have not been included above.

Signature of Evaluation Team Leader

Date

Printed Name of Evaluation Team Leader

Organizational Title, Series, and Grade (Organization if different from DEU)

Telephone Number

e-mail address

Delegated Examining Unit

Program Evaluation Report

**U.S. Commission on Civil Rights
Human Resource Division**

Washington, DC 20425

Dates of Evaluation

Issued: *April 13, 2010*

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-39

EMPLOYEE VOLUNTEER COMMUNITY SERVICE PROGRAM

SECTION 1. PURPOSE

.01 The purpose of this Administrative Instruction (AI) is to establish policies and procedures that:

- a. encourage and support volunteer community service by Commission employees; and
- b. provide employees information and guidance on the Commission's volunteerism policies.

SECTION 2. POLICY

.01 Given the significant unmet need for community services in the nation, and the commitment of the Commission to developing a sense of community responsibility among all employees, it is the policy of the Commission to encourage and support efforts by Commission employees to provide volunteer services, including pro bono legal services, within their communities that are consistent with applicable federal statutes and regulations governing conflicts-of-interest and outside activities. This AI does not apply to special government employees.

.02 The Commission designates a liaison for volunteer community service (the "liaison"). This position must be filled by a Commission employee who is compensated at a level at or above the minimum level of pay of a member of the Senior Executive Service and serves under the authority of the Staff Director. The responsibilities of the liaison include:

- a. fostering a culture of service and mobilizing Commission staff to engage in volunteer community service;
- b. creating a volunteer community service program for Commission employees; and
- c. facilitating and coordinating the public recognition of volunteer community service by employees and others, as appropriate.

.03 The Commission strives to strengthen communities so, to this end, the Commission encourages its employees to set a personal goal of at least 50 hours per year of volunteer community service. This goal of 50 hours per year is purely aspirational and employee participation in the volunteer community service program is not mandatory. However, employees meeting this goal may be eligible for the Staff Director's Volunteer Community Service Award, an award from the Commission honoring the contribution of the employee to the community. Generally, to qualify, employees must keep a record of their volunteer hours and submit this record to the liaison for verification. Employees are encouraged to participate in service that supports the mission of the Commission; however, participation is encouraged in all areas where our nation has a need. Commission employees should contact the agency liaison for additional information on qualifying for the Staff Director's Volunteer Community Service Award.

.04 The Commission does not seek to restrict the type of volunteer activities in which employees may engage in their free time, provided that the activities do not violate any statutory or regulatory restrictions. Employees are encouraged to participate in Commission-sponsored mentoring programs and volunteer activities that further the Commission's program priorities. The liaison can assist employees with locating information about community service organizations and volunteer centers that provide these and other volunteer service opportunities.

SECTION 3. DEFINITIONS

.01 Pro Bono Legal Services. Legal services performed without compensation include, but are not limited to, the provision of legal services to:

- a. persons of limited means or other disadvantaged persons;
- b. charitable, religious, civic, community, governmental, health, and educational organizations in matters that are designed primarily to address the needs of persons of limited means or other disadvantaged persons, or to further their organizational purpose;
- c. individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties or public rights; or
- d. activities seeking to improve the law, the legal system, or the legal profession.

.02 Volunteer Services. Volunteer services are those services, other than the practice of law, performed without compensation. They include, but are not limited to, the provision of services to:

- a. persons of limited means or other disadvantaged persons; or
- b. charitable, religious, social, civic, community, recreational, governmental,

health, and educational organizations in matters that are designed primarily to address the needs of persons of limited means or other disadvantaged persons.

.03 "Generally Approved" Activities. Activities and programs designated as "generally approved" are pre-approved by the agency to make it easier for Commission attorneys to provide pro bono legal services and for other professional staff to provide professional services and advice. General approval is appropriate where the issues likely to arise during the employee's participation generally do not present an obvious conflict for the employee or the Commission. To obtain general approval for activities and programs requiring the provision of professional services or advice, Commission employees should submit information about the activity or program to the Commission's volunteer community service liaison. This information, and any additional information that may be required, is provided to the agency's Designated Agency Ethics Official (DAEO) who is responsible for determining whether the program or activity should be designated as "generally approved." General approvals by the DAEO are required to be in writing and a list of approved activities is maintained by the volunteer community service liaison. An employee seeking to provide professional services or advice through a generally approved activity or program should consult with the DAEO.

SECTION 4. LIMITATIONS ON PRO BONO LEGAL SERVICES

.01 Pro Bono Legal Services. An employee seeking to engage in any pro bono legal services that are not "generally approved" must follow agency procedures governing participation in outside activities and should consult with the DAEO regarding the prior approval requirements that are set forth below. See 5 C.F.R. §7801.102 and 5 C.F.R. Part 2635.

- a. Standards for Approval: In general, approval of an employee's request to engage in pro bono legal work shall be granted if it complies with applicable statutes and regulations, including 18 U.S.C. § 202, et seq. (Federal Conflict of Interest Laws) and 5 C.F.R. Part 2635 (Standards of Ethical Conduct for Employees of the Executive Branch), and does not cause a reasonable person to question the integrity of the Commission's work.
- b. Approval Procedures. Participation by an employee in pro bono legal services requires notification of the General Counsel (GC) and the employee's supervisor (if different from the GC), and the prior written approval of the DAEO. See 5 C.F.R. § 7801.102(d).
- c. Pro Bono Legal Services that are Generally Approved. The DAEO may designate some pro bono legal services and legal services referral programs as "generally approved" for employees. This should be done after consulting with the GC. The designation of an activity or program as "generally approved" indicates that employees interested in providing professional legal services or advice have permission to engage in these

activities, or seek referrals from these programs, without having to seek further permission from the DAEO, except as provided in section 4.01

(c)(ii).

i. *Non-Representational Legal Services.* In the case of non-representational services or activities, such as walk-in clinics or legal rights workshop, general approval covers the employee's participation in the activity as well as minimal follow-up activity such as providing information, making phone calls for the client, or making a referral for further assistance. Nonetheless, the employee must give notice of his or her participation to the GC, the employee's supervisor (if different from the GC), and the DAEO.

ii. *Representational Legal Services.* In the case of representational legal services, such as referrals from legal services organizations, general approval permits the employee to seek cases from the programs; however, in order to accept a case for representation, the employee must also obtain a case-specific written approval from the DAEO. General approval by the program or activity by the DAEO does not obviate the need for this case-specific approval. The request must be in writing and must include the facts and issues in the specific case, state whether the employee/legal services program has malpractice insurance, reflect that the GC and the employee's supervisor (if different from the GC) were notified of the request, and include other information as requested by the DAEO.

The written approval by the DAEO must reflect a case-specific conflicts check, acknowledgment of the applicable rules, and acknowledgment of the need to seek supervisory approval for any duty time/annual leave that may be needed to represent the client. The purpose of case-specific approval is to ensure that the specific case that the employee wishes to accept does not present any conflicts or other issues that would preclude representation.

- d. Pro Bono Legal Services that are not Generally Approved: It is possible for employees to engage in pro bono legal services, or accept cases from legal services referral programs, that have not been designated as "generally approved". In order to do so, the employee must obtain prior written approval from the DAEO.

i. *Non-Representational Legal Services.* In the case of non-representational legal activities, written approval by the DAEO is required. The written request for approval must identify the organization, describe the type of legal work or service to be

provided, reflect that the GC and the employee's supervisor (if different from the GC) were notified of the request, and include other information as requested by the DAEO.

ii. *Representational Legal Services.* In the case of representational legal activities, the employee must obtain case-specific written approval from the DAEO. The written request for case-specific approval must include the facts and issues in the specific case, state whether the employee/legal services program has malpractice insurance, reflect that the GC and the employee's supervisor (if different from the GC) were notified of the request, and include other information as requested by the DAEO.

The written approval by the DAEO must reflect a case-specific conflicts check, acknowledgment of the applicable rules, and acknowledgment of the need to seek supervisory approval for any duty time/annual leave that may be needed to represent the client.

SECTION 5. LIMITATIONS ON PROFESSIONAL VOLUNTEER SERVICES (OTHER THAN PRO BONO LEGAL SERVICES)

.01 General approval of activities and programs requiring the provision of professional services (other than pro bono legal services) covers the employee's participation in the activity as well as minimal follow-up activity such as gathering and providing information, making phone calls for the client, or making a referral for further assistance. Nonetheless, the employee must give prior notice of his or her participation to the supervisor and DAEO.

.02 Professional activities, other than legal services, that are not "generally approved" are reviewed on a case-by-case basis. A written request for approval must be submitted in advance by the employee for review and a determination by the DAEO. The written request for approval must identify the organization and describe the type of professional work or services to be provided, reflect that the employee's supervisor has been notified of the request, and include other information as requested by the DAEO. The written approval by the DAEO must reflect a case-specific conflicts check, acknowledgment of the applicable rules, and acknowledgment of the need to seek supervisory approval for any duty time/annual leave that may be needed to represent the client.

SECTION 6. LIMITATIONS NON-PROFESSIONAL VOLUNTEER SERVICES

.01 The Commission's prior approval requirement for outside employment and activities does not apply to participation in the activities of nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organizations, unless such activities involve the provision of professional services or advice or are for compensation other than reimbursement of expenses.

.02 The Commission does not seek to restrict the type of volunteer activities in which employees may engage in their free time, provided that the activities do not violate any statutory or regulatory restrictions. The standards for an employee determining whether a volunteer service activity is appropriate are the same as those set forth above in Section 4.01(a) above. Employees should consult the DAEO if there are any questions regarding whether prior written approval is necessary in a specific instance. See 5 C.F.R. §§ 2635.801-.803.

SECTION 7. CONFLICTS OF INTEREST AND PROHIBITED ACTIVITIES

.01 Commission employees may not engage in volunteer services or pro bono legal services that create or appear to create a conflict of interest with their work for the Commission. Under the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, a conflict of interest generally exists where the services would:

- a. require the recusal of the employee from significant aspects of the employee's official duties, see 5 C.F.R. § 2635.802(b);
- b. create an appearance that the employee's official duties were performed in a biased or less than impartial manner, see 5 C.F.R. § 2635.502; or
- c. create an appearance of official sanction or endorsement, see 5 C.F.R. § 2635.702(b).

.02 With limited exceptions, outside activities may not include the representation of third parties before the federal government. See 18 U.S.C. § 205.

.03 The issue of conflicts should be determined by reference to the government-wide standards of conduct, 5 C.F.R. Part 2635 (particularly §§ 2635.801 - .802). Application of these standards of conduct necessarily will involve the exercise of judgment. These judgments likely will differ from one office or division and situation to another. For this reason, each office or division is asked to work with the DAEO and the Commission's liaison for volunteer community service in setting its own office or division-specific conflict standard. If an employee volunteer has questions about conflicts, he or she should consult the DAEO.

.04 The DAEO is responsible for ensuring that a conflicts check is completed for pro bono legal activities prior to approving such activities. Every pro bono representational legal case must receive a case-specific conflicts check before it is accepted, whether the attorney has taken it on through a generally approved pro bono activity or another program.

.05 Commission employees are responsible for ensuring that their volunteer services do not present a conflict of interest and do not otherwise violate any applicable statute or regulation. Employees are urged to consult with the DAEO.

SECTION 8. ADDITIONAL CONSIDERATIONS FOR ATTORNEYS PROVIDING PRO BONO LEGAL SERVICES

.01 Retainer Agreement. Volunteer attorneys undertaking cases should prepare and execute retainer letters or agreements setting out the agreed scope of work. The agreement should make it clear to a pro bono legal client that the attorney is acting in his or her own individual capacity and not on behalf of the Federal government or the Commission. The Federal government's malpractice insurance does not cover pro bono activities, nor does governmental immunity or privilege. The client must countersign a retainer letter acknowledging these facts. See Appendix 1, Sample Retainer Agreement.

.02 Change in Employment of Volunteer Attorney: Commission attorneys enter an attorney-client relationship with their pro bono client and therefore, if they leave the Commission or change offices or divisions within the Commission, they are obligated either to take the pro bono case with them or to make alternative arrangements for continuity of representation. Commission attorneys should contact the Commission's volunteer community service liaison and the referring organization if this situation arises. Attorneys in this situation are reminded that they are bound by ethical rules, local practice rules, and their retainer agreement when terminating representation of a client. In the event that a case is transferred, the attorney must discuss the transfer with the client, file with the Court any necessary petitions seeking leave to withdraw from representation, and provide all relevant case files to the new attorney(s) undertaking the case.

.03 Malpractice Coverage. Before agreeing to meet with or accept a pro bono legal client, a Commission attorney should determine whether the referring pro bono program or organization has a malpractice insurance policy that covers volunteer attorneys. The Commission does not provide malpractice coverage for pro bono work. Immunities that may be granted to government attorneys in the performance of their official duties do not extend to pro bono work. Therefore, attorneys are strongly encouraged to work with a legal services provider that carries malpractice insurance.

.04 Restrictions on the Unauthorized Practice of Law. Attorneys not licensed in the District of Columbia or a surrounding jurisdiction may only practice subject to the constraints of the District of Columbia's or another jurisdiction's, as applicable, local rules regarding the unauthorized practice of law. See D.C. Court of Appeals Rule 49, and rules as they exist in other jurisdictions, as applicable, concerning pro bono legal services.

SECTION 9. USE OF OFFICIAL POSITION OR PUBLIC OFFICE

.01 Employees who provide pro bono legal services or who participate in other volunteer activities may not indicate or represent in any way that they are acting on behalf of the Commission or in their official capacity. The incidental identification of an employee's position or office -- for example, when an office number and street address are not sufficient to ensure mail delivery or when receiving a telephone call or using e-mail -- is not prohibited.

.02 Commission employees may not use office letterhead, agency or office business cards or fax cover-sheets, or otherwise identify himself or herself as a Commission employee in any communication, correspondence, or pleading connected with pro bono legal activities or other volunteer services. When using e-mail, the employee should indicate that the e-mail is being sent in his or her personal capacity and not in his or her official capacity as a Commission employee.

.03 Employees providing pro bono legal services are responsible for ensuring that there is no misunderstanding by the client, any opposing parties, the court, or others involved in a pro bono case, that the attorney is acting in his or her individual capacity as a volunteer, and is not acting as a representative of, or on behalf of, the Commission.

SECTION 10. USE OF AGENCY RESOURCES

.01 Hours of Work. Commission employees are encouraged to seek volunteer and pro bono legal services opportunities that can be accomplished outside their scheduled working hours. However, pro bono legal or volunteer activities may sometimes occur during work hours. Office and division heads are urged to be flexible and to accommodate, where feasible, the efforts of their employees to do pro bono legal or community volunteer work. Employees seeking to participate in pro bono legal or volunteer activities during work hours may be granted leave without pay, annual leave, or the use of accrued compensatory time. In very limited circumstances, administrative leave may be granted. When considering employee requests for leave to engage in pro bono legal or volunteer activities, supervisors should give due attention to the effect of the employee's absence on office operations. An office or division head's personal views regarding the substance of the pro bono activity may not influence the decision to grant an employee's request to engage in pro bono legal or volunteer activities during hours of work.

The Commission is operating under serious budgetary constraints and with heavy workloads. Therefore, while this AI asks supervisors to be flexible in dealing with employees seeking to engage in pro bono legal or volunteer activities, it also recognizes that supervisors must be able to judge whether such accommodations would interfere with the operation of the office.

.02 Administrative Leave. As a general rule, it is inappropriate to pay an employee for time engaged in pro bono legal or volunteer services. However, in limited circumstances, it may be appropriate to excuse an employee from duty for brief periods of time without loss of pay or charge to leave to participate in volunteer activities. See *Memorandum for Heads of Executive Departments and Agencies from Director, OPM, Guidance on Volunteer Activities*, April 23, 1998 and OPM's *Guidance on Scheduling Work and Granting Time Off to Permit Federal Employees to Participate in Volunteer Activities*, April 6, 2004. Excused absences, referred to as administrative leave, should be limited to those situations in which the employee's volunteer service meets one or more of the following criteria:

- a. it is directly related to the Commission's mission,
- b. it is officially sponsored or sanctioned by the Staff Director;
- c. it is demonstrated that it will enhance the professional development or

skills of the employee in his or her current position; or

- d.. it is determined to be in the interest of the Commission and the employee's absence will be brief.

Administrative leave should not be granted for volunteer or pro bono legal activities that directly benefit an employee or those with whom an employee has a personal relationship.

.03 Use of Office Equipment. As a general rule, employees may use government property only for official business or as authorized by the government. See 5 C.F.R. §§ 2635.101(b)(9), .704(a). Commission policy authorizes the following personal uses of government office and library equipment and facilities:

- a. personal uses that involve only negligible expense to the government (such as electricity, ink, small amounts of paper, and ordinary wear and tear) and that do not interfere with the conduct of official business of others; and
- b. limited personal telephone and fax calls to locations within the office's commuting area, or that are charged to non-government accounts.

When office computers, printers and copiers are used in moderation, there is only negligible additional expense to the government for electricity, ink and wear-and-tear. Such use, therefore, is authorized as long as only small amounts of paper are involved and as long as the use does not interfere with official business. Employees should contact their supervisor if there is any question whether an intended use involves "negligible" expense or "small amounts" of paper.

.04 Research and Electronic Databases. This policy does not authorize the personal use of commercial electronic databases (e.g. Lexis/Nexis, Westlaw) when there is an extra cost to the government. Research using the library's books or microfiche is authorized, as it involves no or only negligible additional expense to the government.

.05 Telephones and Fax Machines. The AI authorizes limited personal telephone calls and fax transmissions to locations within the office's commuting area, or that are charged to non-government accounts (e.g., personal telephone credit cards). Again, such use must not interfere with official business, and supervisors should be consulted if there is any question as to whether such use is in fact "limited."

.06 E-Mail and Internet Services. The policy allows limited use of Commission e-mail and Internet services. For example, employees may use internal e-mail to consult with the volunteer community service liaison, office/division head, DAEO, or another Commission employee also working on a pro bono or volunteer matter. Occasional individual e-mails to colleagues on a question related to a pro bono or volunteer matter are also permitted. Reasonable use of e-mail for external communication is also permitted, as long as employees indicate that the e-mail is sent in their personal, rather than official, capacity. With respect to Internet use, employees should be familiar with the Commission's policies concerning Internet use since there are

additional security, confidentiality and other considerations that apply to Internet use. Employees may consult with the DAEO or the volunteer community service liaison about such policies.

.07 Applicable Laws and Regulations. This policy does not override statutes, rules, or regulations governing the use of specific types of government property, such as the ordinary use of long-distance telephone services, e-mail, and the Internet. Any employee who has questions about the application of this section to any particular situation should consult his or her office or division head.

In using government property, employees must be mindful of their responsibility to protect and conserve such property and to use official time in an honest effort to perform official duties. See 5 C.F.R. §§ 2635.101(b)(5), (b)(9), .704(a), .705(a).

.08 Clerical Support. Pro bono legal services and volunteer work are not official duties and may not be assigned to or otherwise required of support staff. It may be considered coercive to ask subordinate employees if they will volunteer to help perform pro bono legal or volunteer services. See 5 C.F.R. § 2635.705.

SECTION 11. DISCLAIMER

.01 This AI is intended only to encourage pro bono legal and volunteer service by Commission employees, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

.02 Neither the United States nor the Commission will be responsible in any manner or to any extent for any negligent or otherwise tortious acts or omissions on the part of any Commission employee engaged in any pro bono or volunteer activity. While the Commission encourages pro bono and volunteer activities by its employees, the Commission exercises no control over the services and activities of employees engaged in pro bono legal services and other volunteer activities, nor does it control the time or location of any pro bono or volunteer activity. Each employee is acting outside the scope of his or her government employment whenever the employee participates, supports or joins in any pro bono or volunteer activity.


MARTIN DANNENFELSER
Staff Director

Sample Retainer Agreement for Pro Bono Legal Services

1. By this agreement, _____ (the "Client") retains _____ ("Pro Bono Counsel") to advise, represent, appear and act for the Client concerning the following matter:

The Pro Bono Counsel is acting in his/her individual capacity, and is not acting on behalf of the U.S. Commission on Civil Rights or the U.S. government. The Federal government's malpractice insurance does not cover pro bono activities, nor does governmental immunity or privilege.

2. This case was referred to Pro Bono Counsel through _____. The Client understands that it is Pro Bono Counsel and not _____ that is representing him/her in this matter. The Client certifies that no other attorney is representing him/her in this matter and understands that the Pro Bono Counsel cannot and does not promise a successful outcome.
3. The Pro Bono Counsel agrees to undertake this representation on a pro bono basis, which means that the Pro Bono Counsel will not charge the Client for attorney or paralegal hours expended on this matter. Additionally, Pro Bono Counsel will not seek attorney's fees in connection with this matter.
4. The Client agrees to cooperate fully with the Pro Bono Counsel and will promptly notify the Pro Bono Counsel of any of the following:
- (A) any changes in address, telephone number, or changes in the Client's situation which may impact Pro Bono Counsel's representation; or
 - (B) any plans to leave town which might interfere with court dates or appointments.
5. The Client agrees to assist the Pro Bono Counsel with this matter by:
- (A) providing complete information, including information that will assist the Pro Bono Counsel to investigate this matter;
 - (B) maintaining regular contact with Pro Bono Counsel as is necessary for the conduct of his/her case;
 - (C) attending and being on time for all appointments and court dates;
 - (D) promptly notifying Pro Bono Counsel when other people contact

the Client about the case; and

(E) helping to locate persons who may provide information about the case.

6. Pro Bono Counsel agrees to:

- (A) keep the Client informed about the status of his/her case;
- (B) keep all sensitive information provided by the Client confidential unless authorized by the Client to disclose it (except that information may be shared with other attorneys who are working on the case or assisting with representation);
- (C) consult with the Client before making any significant decisions about the case; and
- (D) not settle the case without the Client's consent.

- 7. The Client agrees to assume responsibility for all expenses, which may include, but are not limited to, agency or court filing fees, costs of service of process and certified mail and any other administrative costs or litigation expenses. Pro Bono Counsel will discuss any significant costs with the Client before incurring them. The Client understands that Pro Bono Counsel does not charge a fee for his/her work on the case.
- 8. When Pro Bono Counsel closes the Client's file, all original documents that were furnished by the Client shall be returned. Pro Bono Counsel will maintain the file for _____ years from the date of case closing, after which time it will be destroyed.
- 9. By agreeing to represent the Client in the matter set forth above, Pro Bono Counsel does not agree to represent the Client in any appeal, to collect any money judgment, or to enforce any order obtained in this matter. The parties may agree at a later time to extend representation to another matter. Any such extension will be the subject of a separate written agreement between the parties.
- 10. The Client understands that the Client may end this agreement at any time for any reason and agrees to notify Pro Bono Counsel in writing that he/she wishes to end this Agreement.
- 11. The Client understands that Pro Bono Counsel reserves the right to withdraw from representing the Client in certain limited circumstances. These circumstances include, but are not limited to, the following:

- (A) where insufficient legal grounds exist to continue a court or administrative action or appeal;
- (B) where the Client fails to cooperate with the reasonable requests of Pro Bono Counsel;
- (C) where a conflict of interest is discovered or arises which makes it inappropriate for Pro Bono Counsel to continue representation; and
- (D) where the Client fails to meet the terms of this agreement.

12. The Client has read this agreement in its entirety, or has had it read and explained to him/her in its entirety, before signing it. The Client understands the terms of this agreement and agrees that it shall apply throughout the course of Pro Bono Counsel's representation of him/her.

13. This writing represents the entire agreement between the parties and cannot be amended or modified except in writing signed by the parties.

Client	Date
Pro Bono Counsel	Date

Issued: 4/6/2011

ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 2-40
AGENCY OPERATIONS IN THE ABSENCE OF APPROPRIATIONS

SECTION 1. PURPOSE

This directive provides contingency planning in the event of a funding hiatus caused by the absence of appropriations, either through failure to pass a regular appropriation bill or a continuing resolution.

SECTION 2. AUTHORITIES

OMB Bulletin 80-14, August 28, 1980 (and amended by the OMB Director's memorandum of November 17, 1981).

SECTION 3. POLICY

It is the policy of USCCR that in the event of a funding hiatus, the agency will proceed with the orderly shutdown of operations, beginning on the first workday of the hiatus, and will limit all work activity to actions necessary for such a shutdown. It is estimated that such action will require no more than one-half workday. Since it is assumed that such a hiatus would be temporary and of short duration, no action will be taken that will impede the orderly commencement of operations once funds are available. The Staff Director or his designee will notify all Division/Office Directors regarding which activities and personnel are designated as essential and therefore exempt from the furlough, as well as the duration of each exemption.

SECTION 4. ACTIONS

The following action will be taken to effect the shutdown:

- A. Employees will be advised by the Staff Director or his designee of a possible funding hiatus as soon as such an event is deemed likely by management.
- B. On the first workday of the hiatus, all employees should report to work as scheduled. Supervisors will inform employees of the status of funding and instruct them to limit their work activities to those functions necessary for the orderly cessation of operations.

C. Supervisors will be responsible for notifying absent employees of the furlough as soon as possible.

1. On Annual Leave. Employees on approved annual leave will be notified that as of the completion of shutdown activities, all leave is cancelled for the duration of the shutdown. Such employees will be furloughed for the full hiatus period and, when funds are restored either returned to duty or placed on annual leave, as appropriate. Supervisors must make every effort to reschedule the annual leave cancelled due to a shutdown for use before the end of the current leave year, especially if such leave may be subject to forfeiture at the beginning of the subsequent leave year.
2. On Sick Leave. Employees who, at the time of the lapse of appropriations, are on approved sick leave in connection with a disabling physical condition will be permitted to continue in sick leave status during the funding hiatus, up to the maximum accumulated sick leave available, for the duration of the illness. A physician's statement must be furnished covering all absence in excess of three days. If appropriations have not been restored at the time the employee is again fit for duty, or when all available sick leave has been used, if that is earlier, the employee will be furloughed.
3. On COP Leave. Employees absent on continuation of pay (COP) leave in connection with a job-related injury at the time of the lapse of appropriations will remain in a COP status until determined to be fit for duty by a competent medical authority, or until COP leave totals 45 days, if that is earlier. If the hiatus remains in effect when the employee is adjudged fit for duty, he/she will be placed on furlough. At the end of the maximum allowable 45 days of COP leave, if the employee remains incapacitated, he/she will be placed on leave without pay and instructed to file an application with the Department of Labor for receipt of workers' compensation payments.
4. On Advanced Sick or Annual Leave. No advanced sick or annual leave is authorized for use during a funding hiatus. Upon a lapse of appropriations such leave must be cancelled and the employee furloughed.
5. Leave Use. Except as stated in (2) above, no annual or sick leave may be granted during a funding hiatus.
6. On Travel. Regular employees on travel status, including those on travel in connection with training, should be contacted by their supervisors and told that they

will be furloughed as of the completion of the shutdown and may return to their duty station immediately. Such employees may be furloughed at their travel sites in order to continue participation in their training program or to be immediately available for continuation of official business at the travel site when funds are restored and will be paid the appropriate per diem for travel to return to their duty stations, whenever travelled. However, payment of salary and/or per diem will not be authorized for the furlough period except as proved for in the language of a subsequent appropriations bill.

7. At Local Training. Employees absent from the worksite in connection with training at local facilities must be advised that they will be placed on furlough for the duration of the funding hiatus. Such employees may continue to participate in the contract training program; however, the retroactive payment of salary for the furlough period is not authorized except as may be provided for in the language of a subsequent appropriations bill.
 8. On Details. Employees on non-reimbursable details to other agencies must be notified of the exact date and time at which they are to be furloughed, i.e., at the conclusion of the shutdown, and instructed to notify the appropriate officials of the agency to which detailed of their furlough status.
- D. Official files will be secured as they would be if the agency were to be closed for a long weekend. Employees should ensure that official papers for which they are responsible are secured.
- E. Administrative processing of the payroll for the pay period will continue as necessary to insure that employees are paid on time for all work prior to the closedown. Employees will record time and attendance on the timesheet for the current pay period through the final hour of the shutdown and submit the authorized timesheets to the Human Resources Division for forwarding the National Finance Center.
- F. Responses to telephone inquiries to the USCCR will be limited to explaining the funding hiatus.
- G. Employees will be notified by the Staff Director and/or the Human Resources Division, either orally or in writing, of their furlough. All payments scheduled to be paid during the furlough period which was authorized under prior appropriations, e.g., travel and per diem, contract payments, etc., will be delayed until the furlough period is ended.

- H. The Administrative Services Division will be responsible for notifying all appropriate Federal and non-Federal parties of the agency shutdown to ensure continuity of security services.
- I. Office and Division heads are responsible for notifying all contract vendors, e.g., rented meeting facilities, or non-government training contractors, scheduled to execute the terms of a contract during the anticipated hiatus period of the lapse of appropriations, with assurances that the contracted services will be rescheduled or resumed when funds are restored. Expenses incurred by reason of necessary cancellations will also be paid when funds are restored.
- J. It is expected that the agency shut down will be completed by mid-day of the first workday of the hiatus. Office and Divisions heads will take such actions to ensure orderly accomplishment of this goal. Offices that will require additional time to effect the shutdown will notify the Staff Director immediately as it becomes apparent.
- K. It is the employee's responsibility to stay informed as to the status of agency funding during the hiatus. Employees are expected to report to work as scheduled on the first workday after the enactment of an appropriation or continuing resolution that makes funds available to the agency.

SECTION 5. EMPLOYEE BENEFITS

- A. Unemployment Compensation Benefits. Furloughed employees are not eligible for unemployment compensation benefits for any week in which salary exceeds the maximum unemployment compensation payable. Therefore, employees who wish to apply for unemployment compensation should file a claim with the District of Columbia Unemployment Compensation Board during the first week in which salary does not exceed the maximum unemployment compensation benefit. The first week in which a claim is filed is considered a waiting period and no unemployment compensation will be paid for that week. Unemployment compensation payment will commence at the beginning of the week after the one in which an eligible claim is filed. The information and employment certification necessary to file unemployment compensation claims will be furnished to all furlough employees by the Human Resources Division as an attachment to the notice of furlough.
- B. Health Benefits Costs. Revised regulations which became effective on August 16, 1982, require all employees enrolled for coverage under the Federal Employees Health Benefits Program to pay the employee's share of the premium cost for the elected coverage for each pay period during which enrolled, whether in a pay or non-pay status. Therefore,

enrolled employees will incur an indebtedness to the Government equal to the amount of the employee contribution for health benefits for each pay period in which no deductions are made. Once returned to a pay status, the delinquent amount will be automatically deducted from the bi-weekly gross pay, in addition to other authorized deductions, until the indebtedness is liquidated. Employees may cancel their health benefits enrollment at anytime, thereby avoiding a debt accumulation beyond the pay period after the one in which the cancellation request is received in the Human Resources Division. Reenrollment following the furlough period will not be permitted, however, until the employee is again eligible due to the occurrence of a qualifying event, including open season. It should be noted however, that such a break in coverage would make the cancelling employee ineligible to continue health benefits coverage under the Office of Personnel Management System if he/she retires within five years of the date of cancellation.

- C. Leave Accrual. For leave accrual purposes, the effect of the furlough for covered employees will be as described below:

1. Full-Time Employees

- a. Under current leave regulations no sick or annual leave accrual will be credited for any pay period during the leave year in which an employee accumulates 80 hours in a non-pay status. Therefore, the regular leave accrual will be credited to all employees for each pay period during part of which the employee is in a pay status, unless the furlough time or the combined furlough time and previously accumulated LWOP equals or exceeds 80 hours.
- b. In addition, no leave will be earned or credited for any pay period during which an employee is in a non-pay status for the full pay period. If furloughed employees are returned to duty for a partial pay period following a pay period in which they were in a non-pay status for the entire pay period, leave accrual will be pro-rated based on the number of days in a pay status.

2. Part-Time Employees

Part-time employees will continue to be credited with leave based on the number of hours in pay status.

D. Retirement and Life Insurance

For most employees these two benefits remain unaffected by the furlough period. However, employees for whom the furlough period, when added to previously accumulated leave without pay (LWOP), will cause the total non-pay time to exceed six months in the current calendar year or twelve consecutive months should contact the Human Resources Division for additional information.

A handwritten signature in black ink, appearing to read 'Kimberly A. Tolhurst', written over a horizontal line.

Kimberly A. Tolhurst

Delegated the Authority of the Staff Director

TO:

FROM: Staff Director

SUBJECT Furlough due to Lapse in Appropriation

In the absence of either an FY 2011 appropriation, or a continuing resolution for the U.S. Commission on Civil Rights (USCCR), no further financial obligations may be incurred by USCCR, except for those related to the orderly suspension of USCCR's operations or performance of excepted activities as defined in the Office of Management and Budget memorandum for Heads of Executive Departments and Agencies dated November 17, 1981. Because your services are no longer needed for orderly suspension of operations and you are not engaged in one of the excepted functions, you are being placed in a furlough status effective March 7, 2011. This furlough, e.g., nonpay, nonwork status, is not expected to exceed 30 days. Therefore, this furlough expires on April 6, 2011. You should listen to public broadcasts and when you hear that a continuing resolution or an FY 2011 appropriation for USCCR has been approved, you will be expected to return to work on your next regular duty day.

This action is being taken because of a sudden emergency requiring curtailment of the agency's activities; therefore, no advance notification is possible. The customary 30-day advance notice period and opportunity to answer are suspended under the provisions of 5 CFR 752.404 (d)(2) and under 5 CFR 359.806(a) for SES career appointees.

If employees are being retained in your competitive level, they are required for orderly suspension of agency operations or they are performing one of the excepted activities defined in the OMB memorandum.

During the furlough period, you will be in a nonpay, nonduty status. Also, during the furlough, you will not be permitted to serve as an unpaid volunteer, but must remain away from your work place unless and until recalled. Any paid leave (annual, sick, court, etc.) approved for use during the furlough period is cancelled.

Employees who have completed a probationary or trial period or one year of current continuous employment in the competitive service under other than a temporary appointment may appeal this action to the Merit Systems Protection Board (MSPB). Employees in the excepted service who have veterans preference may appeal to the MSPB if they have completed one year of current continuous service in the same or similar positions as the one they now hold. Employees in the excepted service who do not have veterans preference and who are not serving a probationary or trial period under an initial appointment pending conversion to the competitive service may appeal to the MSPB if they have completed two years of current continuous service in the same or similar positions in an Executive agency under other than a temporary appointment limited to two years or less. SES career appointees adversely affected may also appeal. Employees have a right to representation in this matter and may be represented by an attorney or other person of their choosing.

If you have the right of appeal to MSPB and wish to appeal this action to the MSPB, you must

file the appeal within 30 calendar days after the effective date of your furlough. If you wish to file an appeal, notify Human Resources to obtain a copy of the MSPB regulations and appeal form and the address of the MSPB Regional Office having jurisdiction.

Bargaining unit employees may grieve this action in accordance with the applicable negotiated agreement or may appeal to MSPB in accordance with the procedures outlined above, but not both. To obtain information on filing a grievance under the negotiated grievance procedure, contact Vanessa Williamson on 202-376-8110.

Deciding Official	Date
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I acknowledge receipt of this decision.

Employee's Signature	Date
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ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 2-41

WORKFORCE DISCIPLINE AND ADVERSE ACTIONS

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish USCCR policy which applies to management proposals regarding workforce discipline and adverse actions, e.g., admonishments, reprimands, suspensions, involuntary reductions in grade or pay, furlough for 30 days or less, or employee removals for reasons of misconduct and/or performance.

SECTION 2. AUTHORITY

Adverse action statutes and regulations are contained in 5 U.S.C. Chapters 43 and 75, and 5 C.F.R. Parts 432 and 752.

SECTION 3. SCOPE

This AI applies to all full-time, part-time GS, and SES Commission employees with the following exceptions:

- (1) Presidential or Congressional appointees;
- (2) Occupants of positions of a confidential or policymaking nature as defined by the OPM and excepted from the competitive service (Schedule C employees);
- (3) Reemployed annuitants;
- (4) Experts and consultants serving on temporary appointments of one year or less;
- (5) Individuals serving probationary or trial periods under an initial appointment;
- (6) Individuals serving under temporary appointments;
- (7) Employees downgraded as a result of reclassification and who are entitled to grade retention under 5 U.S.C. 5362.

This AI covers the following types of disciplinary or adverse actions:

- (1) Oral admonition;
- (2) Written admonition;
- (3) Letter of reprimand;
- (4) Suspension of fourteen (14) days or less;
- (5) Suspension of more than fourteen (14) days;
- (6) Reduction in grade or pay;
- (7) Furlough for thirty (30) days or less; and
- (8) Removal.

The following actions are excluded from coverage by this AI:

- (1) Adverse actions taken for security reasons under 5 U.S.C. 7532;
- (2) Actions taken pursuant to OPM decisions which do not allow administrative discretion;
- (3) Reduction-in-force actions taken pursuant to 5 U.S.C. 3502;
- (4) Actions terminating temporary promotions;
- (5) Actions reducing the grade of a supervisor or manager who has not completed the probationary period associated with the supervisory appointment, if the reduction is to the grade held prior to becoming a supervisor or manager;
- (6) Involuntary retirements subject to 5 C.F.R. 842.206; and
- (7) Position classification decisions, except when a reduction in grade results from a classification decision and the employee is not entitled to grade retention under 5 U.S.C. 5362.

SECTION 4. POLICY

It is the policy of the U.S. Commission on Civil Rights to maintain a constructive, disciplined work environment in which both management and employees recognize and carry out their responsibilities; reasonable rules, standards of conduct, and performance are clearly communicated and consistently enforced; supervisors set a good example; aspects of conduct and performance needing improvement are identified in a way that respects the employee's dignity; employees are treated fairly and encouraged to improve; and good performers are

recognized.

SECTION 5. DEFINITIONS

01. **Admonition** - a discussion or memorandum which expresses warning and disapproval concerning a deficiency in conduct and/or performance which is not recorded in the employee's Official Personnel Folder.
02. **Adverse action** - a personnel action by which an employee is suspended; reduced in grade or pay; furloughed for thirty calendar days or less; or removed.
03. **Alternative Dispute Resolution ("ADR")** - a process involving a variety of techniques (e.g., mediation) used to resolve disputes in place of formal legal procedures.
04. **Appeal** - a request made to the Merit Systems Protection Board or the Equal Employment Opportunity Commission, as appropriate, for review of an adverse action taken by the agency.
05. **Critical element** - an identified component of a position and employee performance plan consisting of one or more duties and responsibilities which is of such importance that unacceptable performance in the element would result in unacceptable performance in the position.
06. **Days** - a period of **consecutive** calendar days which includes weekends.
07. **Deciding official** - an individual who has been delegated authority to issue a decision concerning a proposed disciplinary or adverse action.
08. **Disciplinary action** - an action taken by management to correct an employee's delinquency and/or misconduct.
09. **Employee representative** - the employee's choice of an individual to provide and/or assist (or serve as his/her spokesperson) in the preparation of a response to an adverse action.
10. **Furlough** - a non-disciplinary adverse action which temporarily places an employee in a non-pay and non-duty status for thirty days or less due to a lack of work or funds.
11. **Mediation** - the intervention of a neutral third party into a dispute to assist the disputing parties to voluntarily negotiate a jointly acceptable resolution of the problem.
12. **Non-critical element** - a component of an employee's position and performance plan which is of sufficient importance to warrant written appraisal but does not meet the definition of a critical element as previously defined.
13. **Official Personnel Folder** - an official repository of records, documents, papers and reports of personnel actions effected during an employee's Federal service.
14. **Opportunity period** - a time period of not less than ninety days during which an employee is given the opportunity to bring his/her performance up to the minimal standard for retention in the Federal service.
15. **Performance** - the employee's accomplishment of assigned work as specified by the

critical and non-critical elements of his/her position and performance plan.

16. **Performance standard** - a statement of the expectations or requirements established for a critical element or non-critical element at a particular rating level, e.g., quality, quantity, timeliness, manner of performance, etc.

17. **Preponderance of the Evidence** - that degree of evidence which a reasonable mind, considering the record as a whole, might accept as sufficient to support a conclusion that the matter asserted is more likely to be true than not.

18. **Proposing official** - a designated agency official with delegated authority to issue an advance written notice of proposed disciplinary or adverse action.

19. **Reassignment** - a personnel action involving the movement of an employee from one position to another within the same agency without a change in grade or basic pay.

20. **Reduction in grade** - an adverse personnel action involving the involuntary assignment of an employee to a position at a lower classification grade level for cause.

21. **Removal** - an adverse personnel action involving the involuntary separation of an employee from employment with the agency (except when taken as a reduction-in-force action).

22. **Reprimand** - a letter which formally censures an employee concerning a deficiency in conduct and/or performance.

23. **Substantial evidence** - that degree of relevant evidence which a reasonable mind, considering the record as a whole, might accept as adequate to support a conclusion that the matter asserted is true.

24. **Suspension** - an adverse personnel action which places an employee in temporary non-pay, non-duty status for disciplinary reasons.

SECTION 6. RESPONSIBILITIES

01. **Managers and supervisors** are responsible for determining the need for, preparing, and issuing oral admonitions, written admonitions, and reprimands, advance written notice of proposals to suspend for fourteen (14) days or less, or for more than fourteen (14) days; reductions in grade or pay; furloughs for thirty (30) days or less; and removals. Management officials are encouraged to seek assistance prior to the issuance of any disciplinary action but must consult the Office of Human Resources prior to the issuance of a letter of reprimand or more severe action. Managers and supervisors should keep employees informed of rules, regulations, and standards of conduct, and maintain conduct and discipline according to policy and established procedures; maintain a work environment which promotes good employee-management relations; and gather, analyze, and carefully consider available facts and circumstances before recommending or taking disciplinary action, and ensure that efforts are made to minimize the impact of non-disciplinary adverse actions, e.g., furloughs for 30 days or less.

02. The **Director of Human Resources/Director of Management** is responsible for prescribing instructions for the appropriate use and orderly processing of disciplinary and adverse actions, reviewing all notices of proposed actions and decisions to ensure procedural adequacy and consistency with OPM, MSPB, and USCCR requirements, and advising on the merits, rationale, or appropriateness for the action or proposed penalties (see Appendix 1, *Suggested Table of Penalties*).

03. The **General Counsel** is responsible for reviewing all notices of proposed adverse action and decision letters prior to issuance to ensure compliance with legal requirements.

04. The **Staff Director** is responsible for appointing a "deciding official," being cognizant of issues such as agency priorities and cost factors.

05. **Employees** are responsible for carrying out their assigned duties conscientiously; respecting the administrative authority of those directing their work; observing laws, regulations, and policies governing their conduct; and assuring that their off-duty conduct discredits neither USCCR nor the Federal service.

SECTION 7. REPRESENTATION AND RECORD KEEPING

01. An employee covered by this procedure has the right to be accompanied, represented, and advised by a representative of his/her own choosing. An employee has the right to present a case either with or without representation.

02. If the employee elects to be represented, such representative may be a private attorney, a Commission employee, or a non-attorney. However, if the representative is a Commission employee, the agency reserves the right to disallow the individual selected if his or her activities as a representative would cause a conflict of interest or position, or his or her release from his or her official position would give rise to unreasonable costs, or his or her priority work assignments preclude his or her release.

03. If the individual is disallowed under Section 7.02, the employee has the option of selecting another representative or delaying the case process for not more than thirty (30) days until the individual initially selected becomes available. If at the end of the thirty (30) day period the individual is still disallowed under Section 7.02, another individual must be selected if the employee still elects to present the case with representation.

04. In all cases, if the employee elects to be represented, the name of the representative must be made known in writing to the first person to whom the case is presented.

05. The Commission will not assume any liability for expenses incurred by an employee or his or her representative in the exercise of rights under this procedure. An employee and an employee's representative will be given a reasonable amount of official time, however, to present the case if they are otherwise in a duty status.

06. The proposing official (normally the supervisor) must establish a case file when an employee is given a notice of proposed action. The file ultimately must contain the notice of

proposed action, any correspondence or notation of conversation with the employee concerning the action or its rationale, documentation in support of the charges, any written summary of an oral response, a copy of the final decision, and a copy of the employee's appeal, where applicable. The proposing official will transmit the file to the deciding official upon issuance of the notice of proposed action. The deciding official will transmit the file to the Office of Human Resources after issuing a decision on the matter.

07. A transcript of the response to a proposed action is not required for inclusion in a case file when procedures in this AI provide an opportunity for oral reply. However, the person hearing the reply must prepare a summary for the record. The summary will be made available to the employee, who will be given a reasonable amount of time (normally one day) to review the document.

SECTION 8. ADMONITIONS

An employee may be admonished for first offenses and minor violations concerning a deficiency in conduct and/or performance. An oral or written admonition ordinarily follows a discussion of the deficiency between the supervisor and the employee. The supervisor will retain a copy of the written admonition or notes of oral admonitions for one year, and destroy the case file if there are no further offenses within a year. If further offenses of a similar nature occur within the same year, such records will be kept until a year following the latest instance of misconduct and/or poor performance.

(a) An oral admonition must:

- (1) Clearly describe the deficiency in conduct and/or performance and cite, as appropriate, the time, place, and circumstances leading to the admonition;
- (2) Advise the employee of the importance of correcting the deficiency, how the deficiency may be corrected, a time frame within which the correction should be accomplished, and any special attention or assistance that will be provided;
- (3) Provide the telephone number(s) and information regarding EAP services, as appropriate;
- (4) Warn the employee that future offenses of a similar nature may result in more severe disciplinary action; and
- (5) Make a personal note of the oral admonition so that it may be referenced in the event of repetition.

(b) Written admonitions must:

- (1) Include reference to any prior oral admonition or discussion of the problem;
- (2) State specific reasons for the written admonition, including a clear description of the deficiency in conduct and/or performance, and, as appropriate, reference to the time, place, and circumstances leading to the written admonition;
- (3) Advise the employee of the importance of correcting the deficiency, how the deficiency may be corrected, a time frame within which the correction should be accomplished, and any special attention or assistance that will be provided;
- (4) Provide the telephone number(s) and information regarding the EAP services, as appropriate; and
- (5) Warn the employee that future offenses of a similar nature may result in more severe disciplinary action.

SECTION 9. REPRIMANDS

Reprimands may be used to censure an employee formally concerning a deficiency in conduct and/or performance in cases which are not so serious as to warrant an adverse action but are sufficiently serious to warrant a reprimand that will be a matter of temporary record in the employee's Official Personnel Folder ("OPF"). A letter of reprimand may be appropriate, for example, in the case of repeated violations of a similar nature for which the employee has been admonished but little or no corrective action on the part of the employee has resulted.

- (a) Letters of reprimand (see Appendix 2, *Sample Letter of Reprimand*) must:
 - (1) State that the letter is an official reprimand;
 - (2) State specific reasons for the reprimand, including a clear description of the deficiency in conduct and/or performance, and the time, place, and circumstances leading to the reprimand;
 - (3) Reference any documents confirming counseling, admonitions, or reprimands given to the employee for similar problems;
 - (4) Advise the employee of the importance of correcting the deficiency, how the deficiency may be corrected, a time frame within which the correction should be accomplished, and any special attention or assistance that will be provided;
 - (5) Advise the employee that the action may be grieved under the procedures described in AI 2-7, *Grievance Procedures*;
 - (6) State that unless there are future similar incidents, the reprimand will be filed in the employee's OPF for a period not to exceed one year from the date of the letter of reprimand;

(7) Provide the telephone number(s) and information about EAP services, as appropriate; and

(8) Refer the employee to the Office of Human Resources with any questions about the reprimand.

(b) The letter of reprimand is filed on the left-hand side of the OPF for a period normally not to exceed one year from the date of the letter of reprimand. It may be withdrawn from the OPF prior to the end of one year if the employee leaves the agency or upon a finding by the official who issued it that the reprimand was unjustified, unwarranted, or otherwise improper.

SECTION 10. SUSPENSIONS FOR FOURTEEN (14) DAYS OR LESS

(a) Suspensions taken under this section for misconduct are initiated to promote the efficiency of the service.

(b) The following procedural requirements must precede the issuance of this proposal when the reason for the action is unacceptable performance (under the authority of 5 C.F.R. Part 432):

(1) The employee must have been informed in writing of any aspects of his/her performance which have been deemed unacceptable. This notification must have been approved by a person at a higher level in the organization than the rating official or by the Staff Director if there is none at a higher level; and

(2) The employee must have been issued a notice of opportunity to improve performance, identifying the critical element(s) in which the employee's performance was unacceptable, and a description of the minimal standard(s) for retention in the Federal service.

(c) Employees against whom such actions are proposed must be given an advance written notice (see Appendix 3, *Sample Advance Written Notice of Proposal to Suspend for Fourteen Days or Less*). This notice, issued by the proposing official, must:

(1) State the proposed action;

(2) State the specific reasons that form the basis for the proposal and that support the proposed action. The notice must list critical element(s) and standard(s) for performance that have been unacceptable, as well as specific examples of such unacceptable performance (where action is proposed in part under the authority of 5 C.F.R. Part 432);

(3) Advise that the action is being proposed to promote the efficiency of the service;

- (4) Inform the employee of the right to be represented by an attorney or other representative;
- (5) Advise the employee and/or his/her representative of the location where he/she may review all supporting evidence, information, and other material used to form the basis for the proposed action;
- (6) Advise the employee of his/her right to reply orally and/or in writing to the notice; to furnish affidavits and other documentary evidence in support of the answer; that a reasonable amount of official time will be granted to the employee and the employee's representative, if any, to review the material relied upon by management in support of its proposal and to prepare an answer (the amount of time will be determined on a case-by-case basis but will not be less than four (4) hours);
- (7) State the time limit for submitting a reply (normally ten (10) calendar days and no less than twenty-four (24) hours);
- (8) Advise that any reply to the advance written notice will be considered fully before a final decision is made (oral replies must be summarized in writing by the deciding official and placed into the record);
- (9) Advise the employee of the name, title, and office address of the deciding official, and advise that replies should be made to the deciding official;
- (10) Advise the employee that a final written decision stating the specific reasons that formed the basis for the decision will be issued at the earliest practicable date after the time allowed for the employee's reply;
- (11) Provide the telephone number(s) and information about EAP services, as appropriate; and
- (12) Include the notation, "I hereby acknowledge receipt of this notice." with space for the date and the employee's signature on one copy of the notice.

(d) The decision letter (see Appendix 4, *Sample Decision to Suspend for Fourteen (14) Days or Less*) must be given to the employee on or before the effective date of the action, and be issued by the deciding official within twenty (20) working days, if feasible, following the receipt of the employee's reply or within ten (10) working days, if feasible, if the employee does

not respond. The decision letter must:

- (1) Confirm the proposed action, reduce the proposed action to a less severe action, or cancel the proposed action;
 - (2) Inform the employee of the effective date and length of any suspension, or of any lesser disciplinary action, as appropriate;
 - (3) State the specific reasons identified in the advance written notice that formed the basis for the final decision;
 - (4) Advise the employee that the action being taken is for such cause as will promote the efficiency of the service, as appropriate;
 - (5) Advise the employee that replies from the employee, or his/her representative, to the advance written notice were fully considered in reaching the final decision;
 - (6) Advise the employee that the action taken may be grieved under the formal procedure described in AI 2-7, *Grievance Procedures*, as appropriate;
 - (7) Provide the telephone number(s) and information about EAP services, as appropriate; and
 - (8) Include the notation, "I hereby acknowledge receipt of this letter." with space for the date and the employee's signature on one copy of the letter.
- (e) The following records, which may be reviewed by the employee and his/her representative, must be retained in a separate file maintained in the Office of Human Resources:
- (1) A signed and dated copy of the advance written notice;
 - (2) Copies of written replies, affidavits, or other documentation furnished by the employee and his/her representative;
 - (3) A copy of the written summary of oral replies made by the employee and his/her representative;
 - (4) A signed and dated copy of the decision letter;
 - (5) Evidence or information relied upon in reaching the final written decision;
 - (6) A copy of any documents implementing the final written decision;
 - (7) A copy of any request for information from the record received from the employee or his/her representative; and

- (8) Copies of other supporting or relevant information.

**SECTION 11. SUSPENSIONS FOR MORE THAN FOURTEEN (14) DAYS;
REDUCTION IN GRADE OR PAY; FURLOUGHS FOR THIRTY (30) DAYS OR
LESS**

Actions taken under this section must be for such cause as will promote the efficiency of the service, and be supported by information that will satisfy the "preponderance of the evidence" standard, as defined under Section 5.17. The connection between the employee's conduct and the agency's ability to discharge its responsibilities must be described when an adverse action is proposed based on an employee's off-duty conduct. The following procedural requirements must precede the issuance of the proposal whenever the action proposed is based in part on reasons of unacceptable performance under 5 C.F.R. Part 432.

- (a) The employee must have been informed in writing of any aspects of his/her performance which have been unacceptable. This notification must have been approved by a person at a higher level in the organization than the rating official or by the Staff Director if there is none at the higher level; and
- (b) The employee must have been issued a notice of opportunity to improve performance, including the identification of critical element(s) in which the employee's performance was unacceptable, and a description of the minimal standard(s) for retention in the Federal service.
- (c) An employee against whom action is proposed must be given advance written notice (see Appendix 5, *Sample Advance Written Notice of Proposal to Remove Based on Unacceptable Conduct*). This notice, issued by the proposing official, must:
- (1) State the proposed action;
 - (2) State the length of a proposed suspension, as appropriate;
 - (3) Be given to the employee at least thirty (30) days before the proposed effective date of the action;
 - (4) State the specific reasons that form the basis for the proposed action. The notice must list critical elements and standards for performance that have been unacceptable, as well as specific examples of such unacceptable performance;
 - (5) Advise that the action is being proposed to promote the efficiency of the service;
 - (6) Inform the employee of the right to be represented by an attorney or other representative;

- (7) Advise the employee and/or his/her representative of the location where he/she may review all supporting evidence, information, and other material used to form the basis for the proposed action;
 - (8) Advise the employee of his/her right to reply orally, in writing, or both, to the notice; to furnish affidavits and other documentary evidence in support of the answer; and that a reasonable amount of official time will be granted to the employee and/or his/her representative, if any, to review the material relied upon by management to support its proposal, secure affidavits and prepare an answer (the amount of time will be determined on a case-by-case basis but will not be less than four (4) hours);
 - (9) State the time limit for submitting a reply (normally twenty-one (21) calendar days and no less than seven (7) calendar days);
 - (10) Advise that the action will be effected not earlier than thirty (30) days from the date the employee receives the advance written notice;
 - (11) State the name, title, and office address of the deciding official to whom replies should be addressed;
 - (12) Advise that replies to the advance written notice will be fully considered before a final decision is made (oral replies must be summarized in writing by the deciding official and placed into the record);
 - (13) Advise the employee that a final written decision stating the specific reasons that formed the basis for the decision will be issued at the earliest practicable date after the time allowed for the employee's reply;
 - (14) Provide the telephone number(s) and information about EAP services, as appropriate; and
 - (15) Include the notation, "I hereby acknowledge receipt of this notice." with space for the date and the employee's signature on one copy of the notice.
- (d) The decision letter must be given to the employee before the effective date of the action, and be issued by the deciding official within twenty (20) working days, if feasible, following receipt of the employee's reply or within ten (10) working days, if feasible, if the employee does not respond. The decision letter (see Appendix 6, *Sample Decision to Remove Based on Unacceptable Conduct*) must:
- (1) Confirm the proposed action, reduce the proposed action to a less severe action, or cancel the proposed action;
 - (2) Inform the employee of the effective date and exact nature of any action taken, as appropriate;
 - (3) State the specific reasons that were identified in the advance written notice that formed the basis for reaching the final decision;

(4) Advise the employee that the action being taken is for such cause as will promote the efficiency of the service, as appropriate;

(5) Advise the employee that any replies from the employee or his/her representative to the advance written notice were fully considered in reaching the final decision;

(6) Notify the employee of his/her right of appeal, if any, to the MSPB, the time limit for making such appeal, and the address of the appropriate Board office for filing an appeal, as appropriate;

(7) Advise the employee that action taken may be grieved under the formal procedure described in AI 2-7, *Grievance Procedures*, as appropriate.

(8) Advise the employee that a copy of the Board's rules and regulations and a copy of the Board's appeal form are attached to the letter; and

(9) Include the notation, "I hereby acknowledge receipt of this letter." with space for the date and the employee's signature on one copy of the letter.

(e) The following records, which may be reviewed by the employee and his/her representative, must be retained in a separate file maintained in the Office of Human Resources:

(1) A signed and dated copy of the advance written notice;

(2) Copies of written replies, affidavits, or other documentation furnished by the employee or his/her representative;

(3) A copy of the written summary of oral replies made by the employee or his/her representative;

(4) A signed and dated copy of the decision letter;

(5) Evidence or information that formed the basis for reaching the final written decision;

(6) A copy of any document implementing the final written action;

(7) Any order effecting the action, together with any supporting material.

(8) Copies of requests for information from the record received from the employee or his/her representative; and

(9) Copies of other supporting or relevant information.

SECTION 12. EXCEPTIONS TO THE THIRTY-DAY ADVANCE NOTICE PERIOD

(a) The advance written notice and opportunity to answer are not required for furlough without pay due to unforeseeable circumstances, such as sudden breakdowns in equipment, acts of God, or sudden emergencies requiring immediate curtailment of activities.

(b) The full advance notice period is not required when the agency has reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment may be imposed and is proposing a removal or suspension, including indefinite suspension. An emergency adverse action should not be based solely on the fact that an employee has been arrested for a crime. The decision to take an emergency adverse action should be based on the misconduct leading to the arrest, and that misconduct should be the reason(s) stated in the advance written notice. The notice must show the connection between the employee's conduct and the agency's ability to carry out effectively its responsibilities in such cases. Under these circumstances, the Commission may invoke the provisions applicable to commission of a crime and:

(1) Give the employee an advance written notice of less than thirty (30) calendar days and provide a required minimum of at least seven (7) calendar days for reply (the exact amount of advance notice will depend upon the circumstances of the situation); or

(2) Place the employee in a non-duty status with pay, not to exceed ten (10) calendar days, as is necessary to effect the action when action is required immediately to remove the employee from the work premises because of circumstances. The employee may be given an advance written notice of less than thirty (30) calendar days and provided a minimum of seven (7) calendar days to reply.

(c) In those circumstances where the agency determines that the employee's continued presence in the workplace may pose a threat to the employee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests, the employee's supervisor should consult with the Director of Human Resources regarding the use of the following alternatives:

(1) Assigning or detailing the employee to other duties where he or she is no longer a threat to safety, the agency mission, or to Government property;

(2) Allowing the employee to take leave, or carrying him or her in an appropriate leave category (annual, sick, leave without pay, or absence without leave) if he/she has absented himself or herself from the worksite without requesting leave;

(3) Curtailing the notice period when the agency can invoke Section 12(b); or

(4) As a last resort, placing the employee in a paid, non-duty status for such time as is necessary to effect the action.

SECTION 13. APPEALS PROCESS

(a) A written appeal filed by an employee with the MSPB must be received no later than thirty (30) days after the effective date, if any, of the action being appealed, or thirty (30) days after the date of the employee's receipt of the agency decision letter, whichever is later. If the employee has entered into a written agreement with the agency to attempt to resolve their dispute through an alternative dispute resolution ("ADR") process prior to the timely filing of an appeal, he/she has an additional thirty (30) days, for a total of sixty (60) days, to file an appeal. See Section 5, *Definitions*, AI 2-3, *Equal Employment Opportunity*, for further information on the ADR process.

(b) Two copies of both the appeal and all attached documentation must be sent to the MSPB. A copy also must be sent to the Office of Human Resources.

(c) An appellant has the right to a hearing before an MSPB presiding official (for which a transcript will be kept), and to be represented by an attorney or other representative.

(d) Only those employees ("covered employees") described in Section 3 of this AI are entitled to appeal adverse actions to the Board.

(e) Standards of evidence.

(1) An adverse action taken by the agency under 5 U.S.C. Chapter 75 (Conduct) will be sustained only if the decision is supported by a preponderance of the evidence. An adverse action taken by the agency under 5 U.S.C. Chapter 43 (Performance) will be sustained if the decision is supported by substantial evidence.

(2) Notwithstanding the requirements of evidence, the agency's decision will not be sustained if the appellant shows harmful error in the application of the agency's procedures in arriving at its decision; shows that the decision was based on any prohibited personnel practice described in 5 U.S.C. 2302(b); or shows that the decision was not in accordance with law.

(3) The initial decision of the Board is final unless the MSPB agrees to reopen and reconsider a case based on a petition from a party to the appeal or from the OPM, or unless the MSPB reopens a case on its own motion. Petitions for reconsideration or reopening must be filed within thirty-five (35) days of the issuance of the initial decision or, if the petitioner shows that the initial decision was received more than five (5) days after the date of issuance, within thirty (30) days after the date the petitioner received the initial decision.

(4) If the MSPB elects to reopen and reconsider a case, it may, following its review, affirm, reverse, modify, or vacate the initial decision, in whole or in part.

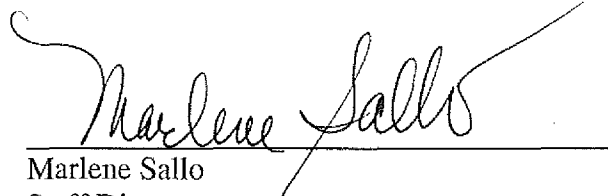
(f) Allegations of discrimination.

(1) Allegations of unlawful discrimination raised in conjunction with disciplinary or adverse actions are processed under USCCR's EEO procedures. Initiation of EEO procedures does not automatically delay or suspend the adverse action procedure.

(2) When an employee has raised the issue of discrimination (either orally or in writing) prior to the issuance of a decision on an action appealable to the MSPB, a special advisory will be included with the agency decision.

SECTION 13. APPLICABILITY OF OTHER LAWS AND DIRECTIVES

Provisions of this AI are subject to modification by changes in pertinent statutes, regulations, and controlling issuances by authority outside USCCR. In such cases, and until the AI is modified, applicable provisions of the AI will be considered automatically amended or superseded, effective on the date specified in such controlling issuance.



Marlene Sallo
Staff Director

SUGGESTED TABLE OF PENALTIES

The decision logic table on the following pages may be used as a **guide** for selecting appropriate penalties in disciplinary actions involving employee misconduct. The table shows the interrelationships of disciplinary causes and actions. The table neither establishes procedural requirements, nor automatically sets penalties. Depending on the circumstances, a penalty may be more or less severe than those listed in the table. This guide does not presume to cover all possible offenses; however, it does attempt to include most issues that are likely to apply in the agency. Other factors to be weighed are: character, gravity, recency, and consequences of the offense; mitigating circumstances; length of service; quality of work; personal reputation; past contributions; and record of cooperation.

Nature of Offense Column. It is not necessary to state the nature of the offense exactly as shown in this column. It is important, however, to state exactly what the employee did wrong (identified by a specific charge) in simple, clear language. Be careful to select a charge which fits the facts and not to distort the facts to fit a specific offense in the guide.

Accumulation of Offenses. The time period (reckoning period) over which offenses are cumulative for purposes of assessing progressively-stronger penalties varies for different offenses. Generally, the reckoning period in the decision logic tables for No. 1, *Attendance-related offenses*; No. 14, *Delay in carrying out or failure to carry out instruction in a reasonable time*; and No. 16, *Sleeping, loafing, or failure to attend to duties*, is one year, e.g., management can use like offenses up to one year old in determining the penalty for a current offense. For all other offenses in the decision logic table, which can generally be grouped together as reflecting character traits, the reckoning period is indefinite and should be considered on a case-by-case basis.

Nature of Offense	1 st Offense	2 nd Offense	3 rd Offense
1. Attendance-related offenses.			
a. Unexcused Tardiness. (Includes delays in reporting at the scheduled starting time, returning from lunch or break periods, and returning after leaving work station on official business.) Penalty depends on length and frequency of tardiness.	Oral admonishment	Oral admonishment to 1-day suspension	Oral admonishment to 5-day suspension
	Note: Penalty for 4 th Offense may warrant a 5-day suspension to removal		
b. Absence without leave ("AWOL"). (AWOL is charged in one-hour increments and suggested penalties generally are not applicable for tardiness of 1/2 hour or less. See #1.a. above. Includes leaving the work station without permission.) Penalty depends on length and frequency of absences. Removal may be appropriate for a 1st or 2nd offense if the absence is prolonged.	Reprimand to 5-day suspension	1- to 14-day suspension	5-day suspension to removal
c. Failure to follow established leave procedures.	Reprimand to 5-day suspension	1- to 5-day suspension	5-day suspension to removal
2. Breach of safety regulation or practice.			
a. Where imminent danger to persons or property is not involved.	Reprimand to 1-day suspension	1- to 14-day suspension	5-day suspension to removal
b. Where imminent danger to persons ("persons" includes self) or property is involved. Penalty depends on seriousness of injury or potential injury, and extent or potential extent of damages to property. Safety regulations may include requirements to report accident or injury.	Reprimand to removal	3-day suspension to removal	Removal
3. Breach of security regulations or practice.			
a. Where restricted information is not compromised and breach is unintentional.	Reprimand to 5-day suspension	1- to 14-day suspension	5-day suspension to removal

b. Where restricted information is compromised and breach is unintentional.	Reprimand to removal	30-day suspension to removal	Removal
c. Deliberate violation.	30-day suspension to removal	Removal	
<p>4. Offenses related to intoxicants.</p> <p>Action involving these offenses should be reviewed to ensure the requirements of drug and alcohol abuse programs are met.</p>			
a. Alcohol-related:			
(1) Unauthorized possession of alcoholic beverages while on Government premises or in duty status.	Reprimand to 5-day suspension	5- to 14-day suspension	14 - day suspension to removal
(2) Unauthorized use of alcoholic beverages while on Government premises or in duty status.	Reprimand to 14 - day suspension	14- to 30-day suspension	30 - day suspension to removal
(3) Reporting to or being on duty while under the influence of alcohol. <i>(Evidence is on a case- by-case basis per OPM guidance).</i>	Reprimand to 30 - day suspension	14 - day suspension to removal	Removal
(4) Sale or transfer of an alcoholic beverage while on Government premises or in a duty status or while any person involved is in a duty status.	Reprimand to removal	Removal	
b. Drug-related:			
(1) Unauthorized possession of a drug or controlled substance while on Government premises or in a duty status.	5- to 30-day suspension	14 - day suspension to removal	Removal
(2) Unauthorized use of a drug or controlled substance while on Government premises or in a duty status.	14-day suspension to removal	30 - day suspension to removal	Removal
(3) Reporting to or being on duty while under the influence of an unauthorized drug or controlled substance. <i>(Evidence is on a case- by-case basis per OPM guidance).</i>	30-day suspension to removal	Removal	
(4) Sale or transfer of an unauthorized drug or controlled substance while on Government premises or in a duty status or while any person involved is in a duty status.	30-day suspension to removal	Removal	

5. Making false, malicious or unfounded statements against co-workers, supervisors, subordinates, or Government officials which tend to damage the reputation or undermine the authority of those concerned.	Reprimand to removal	14 - d a y suspension to removal	30 - d a y suspension to removal
6. Abusive or offensive language, gestures or other conduct [also see "Discourtesy," No. 7 below]. <i>(Evidence is on a case- by-case basis per OPM guidance).</i>	Reprimand to 10 - d a y suspension	5 - d a y suspension to removal	30 - d a y suspension to removal
7. Discourtesy <i>(Evidence is on a case- by-case basis per OPM guidance).</i>	O r a l admonishment to 1-day suspension	Reprimand to 5-day suspension	1-day to 10-day suspension
NOTE: Penalty for 4th offense within one year may be 14-day suspension to removal.			
7. Stealing (actual or attempted)/Unauthorized possession of Government property or property of others.			
a. Where substantial value is not involved.	Reprimand to removal	Reprimand to removal	5 - d a y suspension to removal
b. Where substantial value is involved.	14-day suspension to removal	Removal	
9. Using Government property or Government employees in duty status for other than official purposes. Penalty depends on the value of the property or amount of employee time involved, the nature of the position held by the offending employee, and other factors. For misuse of Government vehicles, see #33 below. For misuse of Government travel, credit, or purchase card, see #35 below.	Reprimand to removal	1 - d a y suspension to removal	14-day suspension to removal
10. Misuse of official Government credential.	Reprimand to removal	5 - d a y suspension to removal	14 - d a y suspension to removal
11. Deliberate misrepresentation, falsification, exaggeration, concealment or withholding of a material fact, or refusal to testify or cooperate in an official proceeding.	Reprimand to removal	1 - d a y suspension to removal	5 - d a y suspension to removal

12. Loss or damage to Government property, records, or information [also see #28 below]. Penalty depends on value of property or extent of damage, and degree of fault attributable to employee.	Reprimand to 14 - day suspension	Reprimand to removal	14 - day suspension to removal
13. Offenses related to fighting. Penalty depends on such factors as provocation, extent of any injuries, and whether actions were defensive or offensive in nature.			
a. Threatening or attempting to inflict bodily harm.	Reprimand to 14 - day suspension	14 - day suspension to removal	30 - day suspension to removal
b. Hitting, pushing or other acts against another without causing injury.	Reprimand to 30 - day suspension	14 - day suspension to removal	Removal
c. Hitting, pushing or other acts against another causing injury.	30 - day suspension to removal	Removal	
14. Delay in carrying out or failure to carry out instruction in a reasonable time.	Reprimand to removal	Reprimand to removal	5 - day suspension to removal
15. Insubordinate defiance of authority, disregard of directive, refusal to comply with proper order.	Reprimand to removal	5 - day suspension to removal	Removal
16. Sleeping, loafing, or failure to attend to duties.			
a. Where no danger to persons or property is involved.	Oral admonishment to 1-day suspension	Reprimand to 5-day suspension	5-day suspension to removal
b. Where danger to persons or property is involved.	Reprimand to removal	14 - day suspension to removal	30 - day suspension to removal
17. Negligent performance of duties.			
a. Where wastage or other cost is	Oral admonishment to reprimand	Reprimand to 5-day suspension	5- to 30-day suspension
b. Where wastage or other cost is substantial.			
	1- to 5-day suspension	5 - day suspension to removal	30 - day suspension to removal
18. Offenses related to gambling.			

a. Participating in an unauthorized gambling activity while on Government premises or in duty status.	Oral admonishment to reprimand	1- to 5-day suspension	5- to 30-day suspension
b. Operating, assisting, or promoting an unauthorized gambling activity while on Government premises or in a duty status or while others involved are in a duty status.	14-day suspension to removal	Removal	
19. Participating in a strike, work stoppage, slowdown, sickout, or other job action.	Removal		
20. Indebtedness where agency operations or reputation are affected.	Oral admonishment to reprimand	Reprimand to 5-day suspension	5-day suspension
21. Sexual harassment.	Reprimand to removal	5 - d a y suspension to removal	30 - d a y suspension to removal
22. Discrimination based on race, color, sex, sexual orientation, religion, national origin, age, marital status, political affiliation, or handicap.	Reprimand to removal	5 - d a y suspension to removal	30 - d a y suspension to removal
23. Interference with an employee's exercise of, or reprisal against an employee for exercising, a right to grieve, appeal or file a complaint. through established procedures	Reprimand to removal	5 - d a y suspension to removal	30 - d a y suspension to removal
24. Reprisal against an employee for providing information to an Office of Inspector General (or equivalent), the Office of Special Counsel, an EEO investigator, or for testifying in an official proceeding.	30-day suspension to removal	Removal	
25. Reprisal against an employee for exercising a right provided under 5 U.S.C. 7101 <i>et seq.</i> (governing Federal labor-management relations).	Reprimand to removal	5 - d a y suspension to removal	30 - d a y suspension to removal
26. Violation of an employee's constitutional rights (i.e., freedom of speech/association/religion).	Reprimand to removal	5 - d a y suspension to removal	30 - d a y suspension to removal

27. Finding by MSPB of refusal to comply with MSPB order or of violation of statute causing issuance of Special Counsel complaint.	Suspension	Removal	
28. Directing, expecting or rendering services not covered by appropriations [5 U.S.C. 3103].	Removal		
29. Prohibited political activity.			
a. Violation of prohibition against political contributions [5 U.S.C. 7323].	Removal		
b. Violation of prohibition against campaigning or influencing elections [5 U.S.C. 7324 and 7325].	30 - day suspension to removal	Removal	
30. Failure to deposit into the Treasury money accruing from lapsed salaries or from unused appropriations for salaries [5 U.S.C. 5501].	Removal		
31. Soliciting contributions for a gift for a superior; making a donation as a gift to a supervisor; accepting a gift from an employee receiving less pay [5 U.S.C. 7351].	Removal		
32. Action against national security [5 U.S.C. 7532].	Suspension or removal	Removal	
33. Willfully using or authorizing the use of a government passenger motor vehicle or aircraft for other than official purposes [31 U.S.C. 1349(b)].	30-day suspension to removal	Removal	
34. Mutilating or destroying a public record [18 U.S.C. 2071].	Removal		
35. Using Government contractor-issued travel, credit, or purchase card for non-official travel or unauthorized purchases [41 CFR Part 301- 51, et al; Chapters 41 and 48 of the U.S.C.; 18 U.S.C. 287].	Reprimand to removal	10 - day suspension to removal	14 - day suspension to removal

SAMPLE LETTER OF REPRIMAND

Date

Name of Employee

Duty Station

Dear:

The purpose of this letter is to officially reprimand you for an unsatisfactory attendance record, including excessive tardiness. This reprimand informs you of the seriousness of the problem and of the need for prompt correction of these deficiencies.

Specifically, you were absent without approved leave ("AWOL") on the following occasions:

January 3, 2002	8:15 a.m. to 9:30 a.m.
January 18, 2002	8:15 a.m. to 4:45 p.m.
April 1, 2002	8:15 a.m. to 12:00 p.m.
April 2, 2002	8:15 a.m. to 4:45 p.m.
April 15, 2002	8:15 a.m. to 9:15 a.m.

Your work schedule requires you to be at work from 8:15 a.m. to 4:45 p.m. You were tardy on the following dates:

February 11, 2002	Arrived at work at 8:40 a.m., 25 minutes late
March 4, 2002	Arrived at work at 8:55 a.m., 40 minutes late
March 14, 2002	Arrived at work at 9:00 a.m., 45 minutes late
April 22, 2002	Arrived at work at 8:50 a.m., 35 minutes late

On each of these occasions of absence or tardiness, you have failed to receive my advance approval for leave. On January 25, 2002, and again on April 3 and 15, 2002, I discussed with you your previous absences and informed you that you were being charged AWOL. You did not provide sufficient reasons for the periods of absence. I admonished you during these discussions that continued absence without approval and tardiness could not be condoned and would result in disciplinary action.

You must immediately correct these problems by seeking my advance approval for any period of absence from work. Failure to obtain my advance approval will result in more severe disciplinary action. Whenever another employee, in my absence, is acting as your supervisor, you must obtain approval for any leave or absence from that person.

Since I wish to ensure that any problems of a personal nature which may be affecting your work are resolved as quickly as possible, I believe that you may benefit from the assistance of a

counselor from the Commission's Employee Assistance Program ("EAP"). To arrange to meet with a counselor, please call 1-800-222-0364. The counselor can assist you in resolving any problems which may be having an adverse impact on your job performance and conduct. I wish to stress that your participation in the EAP is voluntary, and any information exchanged between you and the counselor will be treated in a strictly confidential manner.

The merit of this reprimand may be grieved under the procedures described in AI 2-7, *Grievance Procedures*.

A copy of this letter, along with any written comments you may wish to make, will be maintained in your Official Personnel Folder for a period of one year. If there is no recurrence of this type of incident for one calendar year from the date of this letter, it will be removed from your personnel folder and destroyed. Should you leave the Commission's employment within the next year; any reprimands will be removed from your personnel folder and destroyed.

Please sign and date the attached copy of this letter and return that copy to me. Your signature does not mean that you agree with this letter, but merely indicates that you have received it.

Sincerely,

Immediate Supervisor

Attachment

I hereby acknowledge receipt of this letter.

Signature

Date

**SAMPLE ADVANCE WRITTEN NOTICE OF PROPOSAL
TO SUSPEND FOR FOURTEEN (14) DAYS OR LESS**

Date

Name of Employee

Duty Station

Dear _____

This is a formal notice that I propose to suspend you for three (3) working days for the reasons listed below. This proposal is for such cause as will promote the efficiency of the service (include background statement regarding prior warnings, counseling, and attempts to assist employee in correcting problem).

Reason No. 1 (State specific reason.)

Specification No. 1 (Describe specific instances that support the reason.)

Specification No. 2 (Describe specific instances that support the reason.)

Reason No. 2 (State specific reason.)

Specification No. 1 (Describe specific instances that support the reason.)

Specification No. 2 (Describe specific instances that support the reason.)

(Discuss any circumstances that aggravate the seriousness of the misconduct.)

You have a right to reply to this proposal orally or in writing, or both. You may also submit affidavits and other documentary evidence in support of your answer. Any reply must be made or submitted within fifteen (15) work days after you receive this notice. The deciding official will be (name), (title), room, telephone number _____. If you wish to reply orally, you must telephone the deciding official for an appointment.

You have the right to a representative to assist you in preparing and presenting your reply. You will have to pay any expense you may incur in obtaining the services of a representative. You are entitled to a reasonable amount of official time to prepare and present your reply. You must make arrangements with your supervisor if you wish to use official time. If you choose to be represented, you must notify the deciding official in writing of your representative's name, and either or both of you may respond to this proposal within the time limit specified above.

Full consideration will be given to any reply you make, if you choose to make one, before a decision is made. You will receive a written decision whether or not you make a reply. Such decision will be made as soon as practicable after the date the reply is received or due.

Since I wish to ensure that any problems of a personal nature which may be affecting your work are resolved as quickly as possible, I believe that you may benefit from the assistance of a counselor from the Commission's Employee Assistance Program ("EAP"). To arrange to meet with a counselor, please call 1-800-222-0364. The counselor can assist you in resolving any problems which may be having an adverse impact on your job performance and conduct. I wish to stress that your participation in the EAP is voluntary, and any information exchanged between you and the counselor will be treated in a strictly confidential manner.

If you have any questions on your rights or the procedures involved in this matter, you may contact (name), Office of Human Resources, on telephone number (202) 376-8364. You or your representative has a right to review the material upon which this proposal is based. You may do so by calling (name of deciding official), on telephone number (), to make necessary arrangements.

Please acknowledge receipt of this letter in the space provided on the enclosed copy and return it to the undersigned. Your signature does not mean that you agree with this letter, but merely shows that you received it.

Sincerely,

Proposing Official Title

Organization

Enclosure

I hereby acknowledge receipt of this letter:

Signature

Date

SAMPLE DECISION TO SUSPEND FOR FOURTEEN (14) DAYS OR LESS

Date

Name of Employee

Duty Station

Dear _____

A letter of (date) informed you of a proposal to suspend you for three (3) days because of (reasons).

I have given full consideration to the information you presented in your letter of (date) and in your oral reply of (date). I find that the reasons cited in the proposal are supported by the evidence, and warrant your suspension. Accordingly, in order to improve the efficiency of the service, it is my decision that you be suspended for three (3) days, effective (date). A statement summarizing the reasons for this adverse action will be reflected on the Standard Form 50, *Notification of Personnel Action*, by which this suspension is formally and permanently documented. [If fewer than all reasons given in the proposal notice were relied on in arriving at the decision, those reasons which were sustained, and, therefore, relied on, should be stated in the decision.]

Since I wish to ensure that any problems of a personal nature which may be affecting your work are resolved as quickly as possible, I believe that you may benefit from the assistance of a counselor from the Commission's Employee Assistance Program ("EAP"). To arrange to meet with a counselor, please call 1-800-222-0364. The counselor can assist you in resolving any problems which may be having an adverse impact on your job performance and conduct. I wish to stress that your participation in the EAP is voluntary, and any information exchanged between you and the counselor will be treated in a strictly confidential manner.

The merits of this decision may be grieved under the formal procedure described in AI 2-7, *Grievance Procedures*.

Please acknowledge receipt of this letter in the space provided on the enclosed copy and return it to the undersigned. Your signature does not mean that you agree with this letter, but merely shows that you received it.

Sincerely,

Deciding Official
Title
Organization

Enclosure

I hereby acknowledge receipt of this letter.

Signature

Date

**SAMPLE ADVANCE WRITTEN NOTICE OF
PROPOSAL TO REMOVE BASED ON
UNACCEPTABLE CONDUCT**

Date _____

Name of Employee _____

Duty Station _____

Dear _____

This is a formal notice that I propose to remove you from your position of (title, series, grade, office and location) no earlier than thirty (30) days from the date you receive this notice. This proposal is made for such cause as will promote the efficiency of the service. (Include background statement of counseling, warnings, and efforts to correct the problems.) The reasons for this proposed action are:

Reason No. 1 (State specific reason.)

Specification No. 1 (Describe specific instances that support the reason.)

Specification No. 2 (Describe specific instances that support the reason.)

Reason No. 2 (State specific reason.)

Specification No. 1 (Describe specific instances that support the reason.)

Specification No. 2 (Describe specific instances that support the reason.)

(Discuss any circumstances that aggravate the seriousness of the misconduct. Any reference to the employee's past disciplinary record in determining the severity of the penalty should be discussed with your personnel specialist to ensure a correct citation.)

You have a right to reply to this proposal orally or in writing, or both. You may also submit affidavits and other documentary evidence in support of your answer. Any reply must be made or submitted within fifteen (15) work days after you receive this notice. The deciding official will be (name), (title), room, telephone number (). If you wish to reply orally, you must telephone the deciding official for an appointment.

You have the right to a representative to assist you in preparing and presenting your reply. You will have to pay any expense you may incur in obtaining the services of a representative.

You are entitled to a reasonable amount of official time to prepare and present your reply. You must make arrangements with your supervisor if you wish to use official time. If you choose to be represented, you must notify the deciding official in writing of your representative's name, and either or both of you may respond to this proposal within the time limit specified above.

Full consideration will be given to any reply you make, if you choose to make one, before a decision is made. You will receive a written decision whether or not you make a reply. Such decision will be made as soon as practicable after the date the reply is received or due.

Since I wish to ensure that any problems of a personal nature which may be affecting your work are resolved as quickly as possible, I believe that you may benefit from the assistance of a counselor from the Commission's Employee Assistance Program ("EAP"). To arrange to meet with a counselor, please call 1-800-222-0364. The counselor can assist you in resolving any problems which may be having an adverse impact on your job performance and conduct. I wish to stress that your participation in the EAP is voluntary, and any information exchanged between you and the counselor will be treated in a strictly confidential manner.

If you have any questions on your rights or the procedures involved in this matter, you may contact (name), Office of Human Resources, on telephone number (202) 376-8364. You or your representative has a right to review the material upon which this proposal is based. You may do so by calling (name of deciding official), on telephone number (), to make necessary arrangements.

Please acknowledge receipt of this letter in the space provided on the enclosed copy and return it to the undersigned. Your signature does not mean that you agree with this letter, but merely shows that you received it.

Sincerely,

Proposing Official
Title
Organization

Enclosure

I hereby acknowledge receipt of this letter.

Signature

Date

SAMPLE DECISION TO REMOVE BASED ON UNACCEPTABLE CONDUCT

Date _____

Name of Employee _____

Duty Station _____

Dear _____

A letter of (date) informed you of a proposal to remove you from your position of (title, series, grade, office, and location). I have given full consideration to that letter, your submission of (date) and your oral reply of (date). I find that reason number 2 was not supported by a preponderance of evidence and is withdrawn. I find, however, that reason number 1 and both specifications in that reason are supported by a preponderance of the evidence and warrant your removal to promote the efficiency of the service.¹

I have considered in mitigation your prior satisfactory work record and your statements of regret. I believe, however, that a less severe penalty than removal would be inadequate. Therefore, it is my decision that you be removed effective (date).

You have the right to appeal this action to the Merit Systems Protection Board (insert appropriate address). An appeal may be filed anytime during the period beginning with the day after the effective date of the action until no later than thirty (30) days after the action or within thirty (30) days after the date you receive this notice, whichever is later. If you have entered into a written agreement to try to resolve the dispute through an alternative dispute resolution ("ADR") process before filing an appeal, you are entitled to an additional thirty (30) days, for a total of sixty (60) days, to file an appeal. The petition for appeal must be in writing and signed by you or your representative. Two (2) copies of the petition and any other pleadings must be submitted to the Merit Systems Protection Board and another copy forwarded to the Director of Human Resources, U.S. Commission on Civil Rights. Copies of the Merit Systems Protection Board Practice and Procedure, Optional Form 283, United States Merit Systems Protection Board Appeal, and portions of 5 C.F.R. 1201, are enclosed.²

¹ If the decision is to impose a lesser penalty than that originally proposed, or to dismiss the proposed adverse action entirely, then language appropriate to the decision should be inserted.

² The following advisory should be inserted as appropriate:

"If you believe that this personnel action discriminated against you on the basis of your race, religion, sex, sexual orientation, national origin, age, or handicap, you may file a complaint of discrimination with the Equal Employment Opportunity Director, or you may file an appeal with the Merit Systems Protection Board, as previously described. You may not, however, file both."

"Should you elect to file a complaint of discrimination, your complaint will be processed under 29 C.F.R.

If you need additional information concerning your appeal rights, you may consult with (name, title, location). Please sign and date the enclosed copy of this letter and return that copy to me. Your signature merely indicates that you have received this letter.

Sincerely,

Deciding Official
Title
Organization

Enclosures

I hereby acknowledge receipt of this letter.

Signature

Date

Part 1614, Subpart D. Should you elect to file an appeal, your appeal will be processed under 5 C.F.R. 1201, Subpart D. For additional information, please contact the Equal Employment Opportunity Director."

**ADMINISTRATIVE
INSTRUCTIONS
PART 3**

Issued: 1/26/03

ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 3-1
PERFORMANCE BUDGET
FORMULATION

SECTION 1. PURPOSE

This Administrative Instruction (AI) outlines the procedure by which the Commission's performance budget (also referred to as the "budget") is prepared, reviewed, and submitted to the Office of Management and Budget (OMB). This AI is intended to ensure that the budget process is undertaken in a timely fashion, that the budget is consistent with the goals and objectives of the Commission, and that the budget meets the requirements of OMB Circular A-11 and the Government Performance and Results Act (GPRA).

SECTION 2. AUTHORITIES

- Office of Management and Budget Circular A-11 (2005), *Preparation, Submission and Execution of the Budget*, Parts 1 - 4.
- Office of Management and Budget Circular A-11 (2005), *Preparation, Submission and Execution of the Budget*, Part 6, "Preparation and Submission of Strategic Plans, Annual Performance Plans, and Annual Program Performance Reports."
- Government Performance and Results Act of 1993 (GPRA).
- Office of Management and Budget, *The President's Management Agenda* (FY2002).

SECTION 3. DEFINITIONS

.01 *Allotment*. The administrative division or subdivision of an apportionment by the Commission. An allotment is the execution of the Staff Director's authority to delegate to specific office and division heads the ability to incur obligations within a specific amount, pursuant to OMB apportionment or reappportionment action or other statutory authority making funds available for obligation.

.02 *Appropriation*. An authorization by an act of Congress that provides agencies with budget authority to obligate and expend funds from Treasury for specific purposes.

.03 *Appropriation Warrant*. An official document issued by Treasury that establishes the individual amounts appropriated by Congress to specific agencies. The agencies are authorized to withdraw that amount from Treasury's central accounts. The warrant is prepared by Treasury after reconciliation with OMB.

.04 *Budget Call*. An internal request issued by the chief of the Budget and Finance Division to all Commission offices and divisions to identify Commission programs and program activities for a fiscal year and to estimate what budgetary and human capital resources are required to support them. The Budget Call must also include a narrative description of mission-related purpose, output, and outcome of each program and program activity that links it to the Commission's mission and Strategic Plan.

.05. *Commitment*. A commitment, based either on an authorization or procurement request, places money on reserve.

.06 *Obligate or Obligation*. A binding agreement that results in a monetary outlay, either immediately or in the future. Budgetary resources must be available before obligations can be incurred legally.

.07 *Output and Output Measures*. Output refers to the products and services delivered by the Commission's programs and program activities over a period of time. Most often, though not exclusively, reports, hearings, and briefings are identified as Commission output. An output measure describes the level of activity that will be provided over a period of time, including a description of the characteristics (e.g., timeliness) established as standards for the activity. For example, output measures could be the number and timeliness of reports, hearings, and briefings produced in a period of time; or a comparison of a cost of a report or project to the average cost of such activities; or the actual project/activity cost in comparison to the budget projection.

.08 *Outcome and Outcome Measures*. An outcome is the intended result of a program or program activity. An outcome is external to the Commission's programs and program activities; is of interest to the President, Congress, and public; and is capable of being influenced by Commission outputs. For example, a civil rights policy position being decided by Congress is external to the Commission, is of concern to the public, and may be influenced by related Commission research, reports or other output. There must be a reasonable connection between output and outcome, with output supporting (i.e., leading to) outcome in a logical fashion. An outcome measure would identify how effective the Commission's research and reports were in informing and influencing civil right policy and enforcement. For example, outcome measures could be the percentage of Commission recommendations adopted; the number of times Commission research was requested, cited, or relied upon by Congress and other government agencies; or the number of Commission referred complaints that are disposed of on the merits or accepted by other agencies.

.09 *Passback*. The Passback is the dollar amount of the appropriation and full time equivalent positions that will be recommended in the President's budget for the Commission.

.10 *Performance Budget*. A performance budget is a presentation that clearly explains the relationship between the Commission's performance goals and the costs for achieving this targeted level of performance. In general, a performance budget links strategic goals with related long-term and annual performance goals and with the costs of specific activities that contribute to the achievement of those goals. A performance budget satisfies all statutory requirements of an annual performance plan under GPRA.

.11 *Program and Program Activities*. A program is a major operational and substantive function of a Commission office, division, or unit. Program activities are the events, actions, and projects undertaken by the office, division, or unit.

.12 *Strategic Plan*. The Strategic Plan defines long-term Commission goals and objectives, identifies specific and measurable outcomes (results), and includes outputs (products, services, and other deliverables) that are linked to achieving the desired outcomes. It, therefore, allows the agency to integrate performance, accountability, and budgeting. The Commission's Strategic Plan, performance budget, and annual Performance and Accountability Report, together, satisfy the GPRA requirements for a Strategic Plan, annual performance plan, and annual performance report. The Commission's plan is revised every three years in accordance with guidance from the OMB.

SECTION 4. RESPONSIBLE OFFICIALS

.01 *Commissioners*. The Commissioners establish overall policy, approve the Strategic Plan, create program performance goals and objectives, and adopt the final version of the budget submitted to OMB and Congress. Commissioners also revise performance goals and objectives, as necessary, to operate within the agency's congressional appropriation.

.02 *Staff Director*. The Staff Director for the Commission:

- a. Presents proposed program activities and the estimated funding required for each activity to the Commissioners for discussion and the establishment of Commission program goals and priorities.
- b. Informs the Commissioners of changes in the agency's budget or emerging events that require additional funding, reallocation of existing resources, or adjustments to agency priorities.
- c. Reviews and approves the budget preparation work of the Deputy Staff Director and the chief of the Budget and Finance Division to ensure that it is consistent with Commission policies, program goals and priorities.
- d. Submits the Commission's OMB budget estimate and congressional *Request for Appropriations*.
- e. Reviews and approves Passback appeals for the signature of the Chairman of the Commission.
- f. Approves the Apportionment and Reapportionment Schedule (SF-132).

.03 *Deputy Staff Director*. The Deputy Staff Director, along with the chief of the Budget and Finance Division:

- a. Coordinates and facilitates the collection and analysis of information necessary for the preparation of the budget.
- b. Provides general direction to the chief of the Budget and Finance Division during budget preparation. More specifically, oversees the presentation and justification of Commission programs (i.e., office, division, and unit projects and other activities/functions), costs, target performance goals, actual performance, outcome and output measures, and deviations from target performance.
- c. Ensures that the funding proposals in the budget are consistent with Commission priorities and are sufficient to carry out Commission performance goals and objectives.
- d. Oversees the preparation of the Passback appeal.

When the position of Deputy Staff Director is vacant, these tasks become the responsibility of the director of the Office of Management.

.04 Chief of the Budget and Finance Division. In addition to the responsibilities described above that are carried out in conjunction with the Deputy Staff Director, the chief of this division:

- a. Creates and revises, as necessary, the format of the Commission's Budget Call to ensure that the information collected is as accurate and comprehensive as possible.
- b. Issues Budget Calls. First, for the preparation of the OMB budget submission and later, after the Commission receives its final appropriation, as necessary to allow the Staff Director and Commissioners to make any necessary adjustments to previously planned projects and other activities.
- c. Provides guidance and instruction to office and division heads on the preparation of a Budget Call.
- d. Reviews and analyzes the budget estimates for each office and division.
- e. Coordinates the formulation, presentation, justification, and execution of the Commission's budget.
- f. Prepares and submits the Commission's Passback appeal, with the approval of the Staff Director.
- g. Receives the Treasury apportionment warrant.
- h. Prepares a SF-132 Apportionment and Reapportionment Schedule for review and approval by the Staff Director.
- i. Provides copies of the Treasury apportionment warrant and OMB SF-132 Apportionment and Reapportionment Schedule to the Commission's accounting services provider.
- j. Prepares the agency's allotments.¹

¹ A more detailed discussion of allotments is in Administrative Instruction 3-2, *Budget Execution*.

.05 Assistant Staff Director for Congressional Affairs. This position:

- a. Ensures that the budget is delivered to appropriate congressional representatives.
- b. Serves as the initial point of contact for questions from Congress regarding the Commission's budget request.
- c. Coordinates the preparation of all materials related to congressional budget hearings with the chief of the Budget and Finance Division.

.06 Administrative Services and Clearinghouse Division. This division performs functions related to budget preparation and submission:

- a. Prepares, through the Information Technology (IT) Specialist, Exhibit 53 on the agency's investment in information technology. Exhibit 53 is prepared consistent with guidance provided in OMB Circular A-11, Section 53, for inclusion in the agency's September budget estimate to OMB.
- b. Copies and binds, through the agency's Copy Center, the Commission's final *OMB Budget Estimate*.

.07 Office and Division Heads. These positions develop individual office and division budget estimates for use by the Budget and Finance Division in the preparation of the Commission's *OMB Budget Estimate*, in the creation of the Commission's congressional *Request for Appropriation*, and in establishing the agency's final budget based on its actual congressional appropriation. This includes preparing and submitting a narrative justification for all proposed programs and program activities that:

- a. Describes the overall purpose and objective(s) of the program.
- b. Describes any proposed program activities for the budget year, the plan or methodology for executing the activities, and the planned outputs and outcomes.
- c. Provides estimated costs for program activities proposed for the budget year.
- d. Describes how proposed program activities are linked to and support the Commission's Strategic Plan and its long-term goals and objectives.
- e. Describes the current and previous four years' program activities, accomplishments, and associated budget information. This description must include a comparison of planned versus actual performance (i.e., what each office/division/unit planned to carryout as a result for the program planning process versus what was actually accomplished), an explanation for any variance between planned and actual performance, how the variance can be addressed in the future, and the actual versus estimated costs of these activities.

SECTION 5. BUDGET COORDINATION AND APPROVAL

.01 *Development of Program Performance Goals.* The Commission's budget must be consistent with its program goals as established by the Commissioners during the program planning process in January or February of each year. The approved program goals, as reflected by the projects and other activities adopted by the Commissioners, must be consistent with the Commission's Strategic Plan. The budget must, therefore, set forth in objective, quantifiable, and measurable terms exactly what is expected to be produced, and the expected outcome(s) related to the Commission's product(s), at the level of funding being requested for the year.

SECTION 6. USCCR STAGES OF BUDGET FORMULATION²

.01 *Between January and March.* Commissioners approve programs, program activities (i.e., project proposals and other activities/functions for Commission offices, divisions, and units), and related budget estimates during a regular monthly Commission meeting reserved for program planning. The basis for Commissioner discussion and vote is a set of goals, priorities, issues, project proposals, and budget estimates submitted by the Staff Director. The budget estimates for programs and program activities are gathered by the Budget and Finance Division from office/division heads through Budget Calls. The budget estimates from the Budget Call process must be completed and submitted for approval by the Staff Director no later than 20 days before the scheduled planning meeting.

.02 *May.* The chief of the Budget and Finance Division issues a request to submit new or revised Budget Calls to all office and division heads based on the programs and program activities as actually approved by the Commissioners. This budget estimates should include the information described in Section 4.06 (a-e) above.

.03 *June.* Using the Budget Calls, the chief of the Budget and Finance Division prepares a budget estimate in accordance with instructions received annually from OMB.³ A program review is conducted by the Deputy Staff Director and the chief of the Budget and Finance Division to ensure that program guidance was followed, and to validate the reasonableness of the resources and the programmatic assumptions upon which the estimates are based.

.04 *July.* A budget estimate is submitted to the Commissioners for review and approval by the Staff Director before submission to OMB.

The chief of the Budget and Finance Division and the Deputy Staff Director review the newest revisions issued by OMB to Circular A-11 for submitting budget data and materials.

.05. *End of August.* The chief of the Budget and Finance Division provides a draft of the Commission's *OMB Budget Estimate* to the Staff Director for initial review and comment.

² A detailed calendar of the phases of federal budget formulation and execution is available in OMB Circular A-11 (2005), *Preparation, Submission and Execution of the Budget*, Part 1, § 10.
<http://www.whitehouse.gov/omb/circulars/a11/current_year/s10.pdf> (last accessed January 6, 2006).

³ OMB also discusses budget issues and options with the Commission's budget office. It also works with the agency to identify major issues for the upcoming budget, to develop and analyze options for the upcoming Fall review, and to plan for the analysis of issues that will need to be resolved in the future.

.06 September. By the second Monday of September, the Staff Director submits the Commission's budget estimate, including an OMB Exhibit 52⁴ summary of the agency's financial management plans to ensure sound financial management practices and an OMB Exhibit 53⁵ spreadsheet on information technology investment, to the director of OMB. The Budget and Finance Division also provides four copies to the budget estimate to Commission's OMB program examiner in the Housing Branch.

.07 October 1. New fiscal year begins.

.08 Late November/Early January. In late November, OMB issues the Passback informing the Commission of the decision on its September budget estimate.

The chief of the Budget and Finance Division enters MAX computer data and other materials after receiving the Passback in late November.⁶ MAX entries can be made until the "lockout" date established by OMB so there is no need to wait until a decision on a Passback appeal is reached before entering data. Do not, however, enter data that assumes an appeal decision different from the Passback.

Specific guidance on required MAX data information is available in OMB Circular A-11, Part 2, Section 25, "Summary of Requirements," Table 2: Max Computer Data.⁷ OMB's Budget Systems Branch, Budget Analysis and Systems Division, can answer questions about the MAX system.

.09 December. The Staff Director may submit a written letter of appeal to the director of OMB to reverse or modify certain decisions about the agency's budget. A copy of the letter is also provided to the Commission's OMB program examiner. If the issue(s) raised cannot be resolved, the Commission and OMB may present the matter to the President for a decision.

.10 December/January. Upon receipt of the final Passback, the chief of the Budget and Finance Division, in consultation with individual office and division heads as necessary, prepares new office and division budget estimates based on previously established priorities and the Passback amount.

.11 January. The chief of the Budget and Finance Division, in consultation with the Deputy Staff Director, creates a budget based on the Passback amount and prepares budget justification materials to explain the Commission's budget request to the responsible congressional subcommittees. The budget, including justification materials, is submitted to the Staff Director for review and approval. Once approved, they are submitted to the Commissioners for approval before submission to OMB for clearance and inclusion in the President's budget. The

⁴ OMB Circular A-11 (2005), Part 2, Section 52.3, "Who must report financial and grant management information?" < http://www.whitehouse.gov/omb/circulars/a11/current_year/s52.pdf > (last accessed January 18, 2006).

⁵ Id. at Part 2, Section 52, "Information Technology and E-Government."
http://www.whitehouse.gov/omb/circulars/a11/current_year/s53.pdf (last accessed January 18, 2006).

⁶ Id. at Part 2, Section 79, "The Budget Data System,"
< http://www.whitehouse.gov/omb/circulars/a11/current_year/s79.pdf > (last accessed January 17, 2006).

⁷ OMB Circular A-11 (2005) Part 2, Section 25, "Summary of Requirements,"
< http://www.whitehouse.gov/omb/circulars/a11/current_year/s25.pdf > (last accessed January 17, 2006).

Commission's congressional justification materials must be submitted by the date specified by OMB or the date agreed to by OMB and the Commission. In the absence of a specific or agreed upon date, the materials must be submitted no later than the second week of January.

.12 *February*. Once cleared by OMB, the budget and justification materials are submitted to the responsible congressional subcommittees by the Staff Director as the Commission's *Request for Appropriations*. Specifically, the House Committee on Appropriations, the Subcommittee on Science, State, Justice and commerce, and Related Agencies; and the Senate Committee on Appropriations, the Subcommittee on Commerce, Justice, and Science. Submission to Congress is at the same time, or immediately following, the transmittal of the President's budget to Congress.

.13 *After Passage of the Appropriations Bill*. The Budget and Finance Division receives an appropriation warrant from Treasury.⁸ If it is not received, the staff of the Budget and Finance Division must request a copy. Once the Commission receives the warrant, the Budget and Finance Division must provide the Commission's accounting services provider a copy within 5 working days.

The Treasury warrant amount will not reflect rescissions enacted by legislation other than the Commission's appropriations statute. To have the warrant amount adjusted, the Budget and Finance Division must submit a letter to Treasury requesting the amount of the adjustment and providing the citation to the applicable legal authority. The chief of the Budget and Finance Division may delegate the responsibility of preparing and submitting this request to the agency's accounting services provider, when determined appropriate. However, the Budget and Finance Division remains ultimately responsible for ensuring that the request is accurate and timely submitted.

Upon notification of the final appropriation, the Deputy Staff Director, the chief of the Budget and Finance Division, and office and division heads must review and revise program plans and budget expenditures to conform to the amount appropriated. Once approved by the Staff Director the revised agency budget is submitted to the Commissioners for final review and approval.

OMB also provides guidance for operations in the absence of an appropriation or a continuing resolution.⁹

.14 *August 21 (or within 10 calendar days after the approval of the appropriation, whichever is later)*. The chief of the Budget and Finance Division submits SF-132, Apportionment and Reapportionment Schedule, to OMB for review and approval. The form is submitted to the Staff Director for approval prior to submission to OMB. This form is used by OMB to apportion amounts made available to the Commission by fiscal quarter and limit the obligations that can be incurred by the Commission. OMB revisions to the SF-132 are binding on the Commission. The

⁸ The warrant is usually provided via facsimile; however, at the time this AI was issued, Treasury was transitioning to a system to make the warrant available online. Once this transition is complete, facsimile copies will no longer be provided.

⁹ Section 125 of OMB Circular A-11 describes agency operations in the absence of an appropriation. OMB Circular A-11 (2005), Part 4, Section 124, "Agency Operations in the Absence of Appropriations,"
<http://www.whitehouse.gov/omb/circulars/a11/current_year/s124.pdf> (last accessed January 17, 2006).

chief of the Budget and Finance Division must provide a copy of the OMB approved SF-132 to the Commission's accounting services provider within 5 working days after receipt.

SECTION 7. OFFICE OF MANAGEMENT AND BUDGET (OMB) BUDGET FORMULATION

.01 *September*. The Staff Director, in accordance with the schedule established by OMB Circular No. A-11, submits the Commission's budget estimate to OMB.

.02 *October/November*. OMB budget examiners analyze the Commission's budget estimate in light of presidential priorities, prior performance, and budget constraints.

.03. *Late November*. Once OMB completes its analysis of the budget estimate, the Commission is advised of the dollar amount of its appropriation and full time equivalent positions that will be recommended in the President's budget for the Commission on Civil Rights. This is referred to as the Passback.

.04 *December*. OMB hears the appeal by the Commission of the President's budget for the agency.

.05 *January*. OMB reviews the Commission's congressional justification materials.

.06. *February*. The President's budget is transmitted to Congress on the first Monday in February.

SECTION 8. CONFIDENTIALITY OF MATERIAL

.01 *Disclosure of budgetary information*. Most budgetary documents are exempt from mandatory release under the Freedom of Information Act (FOIA).¹⁰ The Solicitor, as the agency's FOIA advisor, handles all requests for the disclosure of budgetary information made through the FOIA process. Should the issue of disclosure of budgetary information arise during a public Commission meeting an opinion on the availability of exemptions to the open meetings requirement must be obtained from the Solicitor prior to any disclosure. For example, 5 U.S.C. § 552b(c) (9) allows a public meeting to be closed if the premature disclosure of the information would "significantly frustrate implementation of a proposed agency action."

SECTION 9. CONGRESSIONAL HEARINGS

.01 *The President's Budget*. In February, as established by OMB, and in conjunction with the President's budget submission, the Commission submits to Congress a *Request for Appropriation* in the same amount as the OMB Passback. Copies of this request are submitted to OMB for review before they are submitted to Congress.

.02 *Hearings*. Once the Commission's congressional budget justification is been submitted, the appropriations subcommittees may hold hearings on the budget request. The Chairperson of the

¹⁰ 5 U.S.C. § 552 (2005); OMB Circular A-11 (2005), *Preparation, Submission and Execution of the Budget*, Part 1, § 22.5, "Communications with Congress and the Public and Clearance Requirements."

Commission and the Staff Director may provide testimony on the Commission's budget request. The chief of the Budget and Finance Division may also appear as a witness in defense of the agency's budget. Testimony is prepared and the Assistant Staff Director for Congressional Affairs, in accordance with AI 1-15, *Legislative Testimony, Comments, and Liaison*, coordinates responses to requests for information from Congress.

.03 *Appropriations Bill*. Following the hearings both the House and Senate Subcommittees on Appropriations mark up the request and recommend amounts to the Appropriations Committee.

A compromise amount is then decided which becomes the Commission's annual appropriation.

A handwritten signature in black ink, appearing to read 'Kenneth L. Marcus', is written over a horizontal line.

KENNETH L. MARCUS
Staff Director

Issued: 1/24/06

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 3-2

BUDGET EXECUTION

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to set forth the policies and procedures of the U.S. Commission on Civil Rights (the "Commission") with regard to budget execution and specify basic administrative control of funds concepts and principles. This AI, therefore:

- Establishes policies with regard to the administrative control funds.
- Restricts obligations and expenditures to the amount available in each appropriation or fund account.
- Restricts obligations and expenditures from each appropriation or fund account to the *lower* of the amount of apportionment made by OMB or the amount available for obligation and/or expenditure in the appropriation or fund account.
- Enables the Staff Director to identify the person responsible for any obligation or expenditure exceeding the amount available in the appropriation or fund account, the OMB apportionment, the allotment or sub-allotment made by the Commission, and any statutory limitations.
- Provides procedures for dealing with violations of the Antideficiency Act and violations of other agency limitations though not per se Antideficiency Act violations.

SECTION 2. AUTHORITY

- OMB Circular No. A-123, *Management's Responsibility for Internal Control*.
- OMB Circular A-11, Part 4, *Preparation, Submission and Execution of the Budget*.
- OMB Circular 127, *Financial Management Systems*.
- OMB Circular A-136 (revised Aug. 2005) *Financial Reporting Requirements*.
- Accountability of Tax Dollars Act of 2002, Pub. L. No. 107-289.
- Antideficiency Act, as amended, found at 31 U.S.C. §§ 1341-1342, 1349-1351, 1511-1519.
- Budget and Accounting Act of 1921, as amended, found at 31 U.S.C. §§ 1101, 1104-1108, 3324.
- Supplemental Appropriations Act of 1950 found at 31 U.S.C. §§ 1501-1502.

- Budget and Accounting Procedures Act of 1950 found at 31 U.S.C. §§ 1112, 1531, 3511-3512, 3524.
- Title X of P.L. 93-344 found at 2 U.S.C. §§ 681-688.

SECTION 3. SCOPE

All Commission appropriations and funds are subject to the provisions contained in this AI.

SECTION 4. DEFINITIONS

The definitions, terminology, and concepts in OMB Circular A-11 apply and are incorporated into this AI.

.01 *Administrative Division or Subdivision of Funds.* Any distribution of an appropriation or fund, such as an apportionment or allotment.

.02 *Appropriation.* A provision of law (not necessarily in an appropriations act) authorizing the expenditure of funds for a given purpose. Usually, but not always, an appropriation provides budget authority.

.03 *Apportionment.* A distribution made by OMB of amounts available for obligation in an appropriation or fund account into amounts available for specific time periods, program, activities, projects, objects, or any combination of these. The apportioned amount limits the obligations that may be incurred. An apportionment may be further subdivided by an agency into allotments, sub-allotments, and allocations.

.04 *Allotment.* The administrative division or subdivision of an apportionment by the Commission. An allotment is the execution of the Staff Director's authority to delegate to specific office and division heads the ability to incur obligations within a specific amount, pursuant to OMB apportionment or reapportionment action or other statutory authority making funds available for obligation.

.05 *Commitment.* A commitment, usually based on an authorization or procurement request, places money on reserve.

.06 *Obligation.* A binding agreement that will result in outlays, immediately or in the future. Budgetary resources must be available before obligations can be incurred legally.

SECTION 5. RESPONSIBLE OFFICIALS

.01 *Commissioners.* The Commissioners are responsible for:

- a. Establishing program activities, priorities, and goals consistent with the Commission's financial resources.

.02 Staff Director. The Staff Director is responsible for:

- a. Informing the Commissioners of changes in the agency's finances and budget that have implications for Commission program activities and goals;
- b. Approving Commission spending policies and budget plans to ensure that operations are kept within the limits of the Commission's approved appropriation and apportionment;
- c. Approving Commission apportionment and reappropriation requests;
- d. Approving changes to the Commission's allotment structure;
- e. Delegating to the chief of the Budget and Finance Division, as determined appropriate, the responsibility for creating and maintaining a system of administrative control of funds, consistent with this AI and applicable federal laws and guidance;
- f. Requesting an internal investigation of possible violation of the Antideficiency Act by the chief of the Budget and Finance Division and the director of the Office of Management; and
- g. Reporting violations of the Antideficiency Act to the President, through the Office of Management and Budget, and Congress, and providing a copy of the report to the Comptroller General.

.03 Deputy Staff Director. The Deputy Staff Director is responsible for:

- a. Advising the Staff Director on matters involving budget execution;
- b. Overseeing the establishment of an annual budget operating plan by the Budget and Finance Division and the Office of Management;
- c. Coordinating internal investigations of possible violations of the Antideficiency Act, when requested by the Staff Director; and
- d. Reviewing and approving internal reports of investigation concerning possible violations of the Antideficiency Act before submission to the Staff Director.

When this position is vacant the duties are performed by the director of the Office of Management.

04 *Chief of the Budget and Finance Division.* The chief of the Budget and Finance Division is responsible for:

- a. Advising the Staff Director, Deputy Staff Director, and director of the Office of Management on matters involving budget execution;
- b. Creating and maintaining a system of administrative control of funds, consistent with this AI and applicable federal laws and guidance, that includes an agency-wide system of budget execution, and the management and control of the apportionment of funds;
- c. Identifying and reporting to the Staff Director possible violations of the Antideficiency Act and violations of agency limitations that are not, per se, violations of the Antideficiency Act;
- d. Establishing an annual budget operating plan and monitoring the use of funds against the operating plan;
- e. Submitting monthly budget execution reports to the Staff Director reflecting obligations and actual expenditures, and analyzing the information in comparison to the agency's budget operating plan;
- f. Serving as liaison with the OMB, the Treasury Department, the Congressional Budget Office, and other agencies on matters involving budget execution;
- g. Developing financial systems requirements and policies for data structure, account reconciliation, transaction documentation, file management, and interface methods necessary to support effective and efficient interactions between the Commission's financial systems and the its accounting services provider;
- h. Reviewing Commission budget object codes to ensure they provide sufficient information to OMB and Congress concerning Commission obligations and expenditures as they relate to Commission programs and activities;
- i. Reconciling agency financial reports and accounts, including monitoring and reconciling transactions between agency cuff records and the accounting services provider records at least monthly;
- j. Ensuring the preparation and timely submission of monthly unaudited financial statements;
- k. Investigating possible violations of the Antideficiency Act along with

the chief of the Office of Management;

- l. Preparing, along with the director of the Office of management, internal reports of investigation concerning possible violations of the Antideficiency Act for review by the Deputy Staff Director prior to submission to the Staff Director;
- m. Changing the agency's allotment structure subject to the approval of the Staff Director; and
- n. Approving changes to the allotment amounts provided to each office and division head with budget authority.

.04 Office and Division Heads. To minimize the opportunity for fraud, waste, and abuse of government funds, each office or division head is responsible for:

- a. Ensuring that their program activities operate effectively and within approved budgetary limits;
- b. Ensuring the integrity of financial transactions within their office or division;
- c. Consulting with the chief of the Budget and Finance Division to clarify policies and procedures governing obligations and expenditures made or authorized by them for their office or division; and
- d. Maintaining and providing, as required, information to verify obligations and disbursements related to their programs or program activities.

SECTION 5. RELATIONSHIP OF ACCOUNTING AND FUND CONTROL SYSTEMS

.01 Accounting System. The Commission's accounting services provider is the General Services Administration (GSA); Pegasys is the accounting system used by GSA and it is fully compliant with the Joint Financial Management Improvement Program (JFMIP). GSA complies with OMB Circular A-123 and its financial management systems have been evaluated in accordance with OMB Circular A-27. The financial and accounting services provided to the Commission by GSA include:

- Input and Monitoring;
- Accounts Payable;
- Accounts Receivable;
- Disbursements;
- Billing;
- Debt Collection;

- Preparation of Daily Cash Deposits;
- Financial Preparation and Analysis;
- External Reporting; and
- Budget Submission to the MAX Data System.

The Commission's accounting system fully supports the agency's fund control system and is designed and maintained in a manner so as to restrict the authorization and making of commitments, obligations and expenditures to amounts available in the apportionment or allotment. Commission policies require written delegations of authority, signed by the Staff Director. This system ensures that transactions and other significant events are engaged in only by individuals acting within the scope of their authority. Commission controls also establish various levels of review, approval, and certification of transactions and activities, as well as establishes timelines to ensure prompt recording of transactions, including commitments, obligations, and disbursements.¹

The Commission's accounting system provides for the recording of all financial information affecting apportionments, allotments, agency restrictions, budget operating plans, obligations and expenditures, and reimbursements. It also provides for the preparation and reconciliation of financial reports that display cumulative obligations and the remaining unobligated balances by apportionment and allotment, and cumulative obligations by budget activity and object class. The Commission's system provides timely disclosure of:

- a. Total valid obligations incurred to date, and total budgetary resources available for future obligations;
- b. Obligations and commitments incurred to date without proper authorization or approval;
- c. Actual expenditures incurred to date;
- d. Status of estimated reimbursements, including orders received, amounts earned, and amounts collected to date;
- e. Restrictions contained in appropriation acts or other statutes, along with total obligations incurred against such restrictions to date; and
- f. Authorization or the creation of commitments, obligations, or expenditures that exceed the total apportionment or allotment.

¹ Commission Administrative Instruction 3-14 specifically governs the submission, review, approval, and certification of travel activities. The agency's *Procurement Guide* and Administrative Instruction 4-16 explain procurement processes, including reviews and approvals.

.02 Transaction Approvals and Certifications. Requisitions/Procurement Requests are reviewed by the chief of the Budget and Finance Division who is required to certify the availability of funds before a purchase order is issued and a purchase can be made.

All travel vouchers are required by law to be certified by a duly authorized certifying officer before payment. Travel vouchers are certified by the chief of the Budget and Finance Division, after initial review and approval by the appropriate office or division heads.

Office and division heads requesting payment to vendors for the purchase of goods and services complete a *Receiving Report* form certifying that the goods/services were delivered and accepted.

Purchases made with a Commission purchase card are reconciled by the cardholder, and reviewed and certified by the designated Approving Official (AO) to ensure that charges are accurate and that purchases were for official use only.

.03 Recording and Documenting Transactions and Events. The Commission's system reasonably ensures that:

- a. All transactions, processing procedures, and systems of administrative controls are fully documented.
- b. Financial transaction documents are received and processed in a timely manner. Documents should be properly classified, filed for reference, and for certification of schedules for disposition, so as to comply with records management.
- c. Transactions and other significant events are authorized and executed only by individuals with written delegation of authority.
- d. A general ledger is maintained for assets, liabilities, net worth, revenues, costs, and budgetary accounts by the Commission's accounting services provider.
- e. No commitment is made without a certification of fund availability recorded in the Commission's accounting system(s).
- f. Obligations are recorded in the Commission's accounting system(s) prior to a transaction with a vendor.
- g. Obligor documents are recorded in the accounting system by the Commission's accounting services provider within 5 working days after receipt.
- h. Disbursements are made in compliance with the Prompt Payment Act.

- i. Complete and valid requests for disbursements (supported by appropriate documentation such as a procurement request, purchase order, invoice, and a certification of receipt of services) are timely provided by the Budget and Finance Division, to the Commission's accounting services provider.
- j. Requests for disbursement of funds are processed by the accounting services provider pursuant to the timeframes established applicable Commission policies.
- k. Commitments, obligations, and disbursements are identified with an appropriation or fund at the time incurred to track program and program activity spending.

.04 Reconciliation of Accounts and Reports. The chief of the Budget and Finance Division and the agency's budget analyst access the Financial Management Information System (FMIS) used by the Commission's accounting services provider to review and reconcile financial reports. Reports that are made available in this system for review and reconciliation include: trial balance (monthly), organization status (monthly), and prompt payment/payment of interest (weekly). Additional reports are provided monthly by the accounting services provider, either in hardcopy or via email, to the Commission's budget office for review and reconciliation: cash, open item aging, and budgetary execution and resources (SF-133).

All the reports are reviewed and reconciled monthly, except prompt payment reports which are reviewed weekly. The supporting documents used in the process are required to be of sufficient detail and integrity as to ensure the accuracy of the report information. In most instances, this will include tracking logs of Commission obligations and travel authorizations, requisition/procurement requests, purchase orders, invoices, receiving reports, purchase card statements.

The Commission's accounting services provider also prepares and enters the following reports necessary and required by Treasury and OMB for the Commission's good standing: Statement of Transactions (SF-224, monthly), FACTS II and FACTS I (annually); FACTS II (quarterly), Accountability of Tax Dollars Act Financial Statements, Yearend Closing Statement (SF-2108), and Receivables Due the Public. The chief of the Budget and Finance Division also reviews these reports for accuracy prior to submission to either Treasury or OMB.

.06 Financial Audits. Accounting and financial management systems are promptly brought into agreement with the results of audits conducted of the Commission's systems. Within 30 days of an audit report a corrective action plan is prepared by the chief of the Budget and Finance Division and submitted to the director of the Office of Management and the Deputy Staff Director (or other designee of the Staff Director in the event of a vacancy) for approval. The plan is approved as submitted, or modified and approved, within 15 days of its submission. The corrective measures

must be implemented within 60 days of the approval of the plan, unless otherwise required by federal law or regulation.

.07 Quarterly Unaudited Financial Statements. These statements may be limited to a balance sheet, statement of net cost, and statement of budgetary resources.² The OMB submission date for quarterly financial statements is 21 days after the end of each of the first three fiscal quarters.³ The statements are filed with the chief of the Office of Federal Financial Management (OFFM) in the Financial Standards and Grants Branch.⁴ The OMB contact number for questions about OMB guidance concerning these reports is (202) 395-3993.

The chief of the Budget and Finance Division is responsible for overseeing the preparation of the unaudited quarterly statements by the Commission's accounting services provider, ensuring the statements are consistent with OMB Circular A-136 (revised August 23, 2005), and timely submitting the statements to OMB. The Commission's accounting services provider prepares and submits the unaudited quarterly financial statements to the chief of the Budget and Finance Division electronically no later than the 18th of the month. Once received, the statements are reviewed and any issues are discussed and resolved with the accounting services provider. A copy of the quarterly statement is provided to the director of the Office of Management at the same time that it is submitted to OMB via email. If email transmission fails, the report is sent via facsimile. A copy of the quarterly report is also sent to the Commission's program examiner. A confirmation of delivery to OMB must be received and retained in the Commission's file.

.08 Separation of Duties. Key duties in authorizing, processing, recording, and reviewing transactions, as well as the receipt, use, and disposition of resources, are separated among individuals. To reduce situations where errors or irregularities can go undetected, no one individual controls all phases of an activity or transaction. Lines of authority, or separation of duties, relating to various Commission transactions and activities are incorporated into the internal policies specifically governing those transactions and activities.

.09 Budgets. Agency operating budgets are a part of the system of accounting and internal control for budget execution. The chief of the Budget and Finance Division submits and reviews with the Staff Director, by the 10th of each month, a monthly report that provides detail sufficient to:

- a. Compare actual performance to planned or budgeted performance;
- b. Ensure resources are used for their intended purposes; and

² OMB Circular A-136 (revised), "Financial Reporting Requirements," Section 2, *General Information*, p. 13 (August 23, 2005). This circular superseded OMB Bulletin 01-09, "Form and Content of Agency Financial Statements." *Id.*

³ *Id.*

⁴ This email address is subject to change and must be periodically verified.

- c. Ensure that commitments and obligations are properly recorded.

.10 *Limitations on the Appropriation.* The Commission's system of accounts includes procedures to account for and track all congressional restrictions on the agency's annual appropriation. The status of any such limitations are reported monthly to the Staff Director by the chief of the Budget and Finance Division.

SECTION 7. APPORTIONMENTS

.01 *Authority.* The Staff Director has authority to request apportionment or reapportionment of all Commission funds by OMB. This authority is delegated to the chief of the Budget and Finance Division.

.02 *Apportionment and Reapportionment Requests.* The chief of Budget and Finance Division prepares apportionment and reapportionment requests for submission to OMB using form SF-132, *Apportionment and Reapportionment Schedule* after the Commission receives its final appropriation. These requests are reviewed and approved by the Staff Director prior to submission. The chief of the Budget and Finance Division coordinates with OMB on apportionment and reapportionment requests. A copy of the Commission's apportionment and reapportionment requests are provided to the agency's accounting services provider.⁵

.03 *Anticipated Budgetary Resources.* Apportionments may include estimated amounts of "anticipated" budgetary resources that are the result of laws already enacted. This is done to reduce routine reapportionments of such amounts as they actually become available. Anticipated budgetary resources increases and decreases are recorded on SF-132 and SF-133, *Report on Budget Execution and Budgetary Resources*.

Anticipated increases are not required to be allotted, even though the amount has been apportioned, until the increase actually occurs. Anticipated decreases do not become part of the total budgetary resources amount available for apportionment and, therefore, can not be allotted.

.04 *Deficiency Apportionments.* To qualify for a deficiency apportionment, the request must be required by:

- a. Laws enacted subsequent to the transmittal of the annual budget of the year to Congress;
- b. Emergencies involving human life, the protection of property, or the immediate welfare of individuals; or
- c. Specific authorization by law.

⁵ See U.S. Commission on Civil Rights, Administrative Instruction (AI) 3-1, *Budget Formulation*, § 6 (January 2006).

When OMB approves a deficiency apportionment and transmits it to Congress, OMB is merely notifying Congress that funds appropriated to date are being obligated at a more rapid rate than anticipated. This notice does not guarantee that Congress will approve any part of the associated supplemental request for appropriation and does not authorize the use of any amounts not yet provided by Congress.

SECTION 8. ALLOTMENTS AND SUB-ALLOTMENTS

.01 Purpose and Function of Allotments. The formal allotment of funds is a means of establishing, within appropriation limitations legislated by the Congress, and funds apportioned by OMB, the amounts available for obligation and expenditure by the Commission. Allotments and sub-allotments are subject to the provisions of the Antideficiency Act.⁶

The Commission's allotment system is established at the highest practical level, and each operating unit is financed for no more than one subdivision for each appropriation or fund to ensure compliance with the Anti-Deficiency Act, as amended. The chief of the Budget and Finance Division may change the allotment structure only as justified by formal changes to the Commission's organizational structure, with the approval of the Staff Director.

Adjustments to allotment amounts made to offices or divisions may be made only if funding necessary to support the change(s) is available and upon one of the following:

- a. An office or division head submitting a written request and justification that is approved by the chief of the Budget and Finance Division, in consultation with the Staff Director; or
- b. Upon the chief of the Budget and Finance Division determining, in consultation with the Staff Director, that the allotment to an office or division is either insufficient to support its approved program activities or in excess of that necessary to support these activities.

.02 Allotment Restrictions.

- a. The sum of allotment amounts issued can not exceed the apportionment.
- b. The sum of sub-allotment amounts can not exceed the allotment amount.

⁶ 31 U.S.C. § 1517(a)(2); 31 U.S.C. § 1514(a); OMB Circular A-11, Section 145 (1-2), *Requirements for Reporting Antideficiency Act Violations*, p. 1 (June 2005)

- c. The amounts of allotments, or other administrative subdivisions, is fixed and is changed only when approved by the chief of the Budget and Finance Division, in consultation with the Deputy Staff Director (or, when the position is vacant, by the director of the Office of Management).
- d. Congressional restrictions contained in appropriations acts are enforced.

.03 Allotment Procedures.

- a. The annual allotment for an office/division is determined by the Budget and Finance Division based on the amount of the agency's annual appropriation (after all rescissions) and the fiscal year budget estimates for each office/division. Allotments are funded through the Commission's annual appropriations.
- b. Office and division heads with budget authority are notified of their allotment amounts by the Budget and Finance Division. This information is provided in Excel spreadsheet format showing that the allotment is evenly divided between the four quarters of the fiscal year. The quarterly amounts are disaggregated by spending type or budget object codes (BOCs). This spreadsheet is referred to as the Allotment Disbursement Plan.
- c. Funds are disbursed based on the quarterly amounts established by the Allotment Disbursement Plan. Office and division heads are required to remain within their quarterly allotment amounts.
- d. Each office and division head reviews the Allotment Disbursement Plan created by the Budget and Finance Division. If changes in the quarterly disbursement plan are required, the office/division head submits an operating plan detailing the quarters in which allotted amounts should be disbursed. If the chief of the Budget and Finance Division approves the operating plan, the allotment is issued in accordance with the approved operating plan. The total amount reflected in the operating plan may not exceed the total amount allotted to that office or division for the fiscal year.
- e. Spending reports are provided to office/division heads by the Budget and Finance Division, at least monthly, to monitor expenditures.

- f. Under some circumstances, changes in allotments may require changes to the Commission's apportionment and the submission of a reapportionment request to OMB.⁷

SECTION 9. ANTIDEFICIENCY ACT VIOLATIONS

.01 Prohibited Actions. The Antideficiency Act prohibits:

- a. Making or authorizing an expenditure or obligation in excess of the amount available in the Commission's appropriation. (See 31 U.S.C. § 1341 (a)).
- b. Engaging in a contract or other obligation for the payment of money, for any purpose, in advance of appropriations made for such purpose. (See 31 U.S.C. § 1341(a)).
- c. Accepting voluntary service or employing personal services in excess of the amount authorized by law, except in cases of: (1) an emergency involving the safety of human life or the protection of property; or, (2) the use of student volunteers under agreement between the Commission and the school. (See 31 U.S.C. § 1342)
- d. Authorizing or creating an obligation or making an expenditure in excess of an apportionment or reapportionment. (See 31 U.S.C. § 1517(a))
- e. Authorizing or creating an obligation or making an expenditure in excess of the amount permitted by an allotment. (31 U.S.C. § 1517(a)(2), 31 U.S.C. § 1514(a))
- f. Involving the Commission in a contract or obligation before the agency receives its appropriation, unless the contract or obligation is authorized by law. (31 U.S.C. § 1341(a)).
- g. Obliging or expending sequestered funds. (31 U.S.C. § 1341(a))

.03 Penalties. A violation of 31 U.S.C. §§ 1341(a), 1342, or 1517(a) of the Antideficiency Act subjects the employee or officer responsible for the violation to administrative discipline that may consist of:⁸

- a. A letter of reprimand or censure for the official personnel file of the officer or employee violating the Act.

⁷ Commission apportionment requests are prepared by the Budget and Finance Division pursuant to guidance in OMB Circular A-11 (June 2005), Part 4, *Instructions on Budget Execution* and U.S. Commission on Civil Rights, Administrative Instruction (AI) 3-1, *Budget Formulation*, § 6 (January 2006).

⁸ 31 U.S.C. §§ 1349(a), 1518 (2005).

- b. An unsatisfactory performance rating.
- c. Transfer to another position.
- d. Suspension from duty without pay.
- e. Removal from office.

The disciplinary action imposed by the Staff Director will be consistent with all circumstances of a violation and with action previously taken in similar circumstances. Criminal penalties may be levied if the officer or employee acted knowingly and willfully. The penalties include a fine of not more than \$5,000 and imprisonment of not more than two years, or both.⁹ A referral to the Department of Justice will be made if the violation is thought to be criminal in nature.

.04 *Reporting.* Any individual with knowledge of a possible violation of the Antideficiency Act is responsible for immediately reporting the violation to the Staff Director. The Staff Director immediately institutes an investigation into the possible violation. The investigation, coordinated by the Deputy Staff Director, and conducted by the director of the Office of Management and the Office of the General Counsel, will examine the circumstances surrounding the possible violation including when and how it may have occurred, whether another agency was involved, and the Commission employee responsible for the violation. A statement should be obtained from the responsible employee(s) as a part of the investigation. The investigation will also determine how similar violations can be prevented, and the account(s) and amount of money involved in the reported violation. The dollar amount of an over-obligation or over-expenditure is irrelevant to whether or not a violation has occurred, but is considered in determining the seriousness of the offense. The investigation is required to be completed, and a written report of its findings and conclusion submitted to the Staff Director, within 30 days.

If the Staff Director determines that a violation of the Antideficiency Act occurred, the Staff Director must immediately report the violation to the President, through the Office of Management and Budget, and to Congress. A copy of the report will also be sent to the Comptroller General.¹⁰ The report is made by letter signed by the Staff Director, as administrative head of the agency, and includes the following information:


- The name and Treasury symbol of the fund in which the violation occurred.
- The name and position of the officers or employees responsible for the violation.

⁹ 31 U.S.C. §§ 1350, 1519 (2005).

¹⁰ 31 U.S.C. §§ 1351, 1517 (2005).

- All pertinent facts of the violation, including the type of violation, primary reason or cause, and the responsible employee's or officers' statements.
- A statement of the administrative discipline imposed and further actions taken with respect to the responsible parties.
- An evaluation of the adequacy of the system of administrative control of funds and proposals for correcting any deficiencies.
- A description of additional actions taken by the Commission to prevent repeat violations.
- If the case involves an employee suspected of willfully and knowingly violating the Act, information on when and how the case was submitted to the Department of Justice.
- If the case involves another agency, a statement concerning the steps taken to coordinate with the other agency.

.05 Remedial Action. The Commission is required to take action to correct the cause of the violation.


KENNETH L. MARCUS
Staff Director

Issued: 10/24/06

ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 3-2
BUDGET EXECUTION

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to set forth the policies and procedures of the U.S. Commission on Civil Rights (the "Commission") with regard to budget execution and specify basic administrative control of funds concepts and principles. This AI, therefore:

- Establishes policies with regard to the administrative control funds.
- Restricts obligations and expenditures to the amount available in each appropriation or fund account.
- Restricts obligations and expenditures from each appropriation or fund account to the *lower* of the amount of apportionment made by OMB or the amount available for obligation and/or expenditure in the appropriation or fund account.
- Enables the Staff Director to identify the person responsible for any obligation or expenditure exceeding the amount available in the appropriation or fund account, the OMB apportionment, the allotment or sub-allotment made by the Commission, and any statutory limitations.
- Provides procedures for dealing with violations of the Antideficiency Act and violations of other agency limitations though not per se Antideficiency Act violations.

SECTION 2. AUTHORITY

- OMB Circular No. A-123, *Management's Responsibility for Internal Control*.
- OMB Circular A-11, Part 4, *Preparation, Submission and Execution of the Budget*.
- OMB Circular 127, *Financial Management Systems*.
- OMB Circular A-136 (revised Aug. 2005) *Financial Reporting Requirements*.
- Accountability of Tax Dollars Act of 2002, Pub. L. No. 107-289.
- Antideficiency Act, as amended, found at 31 U.S.C. §§ 1341-1342, 1349-1351, 1511-1519.
- Budget and Accounting Act of 1921, as amended, found at 31 U.S.C. §§ 1101, 1104-1108, 3324.
- Supplemental Appropriations Act of 1950 found at 31 U.S.C. §§ 1501-1502.

- Budget and Accounting Procedures Act of 1950 found at 31 U.S.C. §§ 1112, 1531, 3511-3512, 3524.
- Title X of P.L. 93-344 found at 2 U.S.C. §§ 681-688.

SECTION 3. SCOPE

All Commission appropriations and funds are subject to the provisions contained in this AI.

SECTION 4. DEFINITIONS

The definitions, terminology, and concepts in OMB Circular A-11 apply and are incorporated into this AI.

.01 *Administrative Division or Subdivision of Funds.* Any distribution of an appropriation or fund, such as an apportionment or allotment.

.02 *Appropriation.* A provision of law (not necessarily in an appropriations act) authorizing the expenditure of funds for a given purpose. Usually, but not always, an appropriation provides budget authority.

.03 *Apportionment.* A distribution made by OMB of amounts available for obligation in an appropriation or fund account into amounts available for specific time periods, program, activities, projects, objects, or any combination of these. The apportioned amount limits the obligations that may be incurred. An apportionment may be further subdivided by an agency into allotments, sub-allotments, and allocations.

.04 *Allotment.* The administrative division or subdivision of an apportionment by the Commission. An allotment is the execution of the Staff Director's authority to delegate to specific office and division heads the ability to incur obligations within a specific amount, pursuant to OMB apportionment or reapportionment action or other statutory authority making funds available for obligation.

.05 *Commitment.* A commitment, usually based on an authorization or procurement request, places money on reserve.

.06 *Obligation.* A binding agreement that will result in outlays, immediately or in the future. Budgetary resources must be available before obligations can be incurred legally.

SECTION 5. RESPONSIBLE OFFICIALS

.01 *Commissioners.* The Commissioners are responsible for:

- a. Establishing program activities, priorities, and goals consistent with the Commission's financial resources.

.02 Staff Director. The Staff Director is responsible for:

- a. Informing the Commissioners of changes in the agency's finances and budget that have implications for Commission program activities and goals;
- b. Approving Commission spending policies and budget plans to ensure that operations are kept within the limits of the Commission's approved appropriation and apportionment;
- c. Approving Commission apportionment and reapportionment requests;
- d. Approving changes to the Commission's allotment structure;
- e. Delegating to the chief of the Budget and Finance Division, as determined appropriate, the responsibility for creating and maintaining a system of administrative control of funds, consistent with this AI and applicable federal laws and guidance;
- f. Requesting an internal investigation of possible violation of the Antideficiency Act by the chief of the Budget and Finance Division and the director of the Office of Management; and
- g. Reporting violations of the Antideficiency Act to the President, through the Office of Management and Budget, and Congress, and providing a copy of the report to the Comptroller General.

.03 Deputy Staff Director. The Deputy Staff Director is responsible for:

- a. Advising the Staff Director on matters involving budget execution;
- b. Overseeing the establishment of an annual budget operating plan by the Budget and Finance Division and the Office of Management;
- c. Coordinating internal investigations of possible violations of the Antideficiency Act, when requested by the Staff Director; and
- d. Reviewing and approving internal reports of investigation concerning possible violations of the Antideficiency Act before submission to the Staff Director.

When this position is vacant the duties are performed by the director of the Office of Management.

04 *Chief of the Budget and Finance Division.* The chief of the Budget and Finance Division is responsible for:

- a. Advising the Staff Director, Deputy Staff Director, and director of the Office of Management on matters involving budget execution;
- b. Creating and maintaining a system of administrative control of funds, consistent with this AI and applicable federal laws and guidance, that includes an agency-wide system of budget execution, and the management and control of the apportionment of funds;
- c. Identifying and reporting to the Staff Director possible violations of the Antideficiency Act and violations of agency limitations that are not, per se, violations of the Antideficiency Act;
- d. Establishing an annual budget operating plan and monitoring the use of funds against the operating plan;
- e. Submitting monthly budget execution reports to the Staff Director reflecting obligations and actual expenditures, and analyzing the information in comparison to the agency's budget operating plan;
- f. Serving as liaison with the OMB, the Treasury Department, the Congressional Budget Office, and other agencies on matters involving budget execution;
- g. Developing financial systems requirements and policies for data structure, account reconciliation, transaction documentation, file management, and interface methods necessary to support effective and efficient interactions between the Commission's financial systems and the its accounting services provider;
- h. Reviewing Commission budget object codes to ensure they provide sufficient information to OMB and Congress concerning Commission obligations and expenditures as they relate to Commission programs and activities;
- i. Reconciling agency financial reports and accounts, including monitoring and reconciling transactions between agency records and the accounting services provider records at least monthly;
- j. Ensuring the preparation and timely submission of monthly unaudited financial statements;
- k. Investigating possible violations of the Antideficiency Act along with

the director of the Office of Management;

- l. Preparing, along with the director of the Office of management, internal reports of investigation concerning possible violations of the Antideficiency Act for review by the Deputy Staff Director prior to submission to the Staff Director;
- m. Changing the agency's allotment structure subject to the approval of the Staff Director;
- n. Approving changes to the allotment amounts provided to each office and division head with budget authority; and
- o. Providing in-house training to office and division heads on the agency's allotment process that includes, though is not limited to, the creation office and division operating budgets, and the monitoring and management of office and division operating budgets.

.04 Office and Division Heads. To minimize the opportunity for fraud, waste, and abuse of government funds, each office or division head is responsible for:

- a. Ensuring that their program activities operate effectively and within approved budgetary limits;
- b. Ensuring the integrity of financial transactions within their office or division;
- c. Consulting with the chief of the Budget and Finance Division to clarify policies and procedures governing obligations and expenditures made or authorized by them for their office or division; and
- d. Maintaining and providing, as required, information to verify obligations and disbursements related to their programs or program activities.

SECTION 5. RELATIONSHIP OF ACCOUNTING AND FUND CONTROL SYSTEMS

.01 Accounting System. The Commission's accounting services provider is the General Services Administration (GSA); Pegasys is the accounting system used by GSA and it is fully compliant with the Joint Financial Management Improvement Program (JFMIP). GSA complies with OMB Circular A-123 and its financial management systems have been evaluated in accordance with OMB Circular A-27. The financial and accounting services provided to the Commission by GSA include:

- Input and Monitoring;

- Accounts Payable;
- Accounts Receivable;
- Disbursements;
- Billing;
- Debt Collection;
- Preparation of Daily Cash Deposits;
- Financial Preparation and Analysis;
- External Reporting; and
- Budget Submission to the MAX Data System.

The Commission's accounting system fully supports the agency's fund control system and is designed and maintained in a manner so as to restrict the authorization and making of commitments, obligations and expenditures to amounts available in the apportionment or allotment. Commission policies require written delegations of authority, signed by the Staff Director. This system ensures that transactions and other significant events are engaged in only by individuals acting within the scope of their authority. Commission controls also establish various levels of review, approval, and certification of transactions and activities, as well as establishes timelines to ensure prompt recording of transactions, including commitments, obligations, and disbursements.¹

The Commission's accounting system provides for the recording of all financial information affecting apportionments, allotments, agency restrictions, budget operating plans, obligations and expenditures, and reimbursements. It also provides for the preparation and reconciliation of financial reports that display cumulative obligations and the remaining unobligated balances by apportionment and allotment, and cumulative obligations by budget activity and object class. The Commission's system provides timely disclosure of:

- a. Total valid obligations incurred to date, and total budgetary resources available for future obligations;
- b. Obligations and commitments incurred to date without proper authorization or approval;
- c. Actual expenditures incurred to date;
- d. Status of estimated reimbursements, including orders received, amounts earned, and amounts collected to date;
- e. Restrictions contained in appropriation acts or other statutes, along with total obligations incurred against such restrictions to date; and

¹ Commission Administrative Instruction 3-14 specifically governs the submission, review, approval, and certification of travel activities. The agency's *Procurement Guide* and Administrative Instruction 4-16 explain procurement processes, including reviews and approvals.

- f. Authorization or the creation of commitments, obligations, or expenditures that exceed the total apportionment or allotment.

.02 Transaction Approvals and Certifications. Requisitions/Procurement Requests are reviewed by the chief of the Budget and Finance Division who is required to certify the availability of funds before a purchase order is issued and a purchase can be made.

All travel authorizations require certification of the availability of funds by the chief of the Budget and Finance Division. All travel vouchers are required by law to be certified by a duly authorized certifying officer before payment. Travel vouchers are certified by the chief of the Budget and Finance Division, after initial review and approval by the appropriate office or division heads.

Office and division heads requesting payment to vendors for the purchase of goods and services complete a *Receiving Report* form certifying that the goods/services were delivered and accepted.

Purchases made with a Commission purchase card are reconciled by the cardholder, and reviewed and certified by the designated Approving Official (AO) to ensure that charges are accurate and that purchases were for official use only.

.03 Recording and Documenting Transactions and Events. The Commission's system reasonably ensures that:

- a. All transactions, processing procedures, and systems of administrative controls are fully documented.
- b. Financial transaction documents are received and processed in a timely manner. Documents should be properly classified, filed for reference, and for certification of schedules for disposition, so as to comply with records management.
- c. Transactions and other significant events are authorized and executed only by individuals with written delegation of authority.
- d. A general ledger is maintained for assets, liabilities, net worth, revenues, costs, and budgetary accounts by the Commission's accounting services provider.
- e. No commitment is made without a certification of fund availability recorded in the Commission's accounting system(s).
- f. Obligations are recorded in the Commission's accounting system(s) prior to a transaction with a vendor.
- g. Obligor documents are recorded in the accounting system by the

Commission's accounting services provider within 5 working days after receipt.

- h. Disbursements are made in compliance with the Prompt Payment Act.
- i. Complete and valid requests for disbursements (supported by appropriate documentation such as a procurement request, purchase order, invoice, and a certification of receipt of services) are timely provided by the Budget and Finance Division, to the Commission's accounting services provider.
- j. Requests for disbursement of funds are processed by the accounting services provider pursuant to the timeframes established applicable Commission policies.
- k. Commitments, obligations, and disbursements are identified with an appropriation or fund at the time incurred to track program and program activity spending.

.04 Reconciliation of Accounts and Reports. The chief of the Budget and Finance Division and the agency's budget analyst access the Financial Management Information System (FMIS) used by the Commission's accounting services provider to review and reconcile financial reports. Reports that are made available in this system for review and reconciliation include: trial balance (monthly), organization status (monthly), and prompt payment/payment of interest (weekly). Additional reports are provided monthly by the accounting services provider, either in hardcopy or via email, to the Commission's budget office for review and reconciliation: cash, open item aging, and budgetary execution and resources (SF-133).

All the reports are reviewed and reconciled monthly, except prompt payment reports which are reviewed weekly. The supporting documents used in the process are required to be of sufficient detail and integrity as to ensure the accuracy of the report information. In most instances, this will include tracking logs of Commission obligations and travel authorizations, requisition/procurement requests, purchase orders, invoices, receiving reports, purchase card statements.

The Commission's accounting services provider also prepares and enters the following reports necessary and required by Treasury and OMB for the Commission's good standing: Statement of Transactions (SF-224, monthly), FACTS II and FACTS I (annually); FACTS II (quarterly), Accountability of Tax Dollars Act Financial Statements, Yearend Closing Statement (SF-2108), and Receivables Due the Public. The chief of the Budget and Finance Division also reviews these reports for accuracy prior to submission to either Treasury or OMB.

.06 Financial Audits. Accounting and financial management systems are promptly brought into agreement with the results of audits conducted of the Commission's

systems. Within 30 days of an audit report a corrective action plan is prepared by the chief of the Budget and Finance Division and submitted to the director of the Office of Management and the Deputy Staff Director (or other designee of the Staff Director in the event of a vacancy) for approval. The plan is approved as submitted, or modified and approved, within 15 days of its submission. The corrective measures must be implemented within 60 days of the approval of the plan, unless otherwise required by federal law or regulation.

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³ *Id.*

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- a. Compare actual performance to planned or budgeted performance;
- b. Ensure resources are used for their intended purposes; and
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.10 *Limitations on the Appropriation.* The Commission's system of accounts includes procedures to account for and track all congressional restrictions on the agency's annual appropriation. The status of any such limitations are reported monthly to the Staff Director by the chief of the Budget and Finance Division.

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.03 *Anticipated Budgetary Resources.* Apportionments may include estimated amounts of "anticipated" budgetary resources that are the result of laws already enacted. This is done to reduce routine reapportionments of such amounts as they actually become available. Anticipated budgetary resources increases and decreases are recorded on SF-132 and SF-133, *Report on Budget Execution and Budgetary Resources*.

Anticipated increases are not required to be allotted, even though the amount has been apportioned, until the increase actually occurs. Anticipated decreases do not become part of the total budgetary resources amount available for apportionment and, therefore, can not be allotted.

.04 *Deficiency Apportionments.* To qualify for a deficiency apportionment, the request must be required by:

⁵ See U.S Commission on Civil Rights, Administrative Instruction (AI) 3-1, *Budget Formulation*, § 6 (January 2006).

- a. Laws enacted subsequent to the transmittal of the annual budget of the year to Congress;
- b. Emergencies involving human life, the protection of property, or the immediate welfare of individuals; or
- c. Specific authorization by law.

When OMB approves a deficiency apportionment and transmits it to Congress, OMB is merely notifying Congress that funds appropriated to date are being obligated at a more rapid rate than anticipated. This notice does not guarantee that Congress will approve any part of the associated supplemental request for appropriation and does not authorize the use of any amounts not yet provided by Congress.

SECTION 8. ALLOTMENTS AND SUB-ALLOTMENTS

.01 Purpose and Function of Allotments. The formal allotment of funds is a means of establishing, within appropriation limitations legislated by the Congress, and funds apportioned by OMB, the amounts available for obligation and expenditure by the Commission. Allotments and sub-allotments are subject to the provisions of the Antideficiency Act.⁶

The Commission's allotment system is established at the highest practical level, and each operating unit is financed for no more than one subdivision for each appropriation or fund to ensure compliance with the Anti-Deficiency Act, as amended. The chief of the Budget and Finance Division may change the allotment structure only as justified by formal changes to the Commission's organizational structure, with the approval of the Staff Director.

Adjustments to allotment amounts made to offices or divisions may be made only if funding necessary to support the change(s) is available and upon one of the following:

- a. An office or division head submitting a written request and justification that is approved by the chief of the Budget and Finance Division, in consultation with the Staff Director; or
- b. Upon the chief of the Budget and Finance Division determining, in consultation with the Staff Director, that the allotment to an office or division is either insufficient to support its approved program activities or in excess of that necessary to support these activities.

.02 Allotment Restrictions.

⁶ 31 U.S.C. § 1517(a)(2); 31 U.S.C. § 1514(a); OMB Circular A-11, Section 145 (1-2), *Requirements for Reporting Antideficiency Act Violations*, p. 1 (June 2005)

- a. The sum of allotment amounts issued can not exceed the apportionment.
- b. The sum of sub-allotment amounts can not exceed the allotment amount.
- c. The amounts of allotments, or other administrative subdivisions, is fixed and is changed only when approved by the chief of the Budget and Finance Division, in consultation with the Deputy Staff Director (or, when the position is vacant, by the director of the Office of Management).
- d. Congressional restrictions contained in appropriations acts are enforced.

.03 Allotment Procedures.

- a. The annual allotment for an office/division is determined by the Budget and Finance Division based on the amount of the agency's annual appropriation (after all rescissions) and the fiscal year budget estimates for each office/division. Allotments are funded through the Commission's annual appropriations.
- b. Office and division heads with budget authority are notified of their allotment amounts by the Budget and Finance Division. This information is provided in Excel spreadsheet format showing that the allotment is evenly divided between the four quarters of the fiscal year. The quarterly amounts are disaggregated by spending type or budget object codes (BOCs). This spreadsheet is referred to as the Allotment Disbursement Plan.
- c. Funds are disbursed based on the quarterly amounts established by the Allotment Disbursement Plan. Office and division heads are required to remain within their quarterly allotment amounts.
- d. Each office and division head reviews the Allotment Disbursement Plan created by the Budget and Finance Division. If changes in the quarterly disbursement plan are required, the office/division head submits an operating plan detailing the quarters in which allotted amounts should be disbursed. If the chief of the Budget and Finance Division approves the operating plan, the allotment is issued in accordance with the approved operating plan. The total amount reflected in the operating plan may not exceed the total amount allotted to that office or division for the fiscal year.

- e. Spending reports are provided to office/division heads by the Budget and Finance Division, at least monthly, to monitor expenditures.
- f. Under some circumstances, changes in allotments may require changes to the Commission's apportionment and the submission of a reapportionment request to OMB.⁷

SECTION 9. ANTIDEFICIENCY ACT VIOLATIONS

.01 Prohibited Actions. The Antideficiency Act prohibits:

- a. Making or authorizing an expenditure or obligation in excess of the amount available in the Commission's appropriation. (See 31 U.S.C. § 1341 (a)).
- b. Engaging in a contract or other obligation for the payment of money, for any purpose, in advance of appropriations made for such purpose. (See 31 U.S.C. § 1341(a)).
- c. Accepting voluntary service or employing personal services in excess of the amount authorized by law, except in cases of: (1) an emergency involving the safety of human life or the protection of property; or, (2) the use of student volunteers under agreement between the Commission and the school. (See 31 U.S.C. § 1342)
- d. Authorizing or creating an obligation or making an expenditure in excess of an apportionment or reapportionment. (See 31 U.S.C. § 1517(a))
- e. Authorizing or creating an obligation or making an expenditure in excess of the amount permitted by an allotment. (31 U.S.C. § 1517(a)(2), 31 U.S.C. § 1514(a))
- f. Involving the Commission in a contract or obligation before the agency receives its appropriation, unless the contract or obligation is authorized by law. (31 U.S.C. § 1341(a)).
- g. Obligating or expending sequestered funds. (31 U.S.C. § 1341(a))

.03 Penalties. A violation of 31 U.S.C. §§ 1341(a), 1342, or 1517(a) of the Antideficiency Act subjects the employee or officer responsible for the violation to administrative discipline that may consist of:⁸

⁷ Commission apportionment requests are prepared by the Budget and Finance Division pursuant to guidance in OMB Circular A-11 (June 2005), Part 4, *Instructions on Budget Execution* and U.S Commission on Civil Rights, Administrative Instruction (AI) 3-1, *Budget Formulation*, § 6 (January 2006).

⁸ 31 U.S.C. §§ 1349(a), 1518 (2005).

- a. A letter of reprimand or censure for the official personnel file of the officer or employee violating the Act.
- b. An unsatisfactory performance rating.
- c. Transfer to another position.
- d. Suspension from duty without pay.
- e. Removal from office.

The disciplinary action imposed by the Staff Director will be consistent with all circumstances of a violation and with action previously taken in similar circumstances. Criminal penalties may be levied if the officer or employee acted knowingly and willfully. The penalties include a fine of not more than \$5,000 and imprisonment of not more than two years, or both.⁹ A referral to the Department of Justice will be made if the violation is thought to be criminal in nature.

.04 Reporting. Any individual with knowledge of a possible violation of the Antideficiency Act is responsible for immediately reporting the violation to the Staff Director. The Staff Director immediately institutes an investigation into the possible violation. The investigation, coordinated by the Deputy Staff Director, and conducted by the director of the Office of Management and the Office of the General Counsel, will examine the circumstances surrounding the possible violation including when and how it may have occurred, whether another agency was involved, and the Commission employee responsible for the violation. A statement should be obtained from the responsible employee(s) as a part of the investigation. The investigation will also determine how similar violations can be prevented, and the account(s) and amount of money involved in the reported violation. The dollar amount of an over-obligation or over-expenditure is irrelevant to whether or not a violation has occurred, but is considered in determining the seriousness of the offense. The investigation is required to be completed, and a written report of its findings and conclusion submitted to the Staff Director, within 30 days.

If the Staff Director determines that a violation of the Antideficiency Act occurred, the Staff Director must immediately report the violation to the President, through the Office of Management and Budget, and to Congress. A copy of the report will also be sent to the Comptroller General.¹⁰ The report is made by letter signed by the Staff Director, as administrative head of the agency, and includes the following information:

- The name and Treasury symbol of the fund in which the violation occurred.

⁹ 31 U.S.C. §§ 1350, 1519 (2005).

¹⁰ 31 U.S.C. §§ 1351, 1517 (2005).

- The name and position of the officers or employees responsible for the violation.
- All pertinent facts of the violation, including the type of violation, primary reason or cause, and the responsible employee's or officers' statements.
- A statement of the administrative discipline imposed and further actions taken with respect to the responsible parties.
- An evaluation of the adequacy of the system of administrative control of funds and proposals for correcting any deficiencies.
- A description of additional actions taken by the Commission to prevent repeat violations.
- If the case involves an employee suspected of willfully and knowingly violating the Act, information on when and how the case was submitted to the Department of Justice.
- If the case involves another agency, a statement concerning the steps taken to coordinate with the other agency.

.05 Remedial Action. The Commission is required to take action to correct the cause of the violation.



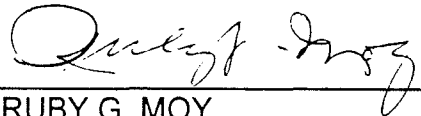
KENNETH L. MARCUS
Staff Director

Issued: _____

ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 3-3
ATTENDANCE, LEAVE AND FLEXTIME

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 3-3 effective immediately. Information and policies on attendance, leave and flextime will be included in the AI 2-31 entitled "Absence and Leave Policy."



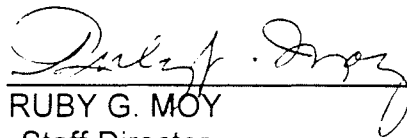
RUBY G. MOY
Staff Director

Issued: APR 15

ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 3-4
OVERTIME AND COMPENSATORY TIME

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 3-4 effective immediately. Information and policies on overtime and compensatory time will be included in the AI 2-30 entitled "Overtime and Compensatory Time "


RUBY G. MOY
Staff Director

Issued: 1/22/03

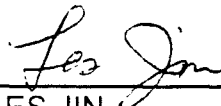
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 3-5

IMPREST FUND

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 3-5 effective immediately. The U.S. Commission on Civil Rights no longer maintains an imprest fund.



LES JIN
Staff Director

Issued: 10/24/02

ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 3-6
MANAGEMENT OF PROJECT ACCOUNT CODES

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish a project coding system which will provide management with cost information used for program planning, program and program activity (i.e., hearings, briefings, investigations, reports, etc.) management and evaluation, and budget and fiscal accountability.

SECTION 2. DEFINITION

.01 Project Account Code. A project account code, also referred to as a project code, is the primary method by which the Commission's Budget and Finance Division and accounting services provider track project related expenditures. Commission employees and the Human Resources Division use the codes to report staff time.

.02 Budget Object Codes (BOCs). The Budget and Finance Division and the Commission's accounting services provider use BOCs to describe the nature or type of goods and services for which the agency incurs financial obligations. Examples of the types of goods and services that may be assigned BOCs include travel, transportation of things, equipment, supplies and services, and rent/communications/utilities/miscellaneous charges.

SECTION 3. RESPONSIBLE OFFICIALS

.01 Office of the Staff Director. This office is responsible for:

- Receiving monthly project cost reports prepared by the Budget and Finance Division.
- Providing Commissioners with quarterly project cost information as prepared by the Budget and Finance Division.

.02 Office and Division Heads. Office and division heads are responsible for:

- Requesting the assignment of a project account code either upon initiating work on a project or other appropriate program activity, or when financial obligations are incurred, whichever comes first. A separate *Project Account Code Request* form must be completed for each project/activity requiring a project code. The office or division head, upon completing Section 1 of the request form, must submit the form to the Budget and Finance Division.
- Requesting that the project account code be discontinued upon completion of the project or program activity by completing Section 3 of the original *Project Account Code Request* form and submitting the form to the Budget and Finance Division. A project is considered complete, and the code should be closed, when the final project work product (e.g., report) is published and disseminated.
- Using the assigned project account code on all required project-related documents. See Section 4 below on the use of project account codes.
- Instructing office and division staff, in a manner consistent with this Administrative Instruction, on the proper use of project codes.
- Ensuring that office and division Time and Attendance sheets, and other documents listed in Section 4 below, reflect the most appropriate project code(s) before they are approved and submitted for processing.
- Notifying the Budget and Finance Division of inaccurate and incomplete information reported on monthly project cost reports and working with the budget office to revise the information, as necessary.

.03 Budget and Finance Division. This division, through the chief of the division, is responsible for:

- Making *Project Account Code Request* forms available to office and division heads on the shared drive of the Commission's computer system for use when requesting assignment or discontinuation of project account codes.
- Receiving and maintaining a record of all *Project Account Code Request* forms submitted by office and division heads.
- Reviewing *Project Account Code Request* forms to ensure that each form is complete and has the signature of the required office or division head. If the request is to discontinue a project code, the Budget and Finance Division must also confirm that the code is not active outside the requesting office or division.
- Forwarding completed *Project Account Code Request* forms to the Commission's accounting services provider for the assignment or discontinuation of project account codes within 5 working days after receiving the form.

- Ensuring that project account codes are assigned by the accounting services provider, noted on the original request form, and that the form is returned to the requesting office or division head.
- Ensuring that requests to discontinue project account codes at the completion of a project or program activity are processed by the accounting services provider and that the completed request form is returned to the requesting office or division head.
- Creating and maintaining a project account code master list. This includes reviewing the list for necessary revisions at least once a month.
- Distributing the project account code master list to Commission offices and divisions by posting it on the shared drive of the Commission's computer system.
- Preparing and submitting reports on project and program activity costs, using assigned project codes and budget object codes, to the Staff Director, office and division heads, and others designated by the Staff Director by the 5th of each month.
- Preparing a cumulative project cost report at the end of each fiscal year for each project, or other requested program activity. This report is due no later than November 5 and is submitted to the Staff Director, office and division heads, and others designated by the Staff Director.

.04 Accounting Services Provider. The accounting provider is responsible for:

- Receiving *Project Account Code Request* forms from the Budget and Finance Division.
- Assigning a project code by completing Section 2 of the *Project Account Code Request* form and returning the original form to the Budget and Finance Division within 5 working days after receiving the request.
- Discontinuing a project account code upon receiving a request on a *Project Account Code Request* form. The accounting services provider must notify the Budget and Finance Division that a code has been closed by completing Section 4 of the form and returning it to the Budget and Finance Division within 5 working days after receiving the request.

SECTION 4. USE OF PROJECT ACCOUNT CODES

.01 Project account codes are the primary method by which the Commission's Budget and Finance Division and accounting services provider track project related expenditures for budgeting, planning and evaluation, and reporting purposes. These codes are also used by the

Human Resources Division and Commission staff for recording staff time. A project account code, therefore, must be provided on each of the below listed documents by the originating office. If funds encumbered on the documents listed below are charged to more than one project all project account codes must be provided and the percent or actual dollar amount chargeable to each project identified, where possible, on the form:

- Travel Authorizations.
- Travel Vouchers.
- Claims for Reimbursement for Expenditures on Official Business forms.
- Procurement Requests.
- Purchase Orders.
- Purchase Card receipts, logs, and statements.
- Time and Attendance Sheets.¹
- Order and Report of Overtime forms.
- Contracts.

Office and division heads may, in their discretion, use project account codes as identifiers on internal office and division documents and correspondence.

.02 Structure of a Project Code. Commission project account codes are alphanumeric codes such as "ZP0307." This code has two sections: "ZP" and "0307." The "ZP" is the Commission's identifier or organization code while "0307" identifies the specific office/division and project within the Commission. The below list identifies the numeric code series assigned to each Commission office.


- the "0100" series of numbers is reserved for projects and activities in the Office of the Staff Director,
- the "0200" series of numbers is reserved for projects and activities in the Office of the General Counsel,
- the "0300" series of numbers is reserved for projects and activities in the Office of Civil Rights Evaluation, and
- the "0900" series of numbers is reserved for projects and activities in the regional offices and by State Advisory Committees.

Project account codes not in any of the above listed series are considered general code numbers and may be used by one or more Commission offices and divisions. The director of the Office

¹ Only the last four digits of the project account code should be used on Time and Attendance sheets.

of Management, in consultation with the Staff Director, is responsible for determining whether other offices require a dedicated code series for their program activities or projects.

In the above sample project account code, "ZP0307" identifies the Office of Civil Rights Evaluation as the responsible office because the code is in the "0300" series. A master list of all project account codes and the description of their related projects and activities is available on the shared drive of the Commission's computer system. According to the master list, the specific project or activity identified by the sample project account code is "Complaint Processing" in the Office of Civil Rights Evaluation.



KENNETH L. MARCUS
Staff Director

Issued: APR 15

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 3-7

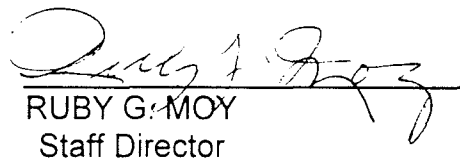
PAYROLL DEDUCTIONS FOR PROFESSIONAL MANAGEMENT ASSOCIATIONS

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 3-7 effective immediately.

SECTION 2. POLICY

01. The Commission will not assume the cost for any employee's enrollment in a professional association of any type.


RUBY G. MOY
Staff Director

Issued: 12/5/04

ADMINISTRATIVE INSTRUCTION 3-10

ACCEPTANCE OF TRAVEL REIMBURSEMENT FROM A NON-FEDERAL SOURCE

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish the U.S. Commission on Civil Rights' policy and procedures for acceptance of payments from a non-Federal source for travel, subsistence, and related expenses at any meeting or similar function relating to the official duties of an employee.

SECTION 2. POLICY

The Commission may accept payment from a non-Federal source with respect to attendance at a meeting or similar function which an employee has been authorized to attend in an official capacity on behalf of the Commission. This policy does not authorize personal acceptance of such payments, or of an honorarium, by an employee of the Commission.

SECTION 3. DEFINITIONS

As used in this AI, the following definitions apply:

.01 Agency means the U.S. Commission on Civil Rights.

.02 Conflicting Non-Federal Source is any person who, or entity other than the Government of the United States which has interests that may be substantially affected by the performance, or non-performance, of the employee's duties.

.03 Employee means an employee of the Commission, including the Commissioners, their Assistants, the Staff Director, supervisors and managers, experts and consultants, State Advisory Committee appointees, and all other employees whether appointed on a permanent, indefinite, or temporary basis or working a full-time, part-time or intermittent tour of duty.

.04 Honorarium means a payment of money or anything of value for an appearance, speech or article by an employee, excluding any actual and necessary travel expense incurred by such employee to the extent that such expenses are paid or reimbursed by any other person or entity.

.05 Meeting or Similar Function means a conference, seminar, speaking engagement, training course, or similar event that takes place away from an employee's official duty station; or in the case of the Commissioners, and their Assistants, their usual place of residence.

.06 Non-Federal Source means any person or entity other than the Government of the United States. The term includes: any individual; private or commercial entity; non-profit organization or association; State, local, or foreign government; or international or multi-national organization.

.07 Payment means funds paid for travel, subsistence, and related expenses by check or similar instrument to the Commission, or Payment in Kind.

.08 Payment In Kind means goods or services provided in lieu of funds to the Commission by check or similar instrument for travel, subsistence, and related expenses.

.09. Travel, Subsistence, and Related Expenses include the same type of expenses payable under 41 C.F.R. part 301 or Volume 1 of the Joint Federal Travel Regulations (JFTR). The term also includes expenses such as conference or training fees, as well as other benefits which cannot be paid under the applicable travel regulations and which are in kind and made available by the sponsor to all attendees incident to, and for the use at, the meeting or similar function.

SECTION 4. CONDITIONS OF ACCEPTANCE

.01 The Commission may accept payment for an employee's travel or authorize an employee to do so when:

- a. The Commission has issued the employee a travel authorization before the travel begins;
- b. The Commission determines the travel is in the interest of the Government;
- c. The travel relates to the employee's official duties;
- d. The travel is for attendance at a meeting or similar function, and
- e. The payment is from a non-Federal source that is not a conflicting non-Federal source; or
- f. The payment is from a conflicting non-Federal source that has been approved in accordance with Section 8.

.02 An employee shall not solicit payment from a non-Federal source.

.03 In no instance, may an employee receive an honorarium pursuant to acceptance of travel reimbursement under the authority and provisions of this AI from a non-Federal source for attendance at a meeting or similar function.

.04 All requests must be reviewed and approved, in advance, and each will be handled on a case-by-case basis. Retroactive requests will only be authorized pursuant to Section 8 below.

.05 All requests for reimbursement from a non-Federal source must be approved in accordance with the procedures in Section 7 below.

06. In very limited circumstances, the Commission may permit acceptance of payment by an employee, under this AI, from a non-Federal source for an accompanying spouse, but only when the Commission determines, in advance, that a spouse's presence will support the mission of the agency or substantially assist the employee in carrying out his/her duties through attendance at, or participation in, the meeting or similar function.

07. Payments may be accepted from multiple sources.

08. If a meeting, or similar function, does not concern a subject of mutual interest to the Commission and the non-Federal source, acceptance of payment from the non-Federal source under Section 5 is limited to payment in kind and to the types of services the non-Federal source generally provides, e.g. air passenger transportation services provided by a commercial airline.

SECTION 5. PAYMENT FROM A CONFLICTING NON-FEDERAL SOURCE

01. In rare circumstances, the Commission may accept payment from a conflicting non-Federal source if the conditions in Section 5 are met and the Staff Director, in accordance with Section 8, determines that the agency's interest in the employee's attendance at, or participation in, the event outweighs concern that acceptance of the payment may, or may not, reasonably appear to influence improperly the employee in his/her official duties.

02. In determining whether to accept payment, the Commission shall consider all relevant factors, including:

- a. the importance of the travel for the agency;
- b. the nature and sensitivity of any pending matter affecting the interests of the conflicting non-Federal source;
- c. the significance of the employee's role in any such pending matter;
- d. the purpose of the meeting or similar function;
- e. the identity of expected participants; and
- f. the value and character of the travel benefits offered by the conflicting non-Federal source.

SECTION 6. BASIC CONDITIONS FOR APPROVAL

.01 With one exception noted in Section 7 below, the Staff Director retains the authority for approving the acceptance, by the Commission, of payment from a non-Federal source for travel, subsistence and other related expenses of an employee incident to attendance at any meeting, or similar function, related to the official duties of the employee.

.02 The following conditions must be met:

- a. The payment must not have been solicited by the employee;
- b. The employee must not receive an honorarium for his/her participation in the meeting or similar function;
- c. The payment must not be a reward for services provided to the non-Federal entity prior to attendance at the meeting or similar function; and
- d. Acceptance of the payment:
 - (1) would not reflect unfavorably on the ability of the employee to carry out his/her official duties in a fair and objective manner;
 - (2) would not compromise the honesty and integrity of the Commission's programs or of Commission employees and their official actions or decisions;
 - (3) would be compatible with the government-wide Standards of Ethical Conduct; and
 - (4) would otherwise be proper and ethical for the employee concerned under the
 - (5) specific circumstances in his/her particular case.

SECTION 7. APPROVAL PROCEDURES

The following procedures of travel expenses must be approved for official travel expenses to a meeting or similar function by a non-Federal source must be followed:

.01 Offers of payment of travel expenses must be approved in writing prior to acceptance. Employees should submit a CCR Form 49, Request for Approval for Travel Reimbursement from a Non-Federal Source (attached).

.02 Offers of payment of official travel expenses should be submitted through the Solicitor to the Staff Director for approval at least 10 workdays in advance of the event. This should provide the employees and the Solicitor with sufficient time to make any required changes in the reimbursement arrangements or to obtain additional documentation to comply with all legal requirements of this Administrative Instruction.

.03 The Solicitor will review the offer to determine:

- a. if the employee's presence at the meeting: (1) will support the mission of the Commission; or, (2) will substantially assist the employee in carrying out his/her official duties;
- b. if the payment is not from a conflicting non-Federal source; or
- c. if from a conflicting non-Federal source, that the Commission's interest in the employee's attendance at, or participation in, the event outweighs concern that acceptance of the payment may, or may not, reasonably appear to influence improperly the employee in the performance of his/her official duties.

.04 In determining whether to recommend for or against acceptance of payment from a conflicting non-Federal source, the Solicitor will consider all relevant factors, including:

- a. the importance of travel for the Commission;
- b. the nature and sensitivity of any pending matter affecting the interests of the conflicting non-Federal source;
- c. the significance of the employee's role in any such matter;
- d. the purpose of the meeting or similar function;
- e. the identity of other expected participants; and
- f. the value and character of the travel benefits offered by the non-Federal source.

.05 Recommendations for approval of payment for travel expenses from a conflicting non-Federal source will only be made in rare and unusual circumstances.

.06 After the Solicitor makes the review, he/she will make a written recommendation to the Staff Director on the request. The recommendation will be supported by a written analysis in sufficient detail for the Staff Director to make a decision.

.07 The Office of the Staff Director will notify the employee, in writing, of the final decision. The decision of the Staff Director is not subject to review.

.08 EXCEPTION: If the Staff Director is the employee requesting approval of payment for travel for attendance at a meeting or similar function from a non-Federal Source, the request will be submitted through the Solicitor to the Director for Management for approval. In this case the decision of the Director for Management is final and not subject to review.

SECTION 8. RETROACTIVE PAYMENTS

.01 Payments may be authorized retroactively when the Commission has already authorized acceptance of payments of some expenses, as long as-

- a. Expenses are comparative in value to those offered to or purchased by other attendees; and
- b. The Commission did not previously decline to accept payment for those particular expenses in advance of travel.

.02 Payments may be authorized retroactively when the Commission has already authorized acceptance of payments of some expenses, if the request to the Commission is made within 7 working days after the trip ends if-

- a. The types of travel expenses are authorized by travel authorization; and
- b. Travel expenses are within the maximum authorized in the travel authorization.

.03 If the Commission decides not to authorize retroactively, it must

- a. reimburse the non-Federal source for the reasonable approximation of the market value of the benefit provided, not to exceed the maximum allowance stated on the employees travel authorization; or
- b. it may require the employee to reimburse the non-Federal source the amount and allow the employee to claim that amount in the travel claim for the trip.

SECTION 9. PAYMENT GUIDELINES

.01 Payments other than in kind. Payments from a non-Federal source for an employee shall be made by check, or similar instrument, to the Commission.

- a. Any such payment received by the employee on behalf of the Commission for his/her travel is accepted on behalf of the agency and is to be submitted as soon as practicable for credit to the agency's appropriation.
- b. While reimbursement from a non-Federal source for an employee's travel expenses is not-subject to the prescribed maximum rates in the Federal Travel Regulations, the accommodations or other benefits furnished must be comparable in value to that offered to, or purchased by, other similarly situated individuals attending the meeting or similar function.

.02 Payments in kind. When the acceptance of payment has been approved in advance by the Staff Director, the employee, for his/her travel, may receive payment in kind in excess of the Federal Travel Regulations' limitations (e.g. maximum per diem rates), provided that the

accommodation or other benefit is comparable in value to that offered to, or purchased by, other similarly situated individuals attending the meeting or similar function.

SECTION 10. REIMBURSEMENT CLAIMS FOR OFFICIAL TRAVEL EXPENSES

.01 The employee shall submit to the Budget and Finance Division the claim for reimbursement within 7 workdays after return from the approved event. The Claim must include a copy of the approved Request for Approval for Travel Reimbursement from a Non-Federal Source (CCR Form 49).

.02 The Commission will only reimburse the employee for the types of expenses defined in the applicable Federal Travel Regulations. These expenses include per diem allowances, transportation expenses or other miscellaneous travel expenses.

.03 If an accepted payment covers only a portion of one or more types of expenses incurred (e.g. \$50.00 daily for lodging in a city or locality with an \$85.00 daily maximum lodging allowance), the Commission will reimburse the employee only the difference up to the amount to which he/she otherwise would be entitled under the applicable Federal Travel Regulations.

.04 If an accepted payment covers in full one or more types of expenses described in Section 10.02 (e.g. payment for lodging) above but does not cover all of the travel expenses incurred, the Commission will reimburse the employee for those expenses that are not covered by the payment, not to exceed applicable limitations established in the Federal Travel Regulations.

.05 The travel claim must itemize all expenses incurred, which exceed maximum rates prescribed under applicable Federal Travel Regulations.

SECTION 11. LIMITATIONS ON REIMBURSEMENT FROM A NON-FEDERAL SOURCE

.01 This Administrative Instruction (AI) is the only authority under which the Commission may accept payment from a non-Federal source, or authorize an employee to accept such payment on behalf of the Commission, in connection with the attendance of its employee at a meeting or similar function.

.02 An employee who accepts any payment in violation of this AI is subject to the following:

- a. The employee may be required, in addition to any penalty provided by law and applicable regulations, to repay for deposit to the general fund of the Treasury, an amount equal to the amount of the payment so accepted; and
- b. When repayment is required under section 11.03a. above, the employee shall not be entitled to any reimbursement from the Commission for such expenses.

SECTION 12. ADVISORY SERVICES

The Solicitor, as the Commission's Designated Agency Ethics Officer, is the agency official responsible for advising employees on the acceptance of payment for travel expenses from a non-Federal source. Employees are encouraged to consult with the Solicitor on this subject on a timely basis, generally at least 10 workdays prior to the meeting or similar function.

SECTION 13. EXCLUSION FROM THIS ADMINISTRATIVE INSTRUCTION

.01 This policy and the procedures in this Administrative Instruction do not apply when the employee is attending a meeting or similar event in a non-official capacity. In that case, the employee will be attending in a non-pay, non-duty status and will not be paid salary by the Commission.

.02 For intermittent employees (i.e. the Commissioners, their Assistants, experts or consultants), there may be cases where a trip involves a mix of official and non-official travel. In this situation, some of the travel may be on behalf of the Commission and these procedures for travel reimbursement would apply.

.03 In the case of a mixed trip, an employee must consult with the Solicitor in advance to avoid a real or apparent conflict of interest or other potential legal violation.

SECTION 14. REPORTS

.01 The Commission will submit to the Office of Government Ethics semi-annual reports on payments, as defined by this AI, which total more than \$305 per event, and which have been accepted under this AI with respect to the attendance at, or participation in, a meeting or similar function by a Commission employee.

.02 The Solicitor will be responsible for preparing such reports.

.03 These semi-annual reports shall:

- a. specify: (1) the name of the employee; (2) his/her position title, series and grade; (3) the name of the non-Federal source making the payment; (4) the nature of the meeting or similar function; (5) the time and place of travel; (6) the amount and method of payment; and (7) the nature of the expenses.
- c. be submitted no later than May 31 of each year with respect to payments in the preceding period beginning on October 31 and ending March 31; and
- d. be submitted not later than November 30 of each year with respect to payments in the preceding period beginning on April 1 and ending on September 30.

SECTION 15. RECORDS RETENTION

The Solicitor will retain copies of requests for approval of travel reimbursement that have been submitted pursuant to this AI. The records will include requests that have been approved and disapproved. The records will also include information on the travel expenses that have been authorized and reimbursed for an employee's attendance at a meeting or similar function.



KENNETH L. MARCUS
Staff Director

Attachment

U.S. COMMISSION ON CIVIL RIGHTS
REQUEST FOR APPROVAL FOR TRAVEL REIMBURSEMENT FROM
A NON-FEDERAL SOURCE

Name of Requesting Employee: _____

Title of Position: _____

Name and Description of Meeting or Similar Function (Attach copy of brochure is available):

Purpose of Trip (Include topic of any presentation and the benefit to the Commission from attendance):

Identification of non-Federal Source (Include description of non-Federal source's relationship to the meeting or similar function to the Commission)

Is the non-Federal Source 501(c)? Yes _____ No _____

Dates, Times & Locations of Travel:

Nature of Expenses and Description of Proposed Reimbursement
(Include estimated amount of reimbursement and mode of payment):

I hereby certify that the above information is correct to the best of my knowledge. I further certify that I have not solicited reimbursement from a non-Federal source nor am I receiving an honorarium for this requested reimbursement.

Signed:_____ Date:_____

- ☐ Approval Recommended (Narrative Analysis Attached)
- ☐ Disapproval Recommended (Narrative Analysis Attached)

Solicitor

- ☐ Approved
- ☐ Disapproved

Staff Director

ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 3-8
GOVERNMENT TRAVEL CHARGE PROGRAM

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to provide operating instructions for the Government Travel Charge Program for Commission on Civil Rights employees.

SECTION 2. ACCOUNTABLE OFFICIALS

.01 Staff Director. Establishes Commission policy and procedures for the Government Travel Charge Card Program. Issues Commission operating instructions.

.02 Program Coordinator. The Chief of the Budget and Finance Division is the program coordinator. The program coordinator will:

- a. Represent the Commission with the contractor on all matters directly involving the Commission on Civil Rights;
- b. Obtain training materials, and ensure that each cardholder is provided with instruction in the proper use of the travel card;
- c. Process all charge card applications for the Government Charge card;
- d. Cancel the travel charge cards of the cardholders who leave the Commission;
- e. Review monthly contractor reports on card usage, and monitor the status of cardholder accounts. The program coordinator will provide appropriate written notification to the cardholder's supervisor and the Staff Director regarding delinquencies or misuse of the card.

.03 Cardholders. Will comply with the provisions of the Federal Travel Regulations, this Administrative Instruction 3-8, and the cardholder agreement with the contractor maintained on file by the program coordinator. The cardholder may call the contractor on such things as account status, disputed charges, and lost cards.

Issued: _____

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 3-9

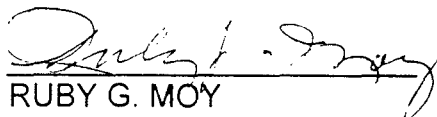
TEMPORARY VOLUNTARY LEAVE

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 3-9 effective immediately.

SECTION 2. POLICY

01. The Commission policy for temporary voluntary leave will be in accordance with current government-wide statute, rule and /or regulation as interpreted by the Office of Personnel Management.
02. Temporary voluntary leave information will be incorporated into AI 2-32, entitled "Voluntary Leave Transfer Program. " and CFR Chapter 5.
03. Employees are encouraged to discuss any questions they may have concerning temporary voluntary leave with the Human Resources Division.


RUBY G. MOY
Staff Director

Issued: 12/5/04

ADMINISTRATIVE INSTRUCTION 3-10

ACCEPTANCE OF TRAVEL REIMBURSEMENT FROM A NON-FEDERAL SOURCE

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish the U.S. Commission on Civil Rights' policy and procedures for acceptance of payments from a non-Federal source for travel, subsistence, and related expenses at any meeting or similar function relating to the official duties of an employee.

SECTION 2. POLICY

The Commission may accept payment from a non-Federal source with respect to attendance at a meeting or similar function which an employee has been authorized to attend in an official capacity on behalf of the Commission. This policy does not authorize personal acceptance of such payments, or of an honorarium, by an employee of the Commission.

SECTION 3. DEFINITIONS

As used in this AI, the following definitions apply:

.01 Agency means the U.S. Commission on Civil Rights.

.02 Conflicting Non-Federal Source is any person who, or entity other than the Government of the United States which has interests that may be substantially affected by the performance, or non-performance, of the employee's duties.

.03 Employee means an employee of the Commission, including the Commissioners, their Assistants, the Staff Director, supervisors and managers, experts and consultants, State Advisory Committee appointees, and all other employees whether appointed on a permanent, indefinite, or temporary basis or working a full-time, part-time or intermittent tour of duty.

.04 Honorarium means a payment of money or anything of value for an appearance, speech or article by an employee, excluding any actual and necessary travel expense incurred by such employee to the extent that such expenses are paid or reimbursed by any other person or entity.

.05 Meeting or Similar Function means a conference, seminar, speaking engagement, training course, or similar event that takes place away from an employee's official duty station; or in the case of the Commissioners, and their Assistants, their usual place of residence.

.06 Non-Federal Source means any person or entity other than the Government of the United States. The term includes: any individual; private or commercial entity; non-profit organization or association; State, local, or foreign government; or international or multi-national organization.

.07 Payment means funds paid for travel, subsistence, and related expenses by check or similar instrument to the Commission, or Payment in Kind.

.08 Payment In Kind means goods or services provided in lieu of funds to the Commission by check or similar instrument for travel, subsistence, and related expenses.

.09. Travel, Subsistence, and Related Expenses include the same type of expenses payable under 41 C.F.R. part 301 or Volume 1 of the Joint Federal Travel Regulations (JFTR). The term also includes expenses such as conference or training fees, as well as other benefits which cannot be paid under the applicable travel regulations and which are in kind and made available by the sponsor to all attendees incident to, and for the use at, the meeting or similar function.

SECTION 4. CONDITIONS OF ACCEPTANCE

.01 The Commission may accept payment for an employee's travel or authorize an employee to do so when:

- a. The Commission has issued the employee a travel authorization before the travel begins;
- b. The Commission determines the travel is in the interest of the Government;
- c. The travel relates to the employee's official duties;
- d. The travel is for attendance at a meeting or similar function, and
- e. The payment is from a non-Federal source that is not a conflicting non-Federal source; or
- f. The payment is from a conflicting non-Federal source that has been approved in accordance with Section 8.

.02 An employee shall not solicit payment from a non-Federal source.

.03 In no instance, may an employee receive an honorarium pursuant to acceptance of travel reimbursement under the authority and provisions of this AI from a non-Federal source for attendance at a meeting or similar function.

.04 All requests must be reviewed and approved, in advance, and each will be handled on a case-by-case basis. Retroactive requests will only be authorized pursuant to Section 8 below.

.05 All requests for reimbursement from a non-Federal source must be approved in accordance with the procedures in Section 7 below.

06. In very limited circumstances, the Commission may permit acceptance of payment by an employee, under this AI, from a non-Federal source for an accompanying spouse, but only when the Commission determines, in advance, that a spouse's presence will support the mission of the agency or substantially assist the employee in carrying out his/her duties through attendance at, or participation in, the meeting or similar function.

07. Payments may be accepted from multiple sources.

08. If a meeting, or similar function, does not concern a subject of mutual interest to the Commission and the non-Federal source, acceptance of payment from the non-Federal source under Section 5 is limited to payment in kind and to the types of services the non-Federal source generally provides, e.g. air passenger transportation services provided by a commercial airline.

SECTION 5. PAYMENT FROM A CONFLICTING NON-FEDERAL SOURCE

01. In rare circumstances, the Commission may accept payment from a conflicting non-Federal source if the conditions in Section 5 are met and the Staff Director, in accordance with Section 8, determines that the agency's interest in the employee's attendance at, or participation in, the event outweighs concern that acceptance of the payment may, or may not, reasonably appear to influence improperly the employee in his/her official duties.

02. In determining whether to accept payment, the Commission shall consider all relevant factors, including:

- a. the importance of the travel for the agency;
- b. the nature and sensitivity of any pending matter affecting the interests of the conflicting non-Federal source;
- c. the significance of the employee's role in any such pending matter;
- d. the purpose of the meeting or similar function;
- e. the identity of expected participants; and
- f. the value and character of the travel benefits offered by the conflicting non-Federal source.

SECTION 6. BASIC CONDITIONS FOR APPROVAL

.01 With one exception noted in Section 7 below, the Staff Director retains the authority for approving the acceptance, by the Commission, of payment from a non-Federal source for travel, subsistence and other related expenses of an employee incident to attendance at any meeting, or similar function, related to the official duties of the employee.

.02 The following conditions must be met:

- a. The payment must not have been solicited by the employee;
- b. The employee must not receive an honorarium for his/her participation in the meeting or similar function;
- c. The payment must not be a reward for services provided to the non-Federal entity prior to attendance at the meeting or similar function; and
- d. Acceptance of the payment:
 - (1) would not reflect unfavorably on the ability of the employee to carry out his/her official duties in a fair and objective manner;
 - (2) would not compromise the honesty and integrity of the Commission's programs or of Commission employees and their official actions or decisions;
 - (3) would be compatible with the government-wide Standards of Ethical Conduct; and
 - (4) would otherwise be proper and ethical for the employee concerned under the
 - (5) specific circumstances in his/her particular case.

SECTION 7. APPROVAL PROCEDURES

The following procedures of travel expenses must be approved for official travel expenses to a meeting or similar function by a non-Federal source must be followed:

.01 Offers of payment of travel expenses must be approved in writing prior to acceptance. Employees should submit a CCR Form 49, Request for Approval for Travel Reimbursement from a Non-Federal Source (attached).

.02 Offers of payment of official travel expenses should be submitted through the Solicitor to the Staff Director for approval at least 10 workdays in advance of the event. This should provide the employees and the Solicitor with sufficient time to make any required changes in the reimbursement arrangements or to obtain additional documentation to comply with all legal requirements of this Administrative Instruction.

.03 The Solicitor will review the offer to determine:

- a. if the employee's presence at the meeting: (1) will support the mission of the Commission; or, (2) will substantially assist the employee in carrying out his/her official duties;
- b. if the payment is not from a conflicting non-Federal source; or
- c. if from a conflicting non-Federal source, that the Commission's interest in the employee's attendance at, or participation in, the event outweighs concern that acceptance of the payment may, or may not, reasonably appear to influence improperly the employee in the performance of his/her official duties.

.04 In determining whether to recommend for or against acceptance of payment from a conflicting non-Federal source, the Solicitor will consider all relevant factors, including:

- a. the importance of travel for the Commission;
- b. the nature and sensitivity of any pending matter affecting the interests of the conflicting non-Federal source;
- c. the significance of the employee's role in any such matter;
- d. the purpose of the meeting or similar function;
- e. the identity of other expected participants; and
- f. the value and character of the travel benefits offered by the non-Federal source.

.05 Recommendations for approval of payment for travel expenses from a conflicting non-Federal source will only be made in rare and unusual circumstances.

.06 After the Solicitor makes the review, he/she will make a written recommendation to the Staff Director on the request. The recommendation will be supported by a written analysis in sufficient detail for the Staff Director to make a decision.

.07 The Office of the Staff Director will notify the employee, in writing, of the final decision. The decision of the Staff Director is not subject to review.

.08 EXCEPTION: If the Staff Director is the employee requesting approval of payment for travel for attendance at a meeting or similar function from a non-Federal Source, the request will be submitted through the Solicitor to the Director for Management for approval. In this case the decision of the Director for Management is final and not subject to review.

SECTION 8. RETROACTIVE PAYMENTS

.01 Payments may be authorized retroactively when the Commission has already authorized acceptance of payments of some expenses, as long as-

- a. Expenses are comparative in value to those offered to or purchased by other attendees; and
- b. The Commission did not previously decline to accept payment for those particular expenses in advance of travel.

.02 Payments may be authorized retroactively when the Commission has already authorized acceptance of payments of some expenses, if the request to the Commission is made within 7 working days after the trip ends if-

- a. The types of travel expenses are authorized by travel authorization; and
- b. Travel expenses are within the maximum authorized in the travel authorization.

.03 If the Commission decides not to authorize retroactively, it must

- a. reimburse the non-Federal source for the reasonable approximation of the market value of the benefit provided, not to exceed the maximum allowance stated on the employees travel authorization; or
- b. it may require the employee to reimburse the non-Federal source the amount and allow the employee to claim that amount in the travel claim for the trip.

SECTION 9. PAYMENT GUIDELINES

.01 Payments other than in kind. Payments from a non-Federal source for an employee shall be made by check, or similar instrument, to the Commission.

- a. Any such payment received by the employee on behalf of the Commission for his/her travel is accepted on behalf of the agency and is to be submitted as soon as practicable for credit to the agency's appropriation.
- b. While reimbursement from a non-Federal source for an employee's travel expenses is not-subject to the prescribed maximum rates in the Federal Travel Regulations, the accommodations or other benefits furnished must be comparable in value to that offered to, or purchased by, other similarly situated individuals attending the meeting or similar function.

.02 Payments in kind. When the acceptance of payment has been approved in advance by the Staff Director, the employee, for his/her travel, may receive payment in kind in excess of the Federal Travel Regulations' limitations (e.g. maximum per diem rates), provided that the

accommodation or other benefit is comparable in value to that offered to, or purchased by, other similarly situated individuals attending the meeting or similar function.

SECTION 10. REIMBURSEMENT CLAIMS FOR OFFICIAL TRAVEL EXPENSES

.01 The employee shall submit to the Budget and Finance Division the claim for reimbursement within 7 workdays after return from the approved event. The Claim must include a copy of the approved Request for Approval for Travel Reimbursement from a Non-Federal Source (CCR Form 49).

.02 The Commission will only reimburse the employee for the types of expenses defined in the applicable Federal Travel Regulations. These expenses include per diem allowances, transportation expenses or other miscellaneous travel expenses.

.03 If an accepted payment covers only a portion of one or more types of expenses incurred (e.g. \$50.00 daily for lodging in a city or locality with an \$85.00 daily maximum lodging allowance), the Commission will reimburse the employee only the difference up to the amount to which he/she otherwise would be entitled under the applicable Federal Travel Regulations.

.04 If an accepted payment covers in full one or more types of expenses described in Section 10.02 (e.g. payment for lodging) above but does not cover all of the travel expenses incurred, the Commission will reimburse the employee for those expenses that are not covered by the payment, not to exceed applicable limitations established in the Federal Travel Regulations.

.05 The travel claim must itemize all expenses incurred, which exceed maximum rates prescribed under applicable Federal Travel Regulations.

SECTION 11. LIMITATIONS ON REIMBURSEMENT FROM A NON-FEDERAL SOURCE

.01 This Administrative Instruction (AI) is the only authority under which the Commission may accept payment from a non-Federal source, or authorize an employee to accept such payment on behalf of the Commission, in connection with the attendance of its employee at a meeting or similar function.

.02 An employee who accepts any payment in violation of this AI is subject to the following:

- a. The employee may be required, in addition to any penalty provided by law and applicable regulations, to repay for deposit to the general fund of the Treasury, an amount equal to the amount of the payment so accepted; and
- b. When repayment is required under section 11.03a. above, the employee shall not be entitled to any reimbursement from the Commission for such expenses.

SECTION 12. ADVISORY SERVICES

The Solicitor, as the Commission's Designated Agency Ethics Officer, is the agency official responsible for advising employees on the acceptance of payment for travel expenses from a non-Federal source. Employees are encouraged to consult with the Solicitor on this subject on a timely basis, generally at least 10 workdays prior to the meeting or similar function.

SECTION 13. EXCLUSION FROM THIS ADMINISTRATIVE INSTRUCTION

.01 This policy and the procedures in this Administrative Instruction do not apply when the employee is attending a meeting or similar event in a non-official capacity. In that case, the employee will be attending in a non-pay, non-duty status and will not be paid salary by the Commission.

.02 For intermittent employees (i.e. the Commissioners, their Assistants, experts or consultants), there may be cases where a trip involves a mix of official and non-official travel. In this situation, some of the travel may be on behalf of the Commission and these procedures for travel reimbursement would apply.

.03 In the case of a mixed trip, an employee must consult with the Solicitor in advance to avoid a real or apparent conflict of interest or other potential legal violation.

SECTION 14. REPORTS

.01 The Commission will submit to the Office of Government Ethics semi-annual reports on payments, as defined by this AI, which total more than \$305 per event, and which have been accepted under this AI with respect to the attendance at, or participation in, a meeting or similar function by a Commission employee.

.02 The Solicitor will be responsible for preparing such reports.

.03 These semi-annual reports shall:

- a. specify: (1) the name of the employee; (2) his/her position title, series and grade; (3) the name of the non-Federal source making the payment; (4) the nature of the meeting or similar function; (5) the time and place of travel; (6) the amount and method of payment; and (7) the nature of the expenses.
- c. be submitted no later than May 31 of each year with respect to payments in the preceding period beginning on October 31 and ending March 31; and
- d. be submitted not later than November 30 of each year with respect to payments in the preceding period beginning on April 1 and ending on September 30.

SECTION 15. RECORDS RETENTION

The Solicitor will retain copies of requests for approval of travel reimbursement that have been submitted pursuant to this AI. The records will include requests that have been approved and disapproved. The records will also include information on the travel expenses that have been authorized and reimbursed for an employee's attendance at a meeting or similar function.

A handwritten signature in black ink, appearing to read 'Kenneth L. Marcus', written over a horizontal line.

KENNETH L. MARCUS
Staff Director

Attachment

U.S. COMMISSION ON CIVIL RIGHTS
REQUEST FOR APPROVAL FOR TRAVEL REIMBURSEMENT FROM
A NON-FEDERAL SOURCE

Name of Requesting Employee: _____

Title of Position: _____

Name and Description of Meeting or Similar Function (Attach copy of brochure is available):

Purpose of Trip (Include topic of any presentation and the benefit to the Commission from attendance):

Identification of non-Federal Source (Include description of non-Federal source's relationship to the meeting or similar function to the Commission)

Is the non-Federal Source 501(c)? Yes _____ No _____

Dates, Times & Locations of Travel:

Nature of Expenses and Description of Proposed Reimbursement
(Include estimated amount of reimbursement and mode of payment):

I hereby certify that the above information is correct to the best of my knowledge. I further certify that I have not solicited reimbursement from a non-Federal source nor am I receiving an honorarium for this requested reimbursement.

Signed: _____ Date: _____

☐ Approval Recommended (Narrative Analysis Attached)

☐ Disapproval Recommended (Narrative Analysis Attached)

Solicitor

☐ Approved

☐ Disapproved

Staff Director

Issued: _____

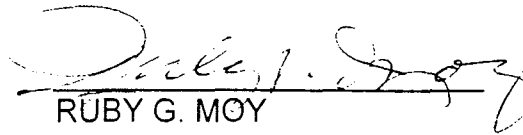
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 3-11

TRANSIT SUBSIDY PROGRAM

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 3-11 effective immediately. The policies subsumed in the canceled instruction are revised and incorporated in Administrative Instruction 4-6.


RUBY G. MOY
Staff Director

Issued: _____

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 3-12

ADMINISTRATIVE OFFSET FROM CURRENT AND FORMER

COMMISSION EMPLOYEES

SECTION 1. PURPOSE

.01 This Administrative Instruction (AI) provides policies for the collection by administrative offset of past-due debts owed to the Government by current and former Commission employees.

SECTION 2. AUTHORITY

.01 Statutes:

5 U.S.C. § 5514

31 U.S.C. § 3716

.02 Regulations:

5 C.F.R. § 550 Subpart K

45 C.F.R. Part 708

31 C.F.R. Chapter IX, Parts 900, 901, 901, 903 and 904

SECTION 3. ACCOUNTABLE OFFICIAL

.01 The Staff Director shall be responsible for ensuring that overall procedures for monitoring, controlling, and collecting debts owed the Government by current or former Commission employees are followed.

.02 The Director of Human Resources and the Chief, Budget and Finance Division shall be jointly responsible for the implementation of procedures and coordination with the National Finance Center for the collection by offset from indebted Government employees.

SECTION 4. NOTICE

.01 At least 30 days before offset action is initiated, the affected employee will be provided written notice of intent to collect the debt by reducing the employee's federal paycheck.

.02 The written notice must state:

- a. The nature and amount of the debt;
- b. That the Commission may attempt an offset;
- c. That the employee may present evidence that the debt does not exist, is not past due, or is not legally enforceable;
- d. That the employee may inspect and copy Government records relating to the debt;
- e. That to avoid the offset, the employee may reach an agreement for a schedule for repayment; and
- f. That, if the employee does not reach agreement on repayment or seek review of the debt, the Commission may offset without further notice.

SECTION 5. HEARING PROCEDURE

.01 The indebted employee may request a hearing within 5 days of receiving the notice. If a hearing is requested, collection action is stopped until an administrative judge decides the case. The employee may present evidence that all or part of the debt is not past due or not legally enforceable. An administrative judge will issue a decision within 30 days of the date the employee files a request for a hearing.

SECTION 6. PROCEDURE FOR SALARY OFFSET

.01 Non-judgment debts are enforceable for ten years; judgment debts are enforceable beyond ten years. The employee will be notified of the administrative judge's decision at least 1 pay period before any offset deduction is made. The employee will also be notified of the amount, frequency, proposed beginning date, and duration of the deductions, as well as any beginning date, and duration of the deductions, as well as any obligation to pay interest, penalties, and administrative costs.

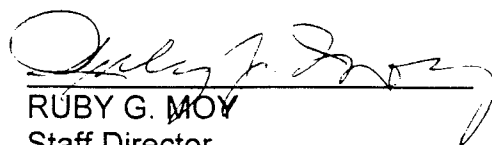
.02 When the debt of a Commission employee is reduced to court judgment, the employee is not entitled to further review by the Commission, but is only entitled to notice of a proposed salary offset resulting from the judgment.

.03 Any amount deducted from salary in one pay period will not exceed 15 percent of a debtor's disposable pay, unless the debtor agrees in writing to a greater percentage.

.04 If an employee terminated employment after the salary offset had been initiated, there are no limitations on the amount that can be withheld or offset.

SECTION 7. TREASURY OFFSET PROGRAM

(Reserved)


RUBY G. MOY
Staff Director

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 3-13

**USE OF TAXICABS AND PRIVATELY OWNED AUTOS FOR
OFFICIAL BUSINESS AT OFFICIAL DUTY STATION**

SECTION 1. POLICY

It is the policy of the U.S. Commission on Civil Rights to authorize the use of taxicabs or privately owned autos for official business when it is cost effective to the Government.

SECTION 2. ACCOUNTABLE OFFICIAL

The following officials may authorize reimbursement for taxicab fares, mileage and parking fees:

- a. Staff Director
- b. Regional Directors
- c. Office Directors or employees delegated this authority.

**SECTION 3. TAXICAB, SHUTTLE SERVICES, OR OTHER COURTESY
TRANSPORTATION**

Officials may authorize the use of taxicabs for the following:

- a. Local travel;
- b. To and from a carrier terminal;
- c. Between residence and office on the day official travel is performed; and
- d. Between the residence and office in cases of necessity.

SECTION 4. AMOUNT

Employees using taxicabs while on official business may be reimbursed for the actual fare paid plus a tip of 15 cents when the fare is \$1.00 or less, or 15 percent of the fare in excess of \$1.00 increased to the next multiple of five cents.

When two or more employees share the same taxicab, one should pay the fare for the entire group and claim reimbursement. In such cases, the number of other passengers in the group should be indicated on the reimbursement voucher.

When employees use privately owned automobiles in the conduct of official business within their designated duty station and such use is authorized or approved as advantageous to the Government, payment shall be made per mileage and necessary parking fees with 32.5 cents per mile for use of automobiles and 26 cents per mile for use of motorcycles.

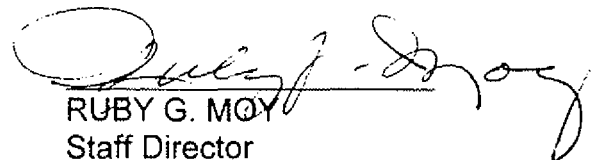
SECTION 5. REIMBURSEMENT CLAIM

Taxicab fare, mileage and parking fee reimbursements will be claimed on Standard Form 1164, Claim for Reimbursement for Expenditures on Official Business.

An employee who has to take a taxicab home, if asked to work overtime, should inform the authorizing official in advance.

When a claim is made for taxicab reimbursement from duty station to home, the following information must be inserted on the 1164, in addition to the usual information entered: (1) hours worked; (2) time employee left office to take a taxicab; and (3) the reason why the employee had to take a taxicab.

A receipt provided by the taxicab driver must accompany the reimbursement for taxicab fares, mileage and parking fees when the amount is greater than \$24.99.


RUBY G. MOY
Staff Director

Issued: 11/16/05

ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 3-14
OFFICIAL TRAVEL

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to set forth the travel policies of the U.S. Commission on Civil Rights (the "Commission") that allow the Commission to accomplish its mission in the most economical and effective manner possible. These policies are established with due consideration to budget constraints and the reasonableness of travel costs.

All previous Commission travel policies are revoked to the extent they are inconsistent with this AI.

SECTION 2. RESPONSIBLE INDIVIDUALS

01. Chief of Budget and Finance Division. The Chief of the Budget and Finance Division (BFD) is responsible for the overall operation of the Commission's travel program including:

- Coordinating the Commission's travel card program.
- Representing the Commission with the contractor on all matters directly related to the travel card.
- Ensuring that cardholders are provided information and training on the proper use of the travel card.
- Processing all travel card applications and canceling travel cards of cardholders who leave the Commission or who have had card privileges revoked.
- Reviewing reports on card usage, cardholder payment history, and generally monitoring the status of travel card accounts.
- Establishing policies and procedures for the travel card program.
- Certifying travel vouchers as correct and proper for payment, and forwarding them to the Commission's accounting services provider for payment, within 5 working days.
- Reviewing aged travel reports.
- Maintaining master travel files that include all required supporting documentation.
- Creating policies and procedures required for compliance with all applicable federal travel regulations.

02. Office/Division heads. Designated office and division heads are responsible for identifying which employees in their office or division are approved for use of a government travel card, and authorizing official travel and approving travel vouchers for their employees. The Staff Director has delegated authorizing and approving authority to the Deputy Staff Director, the Director of Management, the General Counsel, and the Assistant Staff Director for Civil Rights Evaluation. The Staff Director also retains approving and authorizing authority.

03. Traveler. For the purpose of this AI, a traveler is an employee of the Commission (regardless of status or rank), or an individual either not employed or employed (under 5 U.S.C. § 5703) intermittently by the Commission as an expert or consultant and paid on a daily when-actually-employed (WAE) basis, or an invitational traveler serving without compensation and traveling in connection with official activities of the Commission. Travelers are responsible for:

- Ensuring that a travel authorization is completed and authorized prior to incurring any travel expenses.
- Ensuring that the requested travel is necessary for accomplishing the mission of the agency and is the most effective and economical means available.
- Avoiding excess costs, luxury accommodations, circuitous routes, unnecessary or unjustified services, delays in the performance of official business, and additional expenses for personal preference or convenience. These costs are not acceptable and will not be reimbursed by the Commission.
- Using the government travel card for travel expenses, as required.
- Submitting, within 5 working days following completion of travel, a travel voucher and all required supporting documentation.

SECTION 3. GOVERNMENT TRAVEL CARD

01. Travel Card. Travelers are required to use the government issued travel card for all official travel expenses, except common carrier tickets which must be purchased through the government contract travel services provider using the Commission's centrally billed account. The card allows travelers to carry less cash, receive government rates or discounts, and obtain cash advances from an automatic teller machine (ATM).

02. Eligibility for travel card. Employees who travel at least twice a year or who are specifically designated by his/her office or division head as requiring a travel card are eligible to receive a card. BFD will provide the designated eligible employee(s) with an application upon receiving a written request from the employee's office or division head. Completed applications must be returned to BFD for processing.

03. Cancellation of card. Travel cards may be cancelled for misuse, account delinquency, and separation from the Commission due to termination, retirement, or transfer to another agency.

SECTION 4. TRAVEL AUTHORIZATION

01. Prior approval. Official Commission travel must be authorized in advance. Travelers should submit an authorization form no less than 10 working days prior to official travel and the form should be signed by the authorizing official within 5 working days after submission. Failure of a traveler to obtain authorization prior to travel could result in the traveler being held financially responsible for all travel costs. An official travel authorization may include, but is not limited to, expenses for transportation, meals and lodging (per diem), and miscellaneous expenses such as baggage expenses, official telephone calls, and laundry.

02. Form preparation. Each travel authorization must clearly specify the purpose of the travel. The travel authorization should be completed electronically using the General Services Administration (GSA) online travel management system (FedDesk and TMR) or, when necessary, in writing. Employees will be provided a user ID and password to the GSA online system by the Commission's system coordinator within 5 working days of being issued a government travel card. The coordinator is located in the Budget and Finance Division.

03. Trip-by-trip travel authorizations. Commission travel authorizations are issued on a trip-by-trip basis. A trip-by-trip authorization allows a traveler to take one or more specific official business trips, which must include a specific purpose, itinerary, and estimated costs. An unlimited or blanket travel authorization allows a traveler to travel for any official purpose without further authorization; the Commission does not use this type of authorization.

SECTION 5. TRAVEL VOUCHER

01. Definition. A travel voucher is a written claim, supported by documentation and receipts where applicable, for reimbursement of expenses incurred in the performance of official travel.

02. Form preparation. Each voucher must clearly specify the purpose of official travel and should be completed electronically using the GSA online travel management system or, when necessary, in writing. It is the policy of the Commission that all travel vouchers and supporting documentation be submitted by the traveler to the approving official within 5 working days following completion of travel. Failure to submit a voucher with required documentation may result in forfeiture of travel reimbursement or travel privileges. The approving official has 7 working days to either approve and submit the claim to the Budget and Finance Division for certification for payment or notify the traveler that the voucher is improper or incomplete. The approving official for a travel voucher is the traveler's office or division head. See Section 2.02 above.

The chief of the Budget and Finance Division has 5 working days to certify and forward the claim to the Commission's accounting services provider for payment.

03. Required information. Travelers must provide evidence that the travel was authorized (i.e., have a signed travel authorization); provide receipts for lodging expenses, common carrier fare (air, bus, or rail fare), rental car, and any expenses over \$75.00; and provide boarding pass(es). If it is impracticable to furnish receipts in any instance as required, a full explanation must be provided on the voucher or an accompanying justification memorandum.

Expenses incurred for laundry, cleaning and pressing of clothing at a temporary duty station (TDY) location are reimbursable as a miscellaneous travel expense; however, the traveler must incur a minimum of 4 consecutive nights lodging on official travel to qualify for this reimbursement.

04. Disallowing a claim. The approving official may disallow a claim, or portion of a claim, for travel reimbursement if:

- The required travel receipts are not provided and no written justification for their omission is submitted with the travel voucher.
- The travel voucher includes expenses not authorized prior to travel.
- The travel expenses are not itemized.

The approving official must send the traveler a written notice that includes justification for disallowing all or part of the claim. Any part of the claim that is not in dispute will be processed and paid. A traveler may seek reconsideration of a disallowed claim only if new facts or additional documentation exists to support the claim. Reconsideration may be sought by filing a new claim, providing full itemization for all disallowed items, providing receipts for all disallowed items (when receipts are required), providing a copy of the disallowance decision, and submitting a statement of the basis for believing the disallowed claim is proper for payment to the Staff Director within 5 working days after the date the claim was disallowed. The Staff Director, or his/her designee, will issue a written memorandum of decision within 7 working days after receiving the reconsideration request. The time period for resolving an appeal of a disputed claim is excluded from the 30-day prompt payment requirement described in Section 5.05 below.

If a traveler's claim is denied after reconsideration it may be submitted for adjudication to the GSA Board of Contract Appeals pursuant to 48 CFR 6104.

05. Payment. The Commission must reimburse a traveler within 30 calendar days after the traveler submits a proper travel claim to the designated approving official. Travelers will be paid a late payment fee, in addition to the amount due for travel, for any proper travel claim that is not reimbursed within 30 calendar days. The late fee will be calculated using the prevailing Prompt Payment Act Interest Rate beginning on the 31st day after submission of a proper travel claim and ending on the date on which payment is made. In addition to the late payment fee, the Commission will also pay the traveler an amount equivalent to any late payment charge that the credit card company could have charged for late payment of the bill.

The GSA online travel management system notifies approving officials when travel documents are submitted for approval and the date of this notification triggers the beginning of the Commission's 30-day payment period unless the approving official rejects the voucher or requests changes/corrections from the traveler. In this instance, the 30-day period begins from the date the corrected voucher is submitted for approval. Vouchers submitted by mail will be stamped with the date and time they were received by the approving office.

SECTION 6. COMMOM CARRIER TRANSPORATION

01. Government Contract Travel Agents. All travelers are required to use the services of the Commission's government contract travel agent to obtain common carrier transportation. Each traveler is encouraged to use this service to obtain lodging reservations and rental car services to ensure the use of pre-negotiated government rates.

02. Common carrier tickets. Common carrier tickets must be obtained through the Commission's contract travel agent (Omega World Travel, Inc.) using the Commission's central billing account. The use of personal credit cards or other arrangements for billing the cost of tickets is prohibited except in emergency situations. Complete documentation explaining the emergency situation must accompany the travel voucher. Exchange orders, refund receipts or applications, notices of fare adjustments, coupons, unused tickets and the factual information relating to unused tickets must be attached to or entered on the travel voucher.

03. Transportation expenses. Examples of reimbursable transportation expenses for official travel include airfare, rail fare, bus tickets, car rental, mileage, and other expenses related to transportation. Less than premium class transportation must be used for all modes of passenger transportation, travelers using commercial air or rail carriers shall use coach-class, economy-class, or equivalent accommodations.

04. Premium class. Premium-class air accommodations, such as business, first-class, or their equivalent, may be used only when specifically authorized by the traveler's designated authorizing official in advance of travel, unless extenuating circumstances or emergency situations make advance authorization impossible. First-class air accommodations may only be authorized for one of the following reasons:

- No coach or business-class accommodations are reasonably available. "Reasonably available" means available on an airline that is scheduled to leave within 24 hours of the proposed departure time, or scheduled to arrive within 24 hours of the proposed arrival time.
- When use of first-class is necessary to accommodate a disability that is substantiated in writing by a competent medical professional or for a special need that is described in writing and an explanation is included demonstrating why first-class is the only reasonable and appropriate alternative.

An authorizing official may only authorize business-class air accommodations for one of the following reasons:

- No accommodations are available other than first-class and business-class and the traveler certifies this to be the case on his/her voucher.
- The use of business-class accommodations is necessary to accommodate a disability that is substantiated in writing by a competent medical professional or for a special need that is described in writing and an explanation is included demonstrating why business-class is the only reasonable and appropriate alternative.

If advance authorization cannot be obtained, the traveler must obtain written approval from the traveler's authorizing official within 2 calendar days of commencing travel. Otherwise, the traveler must pay the additional cost of the premium-class accommodations.

For extra-fare train service, travelers may use the lowest class of service available on any AMTRAK Acela and Metroliner train service (including Acela Express) without prior authorization. On the Amtrak Acela Express and Metroliner train service, the lowest available class is business and on the Amtrak Regional train service the lowest available class of service is coach.

05. Discount Contract Fares. The use of discount fares offered by contract air carriers between certain cities (city-pairs) is considered advantageous to the government and is mandatory for authorized air travel between those city-pairs. Contract fares shall not be used for personal travel taken in connection with official travel. Unless specific authorization is stated on or attached to the travel authorization, the traveler is responsible for any difference in cost that may result from the traveler's unauthorized use of non-contract service. The amount of the traveler's indebtedness to the Government shall be the difference between the price of the service used and the lowest contract fare applicable at the time of travel.

06. Special Lower Fares. Excursion fares, reduced-rate round-trip fares, and other special lower fares shall be used for official travel when it can be determined before the start of a trip that this type of service is advantageous for the government. However, the use of special lower fares under this provision does not take precedence over the mandatory use of existing contract air carriers between selected city-pairs as negotiated by the GSA.

07. Frequent Flyer miles. Frequent flyer miles are retained for personal use as long as they were earned under the same rules and conditions as those offered to the general public. These miles may be used, if the traveler wishes, to obtain an upgrade to a higher class of services during another official travel assignment.

SECTION 7. RENTAL CARS

01. Authorization. A rental car may be used when its use is determined to be advantageous to the government and is authorized prior to travel. State advisory committee members are generally not authorized to use rental cars but may be approved on a case-by-case basis by submitting a written justification memorandum to the Staff Director for approval.
02. Insurance. Travelers will not be reimbursed for the cost of collision damage waiver (CDW) or theft insurance for travel within the continental United States. Travelers will not be reimbursed for personal accident insurance as this is considered a personal expense.
03. Unauthorized use of a rental car. A traveler who uses a rental car for purposes other than official travel related purposes is responsible for any additional cost resulting from the unauthorized use of the rental car.

SECTION 8. PRIVATELY OWNED VEHICLE (POV)

01. Authorization. The use of a privately owned vehicle is allowed when the authorizing official determines that its use is advantageous to the government, rather than as a matter of personal convenience for the traveler, and authorizes its use prior to travel. When a traveler elects to use a privately owned vehicle as a matter of personal preference, and its use is compatible with the performance of official business, POV travel may be authorized provided that reimbursement is limited to mileage plus per diem not to exceed the total constructive cost of the appropriate common carrier transportation plus constructive per diem related to that method of transportation.
02. Use advantageous to the government. The Commission does not own or lease vehicles from a commercial source or participate in the GSA Interagency Fleet Management program. Therefore, the option of using a government-owned or leased vehicle is not available to travelers. The use of a POV, however, has been determined to be advantageous to the government in the following circumstances:
 - When the area(s) to which travel is required is not adequately served by common carrier.
 - When two or more employees elect to travel together.
 - When travel is within a radius of 100 miles of the official duty station of the traveler.
 - When the vehicle is parked at a common carrier terminal while the traveler is away from his/her official duty station. However, the reimbursement allowable for the parking fee will not exceed the cost of taxicabs, including tips, to and from the terminal. Mileage for round trip travel will also be reimbursed.

03. Reimbursement. When the use of a privately owned automobile is authorized and approved for official travel, reimbursement to the traveler is based on miles traveled multiplied by the prevailing mileage rate prescribed by GSA, plus the cost of parking fees, ferry fees, and bridge, road and tunnel fees. The distance traveled is determined as shown in paper or electronic standard highway guides, or the actual miles driven as determined from odometer readings. The most direct route, including the reasonable use of turnpikes and interstate highways, is required.

SECTION 9. TAXICABS AND COURTESY SHUTTLES

01. Taxicab authorization. Foot travel, bus, or streetcar should be used when available and feasible. Taxicab use may be authorized and approved if its use is advantageous to the government. Use of a taxi may be authorized and approved for travel:

- Between places of business at an official or TDY station.
- Between a place of lodging and a place of business at a TDY station.
- Between a traveler's home or place of business at his/her official station and a common carrier or other terminal on the day of departure on official travel.
- Between a common carrier or other terminal and a traveler's place of business at his/her official duty station or home on the day of return from official travel.
- Between the carrier terminal and shuttle terminal.
- To obtain meals at the nearest available place where the nature and location of the work at a TDY station are such that meals cannot be obtained there.

02. Taxi reimbursement. Reimbursement for justified taxi transportation will be the taxi fare plus a maximum tip of 15 percent. Receipts are required for all taxi fares, including tips, of \$75 or more and must be attached to the travel voucher when submitted. Also, the points of origin and destination of travel for each taxi trip must be shown in the "Remarks" section on the back of the travel voucher, (e.g, "Hotel to Meeting Site").

03. Courtesy shuttles. Travelers should use courtesy transportation service furnished by hotels and motels to the maximum extent possible as a first source of transportation between a place of lodging at the temporary duty (TDY) location and a common carrier terminal. Travelers will be reimbursed for a maximum tip of 15 percent for the use of courtesy transportation service.

SECTION 10. PER DIEM ALLOWANCE

01. Eligibility. A traveler is generally eligible for per diem when he/she is on official travel

away from the traveler's official duty station, the traveler incurs per diem expenses while performing official travel, and the traveler is in travel status for more than 12 hours. It is the policy of the Commission that per diem is not allowed within the limits of the metropolitan area of the traveler's official duty station.

02. Definition. The official duty station is the location of the employee's or invitational traveler's permanent work assignment. Per diem is the daily allowance provided for lodging (excluding taxes), meals and incidental expenses (M&IE) during official travel. The traveler's TDY location determines the maximum per diem rate. Per diem rates for within CONUS are established by GSA and are reviewed annually. The per diem rates are available in Federal Travel Regulation Per Diem Bulletins issued periodically by the Office of Government-wide Policy, Office of Travel, Transportation and Asset Management, and are on the Internet at <http://www.gsa.gov/perdiem>. The per diem allowances payable for official travel within CONUS, and the non-foreign areas of Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands, and the territories and possessions of the United States, must not exceed the maximum applicable per diem rates.

03.Computation. A traveler eligible for per diem allowance for official travel within CONUS will have the per diem computed under the lodging-plus per diem method, except when actual subsistence expense reimbursement is authorized in advance of travel.

For computing per diem allowance, official travel begins when the traveler leaves his/her home, office, or other authorized point of departure and ends when the traveler returns to his/her home, office, or other authorized point at the conclusion of the trip. Departure and arrival dates and times must be recorded.

For illustrative purposes the following is a sample of how the per diem rates appear when published. As shown in the chart, the maximum per diem rate of \$125.00 for Hot Springs is the total of a \$76.00 allowance for lodging and a \$49.00 allowance for meals and miscellaneous expenses.

		Max Lodging (incl. taxes)	M&IE Rate		
Hot Springs	Garland	76	49	125	36.75
Little Rock	Pulaski	71	54	125	40.5

Receipts or itemization of expenses are not necessary for the M&IE portion of per diem. M&IE allowances are based on the below table:

When travel is		Your allowance is
More than 12 but less than 24 hours		75 percent of the applicable M&IE rate.
24 hours or more, on	The day of departure	75 percent of the applicable M&IE rate.
	Full days of travel	100 percent of the applicable M&IE rate.
	The last day of travel	75 percent of the applicable M&IE rate.

The M&IE rate is also adjusted, as shown below, for meals furnished to travelers (excluding meals provided by a common carrier or complimentary hotel/motel meals) for CONUS travel, with or without cost to the federal government. If the traveler pays for a meal that was previously deducted the Commission will reimburse the traveler for an amount up to the deduction. The total amount of the deductions will not cause a traveler to receive less than the amount allowed for incidental expenses.

Table contains meals and incidentals totals and their breakdown effective October 1, 2005 *						
M&IE	\$39	\$44	\$49	\$54	\$59	\$64
Breakfast.....	7	8	9	10	11	12
Lunch.....	11	12	13	15	16	18
Dinner.....	18	21	24	26	29	31
Incidentals.....	3	3	3	3	3	3

*Travelers should periodically review the GSA Web site for updates to this chart.

SECTION 11. LODGING

01. Receipt Requirements and Allowable Expenses. Receipts for lodging are always required to support lodging costs for which an allowance is claimed under the lodging-plus per diem system, except that a statement instead of a receipt may be accepted for the fee or service charge incurred for the use of Government quarters.

If the lodging receipt shows a charge for double occupancy, such fact shall be shown on the travel voucher with the name, and employing agency or office of the person sharing the room if that person is a government employee on official travel. One-half of the double occupancy charge will

be allowable for each employee. If the person sharing the room is not a government employee on official travel, identification of the person sharing the room is not required and the traveler is limited to reimbursement at the single occupancy rate.

If receipts have been lost or destroyed, the traveler should obtain copies of lost or destroyed receipts from the lodging establishment. If the establishment is unable to provide a copy, the traveler should prepare a justification memorandum explaining the circumstances, including the name and address of the establishment, date lodging was obtained, and the cost incurred.

02. Allowable lodging expenses. The traveler will be reimbursed only for his or her actual cost of lodging up to the maximum allowable amount for the TDY location.

- Conventional lodging. When a traveler uses conventional lodging facilities (hotels, motels, boarding houses, etc.), the allowable lodging expense will be based on the single occupancy rate for the lodging used.
- Government quarters. The fee or service charge paid for the use of government quarters is an allowable lodging expense.
- Lodging with friends or relatives. When the traveler obtains lodging from friends or relatives, with or without charge, no part of the per diem allowance will be allowed for lodging.
- Lodging in non-conventional facilities. When conventional lodging facilities are unavailable, the cost of lodging incurred for non-conventional lodging may be allowed. In such cases, the traveler must submit with the travel voucher an explanation, acceptable to the designated approving official, of the specific circumstances involved. Non-conventional facilities include facilities and rooms generally not offered commercially that were made available to the public.

SECTION 12. CANCELLATION OF RESERVATIONS

01. Travelers must cancel reservations for transportation and lodging as soon as it becomes known that such reservations will not be used and a cancellation number should be requested. If such action is not taken, the traveler will be liable for cancellation charges assessed by the carrier and the accommodations provider.

SECTION 13. ACTUAL EXPENSE REIMBURSEMENT

01. Actual expense reimbursement, instead of a per diem allowance, must be authorized in advance of travel any may be authorized for one or more of the following reasons:

- Lodging and/or meals are procured at a prearranged place such as a hotel where a meeting,

conference or training session is held.

- Costs escalated because of special events (e.g., missile launching periods, sporting events, World's Fair, conventions, natural disasters); lodging and meal expenses within prescribed allowances cannot be obtained nearby; and costs to commute to/from the nearby location consume most or all of the savings achieved from occupying less expensive lodging.
- Where lodging and applicable taxes exceed the lodging reimbursement rate.
- Mission related requirements.

02. Actual expense reimbursement must be justified, in writing, and authorized by designated official prior to travel. The maximum amount that may be reimbursed under actual expense is limited to 300 percent (rounded to the next higher dollar) of the applicable maximum per diem rate.

03. Itemization and receipts. The traveler must itemize all expenses, including meals (each meal must be itemized separately) for which reimbursement will be sought as an actual expense. However, expenses that do not accrue daily (e.g., laundry, dry cleaning, etc.) may be averaged over the number of days the Commission has approved actual expense reimbursement. Receipts are required for lodging, regardless of amount, and individual meals when the cost exceeds \$75. Unless M&IE is limited to the prescribed maximum M&IE rate for the locality concerned, or a reduced M&IE rate is provided, receipts for other allowable per diem expenses must be provided.

SECTION 14. NON-WORK DAYS AT TEMPORARY DUTY STATION (TDY)

01. Reimbursement. A traveler will be reimbursed for remaining at his/her temporary duty station as long as his/her travel requires staying over non-workdays. In the absence of a requirement to stay at a temporary duty station over non-work days, it is in the discretion of the authorizing official whether the traveler should return to his/her official duty station or remain TDY for non-workdays such as holidays and weekends. The exercise of that discretion will include a determination of the most cost effective situation (i.e., remaining in a travel status and paying per diem or actual expenses or permitting your return to your official duty station).

02. Voluntary return. In cases of voluntary return of a traveler to his/her official duty station or home, the reimbursement allowable for the round-trip transportation and per diem en route must not exceed the per diem and any travel expenses that would have been allowable had the traveler remained at his or her temporary duty station.

03. When, as a personal preference, the traveler spends non-workdays at a location other than a temporary duty station, the per diem allowed will not exceed that per diem that would have been allowable had the traveler stayed at a temporary duty station. Receipts for any lodging costs must accompany the employee's travel voucher. In these cases, transportation costs will not be allowed.

This policy does not apply to normal stops directly en route to a new duty station or on return to official duty station or place of abode on non-work-days.

SECTION 15. COMPENSATORY TIME OFF FOR TIME IN TRAVEL STATUS

01. Compensatory time off will be credited to employees (as defined at 5 U.S.C. § 5541(2)) who are on officially authorized travel and who spend time in travel status that would not otherwise be compensated. Compensatory time off is credited regardless of whether the employee is covered by the overtime pay provisions of the Fair Labor Standards Act but does not apply to members of the SES.

The credited time will be offset by the employee's normal commuting time between home and work or between home and the transportation terminal (i.e., airport, train, or bus terminal). Additional guidance on compensatory time off for travel status may be found on OPM's Web site or obtained from the Commission's Human Resources Division.

02. Definition. Travel status for this section is defined as the time actually spent traveling between the official duty station and the temporary duty station, or between two temporary duty stations, and the usual waiting time that precedes or interrupts that travel. Usual waiting time is the time an employee is required to arrive at the transportation terminal for processing and security checks prior to departure, and the time spent between connecting flights. Meal periods are not generally considered time spent in travel status.

03. No lump-sum payment for compensatory time off for travel status will be made upon separation from the agency. Likewise, when an employee voluntarily transfers to another agency the travel status compensatory time off is forfeited.

SECTION 16. TELEPHONE CALLS

01. Any claim for reimbursement for long-distance telephone calls must include the following information on the voucher or on an accompanying memorandum signed by the traveler:

- (a) Geographic point between which each communication was made.
 - (b) The date each communication was made.
 - (c) The amount paid for each communication.
 - (d) A brief explanation of the official nature of each call.
- The approving official for the travel voucher should satisfy his/herself regarding the official nature and necessity of the long-distance telephone calls.

02. A telephone credit card that allows billing of charges to USCCR is available to an employee who can justify his/her need for the card to his/her office or division head and who agrees to comply with the rules governing the use of the card. The credit card is for official telephone calls only.

SECTION 17. EMERGENCY TRAVEL

01. General. Emergency travel is travel that results from one or more of the following:

- The traveler becoming incapacitated by illness or injury not due to his/her own misconduct.
- The death or serious illness of a member of the traveler's family.
- A catastrophic occurrence or impending disaster, such as fire, flood, or act of God, which directly affects the traveler's home.

"Family" includes any member of the traveler's immediate family to include: spouse, children under the age of 21 or who are incapable of self-support, dependent parents, and dependent siblings. For compassionate reasons, the Commission, when warranted by circumstances, may expand this definition to include other members of a traveler's extended family and the extended family of his/her spouse on a case-by-case basis. The determination will be based on a consideration of the traveler's relationship to and degree of responsibility for the individual involved in the emergency.

02. Procedure. The traveler must contact his/her authorizing official as soon as possible, and must provide a written request for assistance if transportation and per diem assistance is being sought. Based on this request, the authorizing official must make a recommendation to the Staff Director on the merits of the request. The Staff Director may approve a request for the following types of emergency transportation and per diem expenses:

- Per diem at the location where the traveler incurred or was treated for incapacitating illness or injury for a reasonable period of time (generally 14 calendar days but could be longer based on specific circumstances) not to exceed the maximum rates for the location.
- Transportation and per diem expense for travel to the nearest alternate location capable of providing medical treatment.
- Transportation and per diem expense to return to your official station.
- Transportation costs of a medically necessary attendant.

The Commission will not pay expenses when the traveler is confined to a medical facility within the proximity of his/her official duty station or the same medical facility that the traveler would have been admitted to if the incapacitating illness or injury occurred at his/her official station; or the

government provides or reimburses the employee for hospitalization under any Federal statute (other than the Federal Employees Health Benefits program).

If the traveler cannot timely contact the authorizing official and submit the written request for approval, the Commission may, in its discretion, make payments after the travel has been performed.

SECTION 18. MISCELLANEOUS

01. Receipts are required for allowable cash expenditures in amounts in excess of \$75, plus any applicable tax. When receipts are not available, the expenditures shall be explained on the voucher or in an attached justification memorandum. The Commission will reimburse the following expenses related to baggage, if authorized or approved, as miscellaneous expenses:

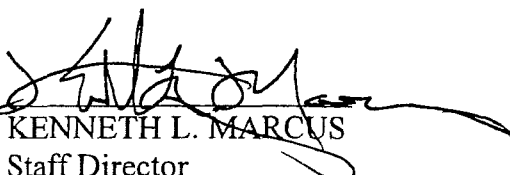
- Transportation charges for authorized excess.
- Necessary charges for transferring baggage.
- Necessary charges for storage of baggage when such charges are the result of official business.
- Charges for checking baggage.
- Charges or tips at transportation terminals for handling Government property carried by the traveler.

02. The Commission will reimburse the following general services, if authorized or approved, as miscellaneous expenses:

- Hire of conference center room or hotel room for official business.
- Use of computers, printers, faxing machines, and scanners.

03. The Commission will reimburse the following fees to obtaining money, if authorized or approved, as miscellaneous expenses:

- Fees for travelers checks.
- Transaction fees for use of automated teller machines (ATMs) on government issued travel charge card.


KENNETH L. MARCUS
Staff Director

Issued: 3/11/05

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 3-15

COMMISSIONERS TO SUBMIT TIMSHEETS
BIWEEKLY

SECTION 1. PURPOSE


The purpose of this Administrative Instruction (AI) is to establish guidelines to ensure that the Commission recognizes payroll expenses in the proper period for accounting purposes. This AI overrides any other written or unwritten policies of the Commission concerning the submission of timesheets by Commissioners.

SECTION 2. POLICY

.01 Commissioners should submit timesheets to the Commission, tracking their billable hours, by the second Thursday of each pay period whenever possible, and when not possible, at least monthly.

.02 The timesheets will be submitted to the Office of the Staff Director for signature by the Staff Director, then the Executive Secretary for the Staff Director will, in a timely fashion, forward the timesheets to the Human Resources Division.

.03 If the Office of the Staff Director fails to receive a Commissioner's timesheet by the second Thursday of a pay period, then the Executive Secretary for the Staff Director will contact the Commissioner, or Commissioner's assistant, to inform them that the Commission has not yet received the timesheet to ensure that the timesheet is received as soon as is practicable.


KENNETH L. MARCUS
Staff Director

Issued: 8/11/05

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 3-16

UPDATED GUIDELINES FOR NONSALARY-RELATED EXPENDITURE TRANSACTIONS

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish guidelines ensuring that nonsalary-related expenditure transactions have proper authorization, approval and are supported by appropriate documentation. This AI overrides any other written or unwritten policies of the Commission concerning the authorization, approval or validation of nonsalary-related expenditure transactions. This AI is to be read in conjunction with AI 3-6 (Management Accounting Codes), AI 3-8 (Government Travel Charge Program), AI 3-14 (Official Travel), and AI 4-8 (Records Management). Where any provisions of this AI and AI's listed above conflict, the provisions of this AI will govern.

SECTION 2. POLICY

.01 In order to ensure that all nonsalary-related expenditure transactions have proper authorization, approval and are supported by appropriate documentation pursuant to the Federal Acquisitions Regulations, GAO Standards for Internal Control in the Federal Government and the Federal Travel Regulation codified at 41 C.F.R. chapters 300-304, the Chief of the Budget and Finance Division, under the direction of the Director of Management, will do the following:

- (a) review account balances on a periodic and regular basis to identify unusual account balances;
- (b) create and retain appropriate documentation in transaction files to support accounting entries made to adjust or write off assets and liabilities;
- (c) respond, and document the response, to the accounting service provider before any accounting entries are made on behalf of the Commission;
- (d) retain sufficient evidence in transaction files to show that all transactions have been properly approved for payment;

(e) include evidence of transaction authorization, such as a purchase order, in each voucher package prior to approval for payment by the Staff Director or the Staff Director's designee;

(f) prepare purchase authorizations in advance of the expenditure or provide documentation for any exceptions to be properly approved;

(g) monitor the prompt processing of vendor invoices upon receipt so that vendors can be timely and accurately paid;

(h) have evidence of the receipt of goods and services prior to approving transactions for payment and retain such evidence in the transaction files;

(i) charge the appropriate budget object code as evidenced by supporting documentation;

(j) ensure that travelers provide appropriate documentation to support airfare transactions, including a payment receipt itinerary from the travel agency that shows the airfare paid and boarding passes to indicate that the trip was taken;

(k) provide travel vouchers by travelers as evidence that the trips were taken and to support amounts claimed for reimbursement;

(l) document and retain for review travel transactions including travel authorizations prepared and signed by the Commission, as well as Commission-approved travel vouchers;

(m) maintain written justification for any cases where the Commission approved travel costs for reimbursement although the traveler could not provide appropriate documentation;

(n) ensure that travel-related overcharges and traveler reimbursements are timely collected or offset against amounts due;

(o) document in writing, policies on travel accommodation practices for Commissioners;

(p) provide written travel policies to assist travelers in understanding the requirements and procedures to follow;


(q) implement a travel policy requiring travelers to call to cancel a hotel reservation to avoid a no-show charge;

(r) inform travelers via written communication that reimbursement will be made only for costs directly related to business purposes for government travel and not for personal charges;

(s) require that all financial transactions be properly approved and supported before being processed and that documentation for transactions be readily available;

(t) require that travel transactions be timely submitted for reimbursement in accordance with the *Federal Travel Regulation* and be processed promptly; and

(u) require that payments to commercial vendors be properly processed and timely made in accordance with requirements of the Prompt Payment Act.



KENNETH L. MARCUS
Staff Director

**ADMINISTRATIVE
INSTRUCTIONS
PART 4**

Issued: 1/24/03

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 4-1


SAFETY AND HEALTH PROGRAM

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 4-1 effective immediately.

SECTION 2. POLICY

01. Employee information on safety and health is provided in the "Employee Handbook."
02. For questions concerning this instruction, contact the Human Resources Division.



LES JIN
Staff Director

Issued: _____

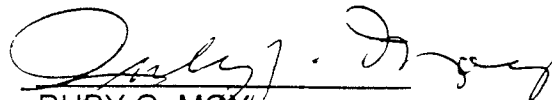
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 4-2

MOTOR VEHICLE MANAGEMENT

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 4-2 effective immediately.



RUBY G. MCGEE
Staff Director

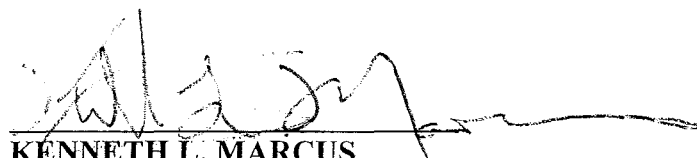
the Section 508 Coordinator with a written determination to be maintained in a Section 508 public complaint file as well as disseminated to the individual. In any event, the determination by the Section 508 Coordinator and the Staff Director as well as employee notification will be concluded within two weeks.

SECTION 9. EXTERNAL COMPLAINTS

.01 The Commission shall establish and maintain an online Section 508 complaint reporting system for members of the public with disabilities.

.02 Upon receipt of a Section 508 complaint, the Section 508 Coordinator shall, after consultation with the Director of Management, make a preliminary determination of Section 508 compliance and whether the Commission can reasonably provide the requested access, equipment or information without creating an undue burden for the Commission. The Section 508 Coordinator shall also, after consultation with the Director of Management, determine any alternative means of access that may be suitable and forward the suggestions and determination to the Staff Director.

.03 Upon receipt of the Section 508 compliance recommendation from the Section 508 Coordinator, the Staff Director will make an ultimate determination regarding the Commission's ability to comply with the Section 508 complaint. Upon final determination, OSD will provide the Section 508 Coordinator with a written determination to be maintained in a Section 508 public complaint file as well as disseminated to the individual. In any event, the determination by the Section 508 Coordinator and the Staff Director as well as individual notification will be concluded within two weeks.



KENNETH L. MARCUS
Staff Director

Issued:

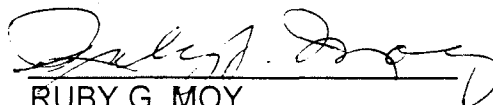
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 4-3

**USE OF TAXICABS AND PRIVATELY OWNED AUTOS FOR
OFFICIAL BUSINESS AT OFFICIAL DUTY STATION**

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 4-3 effective immediately. Information and policies on use of taxicabs and privately owned autos will be included in the AI 3-13 entitled "Use of Taxicabs and Privately Owned Autos for Official Business at Official Duty Station."



RUBY G. MOY
Staff Director

Issued: _____

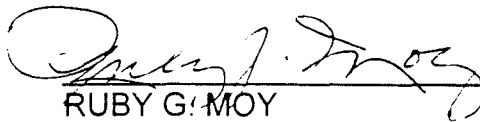
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 4-4

OFFICIAL TRAVEL

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 4-4 effective immediately. Information and policies on official travel will be included in the AI 3-14 entitled "Official Travel"


RUBY G. MOY
Staff Director

Issued: _____

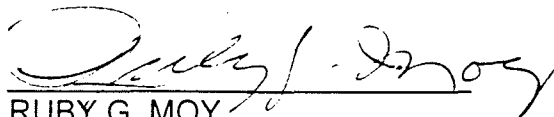
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 4-5

STATE ADVISORY COMMITTEE TRAVEL

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 4-5 effective immediately. The policies subsumed in the canceled instruction are revised and incorporated in Administrative Instruction 3-14.

A handwritten signature in dark ink, appearing to read "Ruby G. Moy", is written over a horizontal line.

RUBY G. MOY
Staff Director

Issued: APR 15 1991

ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 4-6
TRANSIT SUBSIDY PROGRAM

SECTION 1. PURPOSE

This Administrative Instruction (AI) establishes the policy and procedures for the U.S. Commission on Civil Rights' transit subsidy program, which encourages employees' use of public transportation. Previously issued AI 3-11 on the transit subsidy program is hereby canceled.

SECTION 2. SCOPE

This AI applies to all employees of the U.S. Commission on Civil Rights.

SECTION 3. BACKGROUND

Prior to 1991, commuting to and from work was generally determined a personal expense and each Federal employee was responsible for transportation costs associated with going to and returning from work. In 1991, however, Public Law 101-509 was enacted which specifically authorized a new exception. Federal agencies were subsequently allowed to participate in programs established by a State or local governments that encouraged employees to use public transportation, including programs with discount incentives that resulted in decreased transportation cost to employees. The origins of the 1991 law were based in concerns for the environment and the need to reduce pollution in the nation's cities, rather than for individual employee commuting costs.

SECTION 4. POLICY

01. Since no additional funds are appropriated for the mass transit subsidy program, all associated costs must be absorbed. Based on the judgment of the Chief, Budget and Finance, recommendations on the continued feasibility of the program at the U.S. Commission on Civil Rights will be provided the Staff Director. Employees can anticipate that the transit subsidy program will be continued until such time as they are otherwise advised in writing by the Staff Director. If it is determined that inadequate funds exist to continue the program or it is determined unfeasible for other reasons, the Staff Director will forward a memorandum to all employees providing them with a

minimum of two weeks notice of a determination to terminate the program. Coordination between management and the employee union will be conducted in advance of any program termination or reduction in farecard monetary values. Subsequently, this AI will be modified to reflect any policy change needed.

02. Any permanent Commission employee utilizing public transportation to commute to and from work can participate in the mass transit subsidy program. Employees who do not use public transportation in commuting to and from work are not entitled to benefit from the program. Temporary employees are also ineligible to participate in the program. To initiate a request to participate in the program, new employees must complete a one-time transit subsidy application form, which serves to certify individual use of mass transit, and is available from the Administrative Services and Clearinghouse Division in headquarters or the appropriate regional office.

03. Following self-certification of the application, the employee will be issued a transportation farecard applicable to their local area. Employees entering on board on or before the 15th of each month will receive a farecard immediately. Employees entering on board following the 15th of each month will not be eligible to receive a farecard until the subsequent month. Farecards are distributed on the first workday of each month in headquarters and similarly in regional offices. Farecards for future months cannot be issued in advance of the current month unless an annual pass is determined to be more cost effective to the government.

04. When picking up a farecard, employees will also be required to certify that they received their farecard and are continuing to utilize public transportation. Employees are responsible for performing a second check of their farecard to ensure that it has been issued to them in a correct amount. No employee can sign for or receive the farecard for another individual. Additionally, farecards cannot be transferred to other employees, family, etc., or sold under any circumstances. Farecards are issued to employees solely for their commute on public transportation to and from work.

05. Changes in farecard values will be determined by the Staff Director, following consultation with the Chief, Budget and Finance Division and representatives of the appropriate union. Employees will be advised by memorandum from the Staff Director of all increases or decreases in farecard allowances. Additionally, the Staff Director may establish different farecard values for employees to receive, based on grade level.

06. Transferring, retiring or resigning employees will cease to receive farecards and be dropped from the transportation subsidy program upon their departure from the U.S. Commission on Civil Rights.

07. Farecard recipients expecting to transfer, retire or resign prior to the 15th of a month are not entitled to receive a farecard for that month. Any transferring, retiring or resigning employee is responsible for returning the unused portion of any farecard

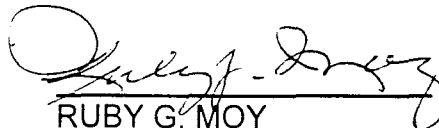
issued to them by the Commission before departing the agency. Unused farecards must be returned to either the Administrative Services or Clearinghouse Division during the employee checkout or the appropriate Regional Director.

08. Receipt of a public transportation subsidy may have tax implications for some employees. Each employee is responsible for obtaining tax advice on this matter relative to their individual tax circumstances. Specific tax questions can be answered by the Internal Revenue Service or consulting a tax advisor.

09. Lost, stolen or damaged farecards being used by employees are the responsibility of the individual and not the government. No replacement is possible for lost or stolen farecards. Damaged farecards can typically be returned to special offices in each transit authority for replacement or recoding. Contact your local transportation authority for specific replacement information.

SECTION 5. TRANSIT SUBSIDY ADMINISTRATION AND COORDINATION

The Administrative Services and Clearinghouse Division is responsible for the administration and coordination functions related to the transit subsidy program for headquarters and Eastern Regional Office employees. Coordination, oversight and distribution of farecards in all other regional areas is decentralized and oversight will be the responsibility of the applicable Regional Director. For questions concerning this topic, please call the Chief, Administrative Services and Clearinghouse Division at (202) 376-8105.


RUBY G. MOY
Staff Director



Issued: _____

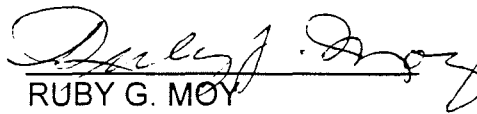
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 4-7

CONFERENCE ROOM AND BUILDING OCCUPANCY

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 4-7 effective immediately.


RUBY G. MOY
Staff Director

Issued: _____

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 4-8

RECORDS MANAGEMENT

SECTION 1. PURPOSE

The purpose of this procedure is to establish guidelines for the systematic maintenance, review, disposition and control of Commission records as required by Federal law and regulations.

SECTION 2. POLICY

01. It is Commission policy that all offices will maintain effective control over the creation, maintenance and use of all agency records, to insure that important policies and decisions are adequately recorded, and to cooperate with the National Archives and Records Administration (NARA) in developing and applying standards and procedures to improve the management of its records.

02. No records or other documents of the Commission shall be subject to disposition action except as authorized by NARA, under the General Records Schedule.

03. All records no longer needed by the Commission, without historical significance, and eligible for disposition, will be promptly destroyed.

SECTION 3. AUTHORITY

Programs to establish and maintain an active, continuing program for the economical and efficient management of its records are required by 44 USC chapters 29, 31, and 33.

SECTION 4. DEFINITIONS

01. Federal Records. Federal records are defined as all books, papers, maps, photographs, machine readable materials, electronic mail or other documentary

materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved, or appropriate for evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of the data therein.

02. Non-records. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience or reference, and stocks of publications and of processed documents are not included as records. Non-records may be maintained in connection with official duties.

03. Records Disposition. "Records disposition" means any activity involving:

- a. the disposal of temporary records no longer needed for the conduct of business by destruction; or
- b. the transfer of records to record centers prior to scheduling for destruction; or
- c. the transfer to the National Archives of the United States of records determined to have sufficient historical or other value to warrant continued preservation.

04. General Records Schedule. The General Records Schedule is a document utilized government-wide which cites specific retention periods and destruction timeframes for Federal files. Most types of files have individual specified periods identifying the length of time they should be maintained by the agency. A copy of the General Records Schedule is retained in the Administrative Services and Clearinghouse Division, which advises Commission offices on records management.

SECTION 5. RESPONSIBILITIES

01. The Administrative Services and Clearinghouse Division (ASCD) is responsible for developing procedures for records management and serving as the Commission's liaison with NARA, Federal Records Centers and the Archivist of the United States.

- a. Files thought to have historical significance which are no longer needed or files to be stored in a Federal Records Center will be reviewed by the ASCD after they are properly weeded, boxed and indexed for contents. Temporary storage will be sought within Commission space until such time as the records center provides pickup services.
- b. Annually, ASCD will solicit information from all Commission offices on the total volume of files in each office for reporting purposes. The combined

report of the annual summary of record holdings for the Commission will be prepared by the ASCD as required.

- c. The ASCD will provide the appropriate boxes required for records center storage and will provide guidance to all offices in file review, weeding, labeling and listing of all files, etc., required prior to acceptance by a Federal Records Center.
- d. As needed, ASCD will coordinate the retrieval of files stored at Federal Records Center.

02. Although a specific file indexing system is not mandated by the Commission, all offices must establish a file system that is based on specific subjects or topics and is organized in a logical and reasonable fashion so as to avoid loss of Federal records, duplicate copies of documents, wasted space, etc. Additionally, all offices will:

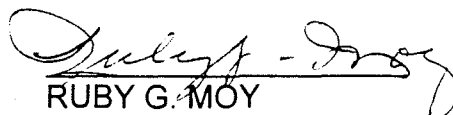
- a. Weed files on a regular basis, but at least once annually, to destroy unneeded paper not appropriate for retention, duplicate copies of like documents, temporary files, etc.
- b. Designate, at the request of ASCD, an individual to be the contact person within their office for preparing files for storage, weeding, coordinating on issues related to record holdings in their office and preparing the annual informational summary of file materials.
- c. Request a determination of the historical significance on any paperwork recommended appropriate for forwarding to the Archivist of the United States.
- d. Segregate program subject files from administrative files.
- e. Maintain, and update as needed, a file plan which lists titles of all files maintained in each office. A copy of file plans will be provided to the ASCD upon request.

SECTION 6. RECORDS STORAGE

When inadequate file storage space exists in an office, consideration will be given to the storage of Commission documents at a Federal Records Center. It should be noted however that the cost of storage of documents externally and other related factors will be weighed in the ASCD's determination as to whether the documents are most suited for immediate destruction, retirement to a Federal Records Center, retirement to the Archivist of the United States, or maintenance in-house. No records will be accepted for storage externally without proper weeding, form completion or packaging.

SECTION 7. INQUIRIES AND GUIDANCE

Specific guidance on records retention and questions should be directed to the ASCD.



RUBY G. MOY
Staff Director

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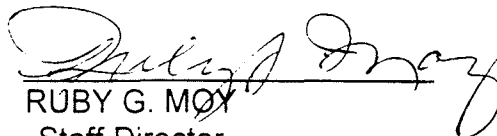
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 4-9

MAIL AND MESSENGER SERVICE

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 4-9 effective immediately.


RUBY G. MOY
Staff Director

Issued: _____

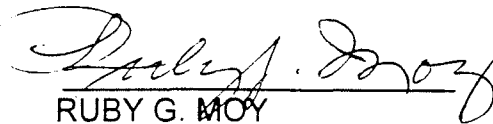
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 4-10

NATIONAL CLEARINGHOUSE LIBRARY

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 4-10 effective immediately.

A handwritten signature in cursive script, appearing to read "Ruby G. Moy", is written over a horizontal line.

RUBY G. MOY
Staff Director

Issued: _____

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 4-13

XEROX SERVICES

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 4-13 effective immediately.

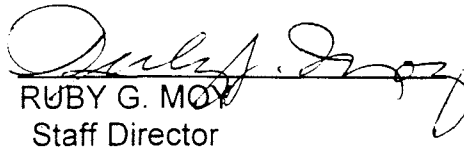

RUBY G. MOY
Staff Director

Issued: APR 1988

ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 4-14
GOVERNMENT TELEPHONES

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 4-14, Government Telephones effective immediately.


RUBY G. MOORE
Staff Director

Issued: APR 1985

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 4-14

PROPERTY MANAGEMENT

SECTION 1. PURPOSE

01. The purpose of this Administrative Instruction (AI) is to provide employees with information on the use and safeguarding of equipment and furniture owned by the U.S. Commission on Civil Rights.

SECTION 2. RESPONSIBILITIES

01. It is the responsibility of each employee to safeguard government-owned property in their office area to the maximum practical extent, to initiate procurement requests as needed for broken or damaged equipment, and to place calls for copier repairs under maintenance agreement.

02. It is also the responsibility of each employee to report all losses or thefts to the Administrative Services and Clearinghouse Division (ASCD) in writing as soon as they are known and to advise ASCD of any movement of furniture or equipment from one location to another within the agency that they make.

03. It is the responsibility of the Administrative Services and Clearinghouse Division to maintain a computerized inventory of government-owned furniture and equipment, perform inventories, reconcile inventories, report losses or thefts to proper authorities, procure needed repairs, make loans of equipment shared in the agency, initiate transfers of property between government agencies, excess or discard obsolete property or property damaged to the extent that a repair is not practical, plan for the acquisition of computer systems and improvements and to coordinate with the Staff Director, as requested, on new property replacement needs.

04. It is the responsibility of the Budget and Finance Division to maintain financial records on the value of the Commission's property and make adjustments to its records to reflect current value less depreciation, if appropriate.

05. It is the responsibility of the supply clerk, ASCD, to make adjustments to the agency inventory as adds and deletes based on changes within the agency, perform the barcode reading of all property in headquarters, coordinate with regional offices and others for the inventorying of property outside headquarters, make any corrections to the computerized tracking of agency property, coordinate for the transfer or excess of Commission property with other entities, coordinate with Budget and Finance on an updated inventory once every three years, and initiate all paperwork needed to finalize property transactions.

06. It is the responsibility of the Staff Director to serve as the Property Accountability Officer in establishing agency policy on property management and delegating day-to-day property responsibilities to ASCD and the Budget and Finance Division.

SECTION 3. ACCOUNTABLE PROPERTY

01. Commission-owned property, whether purchased or obtained through transfer, is considered "accountable" when the cost of the item exceeds \$1,000 in value, is bar-coded and included in the property inventory. Both furniture and equipment can constitute accountable property.

02. In instances in which unusual activity appears to have occurred with any one type of property in the agency, furniture or equipment with a value less than \$1,000 may be included in the inventory.

03. No real property, defined as real estate holdings, is owned by the Commission and therefore no inventory system exists.

SECTION 4. LOSS, DAMAGE OR THEFT OF COMMISSION PROPERTY

01. Occasionally, a Commission-owned property item is lost damaged or stolen. In such instances, the employee noting the loss must immediately act to report the missing item(s) to ASCD. Employees are asked to remain aware of furniture and equipment items used, both regularly and irregularly, and to provide a short memorandum to ASCD detailing any known facts regarding the loss or theft.

02. Upon receipt of written notification of the incident ASCD will immediately take the appropriate action to notify the Federal Protective Service and/or local police authorities and building security in headquarters locations. Regional offices are advised to notify the Federal Protective Service directly in their respective area and also provide a written memorandum to ASCD.

03. Investigations, searches, etc., will be conducted at the discretion of security personnel with jurisdiction.

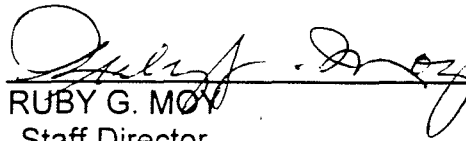
04. In the case of theft or loss of an employee's personal property from Commission-owned space, employees are highly encouraged to also contact ASCD regarding the matter. ASCD treats personal losses while in Government space as seriously as the loss of Government property. All such losses reported to ASCD will be coordinated with the Federal Protective Service.

SECTION 5. PROPERTY CLEARANCE WHEN DEPARTING THE AGENCY

01. Employees are urged to begin the clearance process with ASCD at least two days prior to their intended departure date. This will enable ASCD staff to ensure that all Government-owned property is secured and the employee's record is clear of pending property issues.

SECTION 6. DESTRUCTION OF AGENCY PROPERTY

01. No employee of the Commission will destroy, vandalize or purposely cause damage to Government property. All incidents of this nature must be immediately reported to ASCD.


RUBY G. MAY
Staff Director

Issued: _____

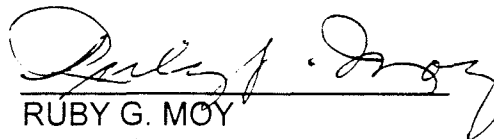
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 4-15

CONTRACTING

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 4-15 effective immediately.


RUBY G. MOY
Staff Director

Issued: 9/9/05

ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 4-16
ACQUISITION MANAGEMENT

SECTION 1. PURPOSE

01. The purpose of this Administrative Instruction (AI) is to provide employees with broad guidance on acquisitions for the U.S. Commission on Civil Rights (the Commission). This AI is read in conjunction with AI 4-21 (Updated Guidelines for Procurement of Goods and Services).

SECTION 2. POLICY

01. It is the policy of the Commission to interpret and comply with the Federal Acquisition Regulations (FAR) and other procurement directives in a fair, uniform and consistent manner to the maximum practical extent. Acquisitions will seek an optimum balance between effectiveness and economy. For the purpose of this instruction, effectiveness means compliance with the minimum technical and quality specifications necessary to achieve the agency's objective. Economy means use of competitive techniques, quality procurements, and standardization to achieve the lowest reasonable cost to the Commission within the needed timeframe.

SECTION 3. AUTHORITY

01. General. Procurement authority exists with the Staff Director for the Commission but may be delegated, in writing, to designated and appropriately trained Commission personnel.

02. Acquisition Management. The Administrative Services and Clearinghouse Division (ASCD) provides centralized acquisition services to Commission offices. The chief of ASCD and specific ASCD personnel are delegated authority to interpret Federal acquisition law, establish policies and procedures as needed, issue solicitations for bids, requests for proposals, purchase orders and other related acquisition paperwork, conduct all cost negotiations and coordinate technical negotiations with potential contractors, finalize procurements on behalf of the Commission, and resolve acquisition conflicts.

03. Unauthorized Commitments. The Commission considers a transaction to be an unauthorized commitment if it involves:

- (a) Authorization or approval by a person without official authority as demonstrated by an executed USCCR authorization form.
- (b) Receipt of goods or services in violation of Commission policies and practices.
- (c) Work performed beyond the scope of the approved statement of work and contract.

The government is not generally bound by agreements or contractual commitments made to any person or business by employees who have not been delegated procurement authority specifically to acquire services on behalf of the Commission. Additionally, commitments by employees without proper authority can violate Federal law. The prohibition on unauthorized commitments also includes actions by employees, formal or informal, that can create an oral contract or attempted commitment involving Federal funds.

04. Exceptions. The following are exceptions to the above and not considered unauthorized commitments: (1) Purchase of office supplies by regional offices from local Federal Supply Centers of GSA; (2) Purchase of supplies or services valued less than \$100 which were either required on an emergency basis or for which acquisition by purchase order was determined too costly; and (3) Repair calls to companies when broken equipment is under warrantee.

05. Ratification of Unauthorized Commitments. Unauthorized commitments may be ratified or approved by the chief of the ASCD. In addition to the limitations to ratification found at 1.602-3 of the FAR, the following additional limitations and terms are applicable:

- (a) The Chief of ASCD shall only consider ratification if the head of the requesting office or division submits a written "Request for Ratification" memorandum requesting ratification. The ratification memorandum shall include all relevant documents and records, documentation of the necessity for the goods or services, a statement of the delivery status of the unauthorized goods or services, and an explanation of why the unauthorized commitment occurred and how similar unauthorized commitments will be avoided in the future.
- (b) The Chief of ASCD shall not ratify a commitment in the absence of available funds.
- (c) The Chief of ASCD shall consult with the Solicitor concerning the ratification request.

- (d) The Chief of ASCD shall notify the office or division head of the decision in writing, electronic notification is acceptable. The written notification shall include facts and information sufficient to justify the decision.
- (e) The Chief of ASCD shall submit monthly reports to the Office of the Staff Director identifying the number of requests received, the offices/divisions, the amounts involved, and disposition of each request.

SECTION 4. PLANNING

01. General. Federal acquisition laws are extremely complex and though some flexibility is available in the regulations, there are required timeframes for a variety of processes which cannot be altered. As a result, it is critical that all employees and office managers plan activities so as to allow adequate time for the procurement process. Generally, the larger the dollar value of a request the more time the acquisition cycle will involve. For example, the purchase of an off-the-shelf, expendable supply item, which can be purchased locally and with ease, is routinely a very simple acquisition that requires only a couple of weeks of advance planning. On the other hand, a purchase over \$25,000 can involve wide advertisement in advance of the acquisition and a minimum of 60 days for the acquisition.

02. Lead-times. The following are generally recommended planning lead-times when considering the need for an acquisition:

Value Estimated Less Than \$2,500	2 weeks
Value Estimated More Than \$2,500	
But Less Than \$10,000.....	3 weeks
Value Estimated More Than \$10,000	
But Less Than \$25,000	4 weeks
Value Estimated More Than \$25,000	
But Less Than \$50,000	2 months
Value Exceeding \$50,000	1 - 1½ years

The amount of time required for any acquisition is dependent on the complexity of the items or services being purchased. Special rules can apply, temporarily or permanently, to certain products or services. As a result, any acquisition estimated to exceed \$25,000 should be discussed with the Chief, ASCD as soon as the need becomes known. ASCD will assist all offices in planning the acquisition cycle, explaining the phases of the acquisition, and providing key coordination services throughout the acquisition. Employees are encouraged to contact ASCD with any specific acquisition planning questions they might have. Additional review time is required by the Budget and Finance Division and/or the Staff Director prior to receipt in ASCD.

03. Acquisition Planning Outreach. ASCD will provide advice and guidance related to any specific acquisition, and will assist in providing office heads with delegated

procurement authority training on Commission and related Federal acquisition policies. ASCD will also provide informal Federal acquisition briefings to Commission office staff upon the written request of office heads. These briefings include an overview of current Federal policies on procurement, and general information for new employees or others unfamiliar with the Federal acquisition cycle and Commission procedures.

SECTION 5. PROCEDURES FOR INITIATING A PROCUREMENT REQUEST

01. Form Preparation. The purchase of any needed item or service that is not available from the Commission's stock room or GSA supply centers in regional offices, can be initiated by completing a standard requisition/procurement request. Forms are available from the supply unit of ASCD. All procurement request forms require the approving signature of the office head. Requesters provide basic information on the item(s) or services needed, quantity, and an estimated cost.

02. Budgetary Approval. All completed procurement requests must be forwarded to the Budget and Finance Division for budgetary analysis, written verification of availability of funds, and approval prior to being forwarded to ASCD. Requests forwarded to ASCD without budget verification and approval will not be processed and a purchase order will not be issued.

03. Advertisements, Source Selection and Competition. Upon receipt of an approved request, a procurement official in ASCD will study the requirement and make determinations on what actions are needed to advertise the procurement, seek competition and make a final determination on source selection. In some cases, especially higher dollar acquisitions, technical representatives from requesting offices are asked to provide additional information or justifications, assist in further developing a scope of work and serve on evaluation panels for offers received from companies.

Some acquisitions require advertisement to a variety of potential offers in written form, especially those in excess of \$2,500. While there are some exceptions to this rule, such as orders which ride other existing government contracts and interagency agreements with other Federal entities, requesters should anticipate that solicitation of quotes or bids for purchases above \$2,500 will be needed.

ASCD has final authority in source selection of a contractor. In most cases, selection of a vendor will be based on lowest cost and/or the required use of specific sources of supply. Other acquisitions exist, however, in which both technical and cost factors serve a role in source selection and contractor identification.

Routine requests for services or supply items of \$2,500 in value or less, called micro-purchases, do not require competition. Competition is generally not sought for these low value procurements so as to reduce administrative costs, promote efficiency and economy in contracting, and avoid unnecessary burdens for agencies and contractors. The requesting office must, however, determine that the price is reasonable. The Staff

Director may delegate micro-purchasing authority to office heads and regional directors who will be using the supplies or services being purchased by executing an "Authorizing Official" form.

Requests over \$2,500 but less than \$25,000 require competition but without wide advertisement and, with few exceptions, requests in excess of \$25,000 require formal advertisement in the FedBizOpps. Requests valued in excess of \$50,000 require the issuance of a complex and detailed contract action that has many phases and routinely takes much involvement by technical and procurement officials to complete over a lengthy amount of time.

SECTION 6. USE OF STOCK ITEMS

01. Whenever possible, employees shall utilize available stock items for Commission work. Stock supplies may be obtained by submitting a completed "Supply Order Form." Contact ASCD for copies of the order form and for more information on items in stock.

Because stock items are frequently purchased in bulk or from government sources, lower pricing is typically achieved resulting in reduced costs to the Commission. In cases in which a requester initiates a request for the procurement of an item similar to, like or equivalent to a Commission stocked item, the requester must provide a written justification to accompany the request outlining the rationale for the special procurement. ASCD, after reviewing the justification, shall determine the validity and need for the acquisition. If, in the judgment of ASCD, based on knowledge and technical discussions with others, the request is not adequately justified or reasonable, the requisition will be returned to the requester with an electronic message indicating the similar item in supply should be used.

SECTION 7. NOTIFICATION OF PROCUREMENT ACTION

01. The requesting office shall be notified of the completion of a procurement action, regardless of the exact method of procurement. ASCD has a variety of mechanisms to use to finalize procurements but regardless of the method used, the requester will be made aware in writing of the date of the order, the exact item(s) or services ordered and the delivery time the requester can anticipate before receipt of items needed. The procurement action will oftentimes have special terms and conditions under which the order is valid.

SECTION 8. ADMINISTRATION OF CONTRACTUAL AGREEMENTS

01. ASCD administers most acquisitions, this includes tracking the procurement, expediting delivery or on-time performance, and inspecting and resolving difficulties arising during contractor performance. All changes required by the Commission during contractor performance must be completed in writing between the procurement official

and the contractor. Requesting offices have no authority to alter delivery dates, quantities, cost, or other salient requirements specified in the acquisition document. Any change needed by a requesting office should be discussed with the appropriate procurement official as soon as the change is known so that negotiations can begin with the contractor in a formal manner.

In cases of the acquisition of services it is oftentimes more technically beneficial for the requesting office to administer an order or contract. In such cases a Contracting Officer's Technical Representative (COTR) will be assigned contractual administrative duties. Both the contractor and the COTR will be advised in writing when this is the case. The COTR then becomes responsible for day-to-day oversight of the purchase order or contract, answering technical questions from the contractor, resolving confusions or technical conflicts during performance, and tracking contractor performance. The COTR does not, however, have the authority to alter the terms and conditions of the actual contract, change the delivery date, increase or decrease the scope of the work in the order, or take similar actions. This authority resides with the procurement official. COTRs are urged to contact ASCD at any point in which they suspect contractor performance is inadequate or otherwise incomplete.

SECTION 9. RECEIVING AND INSPECTION

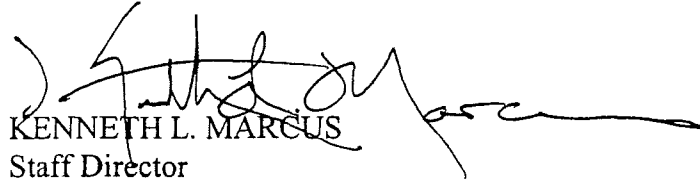
Except for shipments to regional offices, the majority of items procured will be officially received and inspected in ASCD's stock room before delivery to the requesting office. ASCD will complete receiving reports for all items received by that office. In cases of services or items directly received by the requesting office, the requesting office must certify a receiving report. Receiving reports should be forwarded to the Budget and Finance Division after signature so that payment of the appropriate invoice can be made.

SECTION 10. DISPUTES

01. On occasion the Commission and a contractor are in conflict due to a misunderstanding of intent, misinterpretation of needs or other reasons. In such instances, ASCD will attempt to mediate, resolve, and negotiate an appropriate and reasonable solution to each difficulty. In some cases settlements are reached through discussions with contractors. It is the intent of the Commission to provide fair treatment to contractors, write clear specifications of needs to avoid misunderstandings, and to reasonably resolve matters in dispute. Only procurement officials have the authority to enter into negotiations or settlements with contractors.

02. At the discretion of the contractor, protests of procurement actions can be filed in accordance with the Federal Acquisition Regulations. The Commission has an ongoing agreement with the General Services Administration Board of Contract to Appeals to assist in resolving all formal protests related to Commission acquisitions once a final

internal decision has been reached. ASCD will manage all potential protests from contractors in accordance with timeframes specified in the FAR.



KENNETH L. MARCUS
Staff Director

Issued: 7/9/05

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 4-16A

MICRO-PURCHASING AUTHORITY

SECTION 1. PURPOSE

.01 The purpose of this Administrative Instruction (AI) is to provide employees with guidance on delegation of micro-purchasing authority for the U.S. Commission on Civil Rights (the Commission). This AI is read in conjunction with AI 4-21 (Updated Guidelines for Procurement of Goods and Services) and AI 4-16 (Acquisition Management).

SECTION 2. MICRO-PURCHASE

.01 A micro-purchase is an acquisition of supplies or services, using a simplified acquisition procedure, that does not exceed the micro-purchase threshold of \$2,500. The purchase procedure allows government personnel, who are not warranted contracting officers, to use a government purchase card to purchase commercial-off-the-shelf items. The Chief of ASCD manages the Commission's Purchase Card Program.

.02 All purchases must be for official government use only. Certain types of goods, even for official government use, should not be purchased using micro-purchasing authority. Examples of prohibited purchases include office furniture, computer equipment, printers, telephones, and facsimile machines. Split-transactions are also prohibited. These are transactions that, as a whole, would exceed the micro-purchase threshold but are divided into smaller transactions to avoid exceeding \$2,500 threshold. Training on Commission and government-wide policies and procedures governing micro-purchases and the use of the government purchase card will be provided through ASCD prior to the issuance of a purchase card.

SECTION 3. DELEGATION OF AUTHORITY

.01 The Staff Director may delegate micro-purchasing authority to the heads of Commission offices and divisions who will be using the supplies or services being purchased. Individuals delegated this authority are not required to be appointed on an SF 1402, Certificate of Appointment, but shall be appointed in writing. Office and division heads cannot delegate or assign their micro-purchasing authority.

.02 The Staff Director delegates micro-purchasing authority through the execution of an official "Authorizing Official" form. The completed form clearly indicates whether authority is granted for one or more of the below listed actions or transactions:

- (a) Procurement Request
- (b) Micro-Purchases
- (c) Claim for Reimbursement for Expenditures While on Official Business (SF-1164)
- (d) Travel Voucher (AD-616)
- (e) Travel Authorization (AD-202)
- (f) Travel Advance (AD202)
- (g) Request for Personnel Action (SF-52)
- (h) Training Authorization (SF-182)
- (i) Time and Attendance Sheets
- (j) Receiving Report

.03 Office and division heads are not authorized to spend more than \$2,500 during a monthly billing cycle. Expenditures beyond this monthly limit must be submitted for review by the Chief of ASCD and will be approved on a case-by-case basis. The delegation of micro-purchasing authority may be further limited or cancelled at any time by the Staff Director.

.04 The Chief of the Administrative Services and Clearinghouse Division shall ensure that all administrative procedures necessary to fully implement a delegation of micro-purchasing authority are completed within 15 working days after receipt of a copy of the authorizing form. This includes, but is not limited to, providing training on Commission micro-purchasing policies and procedures, and ensuring that GSA purchase card training is completed.



KENNETH L. MARCUS

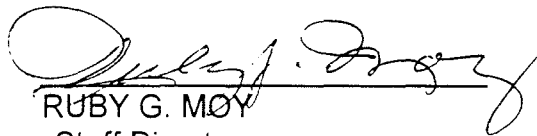
Staff Director

Issued: _____

ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 4-17
SMOKING POLICY

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 4-17 effective immediately.



RUBY G. MOY
Staff Director

Issued: November 8, 2014

**ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 4-18**

INFORMATION TECHNOLOGY AND SYSTEMS MANAGEMENT

SECTION 1. PURPOSE

The U.S. Commission on Civil Rights utilizes information technology as one tool to fulfill its mission. This Administrative Instruction (AI) provides guidance for the appropriate management of information, information technology resources and systems throughout their life cycle in accordance with Federal regulations, policies and guidelines.

SECTION 2. POLICY

01. Evaluation and Performance Measurement

The Commission, in order to promote the appropriate application of Federal information technology resources, shall seek opportunities to improve the effectiveness and efficiency of its programs through the judicious use of information technology. The Commission will, as necessary and at a level of detail appropriate to the size of the investment:

- a. Prepare and update throughout the system life cycle, a benefit-cost analysis for each system investment.
- b. Conduct benefit-cost analyses to support ongoing management oversight processes that maximize return on investment and minimize financial and operational risk for investments in major information systems, if any, on an agency-wide basis.
- c. Conduct post-implementation reviews of systems to validate estimated benefits.

02. Strategic Information Resources Management Planning

The Commission shall establish and maintain strategic information resources management planning processes which may include:

- a. Preparation and maintenance of an up-to-date five-year plan which, as appropriate, will:
- (1) document linkages between mission needs and information technology capabilities;
 - (2) anticipate changes in the Commission's mission, policy direction, technological capabilities, or resource levels;
 - (3) list planned information technology acquisitions;
 - (4) address interoperability, application portability, and scalability of computerized applications;
 - (5) ensure planned improvements do not unnecessarily duplicate systems already available within the Commission, from other agencies, or the private sector;
 - (6) list alternate means of meeting mission needs, such as intra-agency and inter-agency sharing, if any, and recommend sharing or acquisition of new information technology resources based on cost effectiveness;
 - (7) anticipate training requirements for existing and new information technology;
 - (8) anticipate maintenance requirements of existing and new information technology;
 - (9) list existing and planned major information systems, if any;
 - (10) explain how listed major information systems, if any, and planned information technology acquisitions relate to each other and support the achievement of the agency's mission;
 - (11) summarize systems security planning;
 - (12) address planning and budgeting for the information collection burden, if any, imposed on the public; and
 - (13) reflect coordination with other Commission planning processes including strategic, human resources, and budget.

- b. Preparation, integration and maintenance of an up-to-date security and disaster preparedness plan for information systems, general support systems, if any, major information systems, if any, and major applications, if any, that is commensurate with the established risk and magnitude of harm that would result from the loss, misuse, or unauthorized access to or modification of information stored on those systems, thus providing adequate assurance of the availability, confidentiality and integrity of that information.
- c. Provision for the mandatory periodic training in computer security awareness and accepted computer security and disaster preparedness practices for all employees who are involved with the management or use of Commission information or information technology, including contractors if any.

03. Management Oversight

The Commission shall establish information and information technology management oversight mechanisms—primarily through development, approval, and implementation of its five-year plan—that will:

- a. Ensure each system meets Commission mission requirements.
- b. Provide for periodic review of systems.
- c. Ensure that the official who administers a program supported by a system is responsible and accountable for the proper use of that system.
- d. Provide for the appropriate level of training required to efficiently use available systems.
- e. Prescribe Federal system requirements that do not unduly restrict the prerogatives of State, local, and tribal governments.
- f. Ensure each major system, if any, proceeds in a timely fashion towards approved milestones in its life cycle, meets user requirements, and delivers intended benefits to the Commission and the public through coordinated decision making about the information, human, financial, and other resources required to support the system.
- g. Ensure financial management systems, if any, conform to statutory and regulatory requirements.

04. Use

The Commission shall use information, information technology, and systems in accordance with the appropriate security and disaster preparedness plan.

05. Acquisition

The Commission shall:

- a. Acquire information technology in a manner that makes use of full and open competition and maximizes return on investment.
- b. Acquire off-the-shelf software from commercial sources, unless the cost effectiveness of developing custom software to meet mission needs is clear and has been documented.
- c. Acquire information technology in accordance with promulgated guidelines as appropriate.
- d. Acquire information technology in a manner that considers accessibility accommodations needed for individuals with disabilities.

SECTION 3. AUTHORITY

This instruction is in accordance with OMB Circular No. A-130.

SECTION 4. RESPONSIBILITIES

01. The Staff Director is the Chief Information Officer of the agency and has primary responsibility for managing Commission information resources. The Chief Information Officer (CIO):
 - a. Shall ensure information policies, principles, standards, guidelines, rules, and regulations are implemented and enforced appropriately within the Commission.
 - b. May appoint a Deputy Chief Information Officer (Deputy CIO) whose duty is to assist the Chief Information Officer in managing the Commission's information resources, developing and maintaining security systems and procedures, and monitor Commission compliance with appropriate Federal and agency policies, principles, standards, guidelines, rules, administrative instructions and regulations.
02. The CIO, acting as an ombudsman, shall consider alleged instances of Commission failure to comply with federal and agency regulations and guidelines and recommend or take corrective action as appropriate.

SECTION 5. DEFINITIONS

The definitions assigned to the terms below apply to the use of those terms in this AI only.

01. "application"

Application means the use of information technology resources, usually software, to satisfy a specific set of user requirements.

02. "general support system"

A general support system is an interconnected set of information systems sharing common functionality under the same direct management control. The Commission's local area network is a general support system.

03. "information"

Information means the electronic data collected, processed, transmitted, stored or disseminated on Commission systems while it is on those systems.

04. "information system"

Information system means the discrete set of Commission information technology for the collection, processing, maintenance, transmission, and dissemination of information. An information system can be a stand-alone system or a general support system.

05. "information technology"

Information technology means the computer hardware and software and peripherals including, but not limited to, printers, scanners, and portable backup devices owned by the Commission.

06. "local area network"

A local area network (LAN) is two or more information systems connected together to enable access to and/or sharing of information and information technology resources. A LAN generally exists in a single location or in two or more locations in very close geographical proximity.

07. "major application"

A major application is a use of information and information technology, usually software, to satisfy a specific set of user requirements that requires special management attention to security due to the risk and magnitude of harm resulting from the loss, misuse or unauthorized access to or modification of the information in the application.

08. "major information system"

Major information system means an information system that requires special management attention because of its unique importance to an agency mission; high development, operating, or maintenance costs; or its uniquely significant role in the administration of agency programs, finances, property, or other resources.

09. "stand-alone system"

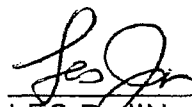
A stand-alone system is an information system which is not connected to other information systems through a local or wide area network.

10. "system"

An information system, general support system, or major information system.

11. "wide area network"

A wide area network (WAN) is two or more LANs connected together to enable access to and/or sharing of information and information technology resources. A WAN generally exists in two or more geographically distant locations.



LES R. JIN
Staff Director

**ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 4-19**

SYSTEMS SECURITY AND DISASTER PREPAREDNESS

SECTION 1. PURPOSE

The U.S. Commission on Civil Rights utilizes information technology as one tool to fulfill its mission. This AI provides guidance for the implementation of appropriate security measures for and information technology resources throughout their life cycle in accordance with Federal regulations, policies and guidelines.

SECTION 2. POLICY

The Commission shall implement and maintain a program to assure that adequate security is provided for all information collected, processed, transmitted, stored, or disseminated in its information systems, general support systems, if any, and its major applications, if any. The Commission's program will implement policies, standards and procedures which are consistent with those issued by the appropriate Federal agencies.

01. Information Systems

The Commission shall implement the following controls, as appropriate, for its information systems:

- a. Assign responsibility for developing security and disaster preparedness procedures for information systems to an individual knowledgeable in the information technology used in the system and in providing security for such technology.
- b. Implement an Information System Security and Disaster Preparedness Plan which will provide guidance to all employees on reasonable computer security and disaster preparedness measures and responsibilities to include:

- (1) a set of rules of behavior concerning use of the system which will:
 - (a) delineate responsibilities and expected behavior of all individuals with access to the system;
 - (b) include appropriate limits on connections to other systems;
 - (c) explain the consequences of behavior not consistent with the rules;
 - (2) training requirements, including periodic refresher training, to ensure all individuals are aware of and know how to fulfill their security and disaster preparedness responsibilities;
 - (3) screening of individuals authorized to bypass significant technical and operational security controls of the system commensurate with the risk and magnitude of harm they could cause to be completed prior to such authorization and periodically thereafter;
 - (4) incident response capability adequate to ensure users receive assistance when a security incident occurs and to share information concerning common vulnerabilities and threats as required;
 - (5) continuity of support, which shall be tested periodically, in order to ensure service within a system and access to information based on the needs and priorities of users of the system with minimal interruption;
 - (6) implementation of cost-effective security products and disaster preparedness procedures within the system; and
- c. Review security controls in each system when significant modifications are made to the system.

02. General Support Systems

The Commission shall implement the following controls, as appropriate, for its general support systems:

- a. Assign responsibility for developing security and disaster preparedness procedures for each general support system to an individual knowledgeable in the information technology used in the system and in providing security for such technology.

- b. Implement a General Support System Security and Disaster Preparedness Plan for adequate security of each system as part of the Commission's information resources management planning process. The plan may include:
- (1) a set of rules of behavior concerning use of, security in, and acceptable level of risk for the system which will:
 - (a) delineate responsibilities and expected behavior of all individuals with access to the system;
 - (b) include appropriate limits on interconnections to other systems;
 - (c) define service provision and restoration priorities; and
 - (d) explain the consequences of behavior not consistent with the rules;
 - (2) training, including periodic refresher training, to ensure all individuals know how to fulfill their security responsibilities before allowing them access to the system;
 - (3) screening of individuals authorized to bypass significant technical and operational security controls of the system commensurate with the risk and magnitude of harm they could cause to be completed prior to such authorization and periodically thereafter;
 - (4) incident response capability adequate to ensure users receive assistance when a security incident occurs and to share information concerning common vulnerabilities and threats as required;
 - (5) continuity of support, which shall be tested periodically, in order to ensure service within a system based on the needs and priorities of users of the system with minimal interruption;
 - (6) implementation of cost-effective security products within the system; and
 - (7) procedures for connecting to other systems to include written management authorization based upon acceptance of risk to the Commission system and controls consistent with the rules of the Commission system in accordance with appropriate guidance.

- c. Review security controls in each system when significant modifications are made to the system, but at least every three years commensurate with the acceptable level of risk for the system.
- d. Ensure a management official authorizes in writing, at least every three years, the use of each system based on implementation of its security plan before beginning or significantly changing processing in the system

03. Major Applications

The Commission shall implement the following controls, as appropriate, for its major applications:

- a. Assign responsibility for developing security and disaster preparedness procedures for each application to a management individual knowledgeable in the information technology used in the system and in providing security for such technology who shall ensure effective security products and techniques are appropriately used and shall be contacted when a security event occurs concerning the application.
- b. Plan for adequate security of each application, taking into account the security of all systems in which the application will operate. The plan will be consistent with appropriate Federal guidelines and advice and comment on the plan shall be solicited from the official responsible for security in the primary system in which the application will operate prior to the plan's implementation. A summary of the plan will be included in the Commission's strategic five-year plan. Application security plans will include:
 - (1) a set of rules of behavior concerning use of, security in, and acceptable level of risk for the application which will:
 - (a) delineate responsibilities and expected behavior of all individuals with access to the system; and
 - (b) explain the consequences of behavior not consistent with the rules;
 - (2) specialized training to ensure all individuals know the application rules and how to fulfill their security responsibilities before allowing them access to the application;
 - (3) incorporation of controls such as separation of duties, minimum required access, and individual accountability or, where such controls cannot adequately protect the application or information in

it, screening of individuals commensurate with the risk and magnitude of harm they could cause to be completed prior to their receiving authorization to access the application and periodically thereafter;

- (4) incident response capability adequate to ensure users receive assistance when a security incident occurs and to share information concerning common vulnerabilities and threats as required;
 - (5) contingency planning to establish and periodically test the Commission's ability to perform the function(s) supported by the application, with minimal interruption, in the event of failure of its automated support;
 - (6) implementation of cost-effective technical security controls which should be designed into, tested, and accepted in the application in accordance with appropriate Federal guidelines;
 - (7) adequate protection of information shared from the application comparable to the protection provided when information is within the application; and
 - (8) public access controls to include, if necessary, additional security controls such as segregating public information from official Commission records to protect the integrity of any Commission application that promotes or permits public access.
- c. Perform an independent review of the security controls in each application at least every three years commensurate with the acceptable level of risk for the system.
 - d. Ensure a management official authorizes in writing, at least every three years, the use of each application by confirming the implementation of its security plan adequately protects the application. Such authorization shall factor in the results of the most recent review or audit of controls.

SECTION 3. AUTHORITY

This instruction is in accordance with OMB Circular No. A-130, the Paperwork Reduction Act (44 U.S.C. 3506), and of the Computer Security Act of 1987.

SECTION 4. DEFINITIONS

01. "information"

For the purpose of this plan, information means the electronic data collected, processed, transmitted, stored or disseminated on Commission information systems while it is on those systems.

02. "information technology"

For the purpose of this Administrative Instruction, information technology means the computer hardware and software and peripherals including, but not limited to, printers, scanners, and portable backup devices owned by the Commission.

03. "information system"

For the purpose of this Administrative Instruction, information system means the discrete set of Commission information technology resources for the collection, processing, maintenance, transmission, and dissemination of information. Information systems are not interconnected.

04. "general support system"

For the purpose of this Administrative Instruction, a general support system is an interconnected set of information systems under the same direct management control which shares common functionality.

05. "major information system"

For the purpose of this Administrative Instruction, major information system means an information system that requires special management attention because of its importance to an agency mission; high development, operating, or maintenance costs; or its significant role in the administration of agency programs, finances, property, or other resources.

06. "application"

For the purpose of this Administrative Instruction, application means the use of information technology resources to satisfy a specific set of user requirements.

07. "major application"

For the purpose of this Administrative Instruction, a major application is a use of information and information technology to satisfy a specific set of user

requirements that requires special management attention to security due to the risk and magnitude of harm resulting from the loss, misuse or unauthorized access to or modification of the information in the application.

08. "availability"

For the purpose of this Administrative Instruction, availability means timely, reliable access to data and information services for authorized users.

09. "confidentiality"

For the purpose of this Administrative Instruction, confidentiality means the assurance that information is not disclosed to unauthorized individuals or processes.

10. "integrity"

For the purpose of this Administrative Instruction, integrity means the quality of a system that reflects the logical correctness and reliability of the operating system; the logical completeness of the hardware and software that implements protection mechanisms; and the consistency of the stored data.

11. "adequate security"

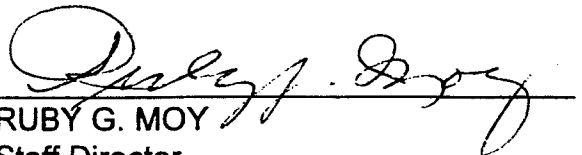
For the purpose of this Administrative Instruction, adequate security means security commensurate with the risk and magnitude of harm resulting from the loss, misuse, or unauthorized access to or modification of information. This includes assuring that systems and applications used by the Commission operate effectively and provide appropriate confidentiality, integrity, and availability through the use of cost-effective management, personnel, operational, and technical controls.

SECTION 5. RESPONSIBILITIES

01. The Staff Director has primary responsibility for managing Commission information resources and ensuring adequate security controls are in place. The Staff Director shall:

- a. Ensure security policies, principles, standards, guidelines, rules, and regulations are implemented and enforced appropriately within the Commission.
- b. Appoint a senior official for information resources management.

- c. Direct the senior official to monitor agency compliance with appropriate Federal computer security policies, principles, standards, guidelines, rules, and regulations.
02. The senior official, acting as an ombudsman, shall consider alleged instances of Commission failure to comply with appropriate computer security guidelines and recommend or take corrective action as appropriate.


RUBY G. MOY
Staff Director

Issued: FEB 10 2000

**ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 4-20**

**INFORMATION SYSTEMS
SECURITY AND DISASTER PREPAREDNESS PLAN**

SECTION 1. PURPOSE

This plan serves to provide guidance to all Commission employees on reasonable computer security and disaster preparedness measures for the Commission's information systems and to delineate responsibilities and expected behavior concerning the use of those systems.

SECTION 2. POLICY

It is the policy of the U.S. Commission on Civil Rights to provide adequate security and disaster preparedness for its information systems as well as for information collected, processed, transmitted, stored or disseminated on those systems in accordance with policies, standards and procedures issued by the appropriate Federal agencies.

SECTION 3. AUTHORITY

This instruction is in accordance with OMB Circular No. A-130 and Section 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note).

SECTION 4. DEFINITIONS

01. "information"

For the purpose of this plan, information means the electronic data collected, processed, transmitted, stored or disseminated on Commission information systems while it is on those systems.

02. "sensitive information"

For the purpose of this plan, sensitive information means information, the loss, misuse, or unauthorized access to or modification of which could adversely affect the national interest or the conduct of Commission programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria

established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.

03. "information technology"

For the purpose of this Administrative Instruction, information technology means the computer hardware and software and peripherals including, but not limited to, printers, scanners, and portable backup devices owned by the Commission.

04. "information system" or "system"

For the purpose of this plan, information system or system means a discrete set of Commission information technology resources for the collection, processing, maintenance, transmission, and dissemination of information. Information systems are not interconnected.

05. "sensitive system"

For the purpose of this plan, sensitive system means an information system used for the collection, processing, maintenance, transmission, or dissemination of sensitive information.

06. "application"

For the purpose of this plan, application means the use of information technology resources to satisfy a specific set of user requirements.

07. "availability"

For the purpose of this plan, availability means timely, reliable access to information for authorized users.

08. "confidentiality"

For the purpose of this plan, confidentiality means the assurance that information is not disclosed to unauthorized individuals or processes.

09. "integrity"

For the purpose of this plan, integrity means the quality of a system that reflects the logical correctness and reliability of the operating software; the logical completeness of the hardware and software that implements protection mechanisms; and the consistency of the stored information.

10. "security" or "adequate security"

For the purpose of this plan, security or adequate security means security commensurate with the risk and magnitude of harm resulting from the loss, misuse, or unauthorized access to or modification of information. This includes assuring that Commission systems and applications operate effectively and provide appropriate confidentiality, integrity, and availability through the use of cost-effective management, personnel, operational, and technical controls.

11. "disaster preparedness"

For the purpose of this plan, disaster preparedness means the implementation of procedures to preserve the availability of information commensurate with the risk and magnitude of harm resulting from the loss, misuse, or unauthorized access to or modification of that information in a particular system or location.

12. "security violation"

For the purpose of this plan, security violation means unauthorized access to information or systems.

13. "password"

For the purpose of this plan, password means a unique character set established by an agency, office, or user to protect sensitive information or systems from unauthorized access.

14. "system password"

For the purpose of this plan, system password means a password which a user must provide in order for a system to successfully complete the startup process.

15. "screen password"

For the purpose of this plan, screen password means a password which a user must provide in order to unlock the screen and input devices and gain access to the applications and information on a system which has already completed the startup process. Screen passwords are generally implemented through the system's screen saver program.

16. "file password"

For the purpose of this plan, file password means a password which a user must provide to gain access to a particular file.

17. "backup"

For the purpose of this plan, backup means the process of duplicating or storing information on another system or on a portable storage device such as tape or diskette, or it means the storage device itself.

18. "onsite storage"

For the purpose of this plan, onsite storage means storage in Commission office space, either in each individual's office or in an agreed upon location for use by staff in an office or unit.

19. "offsite storage"

For the purpose of this plan, offsite storage means storage in a location not physically connected to Commission office space.

SECTION 5. SECURITY GUIDELINES

In order to maximize the confidentiality, integrity, and availability of Commission information and information systems, the Commission will implement, as appropriate, the following security guidelines:

01. All office and unit heads will, on a continuing basis, assess the sensitivity level of information and information systems for which they are responsible and, based on that assessment:
 - a. Identify the information systems in their office or unit as sensitive or non-sensitive and provide the Senior Official for Information Resources Management (SOIRM) with a list of sensitive and non-sensitive systems.
 - b. Coordinate with the SOIRM and the Administrative Services and Clearinghouse Division (ASCD) to implement office-wide or individual system, screen and, where needed, file passwords on sensitive systems.
 - c. Enforce the use of passwords implemented on sensitive systems.
02. All new Commission employees will receive computer security awareness training prior to accessing the Commission's information systems, and all employees will receive periodic refresher training in computer security awareness. In addition, a copy of the government's computer security awareness videotape will be available for checkout in the library located in headquarters.

03. All Commission employees shall:

- a. Treat Commission information and information systems as valuable assets.
- b. Use Commission systems only for the lawful and authorized purposes necessary for the conduct of Commission business, career enhancement or education.
- c. Implement system, screen, and file passwords on sensitive systems as directed by their office or unit head.
- d. Safeguard and periodically change passwords as directed by their office or unit head to reduce the chances of unauthorized access to systems.
- e. Keep their office or unit head informed of current system, screen, and file passwords if passwords are selected and implemented on an individual basis.
- f. Keep their office or unit head informed of current file passwords.
- g. Never leave a sensitive system unattended without turning it off or activating a screen password to prevent unauthorized access to the system and the information on it.
- h. Use only software that has been provided for use on systems by the Commission or, if personal software, that has been authorized in writing by the SOIRM for use on a particular system.
- i. Connect to other systems, excluding email services, solely for the purpose of conducting Commission business, career enhancement or education.
- j. Receive files from or send files to other systems, excluding email, solely for the purpose of conducting Commission business, career enhancement or education.
- k. Never download computer programs from other systems, including the Internet, without written authorization from the SOIRM and coordination with ASCD.
- l. Be alert to strangers in their office area.
- m. Report unusual or suspicious incidents involving Commission systems, including suspicious email, to their supervisor.

- n. Periodically check their email for system security announcements or related information.
- o. Keep food and drink far enough away from systems and backup devices to prevent system malfunction or information loss due to spillage.
- p. Report security violations in writing to the SOIRM.

SECTION 6. DISASTER PREPAREDNESS GUIDELINES

In order to maximize the availability of Commission information, the Commission will implement the following disaster preparedness guidelines:

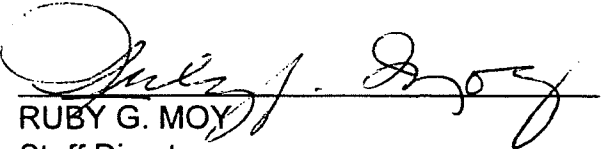
- 01. All office and unit heads will, on a continuing basis, assess the backup and storage needs of sensitive information for which they are responsible and, based on that assessment:
 - a. Keep staff informed of which files require backup (by filename or by project, information type, etc.) and which files require offsite storage.
 - b. Work with the SOIRM and ASCD to establish and enforce an appropriate backup schedule for information to be stored onsite as well as offsite.
 - c. Maintain a list of office files currently stored offsite.
 - d. Appoint a primary and alternate representative to coordinate offsite storage with ASCD, and inform ASCD in writing of those appointments.
- 02. The appointed representative from each office or unit will ensure all backups for offsite storage and a complete listing of all files on those backups are delivered to ASCD on schedule for offsite storage. The appointed representative will also provide the office or unit head with a complete listing of all files on backups delivered to ASCD. In addition, the appointed representative will collect backups returned from offsite storage to ASCD and deliver them to the office or unit for use in subsequent backup cycles. ASCD will only accept backups from and return backups to an appointed office representative or the office or unit head.
- 03. All employees will:
 - a. On a continuing basis, assess the backup and storage needs of information on the system(s) assigned to them and, based on that assessment, determine which files not targeted for backup by their office or unit head should be backed up for onsite and/or offsite storage.

- b. As appropriate for onsite storage, back up information on the system(s) assigned to them and store backups of sensitive information in a secure location such as a lockable drawer or file cabinet, or as directed by their supervisor.
- c. As appropriate for offsite storage, back up information on the system(s) assigned to them, label backups, and provide their appointed office representative with the backups and a separate list of the files contained on each backup.
- d. Reuse backups returned from offsite storage for subsequent backup cycles.
- e. Receive periodic training in disaster preparedness.

SECTION 7. RESPONSIBILITIES

- 01. The Staff Director has primary responsibility for managing the security of Commission information and information systems. The Staff Director shall:
 - a. Ensure security policies, principles, standards, guidelines, rules, and regulations are implemented and enforced appropriately within the Commission.
 - b. Assign, in writing, responsibility for developing an Information Systems Security and Disaster Preparedness Plan to an individual knowledgeable in the information technology used in the system and in providing security and disaster preparedness for such technology.
 - c. Direct the SOIRM to monitor Commission compliance with appropriate Federal computer security policies, principles, standards, guidelines, rules, and regulations.
 - d. Ensure all staff know how to contact the SOIRM.
- 02. The SOIRM, acting as an ombudsman, shall:
 - a. Coordinate with ASCD and office and unit heads to implement security for Commission information systems.
 - b. Consider alleged instances of Commission failure to comply with appropriate computer security guidelines and recommend or take corrective action as appropriate.
 - c. Report security violations as appropriate.

03. Office and Unit Heads are responsible for managing the security of Commission information and information systems in their office or unit. They shall:
- a. Ensure that their new employees complete computer security awareness and disaster preparedness training prior to allowing them access to the Commission's information systems.
 - b. Implement and enforce security and disaster preparedness guidelines for information and systems in their office.
 - c. keep the SOIRM updated with all current office-wide or individual system, screen, and file passwords in use to protect sensitive information and systems.
04. ASCD will work with the SOIRM and office and unit heads to implement security for Commission systems, manage offsite storage of backups, and provide security awareness as well as disaster preparedness information and training to Commission staff.
05. All employees are responsible for adhering to security and disaster preparedness guidelines while using Commission systems or accessing Commission information. There are computer crime laws that prescribe criminal penalties for those who illegally access Federal computer systems or information. In addition, unauthorized use of a Federal information system or use of such a system for unauthorized purposes could result in disciplinary actions.


RUBY G. MOY
Staff Director

Issued: 3/11/05

ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 4-21
UPDATED GUIDELINES FOR PROCUREMENT OF
GOODS AND SERVICES

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to establish guidelines ensuring that the procurement of goods and services by the Commission are properly authorized, approved and supported by documentation pursuant to the Federal Acquisition Regulations. This AI overrides any other written or unwritten policies of the Commission concerning the authorization, approval or validation of procurement of goods and services by the Commission. This AI is to be read in conjunction with AI 4-16 (Acquisition Management), and where any provisions of this AI and AI 4-16 conflict, the provisions of this AI will govern.

SECTION 2. POLICY

.01 In order to ensure that the procurement of all goods and services by the Commission have been properly authorized, approved and supported by documentation pursuant to the Federal Acquisition Regulations, the Chief of the Administrative Services and Clearinghouse Division, under the direction of the Director of Management, will do the following:

- (a) prepare and maintain contract files, including contract award and contract administration, to document the basis for Commission decisions in acquiring goods and services from commercial vendors, to document each step in the acquisition process, and to document information for an outside review of the procurement process;
- (b) document a review of catalogs or price lists for a minimum of three contractors or document a review information on GSA's on-line shopping service about the supply or service offered under the schedule before making a selection when procuring goods or services off the Federal Supply Schedule;
- (c) ensure that all statements of work contain a provision on organizational conflict of interest and that contract files contain signed assurances that contractors have no organizational conflict of interest;
- (d) provide for employees responsible for procurement activities to receive periodic training and updates on federal procurement rules, regulations, procedures, and issues;

(e) require that all aspects of the Commission's procurement of goods and services be properly documented, including the method of solicitation, competition, and selection, in accordance with Federal Acquisition Regulations; and

(f) report required fiscal year procurement data for fiscal years 2003 through 2005 into the Federal Procurement Data Center as well as report future years' procurement data into the Data Center on an annual basis.

A handwritten signature in black ink, appearing to read 'Ken Marcus', written over a horizontal line.

KENNETH L. MARCUS
Staff Director

ISSUED: 12/28/07

**ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION 4-22
SECTION 508 COMPLIANCE AND IMPLEMENTATION**

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to set forth the policies and procedures of the U.S. Commission on Civil Rights regarding compliance with and implementation of Section 508 of the Rehabilitation Act of 1973.

SECTION 2. AUTHORITY

- a. 29 U.S.C. 794(d)
- b. 36 C.F.R. 1194
- c. 48 C.F.R. Chapter 1

SECTION 3. SCOPE

This AI applies to the development, procurement, maintenance and use of Electronic and Information Technology (EIT) by the Commission.

SECTION 4. POLICY

The *purpose* of this AI is to establish policies and procedures that ensure:

- (1) Acquisition of Electronic and Information Technology (EIT) takes into account the needs of all end users – including those with disabilities;
- (2) Employees with disabilities have access to and use of information and data that is comparable to the access and use by employees who are not individuals with disabilities, unless an undue burden would be imposed on the agency;
- (3) Members of the public seeking information or services from the Commission have access to and use of information and data that is comparable to that provided to the public who are not individuals with disabilities, unless an undue burden would be imposed on the agency.

SECTION 5. DEFINITIONS

.01 Alternate Formats

Alternate formats usable by people with disabilities may include, but are not limited to, Braille, ASCII text, large print, recorded audio, and electronic formats that comply with 36 C.F.R. 1194.

.02 Alternate Methods

Alternate Methods are different means of providing information, including product documentation, to people with disabilities. Alternate methods may include, but are not limited to, voice, fax, relay service, TTY, Internet posting, captioning, text-to-speech synthesis, and audio description.

.03 Assistive Technology

Assistive Technology is any item, piece of equipment, or system, whether acquired commercially, modified, or customized, that is commonly used to increase, maintain, or improve functional capabilities of individuals with disabilities.

.04 Electronic and Information Technology (EIT)

Electronic and Information Technology is information technology and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information. The term electronic and information technology includes, but is not limited to, telecommunications products (such as telephones), information kiosks and transaction machines, World Wide Web sites, multimedia, and office equipment such as copiers and fax machines. (see 36 CFR 1194.4)

.05 Federal Acquisition Regulation (FAR)

Federal Acquisition Regulations are the uniform policies for acquisition of supplies and services by executive agencies as codified at 48 CFR Chapter 1.

.06 Section 508 Coordinator

The Section 508 Coordinator is an individual appointed by the Staff Director primarily responsible for organizing and supporting the implementation of Section 508 within the Commission. He or she also serves as the central point of contact for information concerning accessibility issues and solutions.

.07 Undue Burden

Undue burden means significant difficulty or expense. In determining whether an action would result in an undue burden, the Commission shall consider all agency resources available to the program or component for which the product is being developed, procured, maintained, or used.

SECTION 6. APPLICABILITY

.01 When developing, procuring, maintaining, or using electronic and information technology, the Commission shall ensure that the products comply with the applicable provisions of 36 CFR Part 1194, unless an undue burden would be imposed on the agency.

.02 When compliance with the provisions of 36 CFR Part 1194 imposes an undue burden, the Commission shall, to the extent available resources allow, provide disabled individuals with the information and data sought by an alternative means of access that allows the individual to use the information and data.

.03 When procuring a product, if the Commission determines that compliance with 36 CFR Part 1194 and the Federal Acquisition Regulations (FAR) imposes an undue burden, the documentation supporting the procurement shall explain why (budget restraints, competing priorities, etc.), and to what extent, compliance with each such provision creates an undue burden.

(a) *Basis*. In determining whether compliance with all or part of the applicable accessibility standards in FAR and 36 CFR Part 1194 would be an undue burden, the Staff Director shall have final authority. In making an undue burden decision, the Section 508 Coordinator shall, after consultation with the Director of Management, provide the Staff Director with the appropriate and necessary information regarding –

(1) The difficulty or expense of compliance; and

(2) Agency resources available.

(b) *Documentation*.

(1) In the event of an undue burden determination by the Staff Director, the Section 508 Coordinator shall document in writing the basis for an undue burden decision and provide the documentation to the contracting officer for inclusion in the contract file.

(2) When acquiring commercial items, an undue burden determination is not required to address individual standards that cannot be met with supplies or service available in the commercial marketplace in time to meet the agency delivery requirement.

.04 When procuring a product, the Commission shall procure products which comply with the provisions in 36 CFR Part 1194 when such products are available in the commercial marketplace or when such products are developed in response to a Government solicitation. The Commission will not claim a product as a whole is not commercially available because no product in the marketplace meets all the standards. If products are commercially available that meet some but not all of the standards, the agency will procure the product that best meets the standards.

.05 Except as provided in Section 7, this AI applies to electronic and information technology developed, procured, maintained, or used by the agency directly or used by a contractor under a contract with an agency which requires the use of such product, or requires the use, to a significant extent, of such product in the performance of a service or the furnishing of a product.

SECTION 7. EXCEPTIONS

.01 Except as required to comply with the provisions in this AI, this AI does not require the installation of specific accessibility-related software or the attachment of an assistive technology device at a workstation of a Federal employee who is not an individual with a disability.

.02 When the Commission provides access to the public to information or data through electronic and information technology, the Commission is not required to make products owned by the agency available for access and use by individuals with disabilities at a location other than that where the electronic and information technology is provided to the public, or to purchase products for access and use by individuals with disabilities at a location other than that where the electronic and information technology is provided to the public.

.03 Products located in spaces frequented only by service personnel for maintenance, repair, or occasional monitoring of equipment are not required to comply with this AI.

.04 This AI does not apply to electronic and information technology that is acquired by a contractor incidental to a contract.

SECTION 8. INTERNAL COMPLAINTS

.01 Employees wishing to bring a Section 508 complaint against the Commission must provide the Section 508 Coordinator with a description of the equipment or information sought, any alternate format or alternate method desired and an explanation of why the equipment or information is not accessible in current form. The employee is encouraged to provide a suggested alternative means of access in the event Section 508 compliance is not possible due to an undue burden determination by the agency.

.02 Upon receipt of a Section 508 complaint, the Section 508 Coordinator shall, after consultation with the Director of Management, make an initial determination regarding the ability of the Commission to provide Section 508 compatible equipment or access to information. The Section 508 Coordinator will then provide a suggested course of action for the Staff Director. In the event that the Section 508 Coordinator makes an initial determination that Section 508 compliance would cause an undue burden on the agency, the Coordinator shall provide in writing to the Staff Director the basis for his or her determination. The Section 508 Coordinator shall also, after consulting with the Director of Management, provide any suggested alternative means of access at this time.

.03 Upon receipt of the Section 508 compliance recommendation from the Section 508 Coordinator, the Staff Director will make an ultimate determination regarding the Commission's ability to comply with the Section 508 complaint. Upon final determination, OSD will provide

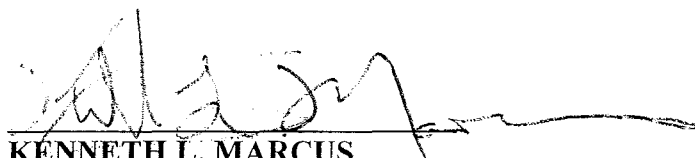
the Section 508 Coordinator with a written determination to be maintained in a Section 508 public complaint file as well as disseminated to the individual. In any event, the determination by the Section 508 Coordinator and the Staff Director as well as employee notification will be concluded within two weeks.

SECTION 9. EXTERNAL COMPLAINTS

.01 The Commission shall establish and maintain an online Section 508 complaint reporting system for members of the public with disabilities.

.02 Upon receipt of a Section 508 complaint, the Section 508 Coordinator shall, after consultation with the Director of Management, make a preliminary determination of Section 508 compliance and whether the Commission can reasonably provide the requested access, equipment or information without creating an undue burden for the Commission. The Section 508 Coordinator shall also, after consultation with the Director of Management, determine any alternative means of access that may be suitable and forward the suggestions and determination to the Staff Director.

.03 Upon receipt of the Section 508 compliance recommendation from the Section 508 Coordinator, the Staff Director will make an ultimate determination regarding the Commission's ability to comply with the Section 508 complaint. Upon final determination, OSD will provide the Section 508 Coordinator with a written determination to be maintained in a Section 508 public complaint file as well as disseminated to the individual. In any event, the determination by the Section 508 Coordinator and the Staff Director as well as individual notification will be concluded within two weeks.



KENNETH L. MARCUS
Staff Director

Issued: 02/24/2011

ADMINISTRATIVE MANUAL
ADMINISTRATIVE INSTRUCTION ~~4-22~~ 4-23
USE OF EMAIL IN CONNECTION WITH THE
TRANSACTION OF AGENCY BUSINESS

SECTION 1. PURPOSE

.01 The purpose of this Administrative Instruction (AI) is to establish the U.S. Commission on Civil Rights' policy regarding use of Agency-issued and non-Agency-issued email accounts in connection with the transaction of Agency business.

SECTION 2. POLICY

.01 All Agency personnel shall solely use Agency-issued email accounts in connection with the transaction of Agency business. Agency personnel shall not use non-Agency-issued email accounts in connection with the transaction of Agency business.

.02 This AI does not override or amend AI 4-8 on Records Management.

SECTION 3. DEFINITIONS

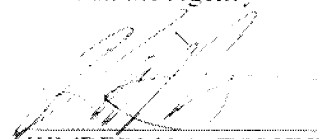
.01 "Agency" is the United States Commission on Civil Rights.

.02 "Agency business" includes all programmatic and administrative work of the Agency.

.03 "Agency-issued email account" is an usccr.gov email account issued by the Agency's Administrative Services and Clearinghouse Division.

.04 "Agency personnel" includes all Career and Career-Conditional Employees, Excepted Service Employees, Schedule C Employees, Senior Executive Service Employees, Commissioners, and Re-Employed Annuitants. It does not include members of State Advisory Committees.

.05 "Non-Agency-issued email account" is any email account that is not issued by the Agency's Administrative Services and Clearinghouse Division. It includes, but is not limited to, personal email accounts and email accounts issued by employers other than the Agency.


KIMBERLY A. TOLHURST
Delegated the Authority
of the Staff Director

ADMINISTRATIVE

INSTRUCTIONS

PART 5

Issued: APR 15 1999

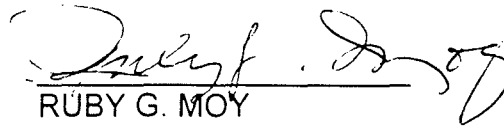
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 5-1

NATIONAL OFFICE PROGRAM DEVELOPMENT AND IMPLEMENTATION

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 5-1 effective immediately. Policy and guidance on the National Office Program Development and Implementation can be found in AI 1-6.



RUBY G. MOY
Staff Director

Issued: _____

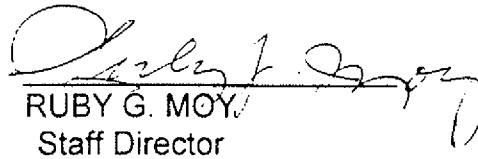
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 5-2

TEXT PROCESSING SYSTEMS

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 5-2 effective immediately.


RUBY G. MOY
Staff Director

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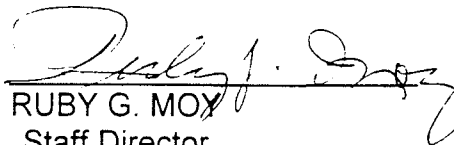
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 5-3

**AGENCY CONTROL PLAN FOR
PUBLICATIONS AND AUDIOVISUAL PRODUCTS**

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 5-3 effective immediately.


RUBY G. MOY
Staff Director

Issued: APR 11 1988

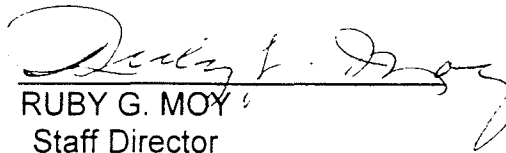
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 5-4

**PROCEDURES FOR PROVIDING AN OPPORTUNITY
FOR RESPONSE TO PERSONS CRITICIZED BY COMMISSION
PUBLICATIONS AND AUDIOVISUAL PRODUCTS**

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 5-4 effective immediately. Information and policies on the procedures for providing an opportunity for response to persons criticized by Commission publications and audiovisual products will be included in the AI 7-1.


RUBY G. MOY
Staff Director

Issued: _____

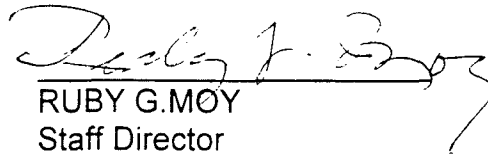
ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 5-5

PRINTING REGIONAL OFFICE PUBLICATIONS

SECTION 1. PURPOSE

The purpose of this issuance to the Administrative Manual is to cancel Administrative Instruction 5-5 effective immediately.


RUBY G. MOY
Staff Director

Issued: 12/15/07

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 5-7

REGIONAL PROGRAM DEVELOPMENT AND IMPLEMENTATION

SECTION 1. PURPOSE

- .01 The purpose of this Administrative Instruction (AI) is to establish policies and procedures that ensure:
 - a. State Advisory Committee (SAC) fact-finding is within the agency's jurisdiction;
 - b. SAC publications and other work products meet the agency's high standards of quality and objectivity;
 - c. SAC publications are efficiently produced and distributed; and
 - d. Regional projects are well-planned, efficiently managed, and appropriately reported, coordinated, and reviewed within the national office.
- .02 The policies and procedures contained in this AI pertain to SAC projects, reports, and other documents unless expressly excluded.
- .03 This AI supersedes all previous versions of AI 5-7 and any practices that are inconsistent with this AI.

SECTION 2. POLICY

- .01 A SAC is maintained in each State and the District of Columbia to study issues and to forward advisory reports and other informational materials to the Commission on matters within the agency's jurisdiction.
- .02 Commissioners do not approve or reject SAC reports. SAC reports are reviewed for legal and procedural compliance with Commission policies and procedures and, if determined to be compliant, are approved by the Staff Director (or designee) for printing by the Commission. This includes compliance with Commission requirements concerning affected agency, legal sufficiency, defame and degrade, and editorial reviews, the scope of the approved project proposal, as well as Commission standards concerning balance of sources, clarity of writing, and support for conclusions.
- .03 The findings and recommendations contained in SAC reports are not necessarily those of the Commission, its individual members, or the federal government. They reflect the views of the majority of the SAC members responsible for producing the report.

SECTION 3. DEFINITIONS

Appendix 1, Definitions.

Appendix 2, Project Proposal Outline.

Appendix 3, Project Proposal Checklist.

Appendix 4, Project Proposal Cover Memorandum.

Appendix 5, SAC Report Checklist.

SECTION 4. RESPONSIBILITIES

All responsibilities not otherwise delegated are reserved to the Staff Director. The Staff Director may delegate any of these responsibilities as determined appropriate.

.01 *Commissioners.* Regarding SAC operations, the Commissioners are responsible for:

- a. requesting that SACs participate in and support national office program priorities;
- b. receiving, for informational purposes, SAC reports that have been approved for printing and distribution;
- c. participating in SAC activities and follow-up to SAC reports, as determined necessary and appropriate;
- d. approving SAC charters, and member appointments and reappointments; and
- e. establishing policies regulating the Commission's responsibilities and relationship to SACs including, but not limited to, creating membership criteria, approving SAC appointments, and developing processes for receiving SAC reports.

.02 *Office of the Staff Director.* The Staff Director or designee, when appropriate, is responsible for:

- a. overseeing the overall management and direction of the regional offices;
- b. certifying that SAC reports comply with Commission legal and procedural requirements prior to approval for publication;
- c. approving project proposals;
- d. ensuring that regional office and SAC input is sought during the national office program planning process;
- e. submitting SAC reports to the Commissioners for informational purposes and submitting other regional documents for action, as required;
- f. executing SAC charter memoranda;
- g. submitting SAC appointments and reappointments to Commissioners for

approval; and

- h. identifying appropriate opportunities for joint or integrated national office and SAC studies and research.

.03 *Regional Programs Coordination Unit (RPCU)*. RPCU, a component of OSD, is responsible for:

- a. assisting the Staff Director in the overall management of the regional offices and SACs;
- b. submitting requests to open and close project codes for regional office projects and RPCU activities;
- c. reviewing monthly project cost reports with regional offices to ensure their accuracy;
- d. ensuring that appropriate and necessary information is exchanged between the national office and its regional program components (i.e., regional offices and SACs);
- e. ensuring that national office support and guidance are provided, as necessary, to regional offices and SACs;
- f. maintaining a tracking system to ensure that SAC reports are appropriately and timely processed through the national office;
- g. coordinating the printing of SAC reports between the regional offices and Administrative Services and Clearinghouse Division (ASCD); and
- h. serving as primary point of contact for the Commission's Federal Advisory Committee Act (FACA) database.

.04 *Budget and Finance Division (BFD)*. This office is responsible for:

- a. soliciting budget estimates from regional offices for use in formulating the Commission's budget;
- b. tracking all regional office expenditures and submitting monthly cost reports to each regional director;
- c. preparing and distributing regional office budget allotments, and reviewing and revising the allotments as determined necessary;
- d. serving as a resource for regional directors on the planning and execution of their budgets; and
- e. receiving and processing requests to open and close regional project codes.

.05 *Administrative Services and Clearinghouse Division (ASCD)*. This office is responsible for:

- a. printing approved SAC reports and other items;
- b. distributing published SACs reports pursuant to the distribution list (see Section 19 below); and
- c. coordinating with regional and appropriate national office staff on requests for surveys of 10 or more persons as part of its Paperwork Reduction Act responsibilities.

.06 *Regional Offices.* These offices are responsible for:

- a. managing the office's budget in compliance with the Anti-deficiency Act and other applicable guidance;
- b. completing an annual Budget Call consistent with instructions from BFD and other applicable guidance;
- c. ensuring that all time and financial expenditures are tracked by using the most appropriate project code on Time and Attendance sheets and other documents as listed in AI 3-6, *Management of Project Codes*;
- d. preparing and submitting project proposals, final work products (e.g. SAC reports, film, etc.), and other documents for national office review and approval;
- e. establishing procedures to ensure full participation of SAC members in project development and execution including, but not limited to, the review and approval of SAC project proposals and products;
- f. soliciting input from SAC members regarding recommendations for national office project concepts;
- g. conducting projects consistent with the approved project proposal and Commission policies and procedures;
- h. requesting legal assistance, through OSD, in connection with approved projects, as the need arises,
- i. preparing, consistent with the approved proposal, the final work products (e.g., report, film, etc.), and submitting drafts of written products to RPCU for the various national office reviews;
- j. submitting monthly reports, in writing, to OSD (see AI 1-3, *Monthly Office Activity/Monthly Project Report*);
- k. providing initial target dates to RPCU, and informing RPCU when these target dates must be changed and why, for:
 - i. holding public meetings (e.g., community fora, fact-finding, planning meetings, etc.);

- ii. submitting a SAC report to the SAC for approval;
- iii. submitting a SAC report for affected agency review; and
- iv. submitting a SAC report for national office review and approval.

- l. establishing and maintaining official project files in accordance with the Commission's Records Control Schedule;
- m. disseminating published SAC and regional office reports; and
- n. conducting follow-up activities.

.07 *The Office of General Counsel (OGC).* This office is responsible for:

- a. advising regional offices and OSD on jurisdictional issues related to regional projects and proposals; and
- b. conducting legal sufficiency and defame and degrade reviews of SAC reports and other work product produced by the regions that include legal analysis, or the interpretation of legal decisions.

SECTION 5. OVERVIEW OF REGIONAL OFFICE FUNDING

- .01 The Budget Call process is used to determine what funding is needed to support the program activities of the Commission's offices and divisions (including each regional office). Information from this process, in conjunction with budget guidance from OMB, informs the development of the agency's budget estimate which is submitted to the Office of Budget and Management (OMB) annually in September. This estimate is reviewed by OMB and a final appropriation request is submitted to Congress in the *President's Budget* each February along with justification material submitted by the Commission. See AI 3-1, *Performance Budget Formulation*, for additional detail on the Commission's budget process.
- .02 Once the Commission receives its actual appropriation from Congress, agency program priorities and office and division budget allotments are adjusted to reflect the agency's actual funding level. See AI 3-2, *Budget Execution*. The Commission allots funds separately to each regional office for its operation. These funds are set aside to cover regional office salaries, benefits, and regional office expenses (including SAC expenses) not otherwise funded from the agency's central account. The use of separate allotments for regional offices should allow the Commission to better evaluate the adequacy of the funding used to support its regional operations, including SACs, and should increase regional office authority over funding decisions.
- .03 The level of annual funding for regional offices, like that for national offices and divisions, is contingent upon the Commission's actual appropriation. It may also be influenced by factors such as program priorities and emerging civil rights issues.
- .04 BFD is responsible for monitoring and reporting on regional office spending. It is also responsible for creating procedures that identify and prevent spending over the

allotted amounts and that allow the Commission to assess and meet its other financial obligations and program priorities.

SECTION 6. STATE ADVISORY COMMITTEE CHARTERS AND APPOINTMENTS

- .01 Regional offices are responsible for the preparation and submission of SAC member appointment and reappointment materials (appointments and reappointments are jointly referred to as “appointments” hereinafter) for SACs within their region. See AI 5-9, *Procedures for Recommending State Advisory Committee Appointments*. Regional offices are responsible for monitoring and informing the Staff Director of the expiration dates of SAC charters. Therefore, the regional offices are responsible for updating and monitoring the FACA database and, working with RPCU, developing a master list reflecting the status of Commission SAC charters. The master list is maintained by RPCU and made available to the Staff Director at the end of each fiscal year and at such other times as requested.
- .02 All SACs within 90 days (3 months) of the expiration of their charters must be reported, in writing, to the chief of RPCU and the Staff Director. This report must contain a realistic plan for timely re-chartering the SACs and appointing SAC members. The plan must identify any factors that may prohibit its successful execution (e.g., staffing levels, competing priorities, resources, etc.) and must be approval by the Staff Director.

Timely re-charting means that each SAC with a charter expiring after January 30, 2007 should have (1) a re-chartering package, i.e., the charter memorandum for the Staff Director’s signature and SAC member appointment materials, prepared and submitted to the Staff Director no later than 60 days before the date its charter will expire; and (2) a completed and approved charter memorandum and SAC appointments no later than 60 days after the charter’s expiration date. Each SAC with a charter that expires on or before January 30, 2007 must be re-chartered consistent with the Commission’s plan to resolve its backlog of expired SAC charters by FY2011.

- .03. Under the supervision of the Staff Director, RPCU is responsible for following up with the regional offices to ensure their compliance with re-charting and appointment plans and timelines.

SECTION 7. STATE ADVISORY COMMITTEE VOTING PROCEDURES FOR PROJECT PROPOSALS AND REPORTS

- .01 Procedures for voting on SAC project proposals and reports are the same. If a SAC member fails to respond to a request for a vote, that member’s vote is considered an “abstention.”
- .02 The number of SAC members voting should be expressed as a numerical tally. For example, the tally would be expressed as “11-0” or “9-2”. The use of a “unanimous” notation, in lieu of a numerical tally, is not permitted. Members who can not attend a meeting where a vote is taken must be provided the opportunity to vote by mail.
- .03 Votes taken by mail should be guided by the below process:

- a. The ballot, accompanied by the project proposal or report, is presumed to have been received within 3 working days if sent by first class mail.
- b. The response date must be set for at least one week after the presumed receipt of the ballot and related project proposal and/or report.
- c. The completed ballot must be received by the regional office within one week after the designated response date.
- d. If a SAC member does not respond by the designated date, regional office staff should telephone to ensure that the ballot and accompanying documents were received.
- e. No more than one additional week for a response by mail should be provided to a member who fails to respond by the designated date. In hardship cases, such as illness, this provision may be waived by the regional director.
- f. Where no response is received after the above efforts, the regional director should report the following information to OSD:
 - i. name of non-responding member(s);
 - ii. date(s) of mailing and response due date(s);
 - iii. date telephone call(s) made and response received; and
 - iv. if the project proposal or report has several “no” votes, how many of those “no” votes are the result of non-responsive members.
- g. A SAC member may vote by telephone provided that a signed confirmatory letter is immediately sent to the SAC member by regional office staff via facsimile or first class mail. This letter must note the date and the nature of the vote (e.g., “yes” or “no”).

SECTION 8. REGIONAL PROJECT PROPOSALS

- .01 Project proposals are developed using a format prescribed by OSD (see Appendix 2) and are approved by the Staff Director.
- .02 Proposals are voted on, following any requested revisions, by the SAC and signed by the regional director. The proposal is then submitted to OSD for review, accompanied by the *SAC Project Proposal Checklist* (see Appendix 3). OSD will ordinarily complete its review of the project proposal within 5 workdays.
- .03 Proposals, in the discretion of the OSD, may be submitted to OGC for a review to ensure that they are within the jurisdiction of the Commission and to resolve other jurisdictional issues.

SECTION 9. REGIONAL PROJECT IMPLEMENTATION

- .01 The regional director is responsible for the implementation, supervision, and quality of staff work and the conformance of reports with approved project proposals. Although the SAC is ultimately responsible for the substance of reports and memoranda, the regional director is to ensure that documents meet appropriate standards regarding

methodology, organization, balance, format, and drafting.

- .02 Changes that substantially alter the project as initially approved (i.e., changes of substance that affect a project's type, purpose, scope, or methodology) must be approved by OSD.
- .03 When more than one regional office is involved in a project a lead office will be assigned by OSD to manage the project. The lead office is responsible for monitoring and reporting on the status of project to OSD.
- .04 Regional directors are responsible for ensuring that:
 - a. project research files are established and maintained, including individual interview reports, and clearly identified and dated source documents;
 - b. appropriate Privacy Act certifications are completed during interviews;
 - c. data collection complies with the requirements of the Paperwork Reduction Act, if applicable (see Section 10 below);
 - d. the project is completed pursuant to any established deadline;
 - e. a copy of the transcript from SAC fact-finding and other information gathering events is made available to the SAC for review and comment;
 - f. sources cited in reports are double-checked for accuracy;
 - g. cites conform with the Commission's Style Guide and other applicable rules of citation; and
 - h. the draft report contains a complete text, including the required disclaimer, transmittal letter, tables and charts, etc., before being submitted for approval by the SAC.

SECTION 10. REVIEW OF DATA COLLECTION MATERIALS

- .01 The Paperwork Reduction Act of 1995 requires that offices conducting projects that require the collection of information from 10 or more persons ("persons" include organized groups of individuals, entities, corporations, organizations, associations, state and local governments and branches thereof) using identical questions receive prior approval from the Office of Management and Budget (OMB). When the same information is being asked of fewer than 10 persons, or non-identical information is being asked of 10 or more persons, OMB review and approval are not required. Questionnaires submitted to federal employees that do not request information for general statistical purposes do not require OMB approval.
- .02 If a project requires data collection from 10 or more persons the regional director must forward a copy of the survey or questionnaire to the chief of ASCD, and to other offices as deemed appropriate, for review of its clarity and the adequacy of the methodology for achieving the project's purpose.

- .03 At least 120 days should be allowed for public comment and OMB review and approval before the survey, questionnaire, or other collection can be administered. This period does not include time required for internal Commission review.
- .04 The regional office must provide two copies of the proposed data collection instruments to OSD, along with two copies of form OMB 83-I, *Paperwork Reduction Act Submission*, and the *Supporting Statement for Paperwork Reduction Act Submissions*. The supporting statement must be prepared consistent with OMB guidance.
- .05 OSD, in consultation and coordination with ASCD, will advise the regional office on the preparation of data collection materials for submission to OMB and will assist in securing OMB approval of data collection instruments.

SECTION 11. FIELD REVIEW OF SAC REPORTS

- .01 The SAC members may review a report during any stage of the drafting process and suggestions will be considered and incorporated into the report unless rejected by a majority vote of the SAC or prohibited by law, regulation, or Commission policy.
- .02 All SAC products, except brief statements on matters of urgent concern that do not draw conclusions or inferences, are subject to customary reviews in the field and the national office.
- .03 Once the draft report is completed by regional office staff, it is submitted to the SAC for review of its substance, objectivity, conclusions, and clarity. Revisions are made based on SAC comments. This draft is not required to include national office and affected agency reviews. If conditionally approved, the draft report is then forwarded to the national office for review.
- .04 A proposed final report, which should include any changes resulting from national office and affected agency reviews, is submitted to the SAC. Upon final review by the SAC a vote is taken and a numerical tally is made indicating the margin by which the report is endorsed by the members. The approved report and the *SAC Report Checklist* are forwarded to the national office for action.
- .05 Each non-concurring member must be given the opportunity to submit a short statement, of no more than one-page, explaining why a dissenting or “no” vote was cast. Dissenting statements must be submitted within 10 calendar days following the vote and must either be appended to the report or incorporated into the text of the report. Dissenting statements are subject to jurisdictional, defame and degrade, legal sufficiency, and editorial reviews.

SECTION 12. TRANSMITTAL LETTER AND DISCLAIMERS

- .01 A letter of transmittal signed by the SAC Chairman is forwarded with each SAC report. Although the letter is signed by the Chairperson, the letter is voted upon by the entire SAC along with the rest of the report. This letter will contain the below statement. Other than this statement, the transmittal letter may include whatever else is thought to be pertinent.

“This report was adopted by a vote of ____ to _____. The dissenting member(s) was (were) provided an opportunity to prepare a dissenting statement. Any such statement(s) is (are) hereby appended or otherwise incorporated into the report.”

Dissenting statements are short, no more than one page, statements explaining why the SAC member voted against the report.

- .02 Each SAC report must include the following disclaimer:

“This report is the work of ____ State Advisory Committee to the U.S. Commission on Civil Rights. The views expressed in this report and the findings and recommendations contained herein are those of a majority of the State Advisory Committee members and do not necessarily represent the views of the Commission or its individual members, nor do they represent the policies of the U.S. government.”

- .03 Each SAC report may contain a narrative description of the SAC and the names of the SAC members. The report must indicate the number and names of the SAC members who voted against the report.
- .04 Each SAC report may state that it is published by the U.S. Commission on Civil Rights, but it may not contain the names of the Commissioners, nor a narrative description of the Commission and its work.

SECTION 13. AFFECTED AGENCY REVIEW

- .01 Affected agency review should take between 20 and 30 calendar days and is carried out by the regional office. For this review, the regional director sends the sections of the report (excluding the conclusions, findings, recommendations, and transmittal letter) that pertain to the affected agency for review and comment. This review is limited to the accuracy of the material contained in those sections. When appropriate, non-governmental organizations receive pertinent material for review.
- .02 Upon receipt of the affected agency comments, project staff prepares appropriate revisions or, where appropriate, adds the comments as an appendix to the report. If substantive changes or changes affecting the legal thrust of the report are made as a result of affected agency, or any other review, such changes must undergo an expedited legal sufficiency review. Affected agency comments should be addressed in the proposed final report that is presented to the SAC for approval.

SECTION 14. NATIONAL OFFICE REVIEW

- .01 National office review of SAC reports, including legal sufficiency, defame and/or degrade, and editorial reviews, and procedural approval by OSD, should be completed within 65 calendar days. When warranted, and consistent with available resources, an expedited national office review may be completed.
- .02 RPCU, after receiving a conditionally approved SAC report from the regional office, should record information sufficient to allow RPCU to track the progress of the report

through national office review. RPCU then forwards the report to OSD for legal staff to conduct legal sufficiency and defame and degrade review, and for editorial review, as appropriate. The report should be forwarded to OSD within 7 calendar days.

SECTION 15. LEGAL SUFFICIENCY AND/OR DEFAME AND DEGRADE REVIEWS

- .01 Legal sufficiency review of a SAC report, as well as publications, and briefing memorandum, is the responsibility of agency legal staff. The purpose of the legal sufficiency review is to ensure the accurate interpretation and citation of legal materials and compliance with statutory requirements. Source materials are maintained by the assigned office and, upon request, are made available to the attorneys performing the legal sufficiency review.
- .02. Legal review should typically take three weeks (21 calendar days) depending on the length and complexity of the SAC report, as well as the workload and staff resources available in the national office. Upon completion of this review, the report and the memorandum documenting the legal review recommendations, is returned to OSD and forwarded to the regional office (via RPCU).
- .03 Defame and degrade review is to ensure that reports do not defame or degrade persons and entities named in them. See AI 7-1, *Procedures for Providing an Opportunity for Response to Persons Criticized by Commission Publications and Audiovisual Products*. Judgments regarding the necessity for defame/degrade review are made by agency legal staff. A defame and degrade review should be performed concurrently with the legal sufficiency review.

SECTION 16. EDITORIAL REVIEW

- .01 SAC reports are not required to be reviewed by an editorial review board. This process may, however, be used by OSD as the basis for the Staff Director's findings on the clarity and literacy of a report, and whether the conclusions in the report are supported by the evidence, testimony, and research. If an editorial review board is used, copies of the report are sent to the board members simultaneously with legal sufficiency and/or defame and degrade reviews. The editorial review period is shorter than the period established for legal review, usually lasting 10 to 14 calendar days.
- .02 Upon completion of this review, the report and the memorandum documenting the recommendations is returned to OSD and forwarded to the regional office (via RPCU).

SECTION 17. FINAL REVISION AND REVIEW OF REGIONAL REPORTS

- .01 Once legal sufficiency, defame/degrade, and editorial reviews are completed, the regional staff should revise the report, as appropriate. The revised draft, called the proposed final report, is submitted to the members of the SAC for final review and approval. Once approved, it is submitted to RPCU, along with the *SAC Report Checklist*, for Staff Director review and approval for publication. A notation by RPCU should be made on the *SAC Report Checklist* identifying for OSD any required material or information that is missing from the report and accompanying checklist. The report must be forwarded by RPCU to OSD within 7 calendar days of receipt.

- .02 Commissioners do not vote to accept or reject SAC reports, though they receive them for informational purposes.
- .03 The report submitted to the Staff Director for review should:
- a. incorporate all revisions required by legal, editorial, and affected agency reviews;
 - b. include the transmittal letter and disclaimer(s);
 - c. incorporate all dissenting views and/or dissenting statements that will be appended to the report;
 - d. incorporate all final proofreading and copy edits; and
 - e. include a brief memorandum identifying the number of copies requested for printing, a regional office proposed distribution list, and the time and place of any news conference planned for the release by providing advance draft copies of press releases.
- .04 The Staff Director (or designee) reviews the final report to determine whether it meets the procedural and legal requirements of the Commission. This review usually takes 14 calendar days. Any report that fails to comply with these requirements is returned for revision. If the revisions are inadequate, the report may be published with a disclaimer noting its failure to comply with established standards. Other options, to the extent they are consistent with federal law and regulation governing advisory committees, may also be used. A SAC report whose publication would violate federal law or regulation will not be published by the Commission. The following are included among the Commission's legal and procedural requirements:
- a. reports are approved by a majority of the members of the advisory committee;
 - b. reports undergo affected agency, editorial, and legal sufficiency and/or defame and degrade reviews and resolve any identified issues;
 - c. the report includes a balance of sources and viewpoints and is consistent with the project proposal;
 - d. the writing in the report is clear and literate; and
 - e. the conclusions, if any, contained in the report are supported by the evidence.
- .05 After reviewing the report, the Staff Director (or designee) completes the OSD section of the *SAC Report Checklist*. If it is determined that the report complies with Commission policies and procedures, the report and checklist are forwarded to RPCU to coordinate its printing and dissemination with the regional office and ASCD.
- .06 Under no circumstances should SAC or regional staff reports be released to the public or forwarded to the Commissioners without the Staff Director's approval. Releases pursuant to Freedom of Information Act (FOIA) requests may be excepted if

coordinated with and approved by the Solicitor.

SECTION 18. PUBLICATION OF REGIONAL REPORTS

- .01 After the report has been approved for publication, the report and any instructions on the number of copies to be produced are provided to RPCU to record and forward to ASCD. RPCU coordinates the preparation of the report for printing between ASCD and the appropriate regional office. This coordination and preparation should be completed within 14 calendar days following receipt of the report by ASCD.
- .02 The regional office must ensure that CCR Form 11, *Requisition for Regular Xerox Service*, is completed and provided to ASCD to initiate the printing of the report.

SECTION 19. DISSEMINATION OF PUBLISHED REPORTS


- .01 After the Copy Center prints the report ASCD distributes the report as follows:
 - a. 10 copies to the Office of the Staff Director for distribution to the Commissioners for informational purposes;
 - b. 10 copies to the Library to make available to the public;
 - c. 1 copy to each office and division head in the national office; and
 - d. 6 copies to each regional director.
- .02 The regional office is provided the balance of the copies for distribution to SAC members, and individuals and organizations at the local, state, and regional levels. Distribution to other individuals and organizations may be undertaken with the approval of OSD.
- .03 All SAC reports are posted on the Commission's website at www.usccr.gov as pdf and Word files. The website notes, however, that the findings and recommendations contained in SAC reports are those of a majority of the members of the SAC that produced them and do not necessarily reflect the views of the Commission, its individual members, or the policies of the U.S. government.
- .04 Regional office staff, and national office staff as appropriate, may assist the SAC in drafting and distributing press releases announcing the release of a SAC report. Such releases may not bear the seal of the U.S. Commission on Civil Rights and must make it clear that the report is issued under the name of the responsible SAC.

SECTION 20. REGIONAL PROJECT FOLLOW-UP

- .01 All SAC project proposals may include follow-up plans such as those designed to ensure that the report or other product reaches its intended audience and that it is used by that audience. Follow-up plans formulated near or upon completion of a project (i.e., not incorporated into the project proposal) must be approved by OSD.
- .02 A project is generally considered closed or completed upon publication and

distribution of the report. A project culminating in a briefing memorandum is completed with submission of the memorandum to the Staff Director for submission to the Commissioners.

- .03 If follow-up activities indicate that additional work should be done (e.g., determining the status of an issue and identifying corrective actions taken subsequent to or as a result of a SAC project, updating a publication's statistical analysis, or conducting a conference) the SAC must follow procedures set forth herein, including obtaining OSD approval.



KENNETH L. MARCUS
Staff Director

ACTION MEMORANDUM

A memorandum transmitting a State Advisory Committee (SAC) report, or other document, that requests specific action by the Staff Director or the Commissioners, as appropriate. If the requested action includes forwarding recommendations to federal officials, draft letters to the officials must accompany the action memorandum.

AFFECTED AGENCY REVIEW

An opportunity afforded government agencies, and occasionally private organizations, whose policies and operations are being assessed or evaluated by the Commission, to review and comment on the factual accuracy of portions of report. Affected agency comments are incorporated into the text of the report, acknowledged in footnotes, or placed in an appendix, as appropriate. This review occurs before the report is submitted to the SAC for approval and forwarding to the national office review.

BALANCE

SAC projects must seek to consider a variety of points of view and opinions. Balance does not mean that the conclusions of a SAC agree with or include all positions, only that the research and opinions reflect a consideration of varied and opposing views and perspectives.

BRIEFING

One or more experts on a particular subject assembled to make a presentation to a SAC at a routine SAC meeting (as distinguished from a forum). If an extended series of briefings on the same topic is planned, or if a briefing or series of briefings entails use of court reporting services, a statement of purpose (which includes anticipated costs, dates, and outcomes) must be approved by the Regional Programs Coordination Unit.

BRIEFING MEMORANDUM

A memorandum to the Commissioners, through the Staff Director, growing out of routine staff and advisory committee monitoring activities. A briefing memorandum is for the information of the Commissioners and is not intended for publication or general distribution.

COMMUNITY FORUM

An activity of a SAC designed to elicit opinions or perspectives from a relatively small number of informed members of the community about civil rights problems in the local area. A community forum must be based on a Staff Director approved project proposal. The forum typically reflects a balance of opinions and perspectives. Forum proceedings may be transcribed, edited, and published upon approval of the Staff Director. Presentations made during the forum may form the basis of a SAC summary report.

CONFERENCE

A meeting with invited guests, including experts, Commission staff, and SAC members, to inform the public on civil rights matters and designed to assist in discharging the Commission's clearinghouse function. Conferences must be based on a project proposal and be approved by the Staff Director. Conferees may present papers, and edited

proceedings may be published as a SAC report.

CONSULTATION

A public meeting to solicit information on a specific issue. A consultation is based on a project proposal approved by the Staff Director. Experts are invited to present papers and to respond to questions from SAC members. The proceedings may be transcribed, edited, and published; the results may also be summarized in a SAC report.

DEFAME AND DEGRADE REVIEW

The review of reports and other publications by Commission legal staff, prior to their approval for publication. The review is for material that may defame, degrade, or incriminate an individual or entity. Affected individuals or entities are provided an opportunity to respond to defamatory and degrading material and the responses are reported in the document text, footnotes, or an appendix.

FACT-FINDING

Activities, such as a systematic gathering of data, documents, and opinions, undertaken by a SAC that enable its members to reach factual determinations. Fact-finding may take place during routine monitoring and informal hearings, or any other SAC activity involving independent research and analysis by the Committee.

JURISDICTION OF THE COMMISSION

The legal or statutory authority for the Commission. All SAC functions must be within the Commission's statutory areas of responsibility, e.g., denials of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice. Questions concerning the jurisdiction of SAC and Commission activities are resolved by the Office of General Counsel.

LEGAL SUFFICIENCY REVIEW

A review by the legal staff of a report and other document to ensure the accuracy of any legal interpretation and the citation of legal material before the report or document is approved for public release.

LETTER OF TRANSMITTAL

A letter attached to a SAC report from the SAC Chair to the Staff Director formally transmitting the report. The letter informs the Staff Director of the reasons for the report and may contain its essential findings and recommendations. The letter also states the results of the members' vote on the report. The letter must be signed by the Chairperson before submittal to the Staff Director.

MILESTONES

Significant tasks enumerated in a project plan which are necessary to the completion of the project, and for which resource allocations and deadlines have been set.

MONITORING

Planned, systematic efforts to identify civil rights problems, collect information, and track continuing developments with respect to such issues. The purpose of this activity is to assess the need for investigation through an approved project, to provide information

to the Commissioners through a briefing memorandum submitted to the Staff Director, or to propose Commission action with regard to a particular situation.

MONTHLY REPORTS

Internal reports submitted by the regional offices to the Staff Director on a monthly basis, summarizing the progress of projects and other program activities, including monitoring and complaint processing. The reports are compiled in a Staff Director memorandum or report to the Commissioners. See AI 1-3, *Monthly Office Activity Report/Monthly Project Report*.

NON-CONCLUSIONARY STATEMENTS

Brief statements by a SAC on issues of urgent concern that do not reach conclusions. Such statements must be within the Commission's jurisdiction, and be approved by the Regional Director. An informational copy is transmitted to RPCU after issuance.

PROGRAM ACTIVITY

A program activity is an activity conducted by regional staff and/or SAC members in support of the Commission's civil rights-related mission. Examples of program activities include, but are not be limited to, the following:

- a. Liaison activities. This may include attendance at meetings, conferences, symposia, and other activities not directly related to a project and not sponsored by the Commission. Liaison activities also include formal and informal contacts with public and private organizations and individuals external to the Commission.
- b. Technical assistance. This may include responding to requests for information or analysis, information on civil rights investigative and research techniques, analysis of administrative regulations, and preparation or analysis of testimony, position statements, correspondence, background papers, and other documents.

PROJECT PROPOSAL

A justification and plan for SAC activities that must be approved by the Staff Director. Such activities include, but are not limited to, consultations, community forums, and the preparation of SAC reports. The proposal describes the purpose, scope, and methodology of a project and includes brief background information, milestone tasks target dates, and a budget. Project proposal must be approved by the SAC.

PROJECT

- a. A project is a fact-finding study, conference, consultation, or community forum on a civil rights issue that normally culminates in a written report, occasionally a film, or other product. A project begins when a project proposal is approved and staff time or agency funds are expended.
- b. If the nature of a project is changed in a significant way, the change must be approved in writing by the Staff Director. For example, if a community forum project evolves into a fact-finding project, an amended project proposal must be approved by the Staff Director.

- c. Updates of completed projects are treated as new projects.

PROJECT REPORT

The product of a project, i.e., a written document or film that contains information, data, or materials collected, analyzed, and assessed by the SAC. Such products must be reviewed for compliance with Commission legal and procedural policies before being approved for publication.

- a. Written Reports. Traditional fact-finding reports that involve extensive research and analysis and may contain findings, conclusions, and recommendations for action. In addition to fact-finding reports, SAC reports may include summaries of presentations made, collections of papers presented as, and edited discussions of participants in conferences, consultations, and community forums. Reports of community forums are termed often referred to as “summary reports” and do not include findings and recommendations.

SAC reports must be formally approved by a vote of the SAC.

- b. Films. Film, slide, and video tape presentations of information gathered by Commission staff and SAC members in the course of approved projects.

PROJECT FOLLOW-UP

Activities recommended by the SAC and approved by the Staff Director that relate directly to a specific project after its product has been completed and, if appropriate, printed and published. Such activities include:

- a. efforts to ensure that the product reaches the intended audience;
- b. efforts to encourage the use of the project’s information;
- c. efforts by the SAC and/or staff to provide clarifying information; and
- d. efforts to determine the status of a particular civil rights issue following a SAC report or project, and to identify any corrective actions taken as a result of a SAC report or project. This specific type of follow-up activity is conducted in accordance with the requirements of AI 5-7 Sections 8 and 9.

Follow-up activities do not include lobbying to encourage acceptance and implementation of project recommendations.

RECOMMENDATIONS

Written recommendations for legislative, regulatory, or other action made by the SAC and that are consistent with the jurisdiction of the Commission.

TARGET DATES

Target dates are initially set in the project proposal and revised thereafter as needed. RPCU must be informed when target dates are revised.

STATE ADVISORY COMMITTEE

Committees established in each state and the District of Columbia pursuant to the Commission's authorizing statute. Referred to as "SACs", they are comprised of uncompensated citizen volunteers who inform and advise the Commission on existing and emerging civil rights issues at the local, state, and regional levels.

Project Proposal Outline

The project proposal should include the following:

1. A memorandum to the Staff Director (see Appendix 4).
2. The SAC Project Proposal Checklist (see Appendix 3).
3. A narrative statement that includes the following sections and information:
 - background;
 - summary of the purpose of the project;
 - scope and methodology;
 - anticipated outcomes or results of the project;
 - anticipated costs (other than salaries and benefits) disaggregated by fiscal year, if necessary; and
 - target dates for any fact-finding meetings and community forums, the submission of the report to the SAC; the submission of the report to the national office for legal and editorial reviews; and the submission of the report to OSD for review and approval for printing based on a determination of compliance with Commission legal and procedural standards.

SAC PROJECT PROPOSAL CHECKLIST

State: _____

Project Name: _____

Section I. Approval of Proposal by SAC (to be completed by the regional office and submitted with project proposal)

1. Was the project proposal voted on by the SAC by mail, meeting, or a combination?
2. If the vote was taken by mail:

What was the date the proposal was mailed? _____

What was the response due date? _____

Were follow-up calls made to the non-respondents? _____ Yes _____ No

List those who failed to respond: _____

List any special circumstances that apply to any of the non-respondents? _____

3. If the vote was taken during a meeting:

Was the proposal sent to members before the meeting? _____ Yes _____ No

When was the proposal sent? _____ What was the date of the meeting? _____
4. Did the SAC review and approve the project proposal (not just the topic)? _____ Yes _____ No
5. What was the vote on the project proposal? _____

Section II. Approval of Proposal by the Office of Staff Director (to be completed by OSD)

1. Does the proposal identify actions (by staff and the SAC) that should result in balanced research and testimony? _____ Yes _____ No
2. Does the proposal identify sources to be used to research the topic and do they represent a variety of opinions on the issue? _____ Yes _____ No
3. Are milestones and estimated dates provided? _____ Yes _____ No
4. Is the schedule reasonable given other commitments and the scope of the project? _____ Yes _____ No
5. Is the project within the Commission's jurisdiction? _____ Yes _____ No
6. Are the topic and scope of the project reasonably documented and justified? _____ Yes _____ No
7. Is the project budget reasonable given its scope and the availability of funds? _____ Yes _____ No

[INSERT DATE]

MEMORANDUM FOR THE STAFF DIRECTOR

FROM: [INSERT NAME OF REGIONAL DIRECTOR]
Regional Director

SUBJECT: [INSERT NAME OF STATE] ADVISORY COMMITTEE PROJECT
PROPOSAL

Attached for your review and approval is a _____ Advisory Committee project proposal on _____. The Advisory Committee approved this proposal on _____, 200_ by a vote of _____ to _____.

Attachments (Project Proposal Checklist and Narrative)

(to be completed by OSD)
This project proposal is:

_____ Approved.

_____ Disapproved.

_____ Returned for revisions according to comments.

Staff Director

Date

STATE ADVISORY COMMITTEE CHECKLIST

Section I. Regional Office SAC Report Submission (completed by the regional office)

State: _____

Project name: _____

How was the report voted on by the SAC? ____ Mail ____ Meeting ____ Meeting and Mail

(complete only if vote by meeting)

Date of the Meeting: _____ Tally of the Vote Count: _____

(complete only if vote by mail)

Date Report Mailed to Members: _____ Response Due Date: _____

Tally of the Vote Count: _____

Were follow-up calls made to non-responding members? ____ Yes ____ No

Name of members not responding: _____

Describe any special circumstances that apply to any members not responding to the vote:

Section II. Review for Approval for Publication (completed by OSD)

Is the report consistent with the approved project proposal? ____ Yes ____ No

Were various and opposing views considered? ____ Yes ____ No

Is the report well-written (i.e., written in clear and literate language)? ____ Yes ____ No

Are the conclusions in the report supported by the evidence, testimony, and research?

____ Yes ____ No

Did the report undergo the below reviews:

Legal sufficiency/defame and degrade review ____ Yes ____ No

Editorial review ____ Yes ____ No

Affected agency review ____ Yes ____ No

Is the report approved for printing? ____ Yes ____ No

Comments and Instructions: _____

Staff Director_____
Date

Issued: 3/27/03

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 5-8

**WAIVER OF REIMBURSEMENT OF TRAVEL EXPENSES BY STATE ADVISORY
COMMITTEE MEMBERS**

SECTION 1. PURPOSE

.01 The purpose of this Administrative Instruction (AI) is to establish policy and procedures for the waiver of reimbursement of travel expenses by State Advisory Committee (SAC) members. This AI supersedes any other written or unwritten policies of the Commission concerning waiver of reimbursement of travel expenses by SAC members.

SECTION 2. POLICY

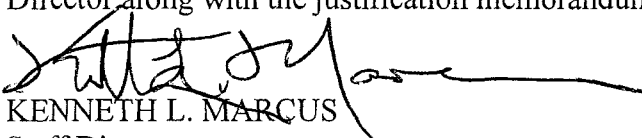
.01 SAC members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed reimbursement for travel expenses, including per diem in lieu of subsistence, except as limited by Section 3 below.

.02 The Staff Director has delegated authorizing and approving authority for the travel of SAC members to the Regional Directors.

.03 Reimbursements for official travel must comply with the GSA Travel Schedule and agency guidance on Official Travel (AI 3-14). Those seeking reimbursement must make timely submissions of their travel vouchers and documentation in support of their travel reimbursement claim.

SECTION 3. WAIVER OF REIMBURSEMENT

.01 A SAC member may waive reimbursement from the Commission for any official travel. When the Regional Director sends a justification memorandum to the Staff Director requesting a meeting, the memorandum will contain a section providing estimated SAC travel costs. This section will reflect the Regional Director's understanding of the costs based on waivers received from those SAC who have chosen to waive reimbursement of travel expenses. The waiver form attached to this AI as Appendix A shall be submitted by the SAC member to the Regional Office prior to the Regional Office's submission of the justification memorandum to the Staff Director. The Regional Office shall submit copies of these signed waiver forms to the Office of the Staff Director along with the justification memorandum.


KENNETH L. MARCUS
Staff Director

APPENDIX A

WAIVER OF REIMBURSEMENT

I, _____, a member of the _____ State Advisory Committee (SAC), understand that pursuant to the terms of Section 7(d)(1)(B) of the Federal Advisory Committee Act and 45 C.F.R. § 703.9, I may be allowed travel expenses while engaged in the performance of my duties as a SAC member.

In consideration for participating in the following SAC activity, I hereby voluntarily waive all right to compensation for travel undertaken on _____ for my duties as a SAC member in order to:

- ☐ attend a meeting of my SAC
- ☐ meet with Commission officials
- ☐ meet with State or local government officials
- ☐ interview potential participants in a SAC activity
- ☐ if other, please explain _____

I further agree and understand that by signing this document, I have read this document and elected to waive reimbursement for all expenses related to the aforementioned activity. I understand that I completely release and forever discharge the U.S. Commission on Civil Rights and its officers and employees (in their official and individual capacities), from all claims, damages (including but not limited to general, special, punitive, liquidated and compensatory damages) of any kind, nature and character, known or unknown, in law or equity, fixed or contingent, which I may now have, or I ever had arising from or in any way connected with travel in order to discharge my duties as a SAC member, during _____.

SAC member

Date

Print name of SAC member:

Approve:

Regional Director

Date

Issued: 3/23/09

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 5-9

PROCEDURES FOR RECOMMENDING STATE ADVISORY COMMITTEE APPOINTMENTS

SECTION 1. PURPOSE

The purpose of this Administrative Instruction (AI) is to ensure that State Advisory Committees are broadly diverse and represent a variety of backgrounds, experiences, skills, and perspectives, and that all appointments are made in a non-discriminatory manner. These procedures will be used any time State Advisory Committee members come up for appointment or reappointment. Separate procedures are provided for reappointment of those currently serving or who have formerly served on State Advisory Committees and for appointment of new members of State Advisory Committees.

This AI overrides any other written or unwritten policies of the Commission concerning the appointment or reappointment of SAC members.

SECTION 2. POLICY

The following general guidelines apply to all SAC appointments.

- .01 Each advisory committee shall consist of at least eleven members, but no more than nineteen.
- .02 Membership shall be established to promote vigorous debate and a full exploration of the issues. Membership shall not be established to ensure or limit a certain percentage for representation of any racial or ethnic group.
- .03 In selecting State Advisory Committee members, consideration shall be given to a cross-section of those directly affected, interested, and qualified as appropriate to the nature and functions of the committee. *See* 41 C.F.R. §102-3.60.
- .04 State Advisory Committee membership shall be fairly balanced in terms of the points of view represented and the functions to be performed. *See* Federal Advisory Committee Act, 5 U.S.C. app. §5.
- .05 All prospective committee members should be advised of any revisions to the Commission's goals, functions, procedures, and limitations.

SECTION 3: APPOINTING AUTHORITY

Commissioners are responsible for appointments to the State Advisory Committees. This Administrative Instruction applies to the recommendations for appointment or reappointment submitted by the Staff Director to Commissioners for their vote.

SECTION 4. TERM LIMIT FOR STATE ADVISORY COMMITTEE MEMBERS

.01 Service of State Advisory Committee members shall be limited for a total duration of not more than 10 years (or not more than five two-year terms), unless there is a sufficient basis for extending the appointment beyond 10 years.

.02 The Staff Director shall, after consultation with the Regional Director, and upon determining that a sufficient basis exists for reappointment, submit such recommendation to the Commission prior to the vote by the Commission on the rechartering of the State Advisory Committee.

SECTION 5. REAPPOINTMENT OF CURRENT/FORMER MEMBERS

All current members, including former members of expired SACs, who are eligible for reappointment should be asked in writing about their interest in continuing on the committee. The letter should identify the date on which the current two-year term expires or expired, ask whether the member intends to remain on the committee, and advise the member that the letter is not an offer of reappointment. Additionally, CCR Form 16 should be enclosed, to be updated and signed by the member.

If the member fails to respond, a follow-up telephone call should be made to ensure that the letter was received. If it was not received, a second letter shall be sent out. If the letter was received, the member should be asked to respond orally or in writing. If the member responds orally, the Commission employee receiving the oral response shall document that response in writing.

In addition to the selection guidelines of section 5, the following factors should be considered in evaluating current or former members:

- .01 Attendance. An excessive number of absences must be measured against the member's contributions to the committee in reaching a decision to reappoint.
- .02 Participation. Even if a member attends most or all meetings the quality of participation must also be addressed. A member's participation, both in and out of meetings, should be thoughtful, it should be helpful in reaching decisions, and it should not be unnecessarily divisive. Members who work well as part of a group should be given preference in consideration for reappointment. In evaluating participation, staff should be careful to distinguish between differing points of view and pointless, negative disruption.
- .03 Other Considerations. In addition to the factors identified in the State Advisory Committee Selection Guidelines, reappointment may be dependent upon other factors at the discretion of the Staff Director, in coordination with the Regional Director, including the particular knowledge or expertise required for anticipated SAC projects and the degree to which SACs have a need for fresh input and new ideas.

Each Regional Director, in coordination with the Office of the Staff Director, shall be responsible for evaluating each SAC member being considered for reappointment. At a minimum, such evaluation shall be filed as a memorandum on the occasion of each re-evaluation.

Current members who are not recommended for reappointment, but who had expressed interest in continuing their service for the Commission, shall be given the opportunity to submit to the Commission, in writing, reasons why their continued service on the SAC would make an

important contribution to the committee and the Commission. Such opportunity shall be given with sufficient time to respond prior to Commission approval of the appointments package.

Each Regional Director shall submit to the Staff Director, along with the appointment package, a memorandum listing those members who are not recommended for reappointment and the reasons why they are not recommended. This memorandum shall include the date on which the letter was mailed, affording the SAC member the opportunity to submit additional information to the Commission.

SECTION 6. APPOINTMENT OF NEW MEMBERS

Prospective State Advisory Committee members should be queried in writing about their interest in serving. The query should include a statement that the letter is not an offer of appointment. The letter should contain basic information about the Commission, including the Commission's goals, functions, procedures, and limitations. The State Advisory Committee Handbook and CCR Form 16 should be enclosed, to be signed by the prospective member.

A follow-up telephone call shall be made to ensure receipt of the letter. A record shall be kept of the response received and any efforts to communicate with the prospective member. A summary of responses received shall be submitted to the Staff Director, to accompany the appointments package. Whenever possible, prospective members shall be interviewed in person. At a minimum, they shall be interviewed by telephone.

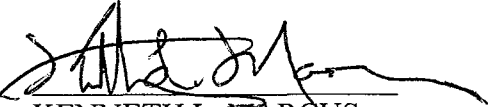
Together with the general policy statements above, the factors listed in the State Advisory Committee Selection Guidelines shall be used to evaluate prospective SAC members.

SECTION 7. STATE ADVISORY COMMITTEE SELECTION GUIDELINES

- .01 No person is to be denied an opportunity to serve on a State Advisory Committee because of race, age, sex, religion, national origin, or disability.
- .02 State Advisory Committee membership shall be broadly diverse.
- .03 State Advisory Committee membership shall represent a diversity of skills and experiences, including, but not limited to, social science research, legal research and analysis, and statistical analysis.
- .04 Educators, lawyers, business and labor leaders, social scientists, researchers, and news gatherers are some of the more important professions, activities, or avocations that should be represented on State Advisory Committees.
- .05 State Advisory Committees should contain individuals knowledgeable of the state and local government machinery and the public service sector.
- .06 State Advisory Committee membership should include individuals drawn from such influential sectors as business and financial communities, organized labor, the news media, and religious groups.
- .07 State Advisory Committee membership should include individuals with a demonstrated interest in the civil rights issues of color, race, religion, gender, age, disability, national origin, and voting rights.
- .08 Both major political parties should be represented in each State Advisory Committee.

SECTION 8. INTERIM APPOINTMENTS

Interim appointments to SAC vacancies should be made when a committee's term is set to expire six months or more from the date of the vacancy.


KENNETH L. MARCUS
Staff Director

Issued: 6/15/03

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 5-10

STATE ADVISORY COMMITTEE MEETINGS

SECTION I. PURPOSE

The purpose of this Administrative Instruction is to provide clear operating procedures for conducting meetings of a State Advisory Committee (SAC), including guidance on electronic meetings, preparatory meetings, and administrative meetings.

SECTION II. POLICY

It is the policy of the Commission that SACs may conduct meetings in person or by electronic means. SAC meetings shall comply with the procedural and committee management requirements of this Administrative Instruction. Administrative and preparatory meetings of State Advisory Committees are not subject to the procedural requirements set forth in Sections IV and V of this Administrative Instruction. Subcommittee meetings are not subject to Subpart D of the Federal Advisory Committee Management Final Rule (41 C.F.R. §§ 102-3.135-102-3.175), and as such, are not within the scope of this Administrative Instruction.

SECTION III. DEFINITIONS

.01 Administrative meeting. A meeting of two or more advisory committee members convened solely to discuss administrative matters of the advisory committee or to receive administrative information from a Federal officer or an agency.

.02 Agency. The agency is the United States Commission on Civil Rights, which has established State Advisory Committees in each state and the District of Columbia and whose policies regarding the operation of such committees is set forth in this Administrative Instruction.

.03 Committee meeting. Any gathering of two or more advisory committee members, whether conducted in person or through electronic means, that is approved by the Designated Commission Employee and consistent with agency policies and procedures, for the purpose of deliberating on the substantive matters on which the advisory committee provides advice or recommendations to the Commission.

.04 Designated Commission Employee (DCE). A Commission employee appointed by the agency's Advisory Committee Management Officer to implement the provisions of section 10(e) and (f) of the Federal Advisory Committee Act and the advisory committee procedures established by the Commission.

.05 Electronic meeting. Any SAC meeting where (a) the SAC members and DCE attend by electronic means, or (b) the SAC members convene in person at a designated location and the DCE attends by electronic means. A meeting is conducted by electronic means in any of the following ways: teleconference, videoconference, the Internet, or other electronic medium. Asynchronous electronic discussion by electronic mail or other asynchronous communications do not constitute meetings, since they are not an official assembly with a designated starting time.

.06 Preparatory meeting. A meeting of two or more committee or subcommittee members convened solely to gather information, conduct research or analyze relevant issues and facts in preparation for a meeting of the advisory committee, or to draft position papers for deliberations by the advisory committee.

.07 Scheduled invitees. Informed members of the community and/or experts invited by the SAC, with DCE approval, to make presentations at a SAC meeting.

.08 Subcommittee. A group of two or more SAC members who are appointed by the SAC and approved by the DCE. The subcommittee reports directly to the SAC and not to a Federal officer or agency.

.09 Task force. A group of one but no more than four SAC members designated by the SAC to perform special projects for the SAC. Both the designation of SAC members to serve on a task force and the special projects of the task force are subject to the approval of the DCE.

SECTION IV. MEETING PREPARATION AND RECORDS

.01 Closed meetings. All or portions of a meeting may be closed if the Chief of the Regional Programs Coordination Unit (RPCU) determines that closing the meeting is in the public interest. However, prior to making that determination, the Chief of RPCU shall have requested and received an opinion from the Solicitor as to whether the meeting may be closed under one or more of the exemptions under the Government in the Sunshine Act. The DCE seeking closure must submit the closure request to the Chief of RPCU 30 days prior to the meeting date. At the close of the fiscal year, each regional office shall prepare an annual report summarizing the activities conducted in meetings not open to the public.

.02 Scheduling meetings. Meetings of a SAC shall be convened by the DCE or, subject to DCE approval, by the SAC chairperson or a majority of the SAC members.

.03 Meeting agenda. The DCE shall approve the agenda for each meeting.

.04 Regional office support of SAC meetings. The regional office shall make arrangements, including selecting a provider of services for conducting a meeting by electronic means, and provide staff support for SAC meetings.

.05 Meeting minutes. Minutes shall be kept of the meeting in accordance with Commission policies.

.06 Meeting records. The DCE shall establish an official file for each meeting. The file shall include the minutes of the meeting and written materials, if any. The file shall be available for public inspection and copying at the regional office. A member of the public may obtain these materials by sending an email, a fax or by making an in-person written request to the regional office.

SECTION V. PUBLIC NOTICE OF SAC MEETINGS

.01 Public notice. Notice of all meetings, except administrative or preparatory meetings, shall be given to the public. As a general matter, notice of subcommittee meetings, need not be given to the public.

.02 Date for filing notice. The notice shall be published in the Federal Register at least 15 days prior to the meeting. In exceptional circumstances, less than 15 days notice may be given, provided that there is as much public notice as possible and the reasons for the shorter time are included in the Committee meeting notice published in the Federal Register.

.03 Notice contents. Each notice shall contain a statement of the purpose of the meeting, a summary of the agenda, and the date, time, and location of the meeting. For electronic meetings, the notice shall advise the public as to how the meeting may be observed by electronic means. The notice shall identify the DFO by name, address and telephone number, including the TTY number. In addition, the notice shall advise persons who are hearing-impaired to contact the regional office, at least ten business days in advance of the meeting, if the services of a sign interpreter are needed.

.04 Closed meetings. If all or part of the meeting has been approved to be closed to the public, the notice shall provide the reasons for the closure, and cite the specific matter that has been determined to justify the closure.

.05 Written or oral statements. The notice will advise that any member of the public that wishes to submit a written or oral statement to the SAC should contact the appropriate regional office.

.06 Other forms of notice. In addition to the Federal Register notice, the Commission may also use other forms of notice, such as press releases, notice by mail, or posting SAC meeting announcements, including agendas, on the Commission web site. To the extent practicable, the regional office will maintain lists of people and organizations interested in SAC activities and notify them of scheduled meetings.

.07 Posting meeting notices to agency website. SAC meeting announcements, including agendas, that are posted on the Commission website, are subject to the following:

- a. Posted meeting notices, including the agenda, shall be created in Microsoft Word, in accordance with a format established by the agency.
- b. After the Staff Director approves the Justification Memorandum for a SAC meeting, the Regional Office will forward the announcement and agenda to the Commission's webmaster, who shall forward the documents to GPO for posting on the Commission website.

SECTION VI. MEETINGS

.01 Time, location, and accessibility. Each SAC meeting shall be held at a reasonable time and in a place accessible to the public, including to persons with disabilities. SAC members and the DCE may attend committee meetings in person and by electronic means as defined by this Administrative Instruction. Scheduled invitees and members of the public may participate and observe electronic meetings by electronic means.

.02 DCE attendance. Except as noted in this Administrative Instruction, the DCE shall attend all SAC meetings. Such attendance is necessary to ensure that the interests of the government are protected and that the SAC meeting complies with the laws governing the operations of federal advisory committees, including this Administrative Instruction. An electronic SAC meeting may not commence, and shall be recessed if, at any point in the meeting, the DCE's attendance is disrupted; the meeting shall resume, when the DCE's attendance is re-established.

Except as noted in this Instruction, the DCE shall attend all preparatory and administrative meetings. This provision is discussed in more detail in Section VII.

.03 Closed meetings. When some or all of a SAC meeting is closed, only SAC members, agency staff and necessary participants as approved by the DCE may attend the meeting. Members of the public and scheduled invitees, as defined by this Administrative Instruction, may not participate or observe the closed meeting.

.04 Quorum. One half or more of the members of the Committee or 5 members, whichever is less. The number of SAC members required to conduct a fact-finding meeting is three. The designated Commission employee shall call the roll and when the DCE determines that the requisite number of SAC members is present, the DCE shall turn the meeting over to Chair.

.05 Voting. All SAC member votes shall be recorded. All SAC members shall express their vote by saying *Yes*, *No*, or *Abstain*. A record of all votes shall be entered in the minutes. Voting procedures regarding project proposals and committee reports can be found in Administrative Instruction 5-7: Regional Program Development and Implementation.

.06 Adjourning meetings. As a general rule, meetings are adjourned by the Chair, after a motion is approved by the SAC. However, if it is in the public interest, the DCE shall adjourn the meeting.

SECTION VII. PREPARATORY AND ADMINISTRATIVE SAC MEETINGS

.01 Administrative and preparatory SAC meetings are not subject to the procedural requirements set forth in sections IV and V of this Administrative Instruction.

.02 The DCE shall attend all administrative and preparatory SAC meetings to ensure that the interests of the government are protected.

SECTION VIII. TASK FORCES

01. Subject to the approval of the DCE, the SAC may designate individual members of the Committee to perform special projects involving research or study on matters under consideration by the Committee.

02. The operations of the task force are exempt from the requirements of this Administrative Instruction if:

- a. no more than four committee members are designated to the task force, and
- b. the DCE approves work products of the task force before they are distributed to the SAC for review and action.

03. Task forces of more than two members shall not engage in any fact-finding.

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

KENNETH L. MARCUS
Staff Director

ADMINISTRATIVE

INSTRUCTIONS

PART 6

ADMINISTRATIVE

INSTRUCTIONS

PART 7

ADMINISTRATIVE MANUAL

ADMINISTRATIVE INSTRUCTION 7-1

**PROCEDURES FOR PROVIDING AN OPPORTUNITY FOR RESPONSE TO PERSONS
CRITICIZED BY COMMISSION PUBLICATIONS AND AUDIOVISUAL PRODUCTS**

SECTION 1. PURPOSE

.01 The purpose of this Administrative Instruction (AI) is to establish uniform procedures in accordance with 45 C.F.R. § 702.18, for providing an opportunity of response to persons who are defamed, degraded, or incriminated by material contained in a Commission publication or audiovisual product.

SECTION 2. ACCOUNTABLE OFFICIAL

.01 The General Counsel is responsible for ensuring that publications and audiovisual products are reviewed to determine if it is necessary to provide a right to respond to a statement that defames or degrades in a publication.

**SECTION 3. PROCEDURES FOR DETERMINING WHEN MATERIAL MAY DEFAME,
DEGRADE, OR INCRIMINATE**

.01 Statements that tend to defame, degrade, or incriminate within the meaning of this AI are those that (a) allege discrimination based on race, color, religion, sex, age, disability, or national origin, (b) allege commission of illegal acts, or (c) are likely to damage the business or reputation of, or otherwise to injure, the person criticized.

.02 Each office shall request the guidance and assistance of the General Counsel at the earliest possible opportunity and must explain to the General Counsel why it is necessary to include material in a publication in such a way to defame, degrade or incriminate an identifiable person.

SECTION 4. PROCEDURES FOR REPORTS

.01 The procedures specified in this AI do not replace the normal investigation and research techniques used to solicit a full and adequate response from all persons who may be criticized in Commission reports. No reference to a regulatory right of response will be made in connection with obtaining this information, unless it is so decided upon consultation with the General Counsel.

.02 At the same time that a report is submitted to the General Counsel for legal sufficiency review, it must also be submitted for defame/degrade review. The submitting office shall append a statement which: (a) states whether, in its view, the

proposed report contains material which may defame, degrade, or incriminate any person; (b) identifies those parts of the draft report that may contain such material; and (c) present or makes available factual information necessary for determining whether identified material may defame, degrade or incriminate any person.

.03 The General Counsel, relying on facts presented by the originating office, shall review the proposed report and accompanying submissions and shall specify in writing (a) the material, if any, that tends to defame, degrade, or incriminate a person; (b) the persons, organizations, etc., that have a right of response under 45 C.F.R. § 702.18; and (c) instructions to the originating office to implement this regulatory right of reply.

.04 The originating office must explain to the General Counsel why it is necessary to include material in a report in such a way as to defame, degrade or incriminate an identifiable person.

SECTION 5. RIGHT TO ANSWER REPORTS

.01 The report shall be delivered to such person 30 days before the report shall be made public in order that such person may make a timely answer to the report. Each person defamed, degraded or incriminated in such report may file with the Commission a verified answer to the report not later than twenty days after service of the report upon him.

.02 The Commission may grant the person an extension of time within which to file such answer. Each answer shall plainly and concisely state the facts and law constituting the person's reply or defense to the charges or allegations contained in the report. Such answer shall be published as an appendix to the report.

.03. The right to answer within these time limitations and to have the answer annexed to the Commission report shall be limited only by the Commission's power to except from the answer such matter as it determines has been inserted scandalously, prejudicially or unnecessarily.

SECTION 6. PROCEDURES FOR COMMISSION PUBLICATIONS OTHER THAN REPORTS

.01 This section applies to all Commission publications, other than reports, including clearinghouse publications.

.02 Whenever it appears that a publication other than a statutory report will contain material that tends to defame, degrade, or incriminate any person, such person must be afforded a full and fair opportunity to respond to such material, and the substance must be afforded a full and fair opportunity to respond to such material, and the substance of such response, to the extent relevant and provided it does not defame, degrade, or incriminate, must be reflected in the final draft of the publication.

.03 At the same time that a publication is submitted to the General Counsel for legal sufficiency review, it must also be submitted for defame and degrade review. The submitting office will append a statement which: (a) states whether, in its view, the proposed publication contains material that may defame, degrade, or incriminate any person; (b) identifies those parts of the draft publication that may contain such material; (c) states what response, if any, to such material has been obtained from the person defamed, degraded, or incriminated, and appends the documents reflecting such response; and (d) presents or makes available factual information necessary for determining whether identified material may defame, degrade or incriminate any person.

.04 The General Counsel, relying on facts presented by the originating office, shall review the proposed publication and accompanying submissions and shall specify in writing (a) the material, if any, that defames, degrades, or incriminates; (b) the persons, organizations, etc., if any, that are so defamed, degraded, or incriminated; and (c) whether, in each case (1) a full and fair opportunity to respond has been accorded such person, organization, etc., and (2) the substance of such response, to the extent relevant, has been reflected in the text of the publication.

.05 If the General Counsel determines that such full and fair opportunity to respond has not been afforded, or that the substance of the response, to the extent relevant and provided it does not defame, degrade, or incriminate, is not adequately reflected in the proposed publication, he/she will advise the originating office of necessary corrective action.

SECTION 7. PROCEDURES FOR COMMISSION PUBLICATIONS AND AUDIOVISUAL MATERIALS PRODUCED BY REGIONAL OFFICES

.01 Reviews of regional reports, i.e., State Advisory Committee reports, films, and regional office staff reports, for defame/degrade are also the responsibility of the General Counsel. Regional materials submitted for action by the Staff Director or Commissioners must be reviewed for compliance with defame/degrade requirements by the General Counsel.

.02 Whenever it appears that a Regional Office publication will contain material that tends to defame, degrade, or incriminate any person, such person must be afforded a full and fair opportunity to respond to such material, and the substance of such response, to the extent relevant and provided it does not defame, degrade, or incriminate, must be reflected in the final draft of the publication.

.03 At the same time that a publication is submitted to the General Counsel for legal sufficiency review, it shall also be submitted for defame/degrade review. The Project Director will append a statement that (a) states whether, in his/her view, the proposed publication contains material that may defame, degrade, or incriminate any person; (b) identifies those parts of the draft publication that may contain such material; (c) states what response, if any, to such material has been obtained from the person defamed,

degraded, or incriminated, and appends the documents reflecting such response; and (d) presents or makes available factual information necessary for determining whether identified material may defame, degrade, or incriminate any person.

.04 The General Counsel, relying on facts presented by the Project Director, shall review the proposed publication and accompanying submissions and shall specify in writing (a) the material, if any, that defames, degrades, or incriminates; (b) the persons, organizations, etc., if any, that are so defamed, degraded, or incriminated; and (c) whether, in each case, (1) a full and fair opportunity to respond has been accorded such person, organization, etc., and (2) the substance of such response, to the extent relevant, has been reflected in the text of the publications.

.05 Where the General Counsel determines that such full and fair opportunity to respond has not been afforded, or that the substance of the response, to the extent relevant and provided it does not defame, degrade, or incriminate, is not adequately reflected in the proposed publication, he/she will advise the Project Director of the corrective action necessary in each such instance.

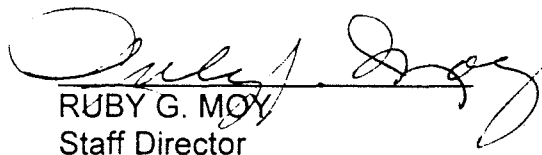
.06 The General Counsel will forward the legal review to the Regional Director.

.07 Regional Office Directors will approve State Advisory Committee and other field publications including audiovisual products only after a legal sufficiency and defame/degrade review by the Office of General Counsel.

SECTION 8. PROCEDURES FOR THE CIVIL RIGHTS JOURNAL

.01 An opportunity of response must be accorded to all persons defamed, degraded, or incriminated by materials published in the Civil Rights Journal published by the Commission.

.02 The Director of Public Affairs Unit shall submit editorial copy to the General Counsel for review. The Director shall ask authors to incorporate in their articles, whenever feasible, the views of persons defamed, degraded, or incriminated.


RUBY G. MOY
Staff Director

**ADMINISTRATIVE
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PART 8**

**ADMINISTRATIVE
INSTRUCTIONS
PART 9**

Issued: 1/12/06

ADMINISTRATIVE INSTRUCTION 9-1

PUBLIC AFFAIRS UNIT

SECTION 1. PURPOSE

.01 The purpose of this Administrative Instruction (AI) is to establish guidelines and lines of authority for the public information, education outreach, and publications functions of the Public Affairs Unit (PAU).

SECTION 2. ORGANIZATION

.01 Supervisors. The Public Affairs Unit is headed by the Chief of PAU.

.02 Chief of PAU. The Chief of PAU provides leadership and direction to PAU in administering its responsibilities in the areas of public relations policy and communications services; serves as advisor to the Commissioners through the Chair, the Staff Director, and program directors in the areas of press relations and public affairs; and, provides advice on strategies and approaches to be used to improve public understanding of civil rights issues involved in Commission programs and policy through the news media and other means. The Chief serves as editor of the *Civil Rights Journal and Update*, and as advisor to Regional Directors on public affairs matters, as requested.

.03 Deputy Chief of PAU. The Deputy Chief assists the Chief in carrying out the responsibilities of PAU.

SECTION 3. PUBLIC INFORMATION FUNCTION

.01 Policy.

- (a) The Chair and the Staff Director are the designated spokespersons for the Commission. Individual Commissioners are, however, free to speak publicly on substantive civil rights topics and matters upon which the Commission has opined, so long as they make clear that they are speaking in their individual capacities and not as Commission spokespersons.
- (b) Whenever the Chair, Vice Chair, other Commissioner, or Staff Director speak publicly about matters before the Commission, he or she may not purport to speak for the entire Commission, without acknowledging the existence of dissenting viewpoints among the Commissioners.

- (c) The Chief of PAU and the Deputy Chief of PAU may speak on behalf of the Commission concerning approved activities.

.02 Scope. PAU develops and implements public affairs strategies to achieve Commission program objectives in coordination with other Commission components; coordinates news media-relations strategies; responds to all news media inquiries concerning Commission programs and related issues; develops fact sheets, news advisories and releases, and articles for publication; manages preparation and clearance of speeches, letters-to-the-editor, op-ed pieces, and official statements on Commission programs and activities; and recommends to the Staff Director agency communications, publications, or postings on the Commission Web site. Media include radio, television, newspapers, specialized newsletters, magazines, and wire services.

.03 Duties of PAU Officials. PAU officials are responsible for organizing press conferences for the Commissioners subject to fund and staff the availability; scheduling press interviews; preparing briefings; coordinating editorial board meetings for the Chair; arranging television and radio appearances for the Chair and the Staff Director; and preparing Commission statements to the press on civil rights topics of urgent importance; Commission letters-to-the-editor for the Chair; and introductory statements for the Chair's use at press conferences and other Commission-sponsored events.

.04 Media Inquiries to PAU. All media inquiries to Commission offices, including telephone calls, facsimiles, e-mails, letters, and personal visits, should be referred to a PAU official. The PAU official will record the media inquiry on CCR Form 407. If the official has the appropriate information, he/she will respond directly to the media representative. If the inquiry is for more technical and complex information than can be covered by the information available to PAU officials, they will designate the appropriate Commission official to respond with the appropriate office head's approval.

.05 Media Inquiries to Regional Offices. Media inquiries should be referred to the Chief of PAU. News releases about a Commission report or activity drafted by a Regional Office shall be approved by the PAU Chief or the Staff Director prior to distribution.

.06 Response Time. Because reporters are often on tight deadlines, if a Commission official cannot respond immediately to an inquiry, this information shall be conveyed quickly to the media representative, and a time, normally not to exceed one hour, should be established when a response will be made. If there is to be a delay in the response over the established time, the media representative should be called and the delay explained.

.07 Official Position. When a response is made to the media orally, or in writing, it should reflect the Commission's official position rather than personal opinion, conjecture, or uninformed speculation. Commission staff shall not speak "off the record" when responding to media inquiries. All responses should be viewed by the Commission

spokesperson as quotable. When talking with reporters, Commission officials should discuss only those matters within their area of responsibility and personal knowledge.

.08 Letters to Public Officials. Letters to public officials that (1) state Commission policy regarding a substantive civil rights topic; (2) express concern over recent civil rights developments; and/or (3) urge the adoption of a particular position or course of action may not be sent on behalf of the Commission, the Chair, the Vice Chair, or the Staff Director purporting to represent the Commission as a whole without approval of a majority of Commissioners. Approval need not be sought at a Commission meeting, but may be obtained by a notational vote. A Commissioner's failure to respond to a request for approval of such a letter will be regarded as an abstention. In order to protect the rights of dissenting Commissioners, such letters will be signed by all Commissioners who so approve; dissenting Commissioners need not sign the document in order to signal their lack of consent. When there are dissenting Commissioners, the letter should include a statement that the letter is signed by "a majority of the Commission." Routine letters seeking data as part of an on-going commission project and letters concerning operational matters with other agencies do not require approval by a majority vote of the Commission.

.09 Press Releases.

- (a) Statements regarding Commission business (including, but not limited to, responses to public statements made about the Commission and statements about internal Commission governance) and statements of substance or policy (including, but not limited to, statements of official Commission policy on a particular civil rights topic; commentary on court rulings, legislation, administrative rules, or actions by elected or appointed officials; and responses to news stories about civil rights issues) must be approved by a majority vote of the Commission before release to the public or the press.
- (b) Press releases which are approved by a majority of the Commission, but which fail to garner unanimous support, must reflect that the statement was approved by "a majority of the Commission."

.10 Commission Events. PAU officials assist and attend to the needs of media at Commission-sponsored events, such as hearings, consultations, conferences, briefings, and meetings. Press conferences to release Commission reports will be planned in conjunction with the program office that prepared the report. PAU officials write press advisories to alert news organizations and the public about upcoming Commission activities, and prepare news releases on Commission publications and events. PAU will maintain the Commission's mailing list of journalists and news organizations, and create specialized news media faxing and mailing lists, as needed, either through staff or be contractor. At the discretion of the Staff Director, they may provide on-site press relations support for State Advisory Committee activities.

.11 Meetings. When the notice of Commission meetings is sent to the *Federal Register*, it shall direct that any questions concerning meetings should be made to PAU officials.

.12 Hearings and Consultations. The General Counsel will provide the Chief of PAU with the concept proposal and project design for each project. The Chief of PAU will circulate clippings from newspapers and printed information from Internet sites on the subject matter of the projects. Before each hearing or consultation the Chief of PAU will submit a media information plan to the Staff Director detailing how information will be disseminated to print and broadcasting media, and what special media opportunities may exist at the hearing site. The PAU Chief will cooperate with the General Counsel and appropriate Regional Directors in devising and implementing a plan for attracting community attendance at the hearing. This plan should include sending out a press advisory on the event at least three to four weeks before the event. Once the witnesses receive a subpoena, their names and background information will be provided by the General Counsel to the Chief of PAU. The OGC will provide PAU with information concerning the witnesses, panelists, and a preliminary outline agenda at least two weeks in advance of the hearing or consultation. During the hearing, PAU officials on-site will handle media relations and keep the Chair and the Staff Director informed about news media opportunities, coverage, and developments.

.13 Briefings. PAU officials prepare informational briefings on topics recommended by the Commissioners. The Chief of PAU will prepare a list of potential panelists for the Staff Director. After Staff Director approval, PAU will invite potential participants. Materials shall be provided to the Commissioners to help them prepare for the briefing. PAU will prepare an opening statement for the Chair and the press kits for the news media. PAU staff will edit the briefing transcripts, and write executive summaries based on the transcripts. PAU officials shall also conduct/arrange briefings for foreign nationals visiting the United States, as well as for U.S. students and researchers.

.14 Educational Outreach. PAU officials will conduct outreach efforts to educators to encourage teaching about civil rights and tolerance in the schools. They will develop and submit to the Staff Director for approval, educational materials such as wall charts/posters and lesson plans for secondary teachers recognizing significant events in American civil rights history. PAU staff will also develop other educational resource materials on civil rights and tolerance programs for use by educators. Officials in PAU will also reach out to federal, state, and local governmental agencies and private organizations on civil rights related matters, as time permits.

SECTION 4. INTERNAL INFORMATION SERVICES

.01 Daily Press Report. PAU officials will conduct a daily early morning review of news media coverage of the agency and Commissioners, and its treatment of key civil rights issues. PAU staff will also conduct daily for the Staff Director an Internet search covering Commission-related news items and White House press releases. The Chief and, in his/her absence, the Deputy will immediately call the Staff Director's attention to news developments of special interest.

SECTION 5. PUBLICATIONS FUNCTION

.01 Publications. PAU officials provide technical leadership and services in public information and printing; recommend approaches for meeting internal and external communications needs of the Commission; and act as a focal point for clearance of all publications and audio-visual projects produced under contract.

SECTION 6. AUDIO-VISUAL PROGRAM

.01 Control Mechanisms. PAU will comply with the following Office of Management and Budget Circular 130 guidelines:

- a. keep an inventory of audio-visual products;
- b. provide access for the disabled, if possible;
- c. provide publications to the news media and general public free of charge; and
- d. prepare the office budget for future years, by:
 - (I) analyzing the costs and benefits of each publication; and,
 - (II) examining whether past publications resulted in their estimated benefits.

.02 Overall. PAU officials oversee the creative development, production, distribution, airing, and evaluation of the Commission's statutorily mandated Public Service Announcements (PSA). These officials shall also collect, distribute internally, and maintain file copies of tapes of TV and radio news and other programming of interests to the Commission. They will continue to maintain the existing file of documentary still photos and other materials concerning the Commission.

.03 Public Service Announcement Policy. Pursuant to the overall educational outreach purpose of the clearinghouse mandate, and the statutory authorization in the enabling legislation, PSAs will be prepared in order to discourage discrimination and promote tolerance. Pursuant to authority for, and with the purpose of preparing PSAs, the Commission is authorized to obtain volunteer services.

.04 Statement of Work. The Chief of PAU will submit a draft statement of work and the names of potential contractors for PSA production to the Budget and Finance Division. Once the Budget and Finance Division allocates funds to the project, the draft statement of work is sent to the Administrative Services and Clearinghouse Division for competitive contracting procedures. A PAU official will be designated as the technical representative on the contract for the agency.


.05 Approval of Content. The contractor will provide several scripts that shall be submitted to the Staff Director for consideration by the Commissioners. After final Commission approval of the script, the Chief of PAU will send a statement of work to the Chief of Administrative Services for a contract for duplication and distribution. When the proposed contract involves more than the minimum amount that requires advertisement in the *Commerce Business Daily*, Commissioner approval will be obtained. The contractor, in conjunction with a PAU official, will identify a celebrity to prepare the PSA. The final version shall be approved by the Staff Director.

SECTION 7. PUBLICATIONS FUNCTION

.01 Pamphlets. PAU officials write, edit, and oversee distribution of the quarterly newsletter *Update*, the Commission Brochure, the booklet *Getting Uncle Sam to Enforce Your Civil Rights*, and the *Civil Rights Directory*. The Commission Brochure shall be updated every time a new Commissioner or Staff Director is appointed, or there is a major change in the Commission authorizing statute. The Chief of PAU will request funds to update *Getting Uncle Sam to Enforce Your Civil Rights* and the *Civil Rights Directory* every two years.

.02 Civil Rights Journal. PAU officials are responsible for conceiving each issue of the *Civil Rights Journal*, assigning and editing articles written by freelance authors, coordinating the graphic design and production, and monitoring printing and distribution of the *Journal*. Design tasks associated with each issue of the *Journal* are contracted out. A PAU official will be the technical representative named in the contract.

.03 Portable Exhibit. PAU officials develop a portable exhibit for placement at PAU-recommended/OSD-selected national conferences of civil rights and other organizations.

A handwritten signature in black ink, appearing to read 'KENNETH L. MARCUS', written over a horizontal line.

KENNETH L. MARCUS
Staff Director

Issued: 1/12/06

ADMINISTRATIVE INSTRUCTION 9-2

INTERNAL COMMUNICATIONS

SECTION 1. PURPOSE

.01 The purpose of this Administrative Instruction (AI) is to establish guidelines and lines of authority for the internal communications between Commissioners and staff. This AI supercedes previous Commission policies.

SECTION 2. COMMUNICATIONS BETWEEN STAFF AND COMMISSIONERS

.01 Individual Commissioners and their assistants may, at any time, request information about proposed or on-going Commission projects from the Staff Director, the General Counsel, or the Director of the Office for Civil Rights Evaluation. Such information may include, e.g., interrogatory responses, responses to data requests, availability of confirmed witnesses or panelists, and/or consultant work product, but not working drafts of reports.

.02 If the Staff Director and the relevant senior managers determine that it is appropriate, Commissioners may speak directly with line staff responsible for a particular project, or segment of a project, related to their inquiry. Commissioners and their assistants will not contact individual staff members directly without first addressing their inquiries to the Staff Director and the relevant senior managers identified above.

.03 Staff, in consultation with their department manager, may, as appropriate, contact individual Commissioners to seek their input and/or expertise regarding proposed or on-going projects.

SECTION 3. CATALOGING COMMISSION POLICIES

.01 The minutes of Commission meetings will contain an exact restatement of any new policy approved by the Commission along with a complete breakdown of the vote on such policies.

.02 Minutes amended by voice vote at Commission meetings should be amended in writing and reissued to all Commissioners and other parties that keep records of the Commission.

.03 The Office of the Staff Director shall maintain a binder of the minutes from all Commission meetings. A copy of this binder will also be kept by the Library and made available to Commissioners, the staff, and the public upon request.

.04 The Office of the Staff Director shall maintain a complete record of all current Commission-approved policies. The Office of the Staff Director shall catalog procedural policies and substantive policies separately. The record of each policy will indicate the date upon which the policy was enacted, a breakdown of the vote, and whether the policy replaces or revokes any preexisting policies. The Office of the Staff Director will distribute copies of such policies to all Commissioners, senior staff, and the Library. Copies of Commission policies will be made available to the public upon request. This record will contain policies adopted since the January 2005 meeting of the Commissioners.

SECTION 4. WEEKLY MEMOS FROM THE STAFF DIRECTOR

.01 The Staff Director shall report in writing to the Commissioners on a weekly basis. This weekly report should alert Commissioners as to important upcoming events (e.g. meetings on the Hill, or Congressional hearings, Government Accountability Office activity, working group meetings, and the like).

A handwritten signature in black ink, appearing to read 'Ken Marcus', written over a horizontal line.

KENNETH L. MARCUS
Staff Director

ADMINISTRATIVE

INSTRUCTIONS

PART 10