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OFFICE OF PERSONNEL MANAGEMENT

5 CFR PART 250

RIN 3206-AL98

Personnel Management in Agencies

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This rule is intended to align human capital management practices to broader agency strategic planning activities, and better align human capital activities with an agency's mission and strategic goals. This will enable agency leadership to better leverage the workforce to achieve results. In addition, the final regulation will allow agencies to gather additional information from employee surveys.

DATES: This rule is effective April 11, 2017.

FOR FURTHER INFORMATION CONTACT: For information, please contact Jan Chisolm-King by email at janet.chisolm-king@opm.gov or by telephone at (202) 606-1958.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) maintains statutory responsibility under 5 U.S.C. 1103(c) to guide, enable, and assess agency strategic human capital management processes. On February 8, 2016, OPM published the *Personnel Management in Agencies* proposed rule in the **Federal Register** (81 FR 6469) that would amend 5 CFR part 250 subpart B, *Strategic Human Capital Management*, and 5 CFR part 250 subpart C, *Employee Surveys*. The purpose of this rule is to better assist agencies with developing strong human capital practices for achieving agency goals and objectives, and to further empower the human capital community to collectively identify and address cross-cutting human capital challenges.

OPM issues a final rule to revise 5 CFR, part 250 subparts B and C.

The rule establishes the Human Capital Framework (HCF), which replaces the Human Capital Assessment and Accountability Framework (HCAAF). This rule also reduces and clarifies the reporting procedures agencies are required to follow; creates a data-driven review process (HRStat); and describes workforce planning methods that agencies are required to follow.

Lastly, the rule strengthens and modernizes the Employee Survey process by identifying questions that exhibit appropriate psychometric properties which better align to the topics cited in the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136, sec. 1128, codified at 5 U.S.C. 7101).

Alignment of Strategic Human Capital Management (5 CFR, Part 250, Subpart B) to GPRA-MA

The final rule sets forth a set of actions and practices that will better position human capital to demonstrate its contribution to agency mission through the alignment of Strategic Human Capital Management practices to the Government Performance and Results Act Modernization Act (GPRA-MA) of 2010 (Pub. L. 111-352). GPRA-MA requires performance assessments of Government programs for purposes of assessing agency performance and improvement.

Following promulgation of this rule, OPM will provide additional guidance for agencies about the planning and implementation requirements presented within this regulation.

Strategic Human Capital Management (5 CFR Part 250 Subpart B)

The federal workforce plays a vital role in executing the important missions of federal agencies in service to the American people. As such, the Strategic Human Capital Management processes used to cultivate and manage the workforce must be integrated into agency planning and management processes, remain current with research and best practices, allow for proactive responses to anticipated environmental changes, and seek to continuously maximize the efficiency and effectiveness of Human Resource (HR) service delivery.

This rule supports the implementation of OPM's statutory responsibility under 5 U.S.C. 1103(c) to guide, enable, and assess agency strategic human capital management processes. Part 250 of Title 5, subpart B, implements the requirements of 5 U.S.C. 1103(c), and section 1103(c)(1) requires OPM to design a set of systems, including appropriate metrics, for assessing the management of human capital by federal agencies and to define those systems in regulation. Section 1103(c)(2) requires OPM to include standards addressing a series of specified topics. These requirements are further explained within this rule. Subpart B also provides an avenue for Chief Human Capital Officers (CHCOs) to carry out their required functions under 5 U.S.C. 1402(a).

Current regulations implement 5 U.S.C. 1103(c) by adopting the HCAAF system required by 5 U.S.C. 1103(c)(1) and providing the systems definitions and standards required by 5 U.S.C. 1103(c)(2). The HCAAF is a framework that integrates five human capital systems—Strategic Alignment, Leadership and Knowledge Management, Results-Oriented Performance Culture, Talent Management, and Accountability. These systems define practices for the effective and efficient management of human capital and support the steps involved in the planning and goal setting, implementation, and evaluation of human capital policies, programs, and initiatives in the Federal Government. This rule changes the current regulation, by replacing the HCAAF with the HCF.

As described throughout this section, in addition to replacing the HCAAF with the HCF, subpart B of this rule will:

1. Require agencies to develop a Human Capital Operating Plan (HCOP).
2. Require agencies to participate in Human Capital Reviews (HCRs) with OPM.
3. Institutionalize the requirement for agencies to conduct HRStat reviews.
4. Remove the requirement for agencies to develop and submit a Strategic Human Capital Plan.
5. Remove the requirement for agencies to develop and submit annual Human Capital Management Reports (HCMR).
6. Require OPM to issue the quadrennial Federal Workforce Priorities Report.

7. Communicate the workforce planning methods agencies are required to follow.

8. Ensure the consistent application of human capital practices by clearly defining key human capital management terms.

Replace the Human Capital Assessment and Accountability Framework (HCAAF) With the Human Capital Framework (HCF)

As discussed above, current regulations implement the requirements of 5 U.S.C 1103(c) by adopting the five systems of HCAAF. The HCF will replace the HCAAF and integrate four human capital systems—Strategic Planning and Alignment, Performance Culture, Talent Management, and Evaluation. OPM expects that the new systems and system definitions will result in improved outcomes for human capital programs that enable the accomplishment of agency mission objectives.

The HCF uses “Performance Culture” and “Talent Management” as the descriptors for the two systems under which the government’s major people and organization activities and programs occur. It also prescribes “Strategic Planning and Alignment” and “Evaluation” as the two supporting management systems required for the development, measurement, and management of agency human capital agendas.

Standards are defined for each of the four systems and agencies will be expected to apply them as the bases for their work. Agencies will be required to implement each standard within their strategies, but will have autonomy to determine which focus areas (within each system) should be implemented to lead to the best outcomes.

Require Agencies To Develop a Human Capital Operating Plan (HCOP)

The HCOP is a planning document (not a report) that provides details about how human capital strategies are being implemented in support of agency strategic. Additionally, the HCOP serves as a tool for agency leadership to set a clear path for achieving stated human capital strategies; identify and secure resources for supporting human capital policies, programs, and initiatives; and determine which timeframes and measures to use to assess progress, while demonstrating how the standards of each HCF system are being fulfilled within each strategy. The HCOP will correspond to the same timeframe covered by agency strategic plans and reviewed and updated annually.

Human Capital Reviews (HCRs) With OPM

These reviews are annual, in-person meetings for agency human capital leaders to discuss the implementation and achievement of human capital goals, including risks, barriers and successful practices. The reviews will serve as an opportunity for OPM to provide feedback to agencies, as well as identify and share practices and identify cross-cutting human capital challenges. This rule does not impose new requirements for agencies to submit written narratives. Previously, agencies were required to submit reports containing human capital information to OPM via a static written document. The revised rule affords agencies, in discussions with OPM, to collaboratively review agencies progress towards achieving their specific goals while providing a mechanism for OPM to identify cross-cutting and agency-specific human capital challenges that warrant further attention.

Institutionalize the Requirement for Agencies To Conduct HRStat Reviews

The quarterly review process is managed by agencies to identify and monitor human capital measures and targets that inform the progress agencies are making towards meeting their agency specific goals. The outcomes from the reviews should report the approach agencies take for corrective actions in areas for which they are not making substantial progress.

Remove the Requirement for Agencies To Develop and Submit a Strategic Human Capital Plan (SHCP)

GPRA–MA requires agencies to indicate how human capital resources will support agency strategic goals within their strategic plans. Because human capital strategies supporting each mission-oriented goal and objective are identified in agency strategic plans, additional SHCPs are unnecessary. The increased alignment of human capital strategies to agency goals is intended to enhance human capital and organizational performance outcomes, by making data driven decisions.

Remove the Requirement for Agencies To Develop and Submit Annual Human Capital Management Reports (HCMR)

OPM will monitor agency outcomes in human capital management through the Human Capital Evaluation Framework (HCEF), which consists of evaluating progress achieved through HRStat reviews, HCRs, and independent audits. As such, agencies are no longer required to develop and submit annual

Human Capital Management Reports (HCMR). As mentioned above, the regulation does not impose new requirements for agencies to submit written narratives.

Require OPM To Issue the Quadrennial Federal Workforce Priorities Report

The report is developed through research and the analysis of environmental trends, agency experiences and needs. The report communicates key governmentwide human capital priorities and suggested strategies to strengthen the communication amongst and between agency leadership and human capital practitioners. Additionally, the report serves as an informative tool for the Chief Human Capital Officers Council (CHCOC) because it signals what human capital priorities are required for the establishment of enterprise-wide plans and the coordination of resources amongst the human capital community. We anticipate that the first report would be released in mid-2017.

The changes to the regulation focus on establishing requirements that maintain efficient and effective (integrated) human capital management practices now and into the future. This also provides Federal agencies with the flexibility to determine how to identify and implement human capital strategies that will achieve strong organizational outcomes for their specific mission and goals.

The public comment period for the proposed regulation ended on April 8, 2016. OPM received 35 comments on the proposed rule: 15 from Federal agencies, 18 from private individuals, and two (2) from organizations. OPM carefully considered the comments and as a result, made minor revisions to the final regulation. The final regulation will become effective 120 days after the publication date of this notice, in order to give agencies time to amend policies and communicate changes to their human resources staff. Below is a discussion of the comments that OPM received.

Response to Comments, Subpart B—Strategic Human Capital

Section 250.201—Small Agencies

Four agencies were concerned as to whom the regulation applied.

To clarify, OPM revised § 250.201, *Coverage and Purpose*, to explicitly state that Subpart B applies to agencies covered by sec. 901(b) of the Chief Financial Officers (CFO) Act of 1990 (Pub. L. 101–576), as well as 5 U.S.C. 1401.

Section 250.203—Human Capital Framework (HCF)

An agency questioned the reason behind placing the HCF in regulation.

Language within 5 U.S.C. 1103 requires OPM to design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies, which was known as the Human Capital Assessment Accountability Framework (HCAAF) and is now becoming the Human Capital Framework. The law further states that the systems shall be defined in regulation and include standards, which OPM has done with the inclusion of the systems and standards with their supporting definitions within regulation.

An agency stated that they believed that two of the four systems of the HCF, Talent Management (TM) and Performance Culture (PC), appear to have significant areas of overlap.

The two systems, Talent Management and Performance Culture, have two distinct definitions. For example, the definition for Talent Management incorporates workforce planning, or the process to identify and close skills gaps. It also states, the system “implements and maintains programs to attract, acquire, develop, promote and retain quality and diverse talent”. Within the proposed focus areas for the Talent Management system, the ways to “promote and retain” quality and diverse talent includes, for example, recruitment and outreach, as well as succession planning.

On the contrary, the Performance Culture system is defined as a system that “engages, develops, and inspires a diverse, high-performing workforce by creating, implementing, and maintaining effective performance management strategies, practices, and activities that support mission objectives.” The focus areas include performance management and diversity and inclusion.

The two systems are distinct as Talent Management includes the identification and hiring of a workforce needed to accomplish an organizations mission while Performance Culture promotes practices that work to retain talent after being on board.

An agency commented that using employee lifecycle terminology within the HCF would be easier for practitioners and managers to understand (*e.g.*, staffing, performance management, awards, training, etc.). OPM’s Human Capital Line of Business (HRLOB) recently developed a comprehensive set of terminology for its new Business Reference Model that is aligned with the employee lifecycle and maps to all existing OPM regulations. The agency preferred the HRLOB terminology and believed that using a consistent set of terms for planning and automation would be more beneficial to the HR community, as a whole.

The employee lifecycle terminology is included within the nomenclature of the

Human Capital Framework (HCF), specifically within the focus areas. We concur that practitioners and managers must have an understanding of the language used to explain the various tools and strategies to effectively manage the Federal workforce, which is why we have and will continue to work closely with the HRLOB team and other groups to ensure the use of consistent terms and definitions. Also, it is important to note that the system terms for the HCF serve as overarching explanations for the broader human capital systems while sub elements, such as staffing and awards are subsumed within each of the systems.

Section 250.204(a)(1)—Federal Workforce Priorities Report (FWPR)

OPM determined there may be some confusion between the various requirements posed by GPRA—MA, particularly as it relates to developing and implementing strategic goals and initiatives. Therefore, OPM has removed references of the word “strategic” from the title of the “Federal Workforce Strategic Priorities Report” and is now titling it the “Federal Workforce Priorities Report.” The intent and purpose of the report remains the same as only the title of the report has changed.

An agency questioned why OPM was mandating agencies to align their human capital management strategies with the Federal Workforce Strategic Priorities Report (FWSPR). It was expressed that OPM should encourage agencies to develop human capital strategies that align to agency strategic goals and mission requirements.

The FWPR was developed (in response to a need identified by a Government Accountability Office (GAO) forum comprised of CHCOs) to “strengthen coordination to address a fragmented human capital community,” through the coordination of agencies collectively developing “enterprise solutions to address common human capital challenges” (GAO–14–168, May 7, 2014). Therefore, agencies are required to address governmentwide human capital priorities and suggested strategies contained in the FWPR as is determined by the CHCOC.

Agencies will continue to develop human capital strategies that align to their agency-specific mission and strategic goals while concurrently addressing cross-cutting human capital challenges. Specific requirements for how agencies implement human capital strategies in support of the FWPR will be clarified through guidance. OPM expects to issue this guidance after the publication of the final rule.

An individual representing an agency expressed concerns regarding the timing of the FWSPR and its effect on Presidential transitions and agency strategic planning.

The FWPR will communicate key governmentwide human capital priorities in

advance of the development of an Administration’s agenda and agency strategic plans. The report will focus on cross-cutting human capital challenges within the Federal Government, based upon a thorough evaluation of the state of Federal Human Capital Management. This will assist in the development of an Administration’s human capital agenda, while ensuring agencies are aware of the key challenges and are prepared to take action as they develop their strategic plans. This will allow for the recruitment, development, and retention of an agile and capable workforce that has the requisite knowledge, skills, and abilities to support agencies’ missions and Administration goals.

The publication deadline for the FWPR, which used to be the year in which the term of the President commences, has been modified to include OPM’s ability to extend the deadline. This modification is intended to build in flexibility regarding the publication date.

An agency inquired whether agencies would be able to waive the requirement on supporting the priorities contained in the FWSPR by noting that the issue is not relevant to their agency.

Specific requirements and expectations regarding which agencies should align their human capital strategies to support the FWPR, including any exceptions, will be clarified within guidance, which OPM expects to issue after publication of the final rule.

An agency asked whether guidance on governmentwide standards and metrics will be included in the FWSPR.

The FWPR is designed to communicate key governmentwide human capital priorities and suggested strategies, and it will not include reporting requirements for agencies.

Required metrics, as stated within § 250.205 (system metrics) will be specified through guidance, which OPM expects to issue after publication of the final rule. Additionally, information regarding governmentwide standards and metrics as is related to each system within the Human Capital Framework will be made available through the Human Capital Framework Online Resource Guide.

An agency expressed confusion about the “Federal human capital assessment,” referenced in § 250.204(d) and the “Governmentwide Strategic Human Capital Strategy,” referenced in § 250.204(g).

Both references were in made in error and were actually intended to refer to the FWPR. Therefore, they have been corrected to refer to the FWPR defined under § 250.202.

Section 250.204 (Redesignated as § 250.207)—HRStat

One agency recommended clarifying that HRStat is a quarterly review process.

OPM agreed with the recommendation and noted such in both sections 202 and 207.

Six agencies expressed concern that § 250.204 was confusing. Specifically, they stated the regulation does not clearly demonstrate agencies' roles and expectations as related to HRStat. Also, an agency stated that HRStat Maturity guidelines are complex and descriptive.

OPM has not published guidance regarding the specific requirements for HRStat, other than noting the frequency for which the data-driven reviews should occur (quarterly) and who should lead the reviews (CHCO). The regulation does not note detailed information about the Maturity Model as the information will be made available within guidance.

HRStat is a monitoring process for agencies to identify, measure, and analyze agency human capital data to inform agency leadership about how human capital is contributing to and supporting the accomplishment of agency goals. Agencies, through the leadership of their CHCO, are solely responsible for conducting quarterly HRStat reviews.

These data-driven reviews led by agency CHCOs, in collaboration with the agency Performance Improvement Officers (PIOs), are to discuss and monitor agencies progress with implementing key human capital goals that support the implementation of an agencies Annual Performance Plan (APP). The requirement to establish an APP was established through GPRA-MA.

In addition, the review sessions allow agency leadership to identify and focus on human capital metrics that will inform the achievement of an agency's human capital goals and mission. The quarterly sessions allow for prompt course correction, if necessary, to ensure progress. Other supporting actions to be taken by agencies during their HRStat reviews will be specified through guidance, which OPM expects to issue after publication of this final rule.

Additionally, OPM removed all references to HRStat from § 250.204 and placed it in its own section (§ 250.207) to provide greater clarity about the purpose of HRStat. Section 250.204 has been renumbered in light of the removed language.

Three agencies stated that OPM should provide information on what measures or metrics are included in HRStat.

HRStat is a monitoring process for agencies to identify, measure, and analyze agency Human Capital data to inform agency leadership about how human capital is contributing to and supporting the accomplishment of agency goals. Therefore, the measures associated with the reviews are agency-specific as they are based on agency set goals, and are not prescribed by OPM. So, agencies have the autonomy and flexibility to identify and evaluate measures that will help evaluate the efficacy of their human capital strategies.

Three agencies stated that agencies should not be mandated to use OPM-identified metrics. Instead, agencies should be allowed to use metrics that address agency-specific human capital challenges.

There are two different laws at issue here. First, GPRA-MA establishes the requirement of using data to inform human capital progress towards mission accomplishment. The other law, 5 U.S.C 1103(c), enables OPM to determine the state of human capital through the evaluation of human capital metrics.

GPRA-MA requires that goals are expressed "in an objective, quantifiable, and measurable form," and "establish common Federal Government performance indicators with quarterly targets to be used in measuring or assessing—overall progress toward each Federal Government performance goal." Human capital management is a key contributor to ensuring that performance goals are met. Therefore, OPM established HRStat to provide agency CHCOs with the ability to quantify and report "objective" data about human capital progress towards meeting organizational goals. Therefore, agencies have the flexibility to identify, monitor, and measure data needed to assess their progress towards meeting their agency-specific goals through their HRStat reviews. Again, as noted above, the measures associated with the reviews are agency-specific as they are based on agency set goals, and are not prescribed by OPM.

Unlike the measure associated with the reviews that are agency-specific, OPM is required to "design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies" as noted within 5 U.S.C 1103(c). Therefore, in response, OPM will identify a set of measures to enable OPM to assess the state of human capital within the Federal Government. The determinants used to assess the state of human capital within the Federal Government warrants the identification of cross-cutting measures that apply to all agencies. Therefore, agency-specific measures used during agency HRStat reviews cannot serve as a resource to inform the state of human capital governmentwide. Agency requirements for governmentwide metrics set forth by OPM under HCF and 5 U.S.C. 1103(c) will be issued through guidance.

Three agencies inquired as to whether OPM will provide guidance on governmentwide standards and metrics.

OPM will issue guidance to fulfill its requirements within 5 U.S.C. 1103(c) to "design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies."

An agency suggested that agencies should not be required to use the HRStat Maturity guidelines because: (1) they are complex and descriptive, and 2) they were not widely communicated to agencies.

The Maturity Model was developed by a Community of Practice (CoP) workgroup and vetted by the CoP, CHCOC, and OPM. All comments and feedback were addressed and considered prior to finalization of the Model. Consequently, the HRStat CoP and OPM are drafting instructions, which should improve the ability to implement and maintain the process.

An agency noted that HRStat Reviews and HRStat Maturity Guidelines were not described within the regulation.

OPM added language in the regulation stating that HRStat reviews are to be led by the CHCO, in collaboration with the Performance Improvement Officer (PIO), which has remained a requirement throughout the pilot process. OPM will issue guidance regarding further details and requirements of the HRStat review process and the Maturity Model after publication of the final rule.

An agency suggested if OPM intends to rely upon the HRStat Maturity guidelines, OPM must adhere to the requirements of 1 CFR part 51 and specifically utilize the term "incorporated by reference" in 5 CFR 250.207, as specified in 1 CFR 51.9.

OPM will not include the recommendation to adhere to the requirements of 1 CFR part 51 and specifically utilize the term "incorporated by reference" in 5 CFR 250.207, as specified in 1 CFR 51.9. As a practical matter, in order to comply with § 51.9(b)(2), the final rule would have to "state[s] the title, date, edition, author, publisher, and identification number of the publication". The HRStat Maturity guidelines are currently under development, so much of the required information is not yet available.

Although the final rule requires agencies to use the guidelines to affect measurable improvements in maturity levels, like the Maturity Model itself, the HRStat Maturity guidelines are meant to serve as an "aspirational roadmap". As such, the HRStat Maturity guidelines will provide helpful information, based on data from the Maturity Model Assessment Tool, to assist the agencies in attaining increasing levels of maturity in their HRStat processes, while maintaining flexibility in the management of their HRStat reviews.

An agency noted that the focus of the HRStat Maturity Model was the recognition that federal agencies operate at different levels of human capital maturity concerning the use of analytics, technology, talent/staff, collaboration, and leadership. OPM emphasized that not all agencies could achieve the scope of impact of aligning human capital outcomes aligned with mission imperatives. The final rule creates a gigantic leap in presuming agencies possess an optimized, mission delivery maturity level for aligning human capital outcomes with agency strategic and performance goals. This presumption may place inordinate burdens on agencies at a time when many HRStat programs are still in the emerging state of HRStat maturity.

The vision of the HRStat Community of Practice workgroup that developed the Maturity Model was that it partially serve as an "aspirational roadmap." In that sense, it is intended to encourage continuous improvement but not to require a specific

amount of improvement within a specific timeframe. Therefore, OPM will not include the recommendation, since no dictated schedule for maturity increases will be established at this time. Although guidance for HRStat is under development, the section pertaining to the Maturity Model will discuss the model, how it's used for assessment, and information on ways to manage programs for maturity.

An agency expressed concern about language that mandated that the Deputy Secretary and senior management team participate in the quarterly HRStat reviews.

The language in § 250.204(c) includes the option of a 'designee.' OPM believes it is essential that agency leadership is aware of the progress and impact of human capital operations, policies, and strategies on an agency's ability to meet its mission, hence the modification of language in § 250.204(c)(3) referring to the necessity of Deputy Secretaries remaining informed about the progress and outcomes of agency's HRStat reviews.

This is particularly important as agency senior leadership, as stated in GPRA-MA, must identify and inform their progress towards meeting agency-specific goals, of which human capital management is a significant contributor. Therefore, it is imperative that the CHCO ensure that their senior leaders are provided with all relevant data about human capital contributions towards meeting agency goals. Additionally, it is expected that the information derived from the reviews will be used to inform agency leadership on how to best support the human capital community. OPM removed and will place into guidance any language regarding C-Suite and management officials' participation in the quarterly HRStat reviews, with the exception of the CHCO and PIO roles, which remain in the regulation.

An agency suggested that the HRStat definition should include all four elements of the new HCF. HRStat should not be limited to strategic planning and alignment.

OPM agrees that HRStat is an approach that should be employed to make improvements in all HCF systems. Upcoming HRStat guidance will provide guiding principles on how to ensure the approach is used to make improvements within all of the systems. However, this fact is inherent in the definition as stated.

Section 250.204(d)—Human Capital Operation Plan (HCOP)

Six agencies expressed concern that § 250.204 was confusing. Specifically, they stated that it did not clearly demonstrate agencies' roles and expectations as related to the HCOP.

OPM removed all references to the HCOP from § 250.204 and placed it in its own section (§ 250.205) to enable OPM to clarify the intent of and purpose for the HCOP. Section 250.204 has been renumbered in light of the removed language. Guidance,

which will be published after the final publication of the regulation, will communicate the roles and expectations of agencies as it relates to developing, implementing, and monitoring the implementation of the HCOP.

Two agencies expressed concern about the establishment of a work group, which would be led by the CHCO and comprised of the Chief Operating Officer (COO), Performance Improvement Officer (PIO), Chief Information Officer (CIO), Chief Financial Officer (CFO), Chief Acquisition Officer (CAO), and Equal Employment Opportunity (EEO) Director.

OPM revised § 250.204(d)(i) of the proposed rule to refer to the necessity to have the CHCO collaborate with the agency's senior management team as the integration of the various areas, such as Information Technology, Acquisition, and Finance serve an integral role with the implementation of human capital strategies. This is reinforced within the standards of the Strategic Planning and Alignment System within the HCF.

An agency suggested there needs to be specific timeframes for the HCOP, Evaluation System, Human Capital Strategic Review (HCSR), and Evaluation Report.

OPM expects to issue HCOP and HCR guidance after publication of the final rule, which will include timeframes.

Four agencies expressed concern about the requirement that agencies develop annual HCOPs, including a need to distinguish the difference between the HCOP and the "four-year annual HCOP."

It should be noted that the proposed rule erroneously cited § 250.204(d)(ii). The correct citation should have been § 250.204(d)(2). OPM modified the language in the proposed rule to incorporate paragraph (d)(ii) into paragraph (d). In the final rule, this language is now contained within § 250.205. Additionally, the word "annual" was removed wherever it preceded "Human Capital Operation Plan" or "HCOP".

The HCOP supports an agency's Annual Performance Plan (APP) as required through GPRA-MA, which in turn supports an agency's Strategic Plan. The HCOP should be developed with a perspective of how respective human capital policies, programs and implementation strategies will support a 4-year strategic plan with annual targets and goals that will be developed and assessed through the APP. The HCOP should be reviewed and updated, if needed, on an annual basis to ensure the continued alignment of human capital strategies that support agency goals. This is particularly important if agencies note, as a result of conducting their HRStat reviews, that course corrections are warranted. Therefore, changes for how human capital policies and programs support the accomplishment of a respective

strategic goal may need to be modified. Thus, aspects of the HCOP will also need to be modified.

An agency questioned if the HCOP reporting requirements are redundant with agency Annual Performance Plan submissions.

All CFO Act agencies will be required to develop an HCOP, but are not required to submit it to OPM unless requested. The HCOP is intended to serve as a strategy development and implementation tool that agency leadership, in particular the CHCO, should use to determine how respective human capital policies, programs and implementation strategies directly support the goals and objectives outlined within the APP. This will include the identification of measures that will inform agency leadership about human capital contributions to and progress towards accomplishing the identified goals. The level of detail included in the HCOP regarding the implementation of human capital strategies is not suitable for inclusion within an agency's Annual Performance Plan, which covers a far greater scope.

250.204(e)—Human Capital Review (HCR)

To eliminate any confusion with the agency strategic review process, required by GPRA-MA (section 1116(f)), OPM is removing references of the word "strategic" from the title of the "Human Capital Strategic Reviews" and is now titling it the "Human Capital Reviews." The intent and purpose of the reviews remains the same because only the title has changed.

Six agencies expressed concern that § 250.204(e) was confusing. Specifically, they stated that it did not clearly demonstrate agencies' roles and expectations as related to the HCSRs.

OPM removed all references to the HCRs from § 250.204 and placed it in a section dedicated to the HCR (§ 250.206), to enable quicker identification and understanding of the purpose of and intent for the HCRs. Section 250.204 has been renumbered in light of the removed language. OPM will publish guidance upon the publication of the final rule that specifies the roles and responsibilities of agencies as related to the HCRs.

Five agencies wanted a clear understanding of OPM's expectations regarding the HCRs.

As mentioned previously, OPM is required to "design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies" as noted within 5 U.S.C 1103(c). To enable OPM to capture critical information that will be used to formulate an assessment of human capital by Federal agencies, OPM is establishing the requirement for agencies to participate in annual HCRs. The reviews also serve as an opportunity for agencies to underscore their

successful practices (that OPM would share with other agencies) while engaging in a discussion with OPM about suggested strategies that can address identified challenges.

The HCRs are annual, evidence-based reviews that evaluate and measure: (1) How agencies identify and implement (human capital) strategies that will lead to the success of a respective agency goal; (2) the efficacy of implementation strategies in support of achieving organizational goals (using the principles of the systems and standards of the HCF; and (3) assesses agencies ability to monitor their progress towards achieving their agency strategic goals through their HRStat reviews.

Agencies are required to meet with OPM on an annual basis to demonstrate how they are developing, implementing, and monitoring how their human capital strategies meet organizational goals. Agencies will discuss (and provide supporting information) to make evident how selected strategies supported organizational outcomes.

Additionally, information derived from agency HRStat reviews, accountability audits, HCRs, and submission of required metrics per 5 U.S.C. 1103(c), will inform the state of human capital within the Federal Government. The HCRs will provide OPM with information to enable OPM to determine human capital contributions towards and impact on agencies' ability to meet the goals identified within their strategic plans while identifying cross-cutting human capital challenges. The outcomes from the reviews will also inform the components of a policy agenda that should be established to support the development and implementation of governmentwide policies and strategies, and provide agencies with an opportunity to receive feedback from OPM to improve human capital implementation strategies and evaluation processes. Specific requirements and explanation of the process will be issued through guidance.

Two agencies asked whether the HCR will replace OPM's annual Accountability System Assessment Tool (ASAT) review.

The HCR will be in addition to the ASAT assessments. The HCRs are annual evidence-based reviews regarding the design and implementation of human capital strategies. The ASAT focuses on the effectiveness of the agency's overall Evaluation System.

Section 250.204(f)—Independent Audits

Two agencies suggested that OPM clarify its role in the Evaluation System. It appears that the new Evaluation System is the old Accountability System, which is "subject" to full OPM participation and evaluation. The agencies questioned whether this meant OPM will no longer conduct and "lead" periodic, full-scale human capital evaluations of the agencies.

OPM will continue its human capital evaluations. As part of OPM's statutory oversight responsibility, OPM may periodically conduct a full review of an agencies HR operations to ensure efficiency, effectiveness and regulatory compliance.

An agency expressed concern that Federal agencies are again required to submit a report to "its leadership and OPM" of the findings of the human capital evaluations (the subsection only references "audit findings"). OPM should clarify whether this report should include any HRStat or HCR findings, the two remaining mechanisms of the HCEF (as defined in § 250.202). Additionally, OPM should provide the timeframe for issuing the document to agency leadership and OPM.

It should be noted that the proposed rule erroneously cited § 250.204(f)(viii)(B). The proper citation should have been § 250.240(f)(8)(ii). The redesignated § 250.204(f)(8)(ii) is referring to human capital evaluations conducted by an agency's independent audit program or by OPM. HRStat is a quarterly data-driven review that informs agencies' human capital outcomes. The HCRs are annual, evidence-based reviews to assess the design and implementation of human capital strategies. Reports from independent audits should include information pertinent to both HRStat and HCRs. Depending on the scope of the independent or OPM audit, results of HRStat and HCRs may inform the focus of the evaluation and be referenced in the subsequent evaluation report. For example, if Time-to-Hire is one of the HRStat measures used by an agency, independent audits can assess whether timeliness is good or bad and why, which would then require agencies to make corrective actions. The timeframe for reporting back to OPM will always be included in the evaluation report provided to agency leadership.

Small agencies are not required to have independent audit programs. However, if they chose to develop one, the timeframe for reporting findings and corrective action should be explained in the agency evaluation system policy.

Section 250.206 (Redesignated as § 250.209)—Consequences—Improper Agency Actions

An agency believed OPM should include consequences for non-compliance with OPM position classification standards and inconsistency with OPM appeal determinations for like, identical, and similar positions within § 250.206.

According to 5 U.S.C. 5111, OPM has statutory authority to take corrective action and therefore, adding it to this section is unnecessary. In light of revisions to other sections, the proposed § 250.206 is redesignated as § 250.209.

Miscellaneous

An agency recommended that a section of the regulation should address HCOP and HRStat processes for mutual agency human capital collaboration for Cross-Agency Priority Goals, particularly in the area of collaborative

ways to close mission critical occupation (MCO) skill gaps, share technologies and tools, participate in category management, and re-allocate tasks to be performed solely by certain agencies to promote efficiency and effectiveness. OPM should be an active partner in these collaborative efforts contained in such a regulatory section

OPM concurs that agency collaboration is an essential approach for implementing sound human capital strategies; however, with regards to Cross-Agency Priority (CAP) Goals, the regulation is not intended to address the implementation of CAP goals. We will encourage agencies to collaborate on implementing strong human capital strategies for other cross-cutting opportunities, such as those identified within the Federal Workforce Priorities Report.

An agency noted that agency strategic plans are four year planning documents that outline an agency's broadest mission goals and objectives. The agency believes OPM's desire to align both the HCOP and HRStat process with the strategic goals and objectives contained in an agency's strategic plan will create an overwhelming burden on federal agencies that will inhibit any meaningful, deep human capital planning in the HCOP and focused analysis through the HRStat process. Further, the agency believes that the task of aligning strategic goals and associated performance goals in the HCOP with human capital implementation strategies, and monitoring progress in relation to human capital policies and programs that cuts across such a vast expanse of agencies' mission imperatives will lead agencies to focus their attention on only the most broad human capital outcomes.

To maintain flexibility in the manner in which agencies may execute their responsibilities stated within the regulation, the details on how agencies are expected to fulfill them will be included in subsequent guidance rather than within the regulation itself. Specifying that alignment will pertain to APGs and CAP goals would be too restrictive for regulation. Therefore, the regulatory requirement to align human capital processes to the agency strategic plan will remain the same. The subsequent guidance, whose establishment will include input from the CHCO Community and relevant communities of practice (e.g. HRStat), will then specify the method that agencies will be expected to follow. This may or may not reflect the recommendation provided, depending on the outcome of the guidance development process.

In light of revisions to other sections, the proposed § 250.205 is redesignated as § 250.208. There was confusion within one agency regarding references to OMB Circular No. A-11 guidance on preparing the human capital portions of

an agency's Annual Performance Plan (APP).

The current version of OMB Circular No. A-11 issued in 2015, does not contain specific guidance on preparing the human capital portions of an agency's APP. Therefore, specific references to OMB Circular No. A-11 was removed from the proposed rule.

Twelve agencies inquired as to whether or not OPM was going to issue guidance following the publication of the final rule. Of the twelve, one agency encouraged OPM to engage agencies in the timely drafting of such guidance.

OPM understands the need to assist agencies as they work to better integrate human capital within the agency strategic planning process. As such, OPM will host a series of meetings with agency human capital professionals, as it works to develop guidance per the regulation. Following publication of the final rule, OPM expects to issue guidance related to the HCOP, HCR, required metrics per § 250.208 (System Metrics) and HRStat Maturity Model.

An agency noted that the final rule contained an incorrect cite (31 U.S.C. 1116(d)(5)) as authority for 5 CFR 250, subpart B. The agency noted that the correct cite is 31 U.S.C. 1116(c)(5), which states that an agency's performance update shall "include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management."

OPM corrected the cite reference to read: 31 U.S.C. 1116(c)(5).

Employee Survey Process (5 CFR Part 250, Subpart C)

This rule will strengthen and modernize the Employee Survey process by identifying questions that are well written, understandable, and in better alignment to the topics cited in the National Defense Authorization Act for Fiscal Year 2004, Public Law 108-136, sec.1128, codified at 5 U.S.C. 7101.

Response to Comments, Subpart C—Employee Surveys

OPM received a total of 17 written comments directly addressing Subpart C—Employee Surveys. These comments were from 12 individuals, three agencies, and two organizations. These 17 comments are included in the total of 35 comments cited earlier. Below we summarize and respond to the comments received.

Two individuals indicated that Federal Employee Viewpoint Survey references to senior leader, manager and supervisory levels in questions are not clear to employees taking the survey, notwithstanding the terms' definitions in 5 CFR part 250.

OPM acknowledges that general terms and definitions for leadership levels (senior leader, manager, and supervisor) may vary greatly from agency to agency and it is imperative to give agencies and respondents a clearer understanding of each level for accurate answers/data. In light of the comments and ongoing discussions on the definitions of levels of leadership within organizations, OPM removed the definitions from the regulation to allow for additional discussion and revision for future versions of the survey towards the goal of achieving greater clarity for agencies and survey respondents.

OPM received multiple comments and suggestions on additions to, and deletions from, the proposed list of survey questions from seven individuals, two agencies and two organizations.

Section 1128 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136, 5 U.S.C. 7101 note) requires each agency to conduct an annual survey of its employees to assess two topic areas (1) Leadership and Management Practices that contribute to agency performance, and (2) Employee Satisfaction with: (a) Leadership policies and practices; (b) work environment; (c) rewards and recognition; (d) opportunity for professional development and growth; and (e) opportunity to contribute to achieving organizational mission. Any questions suggested by commenters that did not fit these two main areas of the statute (and/or the five sub-areas) were considered to be out of the scope of this regulation and therefore not considered. OPM did not adopt comments suggesting adding new areas with associated new questions, because these areas are not covered in the statute that drives this regulation (cited above). OPM notes, however, that agencies maintain the flexibility to expand their own surveys and add agency-specific questions as appropriate to the agency's needs. In addition, although the questions referenced in this paragraph are outside the scope of the statute and do not need to be retained in regulation, OPM will maintain the suggestions for consideration for future additions to the non-mandatory portion of the Employee Survey.

An organization suggested seven (7) questions for addition to the regulation.

These questions were evaluated to the extent that they (a) fit within the existing areas covered in the statute and (b) were understandable and well-written. All of these questions had been included in past versions of the annual survey and are of continued interest for year-to-year agency trending. Of the seven questions suggested, five questions both clearly fit within the existing areas covered in the statute and were understandable and well-written. These five questions were added to the original 11 questions proposed for the current legislation, for a total of 16 questions going forward. Specifically, the additional questions included in the current regulation are:

1. I believe the results of this survey will be used to make my agency a better place to work.

2. Considering everything, how satisfied are you with your organization?

3. Considering everything, how satisfied are you with your job?

4. I can disclose a suspected violation of any law, rule or regulation without fear of reprisal.

5. I recommend my organization as a good place to work.

Two of the questions suggested for inclusion were: (a) "arbitrary action, personal favoritism and coercion for partisan political purposes are not tolerated" and (b) "prohibited personnel practices (for example, illegally discriminating for or against any employee/applicant, obstructing a person's right to compete for employment, knowingly violating veterans' preference requirements) are not tolerated." They were not included in the current regulation because they lacked clarity and would not produce meaningful responses/data. These questions need to be more clearly written to be understandable to respondents and produce actionable results. These two questions also are outside the scope of the statute.

One agency suggested adding questions dealing with veteran issues; an individual and an agency suggested adding questions regarding training; another individual requested the survey include questions to ascertain the education and career of the respondent's parents and spouse; and two other individuals requested additional areas/questions be included that focused on employee motivation as well as burnout, turnover and productivity.

The questions and/or areas for additional questions suggested by these commenters were either outside the scope of the statute and/or already covered by questions included in the current revision of the regulation. No additional changes were made other than the five questions added above.

An individual suggested that the Federal Employee Viewpoint Survey (FEVS) should provide results by race and ethnicity. For instance, currently, results are consolidated into "minority" or "non-minority" categories.

Confidentiality concerns require the combining of some response categories into more general and less personally-identifiable categories to protect the privacy of the individual responders. In any event, this comment is outside the scope of the proposed rule.

Six individuals, two agencies and two organizations commented on what impact the reduction in survey questions in regulation will have on the existing metrics (indexes), trends and agency survey efforts.

About half the survey questions currently in use are not reflected in the regulation, however these questions have been asked by OPM since 2002. Many questions that have

never been reflected in regulation have been used to produce the indexes provided to agencies each year, as well as the reports provided by OPM for year-to-year trending for agency use. Changes to the survey questions (regardless of whether the questions are represented in this regulation) are made only in consultation with OPM survey experts, agency representatives and stakeholders that use the survey results. OPM will continue to produce question trends and indexes as in prior years, but will be able to revise and improve questions as necessary for better measurement and remove questions which are no longer of interest to agencies. Index scores will continue to be produced but again, OPM will be able to revise, add or remove indexes to respond to agency needs. Information critical to agency success will not be lost, but instead the survey will move toward providing better and more accurate data to agencies as well as improved scientific rigor. Asking questions which are not well written or no longer relevant to agency success, as well as reporting indexes used in the past when newer indexes would better fit agency needs, confines the survey to be a formality rather than a dynamic and useful management tool.

For the purpose of the regulation, a smaller set of understandable and well-written questions directly related to the statute areas, are critical for governmentwide and agency measurement and trends, and this smaller set of 16 questions will be retained in regulation. This set of questions satisfies the statute requirements. Since these questions cannot be revised or removed without a change in regulation, retaining a large number of questions within a regulation limits the effectiveness of the survey to respond to agency needs, to update the survey to address new initiatives, and/or to revise or remove questions that are no longer useful. Therefore, the previous list of 45 statute-based questions has been reduced to a smaller, core set of 16 areas. The results required by statute will continue to be produced.

In addition, OPM will have the option to make revisions as needed to other parts of the survey and those relevant questions that used to appear in the regulation in order to improve measurement qualities and therefore, improve the overall scientific qualities of the annual survey and its value to the Federal Government, while satisfying the statute requirements.

One agency, one organization and two individuals provided comments related to survey methodology: For example, shortening the fielding period and reducing reporting timeframes, frequency of survey administration, and sampling methodologies.

These comments are outside the scope of the proposed rule; therefore, no response is needed.

An organization suggested requiring OPM to report FEVS data publically within 90 days of the date by which an agency completes survey administration.

Currently, while OPM provides services to all executive agencies for the annual survey, no such requirement is reflected in statute. Thus, no timeline can be established. Our goal is to provide agencies with the best information and reports possible, and imposing a timeline would hamper our ability to respond to dynamic situations and decision-needs.

Executive Order 13563 and Executive Order 12866, Regulatory Review

The Office of Management and Budget has reviewed this proposed rule in accordance with E.O. 13563 and 12866.

Paperwork Reduction Act

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 250

Authority for Personnel actions in agencies, Employee surveys, Strategic Human Capital Management.

Office of Personnel Management.

Beth F. Cobert,
Acting Director.

Accordingly, OPM amends title 5, Code of Federal Regulations, as follows:

PART 250—PERSONNEL MANAGEMENT IN AGENCIES

■ 1. The authority citation for part 250 continues to read as follows:

Authority: 5 U.S.C. 1101 note, 1103(a)(5), 1103(c), 1104, 1302, 3301, 3302; E.O. 10577, 12 FR 1259, 3 CFR, 1954–1958 Comp., p. 218; E.O. 13197, 66 FR 7853, 3 CFR 748 (2002).

Subpart B—Strategic Human Capital Management

■ 2. Subpart B is revised to read as follows:

Subpart B—Strategic Human Capital Management

Sec.

- 250.201 Coverage and purpose.
- 250.202 Definitions.
- 250.203 Strategic Human Capital management systems and standards.
- 250.204 Agency roles and responsibilities.
- 250.205 Human Capital Operating Plan (HCOP).
- 250.206 Human Capital Reviews (HCR).
- 250.207 HRStat.
- 250.208 System metrics.
- 250.209 Consequences of improper agency actions.

Subpart B—Strategic Human Capital Management

Authority: 5 U.S.C. 105; 5 U.S.C. 1103(a)(7), (c)(1), and (c)(2); 5 U.S.C. 1401; 5 U.S.C. 1402(a); 31 U.S.C. 901(b)(1); 31 U.S.C. 1115(a)(3); 31 U.S.C. 1115(f); 31 U.S.C. 1116(c)(5); Public Law 103–62; Public Law 107–296; Public Law 108–136, 1128; Public Law 111–352; 5 CFR 10.2; FR Doc No: 2011–19844; E.O. 13583; E.O. 13583, Sec 2(b)(ii).

§ 250.201 Coverage and purpose.

Pursuant to 5 U.S.C. 1103(c), this subpart defines a set of systems, including standards and metrics, for assessing the management of human capital by Federal agencies. These regulations apply to all Executive agencies as defined in 31 U.S.C. 901(b)(1) and support the performance planning and reporting that is required by sections 1115(a)(3) and (f) and 1116(d)(5) of title 31, United States Code.

§ 250.202 Definitions.

Chief Human Capital Officer (CHCO) is the agency's senior leader whose primary duty is to:

(1) Advise and assist the head of the agency and other agency officials in carrying out the agency's responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles; and

(2) Implement the rules and regulations of the President, the Office of Personnel Management (OPM), and the laws governing the civil service within the agency.

CHCO agency is an Executive agency, as defined by 5 U.S.C. 105, which is required by 5 U.S.C. 1401 and 31 U.S.C. 901(b)(1) to appoint a CHCO.

Director of OPM is, among other things, the President's advisor on actions that may be taken to promote an efficient civil service and a systematic application of the merit system principles, including recommending policies relating to the selection, promotion, transfer, performance, pay, conditions of service, tenure, and separation of employees. The Director of OPM provides governmentwide leadership and direction in the strategic management of the Federal workforce.

Evaluation system is an agency's overarching system for evaluating the results of all human capital planning and implementation of human capital strategies to inform the agency's continuous process improvement efforts. This system is also used for ensuring compliance with all applicable statutes, rules, regulations, and agency policies.

Federal Workforce Priorities Report (FWPR) is a strategic human capital report, published by OPM by the first Monday in February of any year in which the term of the President commences. OPM may extend the date of publication if needed. The report communicates key Governmentwide human capital priorities and suggested strategies. The report also informs agency strategic and human capital planning.

Focus areas are areas that agencies and human capital practitioners must focus on to achieve a system's standard.

HRStat is a strategic human capital performance evaluation process that identifies, measures, and analyzes human capital data to inform the impact of an agency's human capital management on organizational results with the intent to improve human capital outcomes. HRStat, which is a quarterly review process, is a component of an agency's strategic planning and alignment and evaluation systems that are part of the Human Capital Framework.

Human Capital Evaluation Framework underlies the three human capital evaluation mechanisms (*i.e.*, HRStat, Audits, and Human Capital Reviews) to create a central evaluation framework that integrates the outcomes from each to provide OPM and agencies with an understanding of how human capital policies and programs are supporting missions.

Human Capital Framework (HCF) provides comprehensive guidance on the principles of strategic human capital management in the Federal Government. The framework, as described in § 250.203 below, provides direction on human capital planning, implementation, and evaluation in the Federal environment.

Human Capital Operating Plan (HCOP) is an agency's human capital implementation document, which describes how an agency will execute the human capital elements stated within Agency Strategic Plan and Annual Performance Plan (APP). Program specific workforce investments and strategies (*e.g.*, hiring, closing skill gaps, etc.) should be incorporated into the APPs as appropriate. The HCOP should clearly execute each of the four systems of the HCF. The HCOP should align with the Government Performance and Results Act (GPRA) Modernization Act of 2010, annual performance plans and timelines.

Human Capital Review (HCR) is OPM's annual, evidence-based review of an agency's design and implementation of its HCOP, independent audit, and HRStat programs to support mission

accomplishment and human capital outcomes.

Independent audit program is a component of an agency's evaluation system designed to review all human capital management systems and select human resources transactions to ensure efficiency, effectiveness, and legal and regulatory compliance.

Skill gap is a variance between the current and projected workforce size and skills needed to ensure an agency has a cadre of talent available to meet its mission and make progress towards achieving its goals and objectives now and into the future.

Standard is a consistent practice within human capital management in which agencies strive towards in each of the four HCF systems. The standards ensure that an agency's human capital management strategies, plans, and practices:

- (1) Are integrated with strategic plans, annual performance plans and goals, and other relevant budget, finance, and acquisition plans;
- (2) Contain measurable and observable performance targets;
- (3) Are communicated in an open and transparent manner to facilitate cross-agency collaboration to achieve mission objectives; and
- (4) Inform the development of human capital management priority goals for the Federal Government.

§ 250.203 Strategic human capital management systems and standards.

Strategic human capital management systems, standards, and focus areas are defined within the Human Capital Framework (HCF). The four systems described below provide definitions and standards for human capital planning, implementation, and evaluation. The HCF systems and standards are:

(a) *Strategic planning and alignment.* A system that ensures agency human capital programs are aligned with agency mission, goals, and objectives through analysis, planning, investment, and measurement. The standards for the strategic planning and alignment system require an agency to ensure their human capital management strategies, plans, and practices—

- (1) Integrate strategic plans, annual performance plans and goals, and other relevant budget, finance, and acquisition plans;
- (2) Contain measurable and observable performance targets; and
- (3) Communicate in an open and transparent manner to facilitate cross-agency collaboration to achieve mission objectives.

(b) *Talent management.* A system that promotes a high-performing workforce,

identifies and closes skill gaps, and implements and maintains programs to attract, acquire, develop, promote, and retain quality and diverse talent. The standards for the talent management system require an agency to—

- (1) Plan for and manage current and future workforce needs;
- (2) Design, develop, and implement proven strategies and techniques and practices to attract, hire, develop, and retain talent; and
- (3) Make progress toward closing any knowledge, skill, and competency gaps throughout the agency.

(c) *Performance culture.* A system that engages, develops, and inspires a diverse, high-performing workforce by creating, implementing, and maintaining effective performance management strategies, practices, and activities that support mission objectives. The standards for the performance culture system require an agency to have—

- (1) Strategies and processes to foster a culture of engagement and collaboration;
- (2) A diverse, results-oriented, high-performing workforce; and
- (3) A performance management system that differentiates levels of performance of staff, provides regular feedback, and links individual performance to organizational goals.

(d) *Evaluation.* A system that contributes to agency performance by monitoring and evaluating outcomes of its human capital management strategies, policies, programs, and activities by meeting the following standards—

- (1) Ensuring compliance with merit system principles; and
- (2) Identifying, implementing, and monitoring process improvements.

§ 250.204 Agency roles and responsibilities.

(a) An agency must use the systems and standards established in this part, and any metrics that OPM subsequently provides in guidance, to plan, implement, evaluate and improve human capital policies and programs. These policies and programs must—

- (1) Align with Executive branch policies and priorities, as well as with individual agency missions, goals, and strategic objectives. Agencies must align their human capital management strategies to support the Federal Workforce Priorities Report, agency strategic plan, agency performance plan, and agency budget;
- (2) Be based on comprehensive workforce planning and analysis;
- (3) Monitor and address skill gaps within governmentwide and agency-

specific mission-critical occupations by using comprehensive data analytic methods and gap closure strategies;

(4) Recruit, hire, develop, and retain an effective workforce, especially in the agency's mission-critical occupations;

(5) Ensure leadership continuity by implementing and evaluating recruitment, development, and succession plans for leadership positions;

(6) Implement a knowledge management process to ensure continuity in knowledge sharing among employees at all levels within the organization;

(7) Sustain an agency culture that engages employees by defining, valuing, eliciting, and rewarding high performance; and

(8) Hold the agency head, executives, managers, human capital officers, and human capital staff accountable for efficient and effective strategic human capital management, in accordance with merit system principles.

(b) Each agency must meet the statutory requirements of the Government Performance and Results Act (GPRA) Modernization Act of 2010, by including within the Annual Performance Plan (APP) human capital practices that are aligned to the agency strategic plan. The human capital portion of the APP must include performance goals and indicators.

(c) An agency's Deputy Secretary, equivalent, or designee is responsible for ensuring that the agency's strategic plan includes a description of the operational processes, skills and technology, and human capital information required to achieve the agency's goals and objectives. Specifically, the Deputy Secretary, equivalent, or designee will—

(1) Allocate resources;

(2) Ensure the agency incorporates applicable priorities identified within the Federal Workforce Strategic Priorities Report and is working to close governmentwide and agency-specific skill gaps; and

(3) Remain informed about the progress of their agency's quarterly HRStat reviews, which are led by the CHCO, in collaboration with the PIO.

(d) The Chief Human Capital Officer must design, implement and monitor agency human capital policies and programs that—

(1) Ensure human capital activities support merit system principles;

(2) Use the OPM designated method to identify governmentwide and agency-specific skill gaps;

(3) Demonstrate how the agency is using the principles within the HCF to

address strategic human capital priorities and goals;

(4) Establish and maintain an Evaluation System to evaluate human capital outcomes that is—

(i) Formal and documented; and

(ii) Approved by OPM;

(5) Maintain an independent audit program, subject to full OPM participation and evaluation, to review periodically all human capital management systems and the agency's human resources transactions to ensure legal and regulatory compliance. An agency must—

(i) Take corrective action to eliminate deficiencies identified by OPM, or through the independent audit, and to improve its human capital management programs and its human resources processes and practices; and

(ii) Based on OPM or independent audit findings, issue a report to its leadership and OPM containing the analysis, results, and corrective actions taken; and

(6) Improve strategic human capital management by adjusting strategies and practices, as appropriate, after assessing the results of performance goals, indicators, and business analytics.

(7) The agency's human capital policies and programs must support the implementation and monitoring of the Federal Workforce Priorities Report, which is published by OPM every four years, and—

(i) Improve strategic human capital management by using performance goals, indicators, and business analytics to assess results of the human capital management strategies planned and implemented;

(ii) Ensure human capital activities support merit system principles;

(iii) Adjust human capital management strategies and practices in response to outcomes identified during HRStat quarterly data-driven reviews of human capital performance to improve organizational processes; and

(iv) Use the governmentwide and agency-specific human capital strategies to inform resource requests (e.g., staff full-time equivalents, training, analytical software, etc.) into the agency's annual budget process.

§ 250.205 Human Capital Operating Plan (HCOP).

Each agency must develop a Human Capital Operating Plan (HCOP) that aligns with an agency's Strategic Plan and Annual Performance Plan. The HCOP is to be reviewed and approved annually, and updated as needed. The HCOP must demonstrate how an agency's human capital implementation strategies follow the principles and

standards of the HCF while including an explanation of how human capital policies, initiatives, objectives, and resources will be used to achieve agencies' human capital goals. The HCOP will be made available to OPM upon request. The HCOP must—

(a) Be established by the CHCO, in collaboration with the agency's senior management team;

(b) Be used to support the execution of an agency's strategic plan, as an agency's human capital can affect whether or not a strategy or strategic goal is achieved;

(c) Explicitly describe the agency-specific skill and competency gaps that must be closed through the use of agency selected human capital strategies;

(d) Include annual human capital performance goals and measures that will support the evaluation of the agency's human capital strategies, through HRStat quarterly reviews, and that are aligned to support mission accomplishment;

(e) Reflect the systems and standards defined in § 250.203 above, consistent with their agency strategic plan and annual performance plan, to address strategic human capital priorities and goals; and

(f) Address the governmentwide priorities identified in the Federal Workforce Strategic Priorities Report.

§ 250.206 Human Capital Reviews.

Each agency must participate with OPM in a Human Capital Review (HCR). The HCR will be conducted during the evaluation phase and OPM will issue guidance about the HCR requirements.

§ 250.207 HRStat.

The Chief Human Capital Officer must design, implement and monitor agency human capital policies and programs that—

(a) Use the HRStat quarterly reviews, in coordination with the agency Performance Improvement Officer (PIO), to assess the agency's progress toward meeting its strategic and performance goals;

(b) Implement the HRStat Maturity guidelines specified by OPM; and

(c) Use HRStat quarterly reviews to evaluate their agency's progress.

§ 250.208 System metrics.

OPM reserves the right to provide additional guidance regarding metrics.

§ 250.209 Consequences of improper agency actions.

If OPM finds that an agency has taken an action contrary to a law, rule, regulation, or standard that OPM administers, OPM may require the

agency to take corrective action. OPM may suspend or revoke a delegation agreement established under 5 U.S.C. 1104(a)(2) at any time if it determines that the agency is not adhering to the provisions of the agreement. OPM may suspend or withdraw any authority granted under this chapter to an agency, including any authority granted by delegation agreement, when OPM finds that the agency has not complied with qualification standards OPM has issued, instructions OPM has published, or the regulations in this chapter of the regulation. OPM also may suspend or withdraw these authorities when it determines that doing so is in the

interest of the civil service for any other reason.

■ 3. Subpart C is revised to read as follows:

Subpart C—Employee Surveys

- Sec.
- 250.301 Definitions.
- 250.302 Survey requirements.
- 250.303 Availability of results.

Subpart C—Employee Surveys

Authority: 5 U.S.C. 105; 5 U.S.C. 7101 note; Public Law 108–136

§ 250.301 Definitions.

Agency means an Executive agency, as defined in 5 U.S.C. 105.

§ 250.302 Survey requirements.

(a) Each executive agency must conduct an annual survey of its employees to assess topics outlined in the National Defense Authorization Act for Fiscal Year 2004, Public Law 108–136, sec. 1128, codified at 5 U.S.C. 7101.

(1) Each executive agency may include additional survey questions unique to the agency in addition to the employee survey questions prescribed by OPM under paragraph (a)(2) of this section.

(2) The 16 prescribed survey questions are listed in the following table:

(i) Leadership and Management practices that contribute to agency performance

My work unit has the job-relevant skills necessary to accomplish organizational goals.
Managers communicate the goals of the organization.
I believe the results of this survey will be used to make my agency a better place to work.

(ii) Employee Satisfaction with—

| | |
|-----------|--|
| (A) | Leadership Policies and Practices: How satisfied are you with your involvement in decisions that affect your work? How satisfied are you with the information you receive from management on what is going on in your organization? Considering everything, how satisfied are you with your organization? |
| (B) | Work Environment: The people I work with cooperate to get the job done. My workload is reasonable. Considering everything, how satisfied are you with your job? I can disclose a suspected violation of any law, rule or regulation without fear of reprisal. |
| (C) | Rewards and Recognition: In my work unit, differences in performance are recognized in a meaningful way. How satisfied are you with the recognition you receive for doing a good job? |
| (D) | Opportunities for professional development and growth: I am given a real opportunity to improve my skills in my organization. My talents are used well in the workplace. |
| (E) | Opportunity to contribute to achieving organizational mission: I know how my work relates to the agency's goals. I recommend my organization as a good place to work. |

§ 250.303 Availability of results.

(a) Each agency will make the results of its annual survey available to the public and post the results on its Web site unless the agency head determines that doing so would jeopardize or negatively impact national security. The posted survey results will include the following:

- (1) The agency's evaluation of its survey results;
- (2) How the survey was conducted;
- (3) Description of the employee sample, unless all employees are surveyed;
- (4) The survey questions and response choices with the prescribed questions identified;
- (5) The number of employees surveyed and number of employees who completed the survey; and

(6) The number of respondents for each survey question and each response choice.

(b) Data must be collected by December 31 of each calendar year. Each agency must post the beginning and ending dates of its employee survey and either the survey results described in paragraph (a) of this section, or a statement noting the decision not to post, no later than 120 days after the agency completes survey administration. OPM may extend this date under unusual circumstances.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–8178; Directorate Identifier 2015–NM–197–AD; Amendment 39–18721; AD 2016–24–04]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–400 series airplanes. This AD was prompted