



U.S. Department of Justice
Federal Bureau of Prisons

PROGRAM STATEMENT

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Performance

/s/

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1. PURPOSE AND SCOPE

This Program Statement covers a broad range of areas related to performance management with the Federal Bureau of Prisons in order to ensure the effective implementation of the five components of performance management (planning, monitoring, developing, appraising, and rewarding) consistent with Merit Systems Principles.

a. Summary of Changes

Policy Rescinded

P3000.03 Human Resource Management Manual, Sections 430.1, 430.2, 430.3

- Updated Directives Referenced.
- Updated the performance evaluation program for Bargaining Unit Employees to add HRM responsibility for providing performance management training to supervisors/management officials once per calendar year, and for maintaining and reviewing performance reports on a quarterly basis.
- Updated the performance evaluation program for Bargaining Unit Employees to add a four-year retention period for completed performance evaluations.
- Extensively updated the performance evaluation program for Non-Bargaining Unit Employees.
- Extensively updated the performance evaluation program for Senior Executive Service (SES) members.

b. **Program Objectives.** The expected results of this program are:

- Supervisor-employee relationships and communications will be strengthened.
- Employees will be informed of work requirements and standards.
- Employee accomplishments and good work will be recognized, and work deficiencies will be identified and corrected.

c. **Institution Supplement.** None required. Should local facilities make any changes outside the required changes in the national policy or establish any additional local procedures to implement the national policy, the local Union may invoke to negotiate procedures or appropriate arrangements.

REFERENCES

Program Statements

- P3451.05 Awards Program, Incentive Awards (10/28/2016)
P3906.22 Employee Development Manual (4/30/2015)

ACA Standards

(see the Program Statement **Directives Management Manual**, sections 2.5 and 10.3)

- American Correctional Association Standards for Adult Correctional Institutions, 4th Edition: 4-4048, 4-4059, 4-4064
- American Correctional Association Performance Based Standards for Adult Local Detention Facilities, 4th Edition: 4-ALDF-7E-01, 4-ALDF-7E-04
- American Correctional Association Standards for Administration of Correctional Agencies, 2nd Edition: 2-CO-1C-01, 2-CO-1C-02, 2-CO-1C-15, 2-CO-1C-21
- American Correctional Association Standards for Correctional Training Academies: 1-CTA-1C-01, 1-CTA-1C-08

BOP Forms

- BP-A0367 Employee Performance Appraisal

Records Retention

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) on Sallyport.

Contents

Section 1. Performance Evaluation Program for Bargaining Unit Employees5

1. Purpose and Scope	5
2. Coverage	5
3. Responsibilities	5
4. Basic Program Requirements	6
5. Rating Period.....	7
6. Job Elements and Performance Standards.....	8
7. Issuing Performance Standards.....	9
8. Monitoring Performance – Performance Log.....	9
9. Progress Review	11
10. Final Rating.....	12
11. Final Discussion.....	13
12. Filing Completed Performance Evaluations	13
13. Probationary Employees.....	14
14. Informing Supervisors and Employees.....	14
15. Performance Rating Grievances.....	15
16. Relationship to Within-Grade Increases	15
17. Quality Step Increases and Performance Awards.....	16
18. Addressing Deficient Performance	16
19. Minimally Satisfactory Performance.....	16
20. Unacceptable Performance.....	17
21. Proposing and Taking Action Based on Unacceptable Performance.....	19

Section 2. Performance Evaluation Program for Non-Bargaining Unit Employees21

1. Purpose and Scope	21
2. Coverage	21
3. Effective Date	21
4. Responsibilities	22
5. Basic Program Requirements	23
6. Rating Period.....	24
7. Critical Elements and Performance Measures	25
8. Developing a Performance Work Plan	25
9. Monitoring Performance	26

10.	Progress Review	27
11.	Final Rating	28
12.	Final Discussion	29
13.	Filing Completed Performance Evaluations	30
14.	Probationary Employees.....	30
15.	Informing Supervisors and Employees	30
16.	Performance Rating Grievances	31
17.	Relationship to Within-Grade Increases	31
18.	Quality Step Increases and Performance Awards.....	32
19.	Addressing Deficient Performance	32
20.	Minimally Satisfactory Performance.....	32
21.	Unsatisfactory Performance	33
22.	Proposing and Taking Action Based on Unsatisfactory Performance.....	35
 Section 3. Performance Evaluation Program for Senior Executive Service Members		36

Section 1. **Performance Evaluation Program for Bargaining Unit Employees**

1. **PURPOSE AND SCOPE**

The objectives of the performance evaluation program are to help improve performance, strengthen supervisor-employee relationships and communications, identify and inform employees of work requirements and standards, recognize employee accomplishments and good work, identify and correct work deficiencies, and guide personnel actions such as within-grade and quality step increases, promotions, demotions, removals, reassignments, performance awards, and training.

References

Program Statement **Awards Program, Incentive Awards**

CFR 293, 430, 432, 451, 531 and 771.

5 U.S.C., Chapters 43 and 45.

2. **COVERAGE**

This section applies to all employees in the bargaining unit except those serving under appointments of less than 90 days.

3. **RESPONSIBILITIES**

- a. The **Assistant Director, Human Resource Management Division**, is responsible for the overall administration of this program.
- b. The **Federal Bureau of Prisons Personnel Director** is responsible for ensuring that the performance evaluation program is carried out throughout the system in compliance with current laws and regulations.
- c. **Chief Executive Officers** are responsible for ensuring that there is an effective performance evaluation program at their level of the organization.
- d. The **Approving Official** for outstanding performance ratings is the Chief Executive Officer for institutions and Regional Office staff or the appropriate Assistant Director for Central Office staff. The approving official must be at least two supervisory levels above the employee being rated.

e. The **Reviewing Official** is the next supervisor above the rating official and is responsible for assigning an overall rating and approving or adjusting individual element ratings. Reviewing officials are also responsible for monitoring the performance appraisal practices of subordinate supervisors and providing advice or instruction as needed. Reviewing officials ensure that recommendations for incentive awards based on performance ratings are consistent with policy and determine whether recommendations for Outstanding performance ratings will be forwarded to the approving official.

f. The **Rating Official** is the first level of management having supervisory responsibilities, including recommending performance awards. Rating officials are responsible for meeting with employees to issue and discuss performance standards, providing performance feedback, maintaining the employee's performance log, conducting progress reviews, completing the annual performance rating in accordance with procedures in this policy, and for seeking advice and assistance from the Human Resource Office when necessary. It is recommended these meetings be conducted in person. Furthermore, at the employee's request and if the rating official is at the same location, an in-person meeting will be conducted.

g. **Employees** are responsible for becoming familiar with the objectives and procedures of the performance evaluation program and for understanding the elements and performance standards for their positions. The employee is responsible for seeking clarification from the supervisor on any performance standard or any other aspect of this program that is not clear. The employee should inform the supervisor of any factors or circumstances that he/she believes should be considered in evaluating his/her performance.

h. **Human Resource Managers** are responsible for providing training, advice, and assistance to employees and supervisors on this program and the Performance Management system. In addition to mandatory performance training contained in Principles of Leadership Phase I (POL I), performance management training will be provided to supervisors/management officials once per calendar year. Human Resource Managers are responsible for maintaining and reviewing performance reports on a quarterly basis.

4. **BASIC PROGRAM REQUIREMENTS**

The basic structure of the performance evaluation program is outlined below and described in detail in subsequent sections.

At the beginning of the rating period, the rating official issues the employee the performance standards for his/her position and discusses them. Both the employee and rating official acknowledge receipt of the standards. The rating official records the date that the discussion took place.

Throughout the rating period, the rating official makes entries in the employee's performance log. Each element of the performance standards must be addressed at least once each quarter. The rating official discusses each entry in the performance log with the employee prior to its official use. Entries in the performance log serve as the basis for the progress review and final rating.

Halfway through the rating period, the rating official completes a written progress review and discusses it with the employee. Both the employee and rating official acknowledge receipt of the progress review. The rating official records the date that the discussion took place.

At the end of the rating period, the rating official evaluates each element of the performance standards, assigns a rating to each element and forwards the rating to the reviewing official. The reviewing official approves or adjusts the individual element ratings, assigns an overall rating (and forwards the rating to the approving official in the case of Outstanding ratings), and returns the rating to the rating official for discussion. The employee acknowledges receipt of the annual rating. The rating official records the date that the discussion took place. Employees will receive their performance ratings within three weeks after the end of the rating period unless extenuating circumstances exist.

An employee must have worked under a set of performance standards for a minimum of 90 days before receiving a rating based on those standards. A rating official must have supervised an employee for a minimum of 90 days in order to issue a final rating. In these situations no progress review is required.

Employees absent due to being on active military duty or workers' compensation will maintain their existing rating until their return. Employees returning with at least 90 days remaining in the current rating period will be evaluated at the end of the rating cycle. Employees with less than 90 days remaining in the current rating period will be evaluated after the 90-day requirement has been met.

There is no minimum time requirement before a reviewing official can review a rating.

5. RATING PERIOD

The rating period for non-probationary employees begins on April 1 each year and ends March 31 the following year, except as provided below:

- If an employee changes positions, which results in a change of performance standards, his/her rating period begins on the date of the change and ends on March 31, or 90 days after the date of the change, whichever is later.

- If an employee changes supervisors, his/her rating period does not end until he/she has been under the same supervisor for at least 90 days.
- If a rating period is extended past March 31 to meet one or both of the conditions described above, the employee's next rating period starts on the day after the above conditions are met and ends on March 31 the following year.
- The rating period for a probationary employee starts on the effective date of his/her appointment and ends one year later. His/her next rating period starts on the day after the probation ends and ends on March 31 the following year.

6. JOB ELEMENTS AND PERFORMANCE STANDARDS

Common job elements and performance standards have been developed for all Bargaining Unit occupations within the Bureau of Prisons. Elements and standards are issued to employees for review and acknowledgement. Rating officials must review these standards and indicate any element that is not applicable to a particular position.

A job element is an aspect of the position consisting of one or more duties or responsibilities that is sufficiently important that inadequate performance of the *element* would result in unacceptable performance in the *position*. All job elements are critical.

A performance standard is a statement of the expectations or requirements established by management for an element at a particular rating level. A performance standard may include factors such as quality, quantity, timeliness, and manner of performance.

Tasks are examples of job duties that are representative of a job element under the performance standards. Not all tasks described under an element are applicable to all occupations covered by that performance standard. The tasks described in the standards are examples of typical duties that would be performed in that job element.

The performance appraisal program allows for rating individual elements, as well as overall performance, at one of five levels (i.e., Outstanding, Excellent, Successful, Minimally Satisfactory, and Unacceptable). The performance standards and tasks are only described at three levels. Further descriptions of these three levels can be found in the standards. Rating officials may infer performance at one of the levels not described by comparing the employee's actual performance to the levels that are described. For example, if an employee's performance is better than the examples given for the Successful level, but does not meet the examples given for the Outstanding level, the employee's performance should be rated at the Excellent level.

7. ISSUING PERFORMANCE STANDARDS

At the beginning of the rating period, the rating official will discuss the elements, standards, and tasks for the position with the employee. This discussion should take place as soon as possible after the start of the rating period, normally within 30 days. The rating official and employee will acknowledge the performance plan, certifying that the elements and standards are understood. If the rating official changes during the rating period but there is no change in performance elements and standards, it is not necessary for the new rating official to review the standards with the employee; however, rating officials are always responsible for discussing performance standards and responding to employees' requests for clarification of the standards.

If an employee is detailed or temporarily promoted to another position in the Bureau of Prisons and the assignment is expected to last at least 90 days, the employee will be given the performance standards for the temporary assignment within 30 days of beginning the detail or temporary promotion. An interim rating will be prepared at the end of the detail or temporary promotion; the weight given to this interim rating will be proportional to its share of the total appraisal period.

If an employee is detailed outside the Bureau of Prisons, reasonable efforts will be made to obtain appraisal information from the outside organization, which shall be considered in arriving at the employee's rating of record. If the employee has served in the Bureau for the minimum time period (90 days), he/she must be rated. The rating will take into account appraisal information obtained from the borrowing organization. If the employee has not served in the Bureau for the minimum time period, but has served the minimum time period in the outside organization, reasonable efforts will be made to prepare a rating based on the appraisal information from the borrowing organization, or the rating is deferred until the employee is able to serve the minimum time period in the Bureau or the borrowing organization is able to provide appraisal information.

8. MONITORING PERFORMANCE — PERFORMANCE LOG

The performance appraisal process requires that rating officials must observe and note employee performance continuously throughout the rating period. Rating officials must record examples of employee performance to ensure the rating at the end of the rating period is an accurate and fair appraisal of the employee's performance during the entire rating period. The performance log is used to document and substantiate the final rating.

a. **Time Requirements.** The rating official must record performance in the log entries so that each element is addressed at least once each quarter, regardless of the length of the rating period. If no significantly positive or negative performance is noted for a particular element

during a quarter, the rating official will make an entry describing typical performance over the course of the quarter. Rather than waiting until the end of the quarter, rating officials must make log entries as the performance is noted to meet the following time requirements. Rating officials must record specific incidents in the performance log within 15 working days of becoming aware of the incident.

After a performance log entry has been made, the employee will be given an opportunity to view the entry as soon as practicable and before the entry is used officially, but no later than 15 working days after the entry is made. The employee will be asked to acknowledge the entry, indicating only that the entry was discussed, not necessarily that he/she agrees with it. These time requirements may be adjusted, if necessary, because of the rating official's or employee's absence.

In the event an employee is scheduled to receive performance log entries from a supervisor who has not supervised the employee for more than half of a quarter, when possible, the new supervisor will receive input from the employee's previous supervisor.

b. Content of Performance Log Entries. Performance log entries will document instances of important or significant job-related performance, both positive and negative. Log entries must document the actual job performance of the employee, not personality traits or judgmental conclusions drawn by the supervisor. Instances of performance recorded in the log must be related to one or more elements of the employee's performance standards and include, at a minimum:

- The date of the performance incident.
- What the employee did that was particularly effective or ineffective.
- Circumstances surrounding or contributing to the performance incident, such as the consequences of the performance, whether the employee had sufficient time and resources, or whether circumstances outside the employee's control contributed to the performance.
- Level of performance assigned.

c. Multiple Supervision. If an employee is supervised by more than one supervisor during the rating period, those supervisors can record the performance in a log entry. This provision does not apply to employees who are detailed to another supervisor for 90 days or more and who receive new standards and an interim rating in accordance with subsection 7 of this section.

d. Documenting Unacceptable Performance. Instances of unacceptable performance recorded in the log require additional actions by the supervisor. Refer to subsections 18-21 of this section for information on addressing unacceptable performance.

9. PROGRESS REVIEW

In addition to the frequent informal discussions of performance resulting from performance log entries, the rating official will conduct at least one formal progress review during the rating period:

- One progress review is required for non-probationary employees; it will be conducted at the halfway point of the rating period.
- Three progress reviews are required for probationary employees; they will be conducted at the end of the third, sixth, and ninth months of the probationary year.

The rating official will make narrative comments for each job element in the progress review section of the performance appraisal form. No rating is assigned to the elements at this time.

The rating official will discuss the progress review with the employee and both will acknowledge the form.

There is no provision or requirement for the reviewing official to review or comment on the progress review; however, reviewing officials may examine progress reviews prepared by their subordinate supervisors.

Acknowledgement of progress reviews and the annual rating for probationary employees are recorded on two Employee Performance Appraisal forms (Attachment A, BP-A0367).

Acknowledgement of performance standards as well as the 3-month and 6-month progress reviews are recorded on one form; a second form is used to record the acknowledgment for the 9-month progress review and the annual rating.

Rating officials must ensure that a probationary employee acknowledges receipt of his/her performance standards and each progress review. The rating official does not assign ratings for any of the probationer's progress reviews; ratings are assigned to the elements only for the final rating at the end of the probationary period. Likewise, there is no provision or requirement for the reviewing official to review or comment on the 3-month, 6-month, or 9-month progress reviews of probationary employees; however, reviewing officials may examine progress reviews prepared by their subordinate supervisors. The reviewing official assigns the overall rating and makes narrative comments on the final annual rating of a probationary employee.

10. FINAL RATING

a. **Determining Element Ratings.** The rating of an employee's performance in each job element is based upon the incidents recorded in the performance log. Each element will be rated at one of five levels: Outstanding, Excellent, Successful, Minimally Satisfactory, or Unacceptable.

Each element will be rated at the level that reflects the level assigned to the majority of performance log entries for that element. If there are equal numbers of performance log entries at two different levels, the rating official may assign either of the two levels unless there is an intermediate level or levels. For example, if two log entries are Successful and two are Excellent, the rater may assign either Successful or Excellent as the element rating. If two log entries are Successful and two are Outstanding, the rater must assign Excellent as the element rating.

Special provisions apply when rating an element as Unacceptable. Refer to subsection 20 of this section for procedures for documenting Unacceptable performance.

The rating official will select the rating for each element, write narrative comments in the space provided for each element, and provide narrative comments on the employee's overall performance that appear in the "rater's comments" section of the form. Rating officials must also complete the training and career development section of the form with recommendations for training or other developmental activities.

For dual or multiple supervision, all supervisors of 90 days or more should provide input into the rating process. Reviewing officials may also seek input from supervisors of lesser periods of time.

b. **Overall Rating.** The overall rating is assigned by the reviewing official, based on the individual element ratings. Reviewing officials assign the overall rating, selecting the appropriate rating and writing narrative comments that appear in the "reviewer's comments" section of the form.

Except in the case of Outstanding ratings, the rating assigned by the reviewing official is the final rating. If the proposed rating is Outstanding, the Chief Executive Officer, Regional Director, or Assistant Director is the approving official. Reviewing officials must adjust individual element ratings to be consistent with the overall rating; however, any such changes by the reviewer must be substantiated by the comments in the "reviewer's comments" section of the rating form. Unacceptable performance in one or more elements mandates an overall rating of Unacceptable.

An overall rating of Minimally Satisfactory is demonstrated by Minimally Satisfactory performance in more than one element and no element rated as Unacceptable.

An overall rating of Successful is demonstrated by a rating of Successful or higher in a majority of the elements, no more than one Minimally Satisfactory element, and no Unacceptable element.

An overall rating of Excellent is demonstrated by a rating of Excellent or higher in a majority of the elements and no element rated less than Successful.

An overall rating of Outstanding is demonstrated by a rating of Outstanding in a majority of the elements and no element rated less than Excellent. When an Outstanding rating is approved by the approving official, the rating official must also recommend the granting of additional recognition in the form of a cash or non-cash award or a Quality Step Increase for employees who are otherwise eligible. Refer to the Program Statement **Awards Program, Incentive Awards** for the criteria for performance awards.

In the event of an equal number of element ratings, the reviewing official has full discretion in approving the overall rating that best reflects the employee's performance.

11. FINAL DISCUSSION

After the reviewing official has approved the final rating (and the approving official has approved an Outstanding rating, if applicable), the performance evaluation is returned to the rating official for discussion with the employee. No rating will be discussed with the employee until after the reviewing official and, if necessary, the approving official has approved the final rating. The rating official should give adequate time and attention to this part of the evaluation process, reviewing with the employee the strengths and weaknesses noted in the performance appraisal. Rating officials must specify areas in which their employees should seek out training, education, or other developmental activities to improve skills and/or knowledge or enhance career advancement and promotion potential.

The employee will acknowledge his/her final rating, indicating that the performance rating has been discussed. The completed evaluation will be filed in the employee's electronic Official Personnel Folder (eOPF). This is also an appropriate opportunity to review the performance standards for the next rating period and acknowledge receipt and discussion of the standards.

12. FILING COMPLETED PERFORMANCE EVALUATIONS

Completed performance ratings will be retained for four years unless pending litigation states otherwise.

Performance logs for the most recent annual performance evaluation will be maintained by the rating official for one year unless pending litigation states otherwise.

If a rating is increased or changed as a result of a successfully pursued grievance or other proceeding, the amended rating will be filed and the contested rating removed from the employee's eOPF.

The final rating will be keyed into the NFC system, in accordance with the Payroll/Personnel Processing Manual.

13. PROBATIONARY EMPLOYEES

The probationary period is an extension of the examination and selection process and provides an opportunity for management to assess the total suitability of new employees. It is the policy of the Federal Bureau of Prisons to provide probationary employees with an intensive program to ensure they are provided with direction in their jobs and are capable of performing effectively.

Probationary employees receive formal progress reviews immediately following the third, sixth, and ninth months of employment, as described in subsection 9 of this section.

Probationary employees shall receive performance logs, in accordance with subsection 8 of this section.

Failure to meet the standards of performance and satisfactorily complete training will be a basis for disqualifying an employee during the probationary period.

No part of this section is to be interpreted as discouraging or preventing the initiation of removal action at any time during the probationary year if it is determined, after a full and fair review, that the employee's performance or conduct is not satisfactory.

Employees in the competitive service who are serving a probationary period are excluded from the provision of 5 CFR Part 432 governing performance-based reduction in grade and removal actions.

14. INFORMING SUPERVISORS AND EMPLOYEES

In recognition of the importance of the performance appraisal program and its significance to both supervisors and employees, a copy of this section will be provided to all bargaining unit employees upon its issuance and to new bargaining unit employees when they enter on duty. In addition, the Human Resource Manager will ensure that all current rating and reviewing officials

receive a copy of this section of the policy and will give new rating and reviewing officials a copy when they assume such a position.

Human Resource Managers are responsible for providing advice and assistance to supervisors on all aspects of this program and are required to conduct periodic formal training to review the purposes and procedures of performance appraisal.

Supervisors are responsible for discussing the performance evaluation program with their subordinates, including explaining the purpose of the program, the rating procedures, and how the process furthers employee and management goals.

15. PERFORMANCE RATING GRIEVANCES

Bargaining unit employees are encouraged to request a meeting to discuss disagreements regarding any aspect of their performance evaluation prior to acknowledgement; however, they may seek to change their performance ratings by using the negotiated grievance procedure in the Master Agreement.

16. RELATIONSHIP TO WITHIN-GRADE INCREASES

To be eligible for a within-grade step increase, an employee must meet the requirements described in 5 CFR 531.404 (General Schedule) or 5 CFR 532.417 (Prevailing Rate System). One of these requirements is that the employee must demonstrate an acceptable level of competence in the duties and responsibilities of his/her position. Acceptable level of competence is determined by the employee's most current rating of record being an overall rating of Successful or higher. The rating of record used as the basis of a within-grade increase determination must have been assigned no earlier than the most recently completed appraisal period.

If a decision to grant or deny the within-grade increase is inconsistent with the most recent rating of record, a more current rating of record must be prepared. If the employee's most recent rating of record is Successful or higher and the performance has deteriorated below an acceptable level of competence, a new rating of record must be prepared on which to base the decision to deny the increase. Similarly, if the most recent rating of record was below Successful and the performance has improved to an acceptable level of competence, a new rating of record must be prepared on which to base the decision to grant the increase.

A supervisor who determines that an employee does not or may not demonstrate an acceptable level of competence will notify the employee in writing at least 60 days before the date on which the employee will complete the required waiting period for a within-grade increase. At least 15

days prior to the end of the waiting period, the supervisor will tentatively determine whether withholding the increase is warranted. If the employee fails to demonstrate an acceptable level of competence, the next higher supervisory level will review the supervisor's tentative determination. If both supervisors agree to withhold the increase, the immediate supervisor will so advise the employee in writing, stating the reasons for withholding the increase and referring to the advance notice given to the employee.

A General Schedule employee is entitled to request reconsideration of a decision to withhold a within-grade increase and to present orally and in writing the reasons he/she believes the decision should be reversed. If the decision is to grant the increase, the employee will be certified as meeting the acceptable level of competence and the increase will be granted retroactively as of the end of the waiting period.

General Schedule and Federal Wage System employees may contest a performance rating on which a negative determination is based under the negotiated grievance procedure contained in the Master Agreement.

17. QUALITY STEP INCREASES AND PERFORMANCE AWARDS

Refer to the Program Statement **Awards Program, Incentive Awards** for eligibility criteria for Quality Step Increases and other performance awards.

18. ADDRESSING DEFICIENT PERFORMANCE

Addressing performance deficiencies with employees and taking performance-based actions appropriately are important aspects of a sound performance management system. Procedures and requirements for addressing performance that falls below the Successful level shall be discussed with employees and are addressed in the following paragraphs.

19. MINIMALLY SATISFACTORY PERFORMANCE

When instances of performance or overall performance are deemed to be Minimally Satisfactory, the supervisor shall determine what action is best suited to the particular circumstances after discussion with the employee. Counseling, training, and closer supervision are the most commonly practiced options available. These efforts shall be thoroughly documented. If Minimally Satisfactory performance continues, the supervisor has the option of continuing counseling, training, or closer supervision or finding that the employee's performance has become Unacceptable.

20. UNACCEPTABLE PERFORMANCE

These procedures will be followed at any time during the rating cycle when a supervisor records an instance of Unacceptable performance in one or more elements of the performance standards in the employee's performance log.

a. **Unacceptable Performance Warning.** When a supervisor records an instance of Unacceptable performance in the employee's performance log, he/she will obtain concurrence from the employee's reviewing official and the servicing Human Resource department. If the Unacceptable log is approved, the rater will issue the employee a written warning of a potentially Unacceptable performance rating. This warning letter must include:

- (1) Notification of the element or elements in which performance is Unacceptable.
- (2) Specific examples of the Unacceptable performance.
- (3) The performance requirements or standards that must be attained to demonstrate acceptable performance. The acceptable level of performance for purposes of retention in the position under the Bureau's five-level performance appraisal system is the level between the Unacceptable level and the Successful level; specifically, performance that is Minimally Satisfactory.
- (4) A reasonable opportunity period to demonstrate acceptable performance on the elements at issue. This opportunity period will begin upon the employee's receipt of the written warning, and normally will not be less than 30 days or more than 90 days following the issuance of the warning letter, and will be determined by the circumstances of the particular case. The initially established period may be extended at the agency's discretion for extenuating circumstances (such as extended periods of absence) during the opportunity period.
- (5) Notice to the employee that he/she must improve to the acceptable level by the conclusion of the opportunity period and must sustain that level of performance for at least one year from the start of the opportunity period.
- (6) A structured Performance Improvement Plan (PIP) to provide the employee opportunities to demonstrate acceptable performance. The PIP may include such activities as developmental assignments, structured employee assistance or counseling, formal training, on-the-job training, mentoring, or any other activity that the supervisor believes will afford the employee an opportunity to demonstrate acceptable performance. Careful records must be kept of assistance offered and results achieved under the PIP.

(7) Explanation of actions that may be initiated if the Unacceptable performance continues or if acceptable performance is not demonstrated.

Human Resource Managers will assist supervisors in preparing performance warning letters. Warning letters must be approved by the Regional HRM Office and the Employment Law Branch.

If the Unacceptable log is not supported by the reviewing official and/or Human Resources, the supervisor will change the Unacceptable log rating to the appropriate rating supported by the employee's performance.

b. Improved Performance During the Opportunity Period. If, at the conclusion of the opportunity period, the rating official determines that the employee has improved to an acceptable level in the element that formed the basis for the opportunity period, no further action will be taken. When it is time for the annual rating, the rating official will consider the instance of Unacceptable performance along with other recorded instances of performance for that element and give it appropriate weight in assigning the rating for that element.

c. Additional Unacceptable Performance During the Opportunity Period. If, at the conclusion of the opportunity period, the rating official determines the employee has not improved to an acceptable level in the element that formed the basis for the opportunity period, the rating official will document the exhibited performance and prepare an annual performance rating. The element will be rated Unacceptable and the proposed overall rating will be Unacceptable.

If it is not time for the annual rating and the reviewing official does not concur with the proposed Unacceptable rating, then no rating will be issued. However, if at any time during the remainder of the rating period the supervisor notes another instance of Unacceptable performance in the same element, he/she will again propose an Unacceptable rating.

If it is time for the annual rating and the reviewing official does not concur with the proposed Unacceptable rating, the reviewing official's rating is the final rating. The reviewing official must adjust the individual element ratings to support the overall rating given and substantiate these changes in the "reviewer's comments" on the rating form.

If the reviewing official concurs with the proposed Unacceptable rating, an Unacceptable rating will be issued, together with a notice of proposed action in accordance with subsection 21 of this section.

d. Additional Unacceptable Performance During the 12 Months Following the Beginning of the Opportunity Period. In order to demonstrate acceptable performance following a performance warning letter, employees are required to improve their performance to an acceptable level **and** sustain that level of performance for 12 months following the beginning of the opportunity period. Therefore, if a supervisor notes Unacceptable performance in the same element that formed the basis for the warning letter at any time during the 12 months following the beginning of the opportunity period, he/she will prepare a proposed Unacceptable rating as described in subsection 20c above. This is the case even if the employee did demonstrate acceptable performance during the opportunity period and/or received a performance rating of Minimally Satisfactory or better since the issuance of the warning letter.

21. PROPOSING AND TAKING ACTION BASED ON UNACCEPTABLE PERFORMANCE

When the reviewing official approves and issues an Unacceptable performance rating, he/she also issues a notice of proposed action in accordance with the following procedures:

An employee who receives an Unacceptable rating may be reassigned.

A non-probationary employee whose reduction in grade or removal is proposed is entitled to:

- Thirty calendar days' advance written notice, which specifies the action proposed, the specific instances of Unacceptable performance on which the proposed action is based, and the elements involved in each instance of Unacceptable performance. These instances must have occurred within one year prior to the notice of proposed action.
- The right to be represented by an attorney or other representative.
- Fifteen calendar days to respond orally and/or in writing to the deciding official. The response time may be extended for a specified time as determined by the deciding official, but not for more than an additional 30 days.
- A final written decision within 30 days after the expiration of the 30-day advance notice period. The written decision must specify the instances of Unacceptable performance upon which the action is based and may include any instances of Unacceptable performance that occurred within a one-year period ending on the date of the notice of proposed action. The final decision must also include notice of the employee's right to appeal the action to the Merit Systems Protection Board, Equal Employment Opportunity

Commission, or to file a grievance under the negotiated grievance procedure (but only one); the time limits for filing an appeal or grievance; a copy of the MSPB appeal form; and a copy (or access to a copy) of the MSPB regulations.

Section 2. **Performance Evaluation Program for Non-Bargaining Unit Employees**

1. **PURPOSE AND SCOPE**

The objectives of the performance evaluation program are to help improve performance; strengthen supervisor-employee relationships and communications; identify and inform employees of organizational objectives, work requirements, and standards; recognize employee accomplishments and good work; identify and correct work deficiencies; and guide personnel actions such as within-grade and quality step increases, promotions, demotions, removals, reassignments, performance awards, and training.

Directives Referenced

Program Statement **Awards Program, Incentive Awards**

DOJ Human Capital Objectives and Strategic Plan.

5 CFR 293, 430, 432, 451, 531, 532 and 771.

5 U.S.C., Chapters 43 and 45

2. **COVERAGE**

This section applies to all non-bargaining unit employees, **except:**

- Employees serving under excepted appointments of less than 120 calendar days.
- Persons providing services on a contract basis.
- Attorneys classified in the GS-905 series and Law Clerks classified in the GS-904 series.
- Employees in the Senior Executive Service.
- Any other employees specifically excluded by statute.

3. **EFFECTIVE DATE**

The effective date is the date this policy is published. Any administrative action initiated prior to this approved policy (e.g., an action taken against an employee for Unsatisfactory performance under 5 U.S.C. 4303) and any ratings deferred under the previous appraisal program must continue to be processed in accordance with the procedures contained in that program.

4. RESPONSIBILITIES

a. The **Assistant Director, Human Resource Management Division**, is responsible for the overall administration of this program.

b. The **Federal Bureau of Prisons Personnel Director** is responsible for ensuring that the performance evaluation program is carried out throughout the system in compliance with current laws and regulations.

c. **Chief Executive Officers** are responsible for ensuring that there is an effective performance evaluation program at their level of the organization.

d. The **Approving Official** for Outstanding performance ratings varies with the organizational level of the employee being rated:

(1) Institution **Wardens** are the approving officials for Bureau of Prisons employees at and below the assistant department head level.

(2) **Complex Wardens** are the approving officials for non-UNICOR institution employees above the assistant department head level, with the exception of the employees they directly supervise.

(3) **Regional Directors** are the approving officials for non-UNICOR and non-Complex institution employees above the assistant department head level and Regional Office employees below the Deputy Regional Director. This does not preclude input by the appropriate Assistant Director.

(4) **Assistant Directors** are the approving officials for Central Office employees, except for employees for whom the Director or Deputy Director is the reviewing official.

(5) **Assistant Director, Federal Prison Industries (UNICOR)** is the approving official for institution non-bargaining UNICOR employees.

e. The **Reviewing Official** is the next supervisor above the rating official and is responsible for assigning an overall rating and approving or adjusting individual element ratings. Reviewing officials also approve elements and standards for their subordinate staff, are responsible for monitoring the performance appraisal practices of subordinate supervisors, and provide advice or instruction as needed. Reviewing officials ensure that recommendations for incentive awards based on performance ratings are consistent with policy, and determine whether recommendations for Outstanding performance ratings will be forwarded to the approving official.

f. The **Rating Official** is the first level of management having the full range of supervisory responsibilities, including recommending performance awards. Rating officials are responsible for meeting with employees and providing performance feedback/guidance, conducting progress reviews, and completing the annual performance rating in accordance with the procedures in this section.

Regional Administrators may suggest to rating officials significant incidents for inclusion in the progress review or final rating that relate to the quality of professional services provided. These suggestions may be particularly useful for departments in specialized program areas.

Institution Chief Executive Officers are the rating officials for Associate Wardens (I&E) and Superintendents of UNICOR. UNICOR Division Managers may suggest to the CEO significant incidents for inclusion in the performance plan that relate to UNICOR Corporate goals and policies.

g. **Employees** are responsible for becoming familiar with the objectives and procedures of the performance evaluation program and for understanding the elements and performance measures in their Performance Work Plan (PWP). The employee is responsible for seeking clarification from the supervisor on any objective, performance measure, or any other aspect of this program that is not clear. The employee should inform the supervisor of any factors or circumstances that he/she believes should be considered in evaluating his/her performance.

h. **Human Resource Managers** are responsible for providing advice and assistance to employees and supervisors on this program and training on the Performance Management System. Performance management training is provided to supervisors/managers once per calendar year.

Human Resource Managers will be responsible for maintaining and reviewing performance reports on a quarterly basis.

5. BASIC PROGRAM REQUIREMENTS

The basic structure of the performance evaluation program is outlined below and described in detail in subsequent sections.

At the beginning of the rating period, the rating official issues the employee his/her Performance Work Plan (PWP) and discusses its contents with the employee. Both the employee and rating official acknowledge receipt of the PWP. The rating official records the date that the discussion took place.

Halfway through the rating period, the rating official completes a written progress review and discusses it with the employee. Both the employee and rating official acknowledge the progress review. The rating official records the date that the progress review discussion took place. Performance plans created with less than 180 days left in the rating cycle do not require a progress review.

At the end of the rating period, the rating official evaluates objectives and measures within each element of the PWP, assigns a rating to each element, and forwards the rating to the reviewing official. The reviewing official approves or adjusts the individual element ratings, approves an overall rating (and forwards the rating to the approving official in the case of Outstanding ratings), and returns the rating to the rating official for discussion with and acknowledgement by the employee. Typically, employees will receive their performance rating within three weeks after the end of the rating period.

The performance appraisal program allows for rating individual elements, as well as overall performance, at one of five levels, using pattern H (5 CFR 430.208), which reflects ratings at level 5 (Outstanding), level 4 (Excellent), level 3 (Achieved Results), level 2 (Minimally Satisfactory), and level 1 (Unsatisfactory).

An employee must have worked under a PWP for a minimum of 90 days before receiving a rating based on his/her PWP. A rating official must have supervised an employee for a minimum of 90 days before he/she can rate the employee. These 90-day requirements apply only to final ratings, not progress reviews. There is no minimum time requirement before a reviewing official can review a rating.

Employees absent due to being on active military duty or workers' compensation will maintain their existing rating until their return. Employees returning with at least 90 days remaining in the current rating period will be evaluated at the end of the rating cycle. Employees with less than 90 days remaining in the current rating period will be evaluated after the 90-day requirement has been met.

6. RATING PERIOD

The rating period for employees begins on April 1 each year and ends March 31 the following year. Except as specified in subsection 9b, the rating period may be adjusted as follows:

- If an employee changes positions, which results in the issuance of a new PWP, the rating period begins on the date of the change and ends on March 31, or 90 days after the date of the change, whichever is later.
- If an employee changes supervisors, the rating period does not end until he/she has been under the same supervisor for at least 90 days.

- If a rating period is extended past March 31 to meet one or both of the conditions described above, then the employee's next rating period starts on the day after the above conditions are met and ends on March 31 the following year.

7. CRITICAL ELEMENTS AND PERFORMANCE MEASURES

Critical job elements developed by the Office of Personnel Management and the Department of Justice correspond with the Director's PWP. The elements tie in with the Department of Justice's Strategic Goals and Human Capital Goals and with the Bureau of Prisons' organizational goals and desired results. The Personnel Director's Branch reissues elements when necessary to reflect changes in organizational objectives. The Attorney General or Deputy Attorney General may issue mandatory critical elements, objectives, and/or measures that must be included in an employee's PWP.

An "objective" is a goal or expectation that must be met during the life of the PWP.

A "performance measure" is a particular function or task that must be accomplished in support of the objective. A performance measure must be measurable (in terms of quantity, timeliness, etc.)

The PWP allows for rating each performance measure, element, and overall performance at one of five levels: Outstanding, Excellent, Achieved Results, Minimally Satisfactory, and Unsatisfactory.

8. DEVELOPING A PERFORMANCE WORK PLAN

A PWP contains three Critical elements:

- Accountability for Organizational Results.
- People/Workforce/Teamwork/Communication.
- Taxpayer Value.

Each Critical element must contain at least three objectives. Each objective must contain at least one performance measure.

At the beginning of the rating period, the rating official and employee review the rating official's PWP to determine which objectives and measures correspond to the employee's PWP. The PWP form found on Sallyport, on the Staffing and Employee Relations page, is used to develop this plan. Additional objectives and performance measures may be created by the rating official. Performance measures are written at the Achieved Results level. The PWP should be discussed and issued as soon as possible after the start of the rating period, normally within 30 days. The

employee and rating official acknowledge receipt of the PWP. The rating official records the date that the discussion took place.

Changes can be made to a PWP up to 90 days prior to the end of the rating period. The employee acknowledges the changes made to the PWP. The rating official records the date the discussion took place. If the rating official changes during the rating period but there is no change to the employee's PWP, it is not necessary for the new rating official to review the PWP with the employee; however, rating officials are always responsible for discussing the PWP and responding to employees' requests for clarification of the standards.

If an employee is **detailed** or **temporarily promoted** to another position in the Bureau and the assignment is expected to last at least 120 days, the employee will be given a PWP for the temporary assignment within 30 days of beginning the detail or temporary promotion. An interim rating will be prepared at the end of the detail or temporary promotion; the weight given to this interim rating will be proportional to its share of the total appraisal period.

If an employee is **detailed outside the Bureau**, reasonable efforts will be made to obtain appraisal information from the outside organization that shall be considered in arriving at the employee's rating of record. If the employee has served in the Bureau for the minimum time period (90 days) during the rating period, he/she must be rated. The rating will take into account appraisal information obtained from the borrowing organization.

If the employee has not served in the Bureau for the minimum time period, but has served the minimum time period in the outside organization:

- Reasonable efforts will be made to prepare a rating based on the appraisal information from the borrowing organization, **or**
- The rating will be deferred until the employee is able to serve the minimum time period in the Bureau or the borrowing organization is able to provide appraisal information.

The final rating most recently rendered by the former agency will be the employee's current rating of record until it is superseded by a final rating issued by the Bureau.

9. MONITORING PERFORMANCE

The performance evaluation program requires that rating officials observe and note employee performance continuously throughout the rating period.

a. **Evaluating Performance.** Performance is evaluated based on the actual work accomplishments of the employee. Instances of performance used to evaluate the employee must

be related to one or more elements of his/her PWP. The rating official considers what he/she accomplished compared to the PWP, and circumstances surrounding or contributing to the performance – such as the consequences of the performance, whether the employee had sufficient time and resources, or whether circumstances outside the employee’s control contributed to the performance.

b. **Multiple Supervision.** If an employee is supervised by more than one supervisor during the rating period, those supervisors are responsible for providing the rating official with any comments or incidents for consideration for inclusion in the PWP. This provision does not apply to employees who receive an interim rating in accordance with subsection 8 of this section.

c. **Documenting Unsatisfactory Performance.** Instances of Unsatisfactory performance recorded in the performance log require additional actions by the supervisor. Refer to subsection 21 of this section for information on addressing Unsatisfactory performance.

10. PROGRESS REVIEW

The rating official will conduct at least one formal progress review during the rating period, unless the time requirements outlined in this subsection are not met.

One progress review is required for non-probationary employees; it will be conducted at the halfway point of the rating period. Performance plans created with less than 180 days left in the rating cycle do not require a progress review.

Three progress reviews are required for probationary employees; they will be conducted at the end of the third, sixth, and ninth months of the probationary year.

No rating is assigned to the elements at this time. The rating official will discuss the progress review with the employee and both will acknowledge the discussion. There is no provision or requirement for the reviewing official to review or comment on the progress review; however, reviewing officials may examine progress reviews prepared by their subordinate supervisors.

Acknowledgement of progress reviews and the annual rating for probationary employees is recorded on one performance appraisal form. Acknowledgement of the performance plan as well as the 3-month, 6-month, and 9-month progress reviews and annual rating are recorded on one form. Rating officials must ensure that a probationary employee acknowledges receipt of his/her performance plan, as well as after each progress review is issued.

The rating official does not assign ratings for any of the probationer's progress reviews; ratings are assigned to the elements only for the final rating at the end of the probationary period. Likewise, there is no provision or requirement for the reviewing official to review or comment on the 3-month, 6-month, or 9-month progress reviews of probationary employees; however, rating officials may examine the progress reviews prepared by their subordinate supervisors. The reviewing official assigns the overall rating and makes narrative comments on the final annual rating of a probationary employee.

11. FINAL RATING

a. **Determining Element Ratings.** The rating of an employee's performance in each job element is determined by the ratings assigned to each performance measure by the rating official, based upon the employee's accomplishments.

Each performance measure is rated at one of five levels: Outstanding, Excellent, Achieved Results, Minimally Satisfactory, or Unsatisfactory. The rating official will select the rating for each measure and write narrative comments in the space provided for each.

Subsequently, each element is rated at the level that reflects the level assigned to the majority of performance measures for that element. The rating official derives the element rating based on the following: If two different levels have an equal number of performance measures, the official may assign either level unless there is an intermediate level. For example, if two measures are Achieved Results and two are Excellent, the rater may assign either Achieved Results or Excellent as the element rating. If two measures are Achieved Results and two are Outstanding, the rater must assign Excellent. If there are an unequal number of performance levels assigned to a measure, the levels must be averaged (i.e., 3 EX, 2 MS, 1 AR = AR).

Special provisions apply when rating a performance measure as Unsatisfactory. Refer to subsection 21 of this section for the procedures for documenting Unsatisfactory performance.

The rating official will select the rating for each element, and write narrative comments on the employee's overall performance in the "rater's comments" section of the form. Rating officials must complete the training and career development section of the form with recommendations for training or other developmental activities.

For dual or multiple supervision, all supervisors of 90 days or more should provide input into the rating process. Reviewing officials may also seek input from supervisors of lesser periods of time.

b. **Overall Rating.** The overall rating is approved by the reviewing official, *based on the individual element ratings*. The reviewing official approves the overall rating and writes narrative comments in the “reviewer’s comments” section.

Except in the case of Outstanding ratings, the rating assigned by the reviewing official is the final rating. If the proposed rating is Outstanding, the individual specified in subsection 4d of this section is the approving official. Reviewing officials must adjust individual element ratings to be consistent with the overall rating; however, any such changes by the reviewer must be substantiated by the comments in the “reviewer’s comments” section.

Element Ratings are noted on the Element Rating Scale on the PWP form: **Outstanding** = 5; **Excellent** = 4; **Achieved Results** = 3; **Minimally Satisfactory** = 2; **Unsatisfactory** = U.

The element points are multiplied by the weight factor to determine the total element score. The three element scores are added to determine the Overall Summary Rating.

The overall PWP rating is determined by comparing the Overall Summary Rating to the Summary Rating Scale. The Summary Rating Scale is:

461 – 500 = Outstanding
361 – 460 = Excellent
261 – 360 = Achieved Results
200 – 260 = Minimally Satisfactory

When an element is rated as Unsatisfactory (U), an Overall Summary Total is not calculated. Instead, the Overall Performance Rating of Record must be marked Unsatisfactory.

12. FINAL DISCUSSION

After the reviewing official has approved the final rating (and the approving official has approved an Outstanding rating, if applicable), the rating form is returned to the rating official for discussion with the employee. No rating will be discussed with the employee until after the reviewing official (and, if necessary, the approving official) has approved the final rating. The rating official should give adequate time and attention to this part of the evaluation process.

Rating officials must specify areas in which their employees should seek out training, education, or other developmental activities to improve skills or knowledge or enhance career advancement and promotion potential. The employee will acknowledge his/her final rating,

indicating that the performance rating has been discussed. The completed evaluation will be filed in the employee's eOPF.

13. FILING COMPLETED PERFORMANCE EVALUATIONS

Completed performance ratings will be retained for four years. If a rating is increased or changed as a result of a successfully pursued grievance or other proceeding, the amended rating will be filed and the contested rating removed from the employee's eOPF.

The final rating will be keyed into the NFC system, in accordance with instructions in the Payroll/Personnel Processing Manual.

14. PROBATIONARY EMPLOYEES

The probationary period is an extension of the examination and selection process and provides an opportunity for management to assess the total suitability of new employees. It is the policy of the Federal Bureau of Prisons to provide probationary employees with an intensive program to ensure that they are provided with direction in their jobs and are capable of performing effectively.

Probationary employees receive formal progress reviews immediately following the third, sixth, and ninth months of employment, as described in subsection 10 of this section.

Failure to meet the standards of performance and satisfactorily complete training will be a basis for disqualifying an employee during the probationary period.

No part of this section is to be interpreted as discouraging or preventing the initiation of removal action at any time during the probationary year if it is determined, after a full and fair review, that the employee's performance or conduct is not satisfactory.

Employees in the competitive service who are serving a probationary period are excluded from the provisions of 5 C.F.R. Part 432 governing performance-based reduction in grade and removal actions.

15. INFORMING SUPERVISORS AND EMPLOYEES

In recognition of the importance of the performance appraisal program and its significance to both supervisors and employees, a copy of this section of the policy will be provided to all non-bargaining unit employees upon its issuance and to new non-bargaining unit employees when they enter on duty. In addition, the Human Resource Manager will ensure that all current rating

and reviewing officials receive a copy of this section of the policy and will give new rating and reviewing officials a copy when they assume such a position.

Human Resource Managers are responsible for providing advice and assistance to supervisors on all aspects of this program and are encouraged to conduct periodic formal training to review the purposes and procedures of performance appraisal.

Supervisors are responsible for discussing the performance evaluation program with their subordinates, including explaining the purpose of the program, rating procedures, and how the process furthers employee and management goals.

16. PERFORMANCE RATING GRIEVANCES

Non-bargaining unit employees may seek to change their performance ratings using the agency grievance procedure.

17. RELATIONSHIP TO WITHIN-GRADE INCREASES

To be eligible for a within-grade step increase, an employee must meet the requirements in 5 CFR 531.404 (General Schedule) or 5 CFR 532.417 (Prevailing Rate System). One of these requirements is that the employee must demonstrate an acceptable level of competence in the duties and responsibilities of his/her position. Acceptable level of competence is determined by the employee's most current rating of record being an overall rating of Achieved Results or higher. The rating of record used as the basis of a within-grade increase determination must have been assigned no earlier than the most recently completed appraisal period.

If a decision to grant or deny the within-grade increase is inconsistent with the most recent rating of record, a more current rating of record must be prepared. If the employee's most recent rating of record is Achieved Results or higher, and the performance has deteriorated below an acceptable level of competence, a new rating of record must be prepared on which to base the decision to deny the increase. Similarly, if the most recent rating of record was below Achieved Results and the performance has improved to an acceptable level of competence, a new rating of record must be prepared on which to base the decision to grant the increase.

A supervisor who determines that an employee does not or may not demonstrate an acceptable level of competence will notify the employee in writing at least 60 days before the date on which the employee will complete the required waiting period for a within-grade increase. At least 15 days prior to the end of the waiting period, the supervisor will tentatively determine whether withholding the increase is warranted. If the employee fails to demonstrate an acceptable level of competence, the next higher supervisory level will review the supervisor's tentative

determination. If both supervisors agree to withhold the increase, the immediate supervisor will so advise the employee in writing, stating the reasons for withholding the increase and referring to the advance notice given to the employee.

General Schedule employees are entitled to request reconsideration of a decision to withhold a within-grade increase and to present orally and in writing the reasons he/she believes the decision should be reversed. If the decision is to grant the increase, the employee will be certified as meeting an acceptable level of competence and the increase will be granted retroactively as of the end of the waiting period.

General Schedule and Federal Wage System employees may contest a performance rating on which a negative determination is based under the agency grievance procedure.

18. QUALITY STEP INCREASES AND PERFORMANCE AWARDS

Refer to the Program Statement **Awards Program, Incentive Awards** for eligibility criteria for Quality Step Increases and performance awards.

19. ADDRESSING DEFICIENT PERFORMANCE

Addressing performance deficiencies and taking performance-based actions appropriately are important aspects of a sound performance management system. Procedures and requirements for addressing performance that falls below the acceptable level are discussed in the following paragraphs.

Acceptable performance is performance that meets the performance standard or requirement at the level above Minimally Satisfactory.

20. MINIMALLY SATISFACTORY PERFORMANCE

When instances of performance or overall performance are deemed to be Minimally Satisfactory, the supervisor should determine what action is best suited to the particular circumstances after discussion with the employee. Counseling, training, and closer supervision are the most commonly practiced options available. These efforts should be thoroughly documented. If Minimally Satisfactory performance continues, the supervisor has the option of continuing counseling, training, or closer supervision, or finding that the employee's performance has become Unsatisfactory.

21. UNSATISFACTORY PERFORMANCE

These procedures will be followed at any time during the rating cycle when a supervisor records an instance of Unsatisfactory performance in one or more elements of the PWP. Again, employee performance below the Minimally Satisfactory level is considered Unsatisfactory.

a. **Unsatisfactory Performance Warning.** When a supervisor records an instance of an Unsatisfactory performance measure at any time during the rating cycle after the employee acknowledges the PWP, he/she will obtain concurrence with the employee's reviewing official and the servicing Human Resource Office. If the Unsatisfactory measure rating is approved, the rater will issue the employee a written warning of a potentially Unsatisfactory performance rating.

This warning letter must include:

(1) The objective(s) and measure(s) by which performance is Unsatisfactory.

(2) Specific examples of the Unsatisfactory performance.

Performance measures that must be attained to demonstrate acceptable performance in the position. The acceptable level for retention under the Bureau's five-level system is Minimally Satisfactory.

A reasonable opportunity period to demonstrate acceptable performance on the performance measures at issue, beginning upon the employee's receipt of the letter. This opportunity period will normally not be less than 30 days nor more than 90 days following the issuance of the warning letter and will be determined under the circumstances of the particular case. The initially established period may be extended at the agency's discretion for extenuating circumstances, such as extended periods of absence during the opportunity period.

(3) Notice that the employee must improve to the acceptable level by the conclusion of the opportunity period and must sustain that level of performance for at least one year from the start of the opportunity period.

(4) A structured performance improvement plan (PIP) to provide the employee opportunities to demonstrate acceptable performance. The PIP may include such activities as developmental assignments, structured employee assistance or counseling, formal training, on-the-job training, mentoring, or any other activity that the supervisor believes will afford the employee an opportunity to demonstrate acceptable performance. Careful records must be kept of assistance offered and results achieved under the PIP.

(5) Explanation of actions which may be initiated if the Unsatisfactory performance continues or if acceptable performance is not demonstrated. Human Resource Managers will assist supervisors in preparing performance warning letters. Warning letters must be approved by the Regional HRM Office and the Employment Law Branch, OGC, before being issued to the employee.

b. Improved Performance During the Opportunity Period. If, at the conclusion of the opportunity period, the rating official determines that the employee has improved to an acceptable level in the element that formed the basis for the opportunity period, no further action will be taken. When it is time for the annual rating, the rating official will consider the instance of Unsatisfactory performance along with other recorded instances of performance for that element and give it appropriate weight in assigning the rating for that element.

c. Additional Unsatisfactory Performance During the Opportunity Period. If, at the conclusion of the opportunity period, the rating official determines that the employee has not improved to an acceptable level in the element that formed the basis for the opportunity period, the rating official will prepare an annual performance rating. The element will be rated Unsatisfactory and the proposed overall rating will be Unsatisfactory.

If it is not time for the annual rating and the reviewing official does not concur with the proposed Unsatisfactory rating, then no rating will be issued. However, if at any time during the remainder of the rating period the supervisor notes another instance of Unsatisfactory performance in the same element, he/she will again propose an Unsatisfactory rating.

If it is time for the annual rating and the reviewing official does not concur with the proposed Unsatisfactory rating, then the reviewing official's rating is the final rating. The reviewing official must adjust the individual element ratings to support the overall rating given and substantiate these changes in his/her comments on the rating form.

If the reviewing official concurs with the proposed Unsatisfactory rating, an Unsatisfactory rating is issued, together with a notice of proposed action in accordance with subsection 22 of this section.

d. Additional Unsatisfactory Performance During the 12 Months Following the Beginning of the Opportunity Period. To demonstrate acceptable performance following a performance warning letter, employees are required to improve their performance to an acceptable level **and** sustain that level of performance for 12 months following the beginning of the opportunity period. Therefore, if a supervisor notes Unsatisfactory performance in the same element that formed the basis for the warning letter at any time during the 12 months

following the beginning of the opportunity period, he/she will prepare a proposed Unsatisfactory rating as described in subsection 21c. This is the case even if the employee did demonstrate acceptable performance during the opportunity period or received a performance rating at or above the acceptable level since the issuance of the warning letter.

22. PROPOSING AND TAKING ACTION BASED ON UNSATISFACTORY PERFORMANCE

When the reviewing official approves and issues an Unsatisfactory performance rating, he/she will also issue a notice of proposed action in accordance with the following procedures:

- An employee who receives an Unsatisfactory rating may be reduced in grade, reassigned, or removed.
- An employee who is serving a one-year probationary period as a newly appointed supervisor or manager, and who does not satisfactorily perform his/her supervisory (or managerial) duties, may be returned to his/her former (or comparable) position and pay without right of appeal.
- A non-probationary employee whose reduction in grade or removal is proposed is entitled to:
 - Thirty calendar days' advance written notice, which specifies the action proposed, the specific instances of Unsatisfactory performance on which the proposed action is based, and the elements involved in each instance. These instances must have occurred within one year prior to the notice of proposed action.
 - The right to be represented by an attorney or other representative.
 - Fifteen calendar days to respond orally and/or in writing to the deciding official. The response time may be extended for a specified time as determined by the deciding official, but not for more than an additional 30 days.
 - A final written decision within 30 days after the expiration of the 30-day advance notice period. The written decision must specify the instances of Unsatisfactory performance upon which the action is based and may include any instances that occurred within a one-year period ending on the date of the notice of proposed action. The final decision must also include notice of the employee's right to appeal the action to the Merit Systems Protection Board, Equal Employment Opportunity Commission, or to file a grievance under the negotiated grievance procedure (but only one), the time limits for filing an appeal or grievance, and a copy of the MSPB appeal form and a copy (or access to a copy) of the MSPB regulations.

Section 3. **Performance Evaluation Program for Senior Executive Service Members**

1. **PURPOSE AND SCOPE**

Performance appraisals in the Senior Executive Service (SES) are used to hold senior executives accountable for their individual and organizational performance. This is accomplished by linking performance management with result-oriented goals (i.e., strategic planning goals, DOJ initiatives, and Presidential orders); setting and communicating goals and expectations; and systematically appraising senior executives using measures that balance organizational results with customer, employee, and other perspectives. The appraisals serve as the basis for determining pay, performance awards, development (such as identifying strengths and weaknesses), retention, removal, and other personnel actions.

Directives Referenced

5 CFR Part 430

5 U.S.C., Chapter 43

2. **RESPONSIBILITIES**

- SES Wardens are rated by the Regional Director.
- Complex Wardens serve as the Rating Official for other SES Wardens at correctional complexes.
- Senior Deputy Assistant Directors are rated by the respective Assistant Director.
- All other SES members are rated by their respective Senior Deputy Assistant Director.
- Assistant and Regional Directors are rated by the Deputy Director.
- The Deputy Director is rated by the Director.

Completed SES performance appraisals are reviewed by a Performance Review Board, which is established by selected components of DOJ. The Director is the final approving authority for SES evaluations.

Performance awards are reviewed and approved through the Assistant Attorney General for Administration to the appropriate appointing authority; i.e., the Deputy or Associate Attorney General.

Annually, a workgroup will convene to review performance measures from the previous rating cycle and develop new performance measures and requirements for SES members. These measures and requirements will be linked with agency or Department strategic plans.

3. PROCEDURES

SES evaluations will be based on Performance Work Plan (PWP) progress reviews in the five critical elements outlined by the OPM Basic Appraisal System:

- Leading People.
- Leading Change.
- Business Acumen.
- Building Coalitions.
- Results Driven.

The performance appraisal period for SES members is October 1 through September 30 of the following year, unless advanced or delayed by appropriate authority.

Supervisors must monitor the performance of senior executives and provide feedback regarding progress in accomplishing performance elements. This can be conducted informally, but must be completed in writing at least once during the appraisal period.

Supervisors can modify the Performance Work Plan, as appropriate, at any time during the appraisal period to reflect changing priorities or shifts in organizational goals. However, senior executives must be provided the minimum appraisal period before receiving a rating of record.

The minimum appraisal period before a rating of record can be assigned is 90 days.

SES evaluations are completed using the SES Performance Management System Executive Performance Agreement form.

At the time of the rating, the rating official will advise the senior executive of his/her right to respond in writing to any aspect of the rating and to have that rating and written response reviewed at a higher executive level. If a senior executive wishes to request a higher level review, the request must be made to the rating official within 7 calendar days from the date of the issuance of the initial rating.

GENERAL INSTRUCTIONS - Prepare this form in accordance with instructions included on form and indicated below. Complete Section A(1-8) at the time of discussion of standards at the beginning of the evaluation period. Complete Section B(1-8) at the progress review. Complete Sections C(1-7), D, E, F, G, H at the end-of-year formal appraisal. Refer to Chapter 430 of the Civilian Personnel Manual or "A Rater's Reference Guide to Performance Appraisal in the BOP" for instructions on appraisal procedures. **ADDITIONAL PAGES** - If additional pages are necessary, type them on a separate page with the heading "EMPLOYEE PERFORMANCE APPRAISAL CONTINUATION SHEET," followed by the employee's name, social security number, and the rating period. See the enclosed Continuation Sheet exemplar.

SPECIFIC INSTRUCTIONS

Section A - EMPLOYMENT INFORMATION AND INITIAL DISCUSSION

- Item 1 - Fill in employee's full name, last name first
- Item 2 - Use 9 digits for Social Security Number.
- Item 3 - Enter employee's position title (organizational).
- Item 4 - Enter department and institution where performance is being appraised.
- Item 5 - Enter beginning and ending dates for this rating period.
- Item 6 - Enter 5 digit series code/enter 2 digit grade--DO NOT INCLUDE STEP LEVEL.
- Item 7 - Enter set number for the standards used for the employee. Follow instructions in Chapter 430 of the Civilian Personnel Manual.
- Item 8 - Employee and Rater must review the set of elements and standards appropriate to employee's position. The employee must then sign and date the first 2 spaces provided and the Rater must sign and date the last two spaces provided.

Section B - PROGRESS REVIEW

- Item 1-7 - Indicate the brief 1 to 5 word title of each job element. Enter narrative evaluation of employee's performance for the applicable elements for progress review. Use the appropriate set of elements and standards to complete this section. Enter "NA" for any element(s) not applicable to this employee.
- Item 8 - After Discussion of employee's performance the employee and rating official must sign and date in this section.

Section C - FINAL EVALUATION

- Item 1-7 - Enter narrative comments of employee's performance achievements. Use the appropriate set of elements and standards to complete this section. Enter "NA" for any element(s) not applicable to this employee. Carefully circle the final evaluation for each element.

U = Unacceptable
MS = Minimally Satisfactory
S = Successful
EX = Excellent
O = Outstanding

Section D - RATER'S COMMENTS

Enter narrative comments to support a proposed overall final evaluation. Rater must sign and date this section.

Section E - REVIEWER'S COMMENTS

Complete the Overall Performance Rating block based upon input of the Rater. Carefully circle the appropriate block. To determine the overall performance rating refer to procedures specified in Chapter 430 of the Civilian Personnel Manual. Enter narrative comments to support an overall performance rating. Reviewer must sign and date this section.

Section F - CHIEF EXECUTIVE OFFICER'S COMMENTS

Space is provided for narrative comments of Chief Executive Officer, if required.

Section G - FINAL DISCUSSION

Employee's signature in this section acknowledges that a final discussion of overall performance has taken place with rating official. (If employee wishes to contribute any comments, attach separate sheet.)

Section H - TRAINING AND CAREER DEVELOPMENT

Space is provided for Rater to indicate training or other developmental activities to improve employee's skill and/or knowledge and to enhance employee's career advancement and promotion potential.

EMPLOYEE PERFORMANCE APPRAISAL CONTINUATION SHEET

NAME: _____, SSN: _____ - _____ - _____

PERFORMANCE REVIEW PERIOD: _____ - _____

Element 1 - Performance Level = _____

Element 2 - Performance Level = _____

Element 3 - Performance Level = _____

Element 4 - Performance Level = _____

Element 5 - Performance Level = _____

Element 6 - Performance Level = _____

Element 7 - Performance Level = _____

PREPARED BY: _____, DATE: _____

REVIEWER'S COMMENT:

PREPARED BY: _____, DATE: _____

PERFORMANCE LOG

EMPLOYEE NAME AND SSN: _____

DATE - SIGNIFICANT INCIDENT - ELEMENT ASSIGNED - LEVEL ASSIGNED

DATE: _____

SIGNIFICANT INCIDENT: _____

ELEMENT ASSIGNED: _____ LEVEL ASSIGNED: _____

EMPLOYEE SUPERVISOR DISCUSSION: _____

DATE: _____

Employee Initials

Supervisor Initials