University of Rochester indicated their intention to submit a human gene therapy protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee. The title of this protocol is "Gene Therapy for Cancer Treatment (I)."

IV. Addition to the "Points to Consider" Document to Expedite Minor Modification on Approved Protocols

During the June 1 meeting, the Human Gene Therapy Subcommittee recommended a procedure for expediting reviews on approved human gene therapy protocols. The following policy is proposed for discussion, approval, and addition to the document entitled, "Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA into the Genome of Human Subjects." The proposal is as follows:

A minor change in a protocol approved by the Human Gene Therapy Subcommittee, that is, a change that does not significantly alter the basic design of a protocol and that does not increase risk to the subjects, may be approved by the Chair of the Subcommittee if the change has also been approved by the relevant IRB and by the relevant Institutional Biosafety Committee. The Chair will report on any such approvals at the next regularly scheduled meeeting of the Subcommittee.

V. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Transfer Clinical Protocol-Drs. Brenner, Ihle, Mirro

In a letter dated June 22, 1990, Drs. M. K. Brenner, J. Ihle, J. Mirro of the St. Jude Children's Research Hosptial indicated their intention to submit a human gene transfer clinical protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee. The title of this protocol is "Use of Marker Genes to Investigate the Biology of Marrow Reconstitution and Relapse of Malignant Disease Following Autologous Bone Marrow Transplantation."

VI. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Transfer Clinical Protocol/Dr. Cornetta

In a letter dated June 22, 1990, Dr. Cornetta of the University of Wisconsin indicated his intention to submit a human gene transfer clinical protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee. The title of this protocol is "Retroviral-Mediated Gene Transfer of Bone Marrow Cells During Autologous Bone Marrow Transplantation for Acute Leukemia: Understanding Disease Recurrence."

VII. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Transfer Clinical Protocol/Dr. Lotze

In a letter dated June 22, 1990, Dr. M. T. Lotze of the Pittsburgh Cancer Institute, University of Pittsburgh indicated his intention to submit a human gene transfer clinical protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee. The title of this protocol is "The Treatment of Patients with Advanced Cancer Using Interleukin 2, Interleukin 4 and Tumor Infiltrating Lymphocytes."

Additional documentation supporting these requests will be distributed at the meeting. This material also is available upon request from the Office of Recombinant DNA Activities.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow NIH Guidelines. In lieu of the individual program listing, the NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: July 14, 1990.

Jay Moskowitz,

Associate Director, Office of Science Policy and Legislation, National Institutes of Health.

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federal register

Wednesday
June 27, 1990

Part V

Office of Personnel Management

Proposed Demonstration Project—A Public Sector Skill-Based Compensation System in a Participatory Work Environment; Notice

OFFICE OF PERSONNEL MANAGEMENT

Proposed Demonstration Project—A Public Sector Skill-Based Compensation System in a Participatory Work Environment

AGENCY: Office of Personnel Management.

ACTION: Final notice of proposed demonstration project.

SUMMARY: Title VI of the Civil Service Reform Act authorizes the Office of Personnel Management (OPM) to conduct demonstration projects that experiment with new and different personnel management concepts to determine whether a specified change in policies or procedures would result in improved Federal personnel management. The proposed demonstration project was published in the **Federal Register** on April 5, 1989. This is the final demonstration project plan approved by the Office of Personnel Management.

DATES: *Approval Date:* The demonstration project was approved by the Office of Personnel Management on June 21, 1990.

Implementation Date: The demonstration project may be implemented no sooner than the expiration of the 90-day Congressional Review Period. OPM, in consultation with DLA, will make the final determination as to when the Defense Depot Ogden, Utah is fully prepared for project implementation.

FOR FURTHER INFORMATION CONTACT: In Ogden, Utah: Fred Case, (801) 399–7776; In Washington, DC: Les Bodian, (202) 606–1025.

SUPPLEMENTARY INFORMATION: *On the Proposed demonstration project:* The Defense Logistics Agency (DLA) submitted a proposed demonstration project for consideration under chapter 47 of title 5, U.S. Code entitled, "A Public Sector Skill-Based Compensation Program in a Participatory Work Environment."

The purpose of the project is to demonstrate that a skill-based compensation system, combined with structural changes and training to promote participatory work practices, can enhance the effectiveness of a public sector organization. Reduced costs, increased organizational flexibility, and improved quality are also expected to result.

To accomplish this purpose, the following changes to current personnel management policies and procedures are proposed:

1. An organizational structure based on multi-skilled work teams, in which each member acquires all the skills necessary for accomplishment of the team's mission.

2. A simplified compensation system consisting of five pay bands which will cover positions previously classified under both the General Schedule and the Federal Wage System with increases to base pay based on the acquisition of required team skills and knowledges.

3. A revised performance evaluation system that employs fewer summary performance levels, includes ratings of team performance, and bases individual ratings, in part, on peer input.

4. A formal job knowledge certification program.

5. An alternative disciplinary procedure for minor offenses under which managers may substitute non-punitive "letters of discipline" for formal disciplinary procedures.

The demonstration will cover all employees (approximately 1,600) at the Defense Depot, Ogden, Utah (DDOU). The project will run for 5 years from the date of implementation.

A proposed demonstration project plan was published on April 5, 1989, in the **Federal Register** (Vol. 54, No. 64 FR 13777). On the same date, copies of the proposed plan were transmitted to both Houses of Congress as required by 5 U.S.C. 4703(b)(4). The public comment period began on April 5, 1989. A public hearing was held on the proposed demonstration project plan on May 11, 1989, at Ogden, Utah.

Summary of Comments and Responses: Fourteen individuals spoke at the public hearing held by OPM on May 11, 1989, in Ogden, Utah, and OPM received 34 letters offering comment. One letter was from the national office of the American Federation of Government Employees (AFGE), two were from U.S. Senators, and the rest were from DDOU employees. Responses to the proposal at the hearing and in the letters included expressions of support for the program, criticisms, and suggestions for improving the program design. The following table summarizes the nature of the comments:

Type of Comment	Hearing speakers	Letters to OPM
Support for the project	2	1
Concern about employee input into decisions concerning the project/communication of project information	6	31
Concern about/recommendations regarding project features	8	27
Concern about inclusion in the project	8	28
Total responses	14	34

Supportive comments expressed expectations that the project would improve the efficiency of DDOU and that it would increase job satisfaction among the Depot's employees. Statements of support also referred to the record of participative work environment (PWE) initiatives in the private sector and expressed the opinion that such experiments as that proposed for the Depot are important to the accumulation of knowledge about personnel management issues within the Federal government.

Comments expressing criticism of the proposal or suggesting modifications to it comprised the majority of the comments received by OPM. Critical comments and suggested project modifications can be categorized according to the following issues:

Employee Input Into Decisions Concerning the Project

1. Concern was raised that management was not being open with employees about the details of the program. Employees commented that the **Federal Register** notice outlining the original proposal was difficult to understand for many DDOU employees. They also expressed concern that information on the specific layout of teams, team descriptions, and which current positions will be subsumed into each team, was not circulated to employees. Respondents pointed out that turnout at the May 11, hearing was discouraged by the fact that the hearing was held during the working day and that workers had to take annual leave or leave without pay to attend unless they were pre-registered to speak.

OPM, DLA, and DDOU recognize that the **Federal Register** notice cannot provide employees with all the information they need about the project. Additional employee orientation sessions will be held by DDOU management prior to project implementation. Articles in the DDOU newspaper will be published prior to and during implementation further explaining the project, and DDOU management will hold "brown bag" lunches to address employee questions, including those about team structuring and coverage. As part of project implementation, DDOU will provide each employee with a project handbook clarifying the project details published in the **Federal Register**.

Although the basic framework for the project team structure was developed before the hearing was held, information on the layout of specific teams had not yet been fully developed. OPM will ensure that such information will be shared with employees when it is completed, that opportunity for employee feedback to DDOU management will be provided, and that required consultation with AFGE will be conducted prior to project implementation.

The purpose of the May 11, 1989, public hearing was to give concerned employees and others the opportunity to make their concerns known to OPM, DLA, AFGE Local 2721, and DDOU management. Employees who wished to present their views at the hearing were provided official time to do so. The purpose of the hearing was not to provide employees with additional information on the project, so DDOU management elected to provide official time only for those planning to comment. Additional opportunity was given to employees to express their comments in writing directly to OPM.

In addition to the hearing and written comments, other efforts are being made by OPM, DDOU, and DLA to solicit employee input into this project. Since the hearing, an evaluation team from the Navy Personnel Research and Development Center (NPRDC) has conducted group interviews with employees to solicit their opinions about the project. More interviews will be held and an employee attitude survey will be administered by the evaluation team to all DDOU employees prior to project implementation. Results of the survey and interviews will be presented to DDOU in order to identify further information needs.

2. Several individuals felt that management was attempting to force participation in the program. Some workers said they were told that the Depot might close if the proposal were not implemented. Although employees may choose whether or not to be included in the Skill-Based Pay (SBP) part of the program, some thought the project was structured to put those who choose not to participate at a disadvantage, through the denial of step increases. AFGE recommended that employees should not be given the option to refrain from participating in the SBP part of the demonstration. Some employees expressed concern that they would not have any choice regarding assignment to a particular team. Many employees felt that the decision to implement the proposal should be made by a majority vote of the employees.

DLA has no intention to close DDOU if the project is not implemented. Such an idea has never been a consideration.

Neither OPM nor DLA intend to force participation in the Skill-Based Pay (SBP) portion of the project. An employee's right to refrain from participating remains in the revised project plan. The language has been made more specific, however, to allow employees 90 days following implementation to make that decision.

The work organization of DDOU will be restructured into teams and a new compensation system (CS) will be implemented. Except for 11 work units listed in the revised project plan (see Table 5), all employees will be assigned to teams. They will still have the option, however, of choosing whether or not to participate in learning and performing all the skills on the new team under the SBP system. Anyone choosing not to participate in SBP will be placed on a team and permitted to perform the same duties they are currently performing. Team members will be compensated through the project pay system, which will not include step increases, but rather, will provide for pay increases based on acquisition of required skills and knowledge. The project was structured to ensure a significant opportunity for the vast majority to enhance their skills and pay.

Although assignment to specific teams will be a management decision, implementing regulations are being negotiated that will provide employees with a mechanism for resolving concerns regarding their assignment to teams.

A number of management initiatives are being undertaken in DLA to lead the way into the 1990's. These include total quality management (TQM), gainsharing, team structuring, and various personnel management changes. As management initiatives, they are not subject to a majority vote; however, as moves toward greater employee involvement and participation, their success depends on acceptance by and involvement of the work force. Such is the case for this demonstration project. While implementation will not be based on a majority vote, input from employees and the union has and will continue to influence project decisions.

3. Several employees indicated that they did not consider AFGE Local 2721 to represent their interests.

The employees of DDOU constitute a "bargaining unit" under Federal labor relations law, for which AFGE has been granted the power of "exclusive representation." Further representation is provided by the DLA Council of AFGE Locals, which has a master agreement with DLA providing representation for employees at all of DLA's depot facilities. AFGE national headquarters is also committed to seeing that employee interests are represented in the development of this project.

Organization Structure

1. Concern was expressed that the changeover to a team organizational structure would have adverse effects on productivity because (1) reducing individual responsibility would encourage employees to decrease work effort; and (2) the SBP/PWE initiatives might result in the extensive delegation of duties to workers with little experience. Respondents also felt that differences among workers in personality and level of commitment to the job would pose problems for communication, decision-making, and division of labor within teams.

One of the basic premises of the project is to demonstrate that the team structure increases productivity through increased organizational flexibility. Individual accountability should result from increased employee participation and ownership. Since this is an important hypothesis underlying this demonstration project, DDOU's success in achieving this objective will be closely monitored. Increased assumption of duties by team members will be a gradual process and dependent upon appropriate training and team development.

To avoid some of these concerns, project implementation will include formal training for all employees in group dynamics, problem solving, and communications. The project plan has been revised to more clearly indicate the coverage and timing of project-related training.

2. Several employees felt that the new team settings and the certification process would render employees more vulnerable to harm from fellow employees, as such settings would allow team members (and especially the team leader) to act arbitrarily.

The intent of this project is to form cohesive teams in which all members work harmoniously to achieve common goals. PWE concepts such as greater employee involvement and peer input are intended to provide team members greater protection from arbitrary decisions than is afforded in today's work environment. Features such as observation of demonstrated proficiency by the team leader and at least one certified team member have been included in the program to ensure that arbitrary certification decisions are not made.

3. AFGE suggested that team size should be limited to 20 to maintain the effectiveness of aspects of PWE such as peer review and the revised performance evaluation system.

Given the diversity of functions supporting DDOU's mission, DDOU management considered it impractical to establish a maximum team size. However, DDOU, in consultation with AFGE, is structuring teams in recognition of the importance of a manageable size that facilitates good communication and group dynamics. Although final team structures have not yet been established, nearly all the proposed teams are under AFGE's proposed limit of 20.

4. Several employees proposed that the members of each team should choose their team leader.

This recommendation has been addressed in the revised project plan as a possible future team responsibility as teams mature and develop.

5. Two employees expressed concern over the mixing of WG and GS work on the same teams.

With the increased reliance on mechanization and automation, DLA finds the dichotomy between WG and GS in its supply and distribution functions is becoming more and more artificial. Private sector organizations implementing SBP programs have successfully done away with the traditional pay system distinctions. The demonstration project will be testing the hypothesis that mixing WG and GS work on the same teams will have positive outcomes for the workers and the organization.

Classification

1. AFGE recommended that classification appeals regarding the levels of difficulty should be accepted in cases where the majority of the team feels one is warranted and should not require unanimous team backing to be considered.

The project plan has been changed in response to this recommendation to indicate that classification appeals will be accepted when the majority of the team concurs.

2. AFGE recommended adding a sixth pay band to provide pay rate ranges above the current maximum of GS–11, Step 10.

The project plan provides for the possibility of adding of more pay bands should additional ranges be required; however, such a project modification would require OPM approval and publication of a project amendment in the Federal Register.

Compensation

1. Concern was expressed that a pay system that does not reward length of service would be unfair to older employees. Because there would be no wage increases for an employee at the top level of a pay band (except through promotion to a higher band), employees would lack something to look forward to and would have little incentive to improve productivity or to stay at the Depot.

The pay bands and the pay levels within these bands have been designed to provide a positive incentive for employees to learn the multiple skills on a team, and thereby to earn higher levels of pay. For the majority of positions at DDOU, the incentives for learning new skills exceed those available under the current system.

In almost all cases, employees whose current pay rate would exceed the top of a proposed pay band are already at the top step of their grades. As an incentive to participate in SBP, these employees will be offered at one time bonus of 10 percent of their annual base salary for successful certification in all team job functions.

2. AFGE recommended that employees at trainee level positions in bands 4 and 5 should be paid trainee wages for no longer than 12 months before moving to pay level 1.

Past experience at DDOU under the current system for training inexperienced employees for these positions indicates that 24 months is a reasonable time to learn the requisite skills for entry into these two pay bands. The description of trainee level positions in the "Hiring" section of the project plan has been reworded to clarify this issue.

3. Concern was expressed that "grandfathered" employees would actually lose pay in real terms under the project provisions giving them only 50% of future comparability increases.

The "Grandfathered/Saved Pay" section in the project plan has been revised to provide modified saved pay provisions for grandfathered employees. These employees will receive the full comparability increases given General Schedule employees until termination of the project, when current saved pay provisions will apply.

4. Two respondents recommended that time spent by employees in training courses should be considered part of paid work.

All formal training which is required by the project will be considered part of paid work and will be accomplished during duty hours.

5. Commenters felt that arrangements should be made for employees at certain positions within the Depot to receive special compensation for job-related risks.

Under the project, current Federal Wage System employees who are assigned to teams with work assignments that expose them to unusually severe hazards or working conditions that currently qualify for "environmental differential" under 5 CFR 532.511 will be eligible to receive a 25% "hazard pay differential" for all hours in a pay status, as is currently the case for General Schedule employees under 5 CFR 550, subpart I. The project plan has been amended to state this more clearly.

Performance Evaluation

1. Respondents pointed out that the new evaluation system still allows room for bias, favoritism, and enmities to come into play. They suggested that fellow employees could be just as influenced by these non-performance factors as managers.

The demonstration project will be testing the hypothesis that these concerns are not warranted. The use of peer appraisals is expected to reduce the potential for bias and favoritism in performance evaluations. The project evaluation will be closely monitoring employee perceptions of the fairness of the new evaluation system.

2. AFGE recommended deleting two items from the Team Participation Performance Standards for evaluations of individual employee performance: (1) "Constructive participation in group meetings" and (2) the "initiative to perform additional team functions not specifically assigned." The union considered both items, as stated in the original project plan, potentially unfair to certain employees.

As a result of this recommendation, the criterion "constructive participation in group meetings" has been changed to "constructive participation in meeting team requirements." "Initiative to perform additional team functions not specifically assigned" has been deleted. Corresponding changes have been made in the project plan.

3. Several suggestions were offered by AFGE regarding the mechanics of evaluation: (a) Peer evaluations should be constructed on a strictly confidential basis; (b) the team leader should be evaluated by all team members as well as by supervisory personnel; and, (c) the evaluation of supervisors should include an assessment of group development, group evaluations of the supervisor, and supervisor peer appraisals.

Several changes to the project plan have been made in response to these suggestions. Peer evaluations will now be confidential. Managers will consider input to a team leader's appraisal by team members as well as peers. Also, team leader performance standards will now include an assessment of team performance.

Incentives/Recognition

1. One employee recommended that individual rewards should be de-emphasized to cultivate a work environment more conducive to cooperative teamwork. Individual rewards might encourage employees to pay excessive attention to individual performance at the expense of team performance. AFGE recommended not linking individual rewards with team performance. They expressed the view that individual rewards should be based purely on individual performance, regardless of the performance of the team as a whole.

The primary incentive award system under the project will be a gainsharing program based on the performance of the entire depot. Individual top performers whose teams are rated fully successful may receive additional paid leave under an incentive leave program for exceptional employees.

2. AFGE recommended deleting from the proposal the option of allowing employees to decline gainsharing bonuses.

Details of the gainsharing program are outlined in the 1990 Success Share Program regulations (DLAR 7070.3) as negotiated between DLA Headquarters and the DLA Council of AFGE locals. Consistent with these regulations, the option of allowing employees to decline gainsharing bonuses has been deleted.

Training/Job Knowledge Certification

1. Several respondents expressed concern that grandfathered employees will not be given enough time to be certified in the required skills. Under the

proposal, they would have only 1 year to be certified in all of a team's skills.

Based on this comment, the project plan has been modified to show that grandfathered employees will have to meet the same maximum time gate requirements (39 months) as other team members for certification in the team's required skills.

2. A recommendation was made that employees shouldn't have to undergo certification for skills that their present job already requires them to know.

The certification process, which is being instituted at all DLA depots, requires employees to be certified in all skills, including their present skills. This is to ensure that procedures are understood, and that proper training is received. The primary difference between certification under the demonstration project and certification at other depots will be the linkage under SBP between certification and base pay increases.

3. AFGE recommended allowing more flexibility on maximum time limits for skill acquisition on different teams and at different levels since the amount of time needed could be expected to vary. There were also several suggestions that maximum time limits on skill acquisition should be stretched from what they are in the current proposal. One commenter suggested allowing employees 3 months leeway for each skill level for which he or she attempts to complete training, so that the maximum time an employee would have to become certified for all team skills would be raised from 39 to 45 months.

No change has been made to the project plan. DDOU will assign duties to teams so that all necessary skills can be learned in 36 months. The skills assigned to a team will be adjusted by DDOU if experience shows the skills originally assigned cannot be learned in 36 months. The minimum and maximum time limits for skill acquisition and certification were developed by DDOU based on considerable research and contact with employers in the private sector using skill-based pay. Although there will be obvious differences in levels of difficulty between the duties assigned to different teams, these will be compensated for by the differing pay bands.

4. AFGE suggested that management should establish a program to ensure that employees can obtain the basic reading and study skills necessary to complete training successfully.

As is true under the current system, employees under the demonstration project who require basic reading or writing skills will be able to receive this training by contacting DDOU's Employee Assistance or Career Development Offices.

Inclusion in the Project

1. Several employees and AFGE recommended not assigning to teams or including in the SBP program positions that they felt were too highly specialized. Such positions included electronics mechanic, high voltage electrician, operations room positions in DDOU's Office of Telecommunications and Information Systems, and general commodities inspector. Other reasons for excluding particular positions from the project included: The high cost of security clearances; a required skill mix that would take more than three years to master; the impossibility of valid skills certifications because these positions require continual adaptation to new developments; the likelihood that standardized training and certification would de-emphasize the importance of worker ingenuity; and, probable retention problems among skilled personnel because of decreased promotional opportunities.

The project plan has been amended to show which organizations will be excluded from the skill-based pay portion of the demonstration project (under III. Methodology, A. Organizational Structure). In all, 92 current positions in 11 work units will not be part of the SBP program. Some highly specialized positions will be excluded from the SBP compensation system because they do not properly fit on teams. These jobs will remain under the current system. Other positions will be administratively excluded for various reasons, including several of those cited in the comments.

2. Several employees expressed the opinion that those near retirement would have little incentive to participate. These employees felt that the project would be unfair to older employees who have worked hard for many years to attain responsibilities and compensation levels that others will be able to reach in 3 years or less. Employees near retirement may not want to learn a completely new set of rules, and are concerned that they may be forced out to cut costs. Such employees would be unlikely to gain from the gainsharing initiative because the demonstration project would not be expected to pay for itself for three years. They would not have time to benefit much from pay gains for learning skills and would thus have little incentive to undergo training. A suggestion was offered that DLA allow for early retirement with a bonus for those near retirement to provide a way to opt out.

Although there may be no significant financial reward for participation on the part of these employees, other incentives may be available. One goal of the project is to improve employees' satisfaction with their work through enhanced participation, learning a variety of skills, enhancing qualifications, and participation in the management of their work. Employees who opt *not* to participate at the time of implementation may reverse their decisions and choose to participate in the SBP program any time during the first 90 days of the project.

With regard to gainsharing, DLA recognizes additional development and implementation costs for the first three years. These increased costs should not preclude the depot from paying gainsharing awards for productivity improvement. However, the initial start-up costs make a bonus less likely during the first two years of the project. To increase the likelihood of gainsharing payouts in the early years of the project, some of the additional start-up costs will be amortized by DLA over a longer period of time.

There is no provision in the law authorizing personnel demonstration projects allowing changes in the retirement system. Under current requirements, implementation of the demonstration project at DDOU will not constitute justification for early retirement.

3. Many of the comments received were from WG–7 inspectors. Among other concerns, these employees expressed the opinion that there was no incentive to participate for those who are already doing the highest level work in their anticipated team and who are already at or near the highest pay level in their anticipated pay band.

This group of employees does not expect to gain financially, although there may be a small increase to the top of the anticipated pay band. However, they can benefit financially through the gainsharing program. Additionally, each member will have the opportunity to participate in a new way of organizing and performing work and to apply for promotion to positions on teams at higher pay bands.

In addition to the comments listed under the categories above, there were other questions and concerns expressed which the revised project plan answers.

D. Other Demonstration Project Changes

In addition to the modifications cited above, several editorial changes and clarifications have been made to the project plan. Major changes are listed below. Please refer to the actual text of the project plan for additional specific changes.

(1) Under "Classification," the description of the Master Classification Standard has been changed. The Standard will encompass only one factor (as opposed to two in the original project plan). The factor addresses the knowledges and skills required for a team. This technical change was made to create an alternative to traditional classification that is more consistent with the Skill-Based Pay program.

(2) The assessment period for individual performance evaluation has been changed to 12 months (as opposed to 6 months in the original project plan) based on performance standards in effect at least 90 days. The rating of Fully Successful will be presumptive

and automatic, requiring no further action by the team leader.

(3) The evaluation plan has been revised to reflect input from the Navy Personnel Research and Development Center (NPRDC), the external evaluation team.

Constance Berry Newman,

Director, U.S. Office of Personnel Management

The demonstration project plan as approved by the Office of Personnel Management reads as follows:

A Public Sector Skill-Based Compensation Program in a Participatory Work Environment

A Proposal for an Office of Personnel Management Demonstration Project

Submitted By Defense Depot, Ogden, UT, A Primary Level Field Activity of the Defense Logistics Agency Department of Defense

Table of Contents

I. Executive Summary

Purpose

This project was developed by the Defense Logistics Agency (DLA) in response to Executive Order 12552 "Productivity Improvement for the Federal Government" (February 25, 1986) and House Appropriations Committee Report 99-332, both of which call for new ways to increase quality, timeliness, and productivity. The demonstration project will test the effectiveness of a Skill-Based Pay (SBP) compensation system, combined with other organizational structure and personnel system changes designed to bring about a more participatory work environment (PWE) in a Federal installation. Private sector organizations have used SBP systems and PWE concepts successfully in a variety of settings to achieve greater workforce flexibility, leaner staffing, higher quality output, greater long term productivity, and enhanced employee motivation and commitment.

Participating Organization

Defense Depot Ogden, Utah (DDOU) will be the test site for this demonstration project, which is projected to run for 5 years. DDOU is one of six DLA sites performing similar functions.

Types and Numbers of Participating Employees

The demonstration will cover all employees at DDOU, which (as of September, 1989) includes 558 non-supervisory General Schedule (GS) employees, 89 supervisory GS and Performance Management and Recognition (PMRS) employees, 932 non-supervisory Federal Wage System (FWS) employees, and 58 Wage Supervisors, for a total of 1637 eligible employees.

Labor Participation

Employees at DDOU are represented by the American Federation of Government Employees (AFGE) under a master contract between DLA and the DLA Council of AFGE locals, which gives the Council exclusive recognition for employees at all of DLA's depot facilities. AFGE Local 2721, whose local agreement supplements the master contract, has been involved in the development of the project since its inception. The president of AFGE Local 2721 is a member of the project steering committee.

Methodology

Under the demonstration project, DDOU will implement a system of interrelated organizational structure and personnel system changes. Specific interventions will include:

(a) Restructuring the workforce into teams of multi-skilled individuals, such that each team is responsible for a total product, service, or process; all team members will have equal opportunity to learn and perform all the job skills necessary to achieve the team's objectives.

(b) Classifying positions at the team, rather than the individual, level based on a simplified system that integrates work previously classified under both the General Schedule and the Federal Wage System; work performed by teams will be classified based on the knowledges and skills required.

(c) Establishing a skill-based compensation system consisting of five pay bands; advances within a pay band will be based on the acquisition of necessary skills and knowledge, meeting appropriate minimum time requirements, and having a Fully Successful or higher performance rating.

(d) Implementing a performance evaluation system that uses three summary performance levels and incorporates subordinate and peer input; the system will provide for ratings of both team and individual performance.

(e) Using an incentive/recognition program that includes productivity gainsharing for all employees and the option of paid leave in lieu of monetary incentives.

(f) Establishing a formal job knowledge certification program.

(g) Creating an alternative disciplinary procedure for minor offenses under which managers may substitute non-punitive "letters of discipline" for formal disciplinary procedures.

Training and Implementation

This project will represent a significant change in management and employee practices, and adequate training will be essential to successfully transform programs and attitudes. Training will be provided to all employees in project concepts and changes, group dynamics, team building, problem solving, and communications. Team leaders and managers will receive additional training in leadership skills.

Employee Protection

The project will provide for full employee protection on enty into and exit from the demonstration system. In no case will an individual's current salary be reduced as a result of these changes.

Evaluation

A comprehensive and methodologically rigorous evaluation will be conducted by an external evaluator with Office of Personnel

Management (OPM) oversight. The objectives of the evaluation will be to assess project outcomes and determine the applicability of project changes to other Federal installations.

Benefits of the Proposed Project

The project is expected to demonstrate that an SBP system can be successfully implemented in a Federal installation in a way that increases employee involvement in work-related decisions, enhances the flexibility of the workforce, improves quality and on-time performance, and reduces operating costs.

II. Introduction

A. Background

Over the last several years, an innovative approach to employee compensation which encourages and rewards employee growth and skill development has evolved in the private sector. This alternative to traditional compensation systems is known by a variety of names. Frequently called Skill-Based Pay (SBP) or Pay For Knowledge, it bases employee pay on the acquisition of required skills rather than on the performance of a specific job.

Through the integration of SBP plans into the organization, companies such as General Motors, Proctor & Gamble, Sherwin-Williams and others have improved the skills and abilities of their work force, enhanced their ability to shift employees according to workload demands, and have reduced total employment levels.

In addition to SBP, industry has introduced team structures and has used participatory work practices to enrich the work experience. These work innovations have improved both employee and organizational performance, e.g., employees gain opportunities for challenge, achievement, growth and development while organizational productivity is enhanced through increased output, quality, lower costs, and improved employee morale and motivation.

The intent of this project is to demonstrate that private sector flexibility in resource management can be applied to the public sector. It is also expected that the creation of an enriched work environment will stimulate the organization to respond creatively to the need for increased efficiency and effectiveness. No aspect of implementation will be effected until all appropriate bargaining responsibilities with the union have been met.

This demonstration project responds to the goals of 1986 Executive Order 12552 on Productivity Improvement. It also answers the request contained in House Appropriations Committee Report 99/332 to study and propose test plans to alleviate productivity losses resulting from classification and compensation constraints.

B. Problems with the Existing System

Classification

The complexity of the current Federal classification system has a negative impact upon management's success in developing a productive and efficient work force. It contains numerous classifications by occupation and grade level within both the General Schedule (GS) and Federal Wage System (FWS) pay systems. These classifications encourage narrow job designs which limit the types and numbers of skills an employee acquires and uses. This classification system serves to restrict management's capability to meet fluctuations in workload or changing mission requirements, even though mixed work is not prohibited under the current system.

Besides being complex, the current classification system is time-consuming to administer. It is perceived as delaying recruitment and transfer actions, which reduces productivity and management effectiveness.

This project will employ a simple and flexible classification/compensation system based on broad groupings of GS and FWS skills and knowledge. This system will encourage the assigning of a wider variety of work to each employee. Each employee will have the opportunity to acquire a variety of skills, thus promoting a flexible, multi-skilled work force. This concept, coupled with a team organization structure, will minimize the need for supervisory layering and will result in a leaner work force.

Staffing

The current system for promoting employees is time consuming. Once a position becomes vacant within the organization, a domino effect in competitive actions is created when filling behind it.

Under the demonstration project, broad pay bands will cover work previously assigned to more than one grade level under current systems. Advancement from one pay level to another within the pay bands will be based on acquiring relevant skills and demonstrating performance rather than competitive selection. Employees will compete only for promotions to higher pay-banded teams or to team leader positions.

Performance Evaluation

Although a study conducted by the Merit Systems Protection Board (MSPB) in 1988 on the effectiveness of performance management in the Federal government concluded that the program was basically sound in concept, some problems have diminished its effectiveness. Among these are the lack of good performance feedback; the perception that good performance has no real impact on pay decisions; and perceptions of inequity and favoritism. Moreover, the inflated distribution of performance ratings in many Federal agencies suggests the presence of bias in the assignment of ratings.

An intent of this project is to increase the meaningfulness of performance evaluation. The project's performance appraisal system will allow for peer input. The quality of performance will be assessed at both the individual level and the team level. Employee's base pay increases will be based on both the skills they have acquired *and* the quality of their performance.

Organization

Many public sector organizations are hierarchically arranged with a functional and highly specialized structure in which the work force labors in distinct, often narrowly defined, jobs. In applying this division of labor principle, work has been traditionally divided into "thinking" and "sweating" jobs. Consequently, organizations are structured and jobs are designed in ways which discourage a majority of employees from using their creativity and problem-solving abilities to serve the organization.

The proposed team structure is expected to be more efficient and adaptable than the current system of individual jobs and the fragmented "assembly line" approach. The project's skill-based compensation system and participatory work practices, accompanied by changes in organizational structure, are also expected to promote job enrichment, work force development, and creative problem-solving.

C. Purpose

This project will demonstrate how a participatory work environment with a skill-based compensation system can enhance the effectiveness of public sector organizations by creating a more interactive and knowledgeable work force. To accomplish the stated purpose of the demonstration project, the following specific objectives must be achieved:

- Increase employee involvement in day-to-day decision processes,
- Improve the flexibility of the work force to respond to workload changes,
- Improve product/service quality and timeliness, and
- Reduce the overall cost of Depot operations.

D. Changes Required

In order to accomplish this purpose, changes are proposed that include:

- Participatory Work Environment.
- Multi-Skilled Work Teams.
- Skill-Based Pay.
- Work force Certification Program.
- Job Series and Grade Consolidation.
- Pay Banding.
- Gainsharing.
- Incentive Leave.
- Revised Performance Evaluation.
- Alternative Disciplinary Procedures.
- Streamlined Organizational Structure.

Anticipated effects of these changes include:

- Broadened skill levels.
- Increased employee involvement.
- Enhanced job-related attitudes.
- Increased workforce flexibility.
- Increased timeliness and quality.
- Increased productivity.
- Decreased productivity losses due to disciplinary actions.
- Reduction of staffing levels through attrition.

E. Participating Organization

The project will be conducted at the Defense Depot Ogden, Utah for a period of 5 years. Approximately 1600 employees in a broad range of technical, professional and nonprofessional series will be involved. The skill-based pay provisions of the project will only apply to full-time permanent and part-time permanent employees. Temporary, term, and non-appropriated fund employees will not participate in the skill-based pay portion of the project.

As one of six major distribution depots within the Defense Logistics Agency, the mission of Defense Depot Ogden is to provide effective and economical support of assigned common supplies and services to the Military Departments and other DoD components. DDOU also supports Federal civilian agencies as provided for in inter-agency support agreements, and three major tenant activities: The DLA Systems Automation Center, the Defense Reutilization and Marketing Region and the Army's Continental Communications Support Center. Current mission workload of 300,000 average annual receipts and 3.1 million average annual issues is supported by an 835,000 line-item inventory valued in excess of $1.2 billion.

F. Participating Employees

All employees at DDOU will be involved in some aspect of the demonstration project. Every position will be considered for possible inclusion in a team structure under the Skill-Based Pay concept. The entire work force is expected to contribute and benefit from the participatory work environment initiatives. Table 1 is a listing of the number of employees, by series, currently employed by DDOU.

TABLE 1—NUMBERS AND TYPES OF EMPLOYEES CURRENTLY EMPLOYED AT DDOU

[As of September, 1989]

Series	Titles	Number of Employees
0018	Safety and Occupational Health Management	3
0019	Safety Technician	2
0028	Environmental Protection Specialist	1
0080	Security Administration	3
0081	Fire Protection and Prevention	13
0083	Police	34
0099	Computer Clerk (Trainee)	3
0188	Recreation Specialist	1
0189	Recreation Aid and Assistant	4
0201	Personnel Management	3
0203	Personnel Clerical	8
0204	Military Personnel Technician	2
0212	Personnel Staffing	7
0221	Position Classification	7
0230	Employee Relations	3
0235	Employee Development	2
0260	Equal Employment Opportunity	2
0301	Miscellaneous Administration	4
0303	Miscellaneous Clerk and Assistant	10
0305	Mail/File	3
0318	Secretary	41
0322	Clerk Typist	27
0332	Computer Operation	19
0334	Computer Specialist	17
0335	Computer Clerk and Assistant	10
0340	Program Manager	1
0342	Support Services Administration	1
0343	Management Analyst	25
0344	Management Clerical and Assistance	13
0345	Program Analysis	8
0350	Duplicating Equipment Operator	1
0356	Data Transcriber	8
0382	Telephone Operator	5
0391	Communications Management	1
0392	General Communications Equipment	3
0393	Communications Specialist	1
0394	Communications Clerical	1
0501	MWR Financial Administrator	1
0503	Financial Clerical & Assistance	1
0505	Financial Management	1
0510	Accounting	3
0511	Auditing	8
0525	Accounting Technician	8
0530	Cash Processing	3
0540	Voucher Examining	8
0544	Payroll	6
0560	Budget Analysis	3
0690	Industrial Hygiene	1

TABLE 1—NUMBERS AND TYPES OF EMPLOYEES CURRENTLY EMPLOYED AT DDOU—Continued

[As of September, 1989]

Series	Titles	Number of Employees
0699	Health Technician	1
0801	General Engineer	7
0802	Engineering Technician	3
0818	Engineering Drafting	3
0855	Electronic Engineer	1
0856	Electronics Technician	6
0895	Industrial Engineering Technician	2
0899	Engineering and Architectural Trainee	2
0905	General Attorney	1
0986	Legal Clerk & Technician	1
1020	Illustrator	1
1035	Public Affairs	2
1087	Editorial Clerk	1
1102	Contracting	10
1105	Purchasing	1
1106	Procurement Clerical & Assistant	5
1152	Production Control	13
1411	Library Technician	1
1601	General Facilities & Equipment	2
1670	Equipment Specialist	3
1750	Instructional Systems Specialist	2
1910	Quality Assurance	26
2001	General Supply	4
2003	Supply Program Management	7
2005	Supply Clerical & Technician	110
2030	Distribution Facilities & Storage Management	24
2032	Packaging	3
2101	Transportation	1
2130	Traffic Management	4
2131	Freight Rate	14
2132	Travel Clerk	1
2134	Shipment Clerical & Assistance	28
2135	Transportation Loss and Damage Claims	6
2151	Dispatching	3
2502	Telephone Mechanic	3
2604	Electronics Mechanic	3
2606	Electronic Industrial Control Mechanic	9
2805	Electrician	8
2810	Electrician (High Voltage)	1
2854	Electrical Equipment Repairer	6
3105	Fabric Worker	8
3106	Upholstery Worker	1
3111	Sewing Machine Operator	2
3341	Scale Worker/Mechanic	1
3414	Mechanic	1
3502	Laborer	70
3546	Railroad Repairer	1
3566	Custodial Worker	22
3610	Insulator	1
3703	Welder	1
3725	Battery Repairer	1
3806	Sheet Metal Mechanic	3
3809	Mobile Equipment Metal Mechanic	1
4102	Painter	9
4104	Sign Painter	1
4204	Pipefitter	7
4206	Plumber/Plumbing Worker	2
4602	Blocker and Bracer	5
4604	Wood Worker	10
4605	Wood Crafter	1
4607	Carpentry Worker/Carpenter	7
4806	Office Appliance Repairer	2
4816	Safety Equipment Repairer	1
4850	Bearing Reconditioning Inspector	1
5003	Gardener	1
5026	Pest Controller	2

TABLE 1—NUMBERS AND TYPES OF EMPLOYEES CURRENTLY EMPLOYED AT DDOU—Continued

[As of September, 1989]

Series	Titles	Number of Employees
5210	Rigging Worker	3
5301	Miscellaneous Industrial Equipment	1
5306	Air Conditioning Equipment Mechanic	2
5352	Industrial Equipment Repairer/Mechanic	38
5402	Boiler Tender	10
5413	Fuel Distribution System Worker	2
5423	Sandblaster	2
5435	Carton and Bag Maker Machine Operator	2
5439	Test Equipment Operator	3
5703	Motor Vehicle Operator	28
5704	Fork Lift Operator	9
5705	Tractor Operator	4
5716	Engineering Equipment Operator	5
5725	Crane Operator	2
5803	Heavy Mobile Equipment Mechanic	1
5806	Mobile Equipment Servicer	1
5823	Automotive Worker	11
5876	Electromotive Equipment Worker	2
6901	General Commodities Inspector	52
6904	Tools and Parts Attendant	4
6907	Warehouse Worker	328
6912	Material Sorter and Classifier	47
7002	Packer	241
7004	Preservation Packer	8
Total		1,637

G. Labor Participation

Employees at DDOU are represented by the American Federation of Government Employees (AFGE) under a master contract between DLA and the DLA Council of AFGE locals, which gives the Council exclusive recognition for employees at all of DLA's depot facilities. AFGE Local 2721, whose local agreement supplements the master contract, has been involved in the development of the project since its inception. The president of AFGE Local 2721 is a member of the project steering committee. AFGE represents all depot employees except professional employees, management officials, supervisors, employees engaged in Federal personnel work in other than a purely clerical capacity, and temporary employees.

III. Methodology

1. Organization Structure

Under the demonstration project, *teams* will be the basic units of the organizational structure. Each team will consist of a group of employees with common objectives who have the opportuntiy to learn and perform all job requirements of the team. There are several reasons why this approach fits well with SBP/PWE. First, the team approach provides an opportunity for employees to acquire more skills since the skills are grouped together on a functioning team. Second, teams provide a way of organizing work in a meaningful fashion by simplifying the handling of an entire process or whole unit of work. And third, teams are a way of institutionalizing participatory work practices and the exchange of information.

Team Structuring

Teams will be formed by combining functions so that a team can influence and be responsible for a total product, service or process. Teams will consist of groups of employees responsible for achieving the objectives assigned to the team. Each team will have an entry level requiring basic qualifications. Teams will be structured so that team members can learn job knowledge requirements within 36 months. Some functions such as those requiring highly specialized skills/knowledge will continue to be performed and compensated under the current system. Although excepted appointing authorities will not automatically limit participation in multi-skilled teams, the specialized requirements inherent in the coverage of the authority (*e.g.*, attorneys, experts and consultants) must be considered to ensure no work is assigned that is clearly outside this coverage.

The transition from the traditional organization structure to a multi-skilled team structure will require analysis of the work processes/products. Examining the work flow and mixing compatible skills to provide adequate flexibility in shifting the work force to workload demands will increase productivity through improved effectiveness and efficiency. Team size may vary but should not be so large that it is unmanageable. Group interaction and the communication process must not be adversely affected by team size (e.g., either too large or too small). Teams will consist of employees with multiple skills, organized to promote the goals of the team, satisfy the needs of individual members, and create team synergism. Team structuring will consider elements integral to team work to include work processes, skill mix, work flow, and the sharing of a common function/product/service. Tables 2 through 4 show examples of skill mixes that will achieve these objectives.

Table 2.—WAREHOUSE TEAM TBCB 1

Current series	Current title	Number of team members
	Team Leader	1
WG-6907	Warehouse Workers	4
WG-7002	Packers	6
GS-2005	Supply Clerk (Inv/Loc Audit).	1
Total		12

Critical Job Functions:

*Select stock from bin areas, checking location, stock number, quantity, units of issue, unit pack.

*Selects proper location and stows stock, checking shelf life, security items, condition code, completes documentation.

*Operates a forklift and/or assorted mechanical handling equipment (MHE) to unload, move, stack, palletize and arrange materials.

*Periodically checks stock to determine if packaging, protection, etc. is correct.

*Periodically conducts physical inventory and location audits, checking, national stock number (NSN), labels, amount, etc.

*Packs, repacks, and unpacks a variety of tools, parts, equipment and other items. Packing medical material for freight, parcel post shipments.

*Packing process completed and documentation entered into computer.

*Labels locations by attaching preprinted labels to locations.

*Checks NSN on label against NSN on material on location, requests corrections as required.

*Develops graphs and charts through tracking statistics, to identify trends that determine if the team is operating within designated parameters.

*Performs surveillance inspection.

CS Pay Band—3

TABLE 3.—RECEIVING PPPP&M TEAM 1

Current series	No. of team, current title	Members
	Team Leader	1
WG-7002	Packer	9
WG-7004	Preservation Packager	3
WG-4102	Painting Worker	1
WG-4104	Wood Worker	1
WG-6907	Warehouse Worker	1
Total		16

Critical Job Functions:

*Operates a forklift and/or assorted MHE to unload, move, stack, palletize and arrange materials.

*Packs, repacks and unpacks a variety of tools, parts equipment and other items. Packs medical material for freight and parcel post shipments.

*Applies preservatives to a variety of items for shipment or storage, by dipping, brushing, spraying and immersing in vats.

*Types stack labels, stencils, and similar documents either on a typewriter or computer equipment.

*Lays out, makes and repairs boxes, crates, pallets, and other wooden items.

*Paints and preserves wood and metal items using spray guns, brushes and rollers.

*Orders supplies and equipment and maintains storage area.

*Coordinates, processes, follows up on all personnel actions within the organization.

*Performs distribution control of automated data processing (ADP) input/output listings. Maintains/consolidates time and attendance records. Provides mail service and distribution, including correspondence control. Obtains duplicating, printing and graphic aid service. Maintains reference library of required publications and process requests for publications and forms. Gathers data and consolidates various statistical reports into a daily workload and production summary reports. Controls suspense for the team. Maintains supporting technical and administrative data. Performs typing tasks, mailing of documents, maintains microfiche libraries, and performs microfilming/microfiche of documents.

*Selects proper location and stows stock, checking shelf life, security items, condition code, completes documentation.

*Develops graphs and charts through tracking statistics, to identify trends that determine if the team is operating within designated parameters.

*CS Pay Band—3.

TABLE 4.— RECEIPT ADMINISTRATION TEAM

Current series	Current title	Number of team members
	Team Leader	1
GS-0318	Secretary (Typing)	3
GS-2005	Supply Clerk	4
GS-0322	Clerk Typist	8
Total		16

*Critical Job Functions:

*Coordinates, processes, follows up on all personnel actions within the organizations. Performs distribution control of automated data processing (ADP) input/output listings. Maintains/consolidates time and attendance records. Provides some mail service and distribution, including correspondence control. Obtains duplicating, printing and graphic aid service. Maintains reference library of required publications and process requests for publications and forms. Gathers data and consolidates various statistical reports into a daily workload and production summary reports. Controls suspense for the organization. Maintains supporting technical and administrative data. Typing, mailing of documents, maintains microfiche libraries. Microfilming/microfiche of documents.

*Receives and segregates incoming mail: prepares outgoing mail.

*Maintains records and files to include suspense files.

*Maintains follow-up suspense file and initiates follow-up on orders, documents receipts of supplies and equipment.

*Develops and maintains records.

*Receives and initiates correspondence by screening material, establish suspense controls, typing, proofreading, as to format and procedure.

*Receives, controls and processes due-in and receipt documentation for the major commodity managers.

CS Pay Band—2.

The number of skills assigned to teams will correlate with the number of skills an employee can reasonably learn. This consideration is based on the fact that pay levels will be linked to the number of skills an employee learns and the requirement to remain reasonably proficient in acquired skills.

Effort will be made to reach a balance so that the number of job knowledges/skills does not exceed an employee's ability to learn these knowledges/skills within 36 months. Every effort will be made to maximize the team concept. Skill-based pay teams will not be formed just for the sake of creating teams. The guidelines that were established in structuring teams must apply, i.e., team size, ability to master and be certified in multiple team functions within a 36 month period, exclusion of specialized skills, etc. Table 5 shows the organizations that will not participate in the skill-based pay portion of the demonstration project because they do not conform to the above guidelines.

In addition, because of the tremendous workload anticipated for project start-up, the Office of Civilian Personnel will not move into the SBP team structure until one year after project implementation.

TABLE 5.—ORGANIZATIONS TO BE EXCLUDED FROM THE SKILL-BASED PAY PORTION OF THE DEMONSTRATION PROJECT

Organization	Number of employees
Public Affairs Office	4
Internal Review Office	8
Equal Employment Office	2
Safety & Health Office	6
Office of Counsel	2
Security Operations Division	7
Custodial Branch	21
Comm. & Family Activities Div	12
Administrative Services Division	11
AIS Management Division	10
Technology Division	9
Total	92

Skill Groupings

There are three basic types of skill groupings around which an SBP/PWE system can be organized. Under the demonstration project, any combination or number of the different skill groupings may exist on the same team.

1. Horizontal—skills upstream or downstream within a functional process or other skills horizontal to the tasks individuals already perform, *e.g.*, receiving and warehousing in a distribution process.

2. Vertical—skills above or below a functional process, or other skills vertically upward or downward, *e.g.*, a skilled employee could take on data entry skills (downward) or management skills (upward).

3. Depth—increased knowledge and skill within a job category or field, *e.g.*, skilled trades employees when individuals learn skills that allow them to perform their jobs in greater depth.

Degrees of Team Participation

The order in which job knowledges are learned may be structured or unstructured. A structured order of learning is referred to as "sequential" and is required when the acquisition of a new skill is dependent on the satisfactory acquisition of some previous skill(s). This is similar to the traditional apprentice, journeyman, master concept. Unstructured or non-sequenced skills simply means that they can be acquired in any order. The majority of teams are expected to have non-sequenced job knowledges. Table 6 shows the conceptual evolution of team participation. As terms develop, increased responsibility and team participation are demonstrated.

Team Responsibilities

Teams will become responsible for establishing team goals, evaluating team performance, and sharing information. As teams mature and develop, they will become more self-managing and progress to autonomous work teams in which members make most personnel and work-related decisions. As the project progresses, team members will participate in decision making, interviews and recommendations for selection, peer appraisals, equipment recommendations, work methods analysis, and day-to-day problem resolution.

TABLE 6.—DEGREE OF PARTICIPATION

Traditional Structure.	Supervisor makes individual decisions and assigns work. Employees perform.
Initial Work Team	Team leader manages operation of work team. Team members share in work related decisions.
Autonomous Work Team.	Team leader/members share in personnel and work related decisions (PWE).

Team Leaders

Effective team leaders will be vital to the success of the teams. Team leaders will receive extensive training in team leader development, group dynamics, team building, and other interpersonal skills as identified in the Training Section of this plan. The team leader will be a working team member who provides leadership and cooperation to other team members. This leader will oversee team member development and obtain required training for team members. It will be up to the team leader to see that the group process is effective and that the work is accomplished through group processes. Team leaders will also assure that skills and individual rotation requirements are met. Team leaders will initially be selected by management from the current supervisory work force and will be considered "supervisors" in OPM's Central Personnel Data File (CPDF). As teams mature and develop, and as vacancies occur, management may change this designation, and appropriate pay adjustments may be made to reflect the different status.

Facilitators

As current supervisors assume new roles as team leaders, assistance and support will be required in performing their duties. A team of facilitators will provide this by interrelating with the team leader and team members. Facilitators will be competitively selected from the current work force through the use of assessment centers. Facilitators will receive intensive interpersonal and facilitator skills training. Responsibilities will include coaching team members in techniques of participative management, and evaluating and monitoring team development. Facilitators will assist teams in the following areas:

1. Monitoring team meetings,
2. Providing orientation and awareness training,
3. Evaluating and monitoring team progress,
4. Obtaining logistics support (meeting rooms, materials, etc.),
5. Assisting in obtaining technical resources as required,
6. Coordinating activities and events, and,
7. Apprising management and union of progress.

Work Facilitators

In addition, selected first-line supervisors from the existing workforce will serve as "work facilitators." These individuals will assist teams in the following tasks:

1. Solving work flow problems,
2. Monitoring work in progress,
3. Obtaining technical resources when needed,
4. Developing performance measures and goals,
5. Redesigning work methods,
6. Serving as an on-call expert to solve immediate problems,
7. Eliminating cross functional barriers,
8. Seeking ways to improve effectiveness and efficiency, and
9. Training and certification.

Management Role

SBP/PWE requires managers to help employees work together as self-managing teams to surpass prior mission accomplishments. The manager must be a catalyst, a source of advice and guidance, and a communicator. While an SBP/PWE management style incorporates elements of "traditional" management practices, the concepts ask more of the SBP/PWE manager. Successful managers under this project will have to generate and apply mission improvement ideas creatively and get the work done while promoting an environment that enables individuals to make contributions and, at the same time, realize their personal goals.

The SBP/PWE manager will need to facilitate work team operations by assuring the effectiveness of functional and management support systems and by counseling work team leaders on realizing team potential and individual employee growth. The SBP/PWE manager will be responsible for establishing goals and objectives which apply activity and agency program guidance. He/she will be expected to translate agency/activity goals and policy to the teams while simultaneously communicating team improvement ideas to other managers. The manager will also need to establish and maintain a viable dialogue with teams and other managers.

B. Classification

Under the new SBP/PWE system, the allocation of work to a specific team will be based on its contribution to a common product or service. Each work team may perform several kinds of work related to a given product, process, or service, and employees may be required to perform any or all of a wide variety of tasks encompassing work currently classified as either FWS or GS.

The SBP system will involve a simpler classification system under which teams, not positions, will be classified. Because a single team may be responsible for work that was traditionally classified under both blue and white collar systems, a single classification system will be used for all teams. Skill levels under the new system will focus on those key features of team functions which are common to both blue collar and white collar occupations. Because team descriptions will include a broader range of work than current individual position descriptions, fewer distinctions among skill levels will be necessary.

Classification Standards

The present system of classification standards for both Wage System and General Schedule positions will be replaced by a highly streamlined system under the demonstration project. Knowledges and skills required by the team will be evaluated using skill levels and a conversion table. Because project employees will work as participative members of multi-skilled teams, sharing in work-related decisions unencumbered by rigidly defined roles and work methods, this one factor is considered adequate to describe the differences among the broad classification levels. For demonstration purposes, the standard used to classify team descriptions will be referred to as the Master Standard.

Team Descriptions

When teams are formed, individual position descriptions will be replaced by team descriptions. Every member of a team will have the same team description in lieu of an individual position description. Team descriptions will identify the knowledges and skills required to perform the duties and responsibilities assigned to the team.

In some instances, work teams may perform work that requires highly specialized qualifications such as formal training or apprenticeship periods. Such requirements will be clearly identified in the team description under Conditions of Employment.

Classification of Team Descriptions

Each team description will be evaluated using the Master Standard. The Master Standard combines the ranges of job skills and knowledges traditionally covered by grades 1 through 11 of the General Schedule (GS) and grades 1 through 11 of the Federal Ware System (FWS). The Master Standard describes five skill levels. Each skill/knowledge described in the team description will be evaluated against the Master Standard and will be assigned an appropriate skill level.

Appeal Procedures

Appeals regarding the level of difficulty assigned by the DDOU Office of Civilian Personnel will be forwarded to Headquarters DLA, Office of Civilian Personnel, Position Classification and Personnel Management Evaluation Division (DLA-KM) for resolution. Prior to filing an appeal with DLA-KM, in informal effort must be made to resolve the appeal at the local level. Appeals will be accepted only if they are based on a majority team decision.

Classification Review

To assure that team descriptions accurately describe the work actually performed, and to verify that descriptions have been properly assigned to the proper pay bands, the Office of Civilian Personnel will conduct an annual audit of 20% of the positions engaged in the project.

Reclassification Actions

Skills or job knowledge mixes can be changed by planned management action or technological changes. The assignment of a team to one of the five pay bands may change as functions are either added or deleted as a result of reorganization, new mission requirements, modernization, etc.

If reclassification results in assignment to a higher pay band, team members will not receive the pay increase until they have been certified as acquiring all newly identified skills. If reclassification results in assignment of a lower pay band, pay retention will apply to those employees whose pay exceeds the newly assigned pay band.

C. Compensation

A new SBP Compensation System designed for the demonstration project will apply to all employees assigned to teams. The system has been designed to achieve the following objectives:

• Provide a positive incentive to acquire the additional job knowledges, skills and abilities necessary to perform all functions required of a work team;

• Replace current pay grades with fewer, broader pay bands; and

• Combine current hourly and salaried pay systems into a single salaried system.

Pay Bands

A pay structure will be established consisting of five pay bands. Pay bands under the new system will be broad in order to support the concept of broad classification levels. The five pay bands will cover all depot employees who are assigned to multi-skilled work teams, eliminating the distinction between an hourly pay system for trades, crafts, or laboring positions and a salary system for professional, administrative, technical, or clerical positions. Pay bands will be designated as CS–1 through CS–5. Additional pay bands may be added CS–5 at a later date on an as-needed basis, however, such a project modification would require OPM approval and publication of a project amendment in the **Federal Register.**

Assignment to Pay Bands

Assignment of each team to one of the five pay bands under SBP will be accomplished using the following procedure:

1. Assign skill level to each skill/knowledge described in the team description *e.g.*, level 1, 2, 3 etc.

2. Calculate the "average" skill level for each team description.

3. Using the conversion table (Table 7), convert the "average" skill level to the appropriate Pay Band.

TABLE 7.—PAY BAND CONVERSION TABLE

Point range	Pay band
1.0 to 1.49	CS–1
1.5 to 2.49	CS–2
2.5 to 3.49	CS–3
3.5 to 4.49	CS–4
4.5 +	CS–5

Levels Within Pay Bands

All pay bands will consist of four pay *levels*, corresponding to 4 levels of skill acquisition, and four "time gates" for pay progression. Level I will be for new employees who meet only the minimum qualifications for the team but are not certified in any of the team-specific skills. Level II will be for team members who have mastered 25% of the team's skills and passed a minimum 6-month time gate; Level III will be for team members who have mastered 60% of the team's skills and passed a minimum 18 month time gate; and Level IV will be for members who have attained all of the team's required skills and passed a minimum 36-month time gate. The range of pay (from Level I to Level μIV) will be approxmiately 40% for all pay bands except CS–1, which will have a range of about 100%. Levels II and III for all pay bands will be set as follows:

Level II = Level I + $\frac{6}{36}$ × (Level IV–Level I)
Level III = Level I + $\frac{18}{36}$ × (Level IV–Level I)

Pay Level I of pay band CS–1 will be set at the current GS–01 step 1 pay rate, representing the rate paid for the lowest entry-level work under either the GS or FWS pay systems. Level IV of Pay band I will be set at a rate corresponding to WG–01 step 5. Level I of the CS–2 pay band will be set at 4% above the maximum rate (Level IV) of the CS–1 band. Level IV will be set at a rate corresponding to WG–04 step 5. The CS–3 band will have a Level I rate set at 4% above the maximum rate of CS–2 and a Level IV set at a rate corresponding to GS–07 step 10. The CS–4 band will have a Level I rate set at 4% above the maximum rate of CS–3 and a Level IV set at a rate corresponding to GS–09 step 10. The CS–5 band will have a Level I rate set at 4% above the maximum rate of CS–4 and a Level IV set at a rate corresponding to GS–11 step 10.

Using current pay rates for GS and FWS employees, the application of the above procedures results in the SBP Compensation System Pay Schedule represented in table 8. Pay levels T1 and T2 are for trainee positions and are further explained under the Hiring section.

TABLE 8.—SBP COMPENSATION PAY SCHEDULE [1]

	T1 (35%)	T2 (15%)	Level I	Level II	Level III	Level IV	Team leader
CS–1			5.07	5.59	6.64	8.20	9.84
CS–2			8.53	8.84	9.46	10.39	12.47
CS–3			10.81	11.11	11.70	12.58	15.10
CS–4	8.50	11.12	13.08	13.47	14.24	15.39	18.47
CS–5	10.41	13.61	16.01	16.45	17.32	18.62	22.34

[1] Dollars per hour as of January, 1990.

Movement Within Pay Bands

Progression through each level of a particular pay band will be function of performance, time, and successful certification of job knowledge requirements (Table 9). Advancement to the next pay level will require successful certification of a specific percentage of the team job knowledge requirements and a minimum amount of time on the term. The amount of time at each successive pay level will be determined by minimum and maximum "time gates". Minimum time gates are viewed as necessary to assure a reasonable return to the activity for the investment in training. Maximum time gates are viewed as necessary to ensure satisfactory progress toward learning the required job knowledges.

Assuming the ability to learn all job knowledges, an employee will reach maximum pay after 36 months. The only increase in base pay beyond this point will be the full comparability increase for the General Schedule.

TABLE 9.—PROGRESSION REQUIREMENTS

Pay level	Time gate progression requirements		Team job knowledge requirement (percent)
	Minimum (months)	Maximum (months)	
I (Entry)	0	0	0
II	6	9	25
III	18	21	60
IV	36	39	100

Team Leader Pay Rates

Compensation for team leaders under SBP will be set at 20 percent above the Level IV of the pay band to which the team leader is assigned. This approach to compensating leaders will prevent pay inversion and ensure that team leaders are equitably compensated for the additional knowlede and responsibilities required for team leadership.

Non-team Member Compensation

Pay for employees not assigned to a multi-skilled work team will continue to be provided for in accordance with the provisions of their current applicable pay system.

Premium Pay Entitlements

The compensation entitlement for all premium pay will be provided to all project employees as applicable under the current General Schedule (GS) guidelines to individual team members. For example, under the project, current Federal Wage System employees who are assigned to teams with work assignments that expose them to unusually severe hazards or working conditions that currently qualify for "environmental differential" under 5 CFR 532.511 will be eligible to receive a 25% "hazard pay differential" for all hours in a pay status, as is currently the case for General Schedule employees under 5 CFR part 550, subpart I.

Fair Labor Standards Act

All the current provisions of the Fair Labor Standards Act (FLSA) will continue to be applied under the demonstration project.

D. Hiring

Proposed changes to the hiring process under the demonstration project address two important issues: (1) The hiring process in a participatory work environment should provide a mechanism for team members to contribute to the selection process, and (2) it should also provide more latitude to the team leader/manager in support of the concept of evolving team autonomy.

Hiring From Outside

The ability to make quality selections is critical to SBP/PWE, because employees must learn a range of skills while participating effectively on teams. Corporations, companies, and plants that have implemented SBP and related innovations have found that the quality of new hires is essential to long-term success. It is essential that new hires fully understand and accept SBP/PWE employment conditions and the expectations of both the employer and the team.

The ability to learn and perform a repertoire of skills while operating effectively in a participatory team environment is a necessary quality for SBP/PWE employees. Although this quality is not intended to be part of the basic examination process, it will be an additional factor to be considered in making final selections. The current examining process OPM employs will remain unchanged by DDOU, and no special examination for the project is envisioned.

OPM X-118 qualification requirements will continue to be used. The staffing plan for the project will identify an entry position for each team that can be directly correlated with an occupational series and grade under the current FWS or GS classification systems. For that occupational series and grade, the applicable X-118 or X-118C standard will be used to determine applicant qualifications. DDOU will work with OPM to develop innovative approaches to recruiting from outside the Federal service for the new SBP/PWE environment.

Because integrated recruitment, examination, and selection are seen as key to effective SBP/PWE implementation, delegated examining authority will be requested by the project test site. The request for delegated examining authority will be limited to the team entry level. Delegated examining authority for team entry levels would permit a unified approach to the process of examination and selection in this new environment. This would not only assist in ensuring applicant availability, but would also place responsibility for success of the entire demonstration project at the project activity.

Regardless of the examining authority, all veteran preference requirements will continue to apply in accordance with current statute and regulation. When applicants are referred to the manager, he/she, in conjunction with the team leader, will determine which of the referred applicants will be interviewed.

Having identified the interviewees, the manager and team leader will conduct interviews in the presence of at least two team members. After each interview, team members present will be given an opportunity to provide their comments for consideration by the team leader and manager. The interview process will include a tour of the worksite and an orientation concerning the concepts of SBP/PWE. Upon completion of all interviews, the team leader will make a selection subject to review and approval by the manager.

Hiring From Within

1. Selection of Team Members

(a) Promotion. Under the demonstration project, promotion will be defined as movement from one position or pay band to a position or pay band offering a greater basic salary potential.

The majority of team vacancies will be filled at the entry level and all movement from one team to another team with a higher pay band will be effected through merit promotion procedures. Promotion opportunity announcements will reflect that any such movement will imply a full acceptance of SBP/PWE.

Advancement through all skills on the new team will be a condition of employment. As with outside hiring, evidence of the ability to learn and perform a variety of skills while operating effectively in a PWE setting will be considered.

To provide career paths and upward mobility, trainee positions may be established for employees who do not meet the normal qualification requirements for teams at pay bands CS-4 and CS-5. The starting pay level for trainee positions will be 35 percent below the team entry level (Pay Level T1), and selectees must spend 24 months in training before progressing to the team entry level. At completion of 12 months training and a favorable team leader recommendation based on team input, the employee will receive a pay adjustment to 15 percent below the entry level (Pay Level T2). Upon successful completion of the training program, the employee will advance to Level I and can begin the formal process of certification in the team job knowledges. Saved pay will apply to trainee positions in the same manner that it currently applies to career intern and upward mobility positions.

Qualification requirements for both team entry levels and trainee positions will be keyed to the current X-118 OPM Handbook to the maximum extent possible. Modifications may be developed as necessary. Time-in-grade restrictions will not apply.

Employees will be able to apply for a position on a team with a higher pay band at any time as long as they meet minimum qualification requirements. Promotion from a lower pay band will normally be to Level I of the higher pay band.

Crediting plans and rating and ranking of candidates will be accomplished by appropriate team subject matter experts in accordance with the current Merit Promotion

Program. Selection procedures will then follow those established for outside recruitment.

(b) Reassignment. Under the demonstration project, reassignment will be defined as movement from a position or pay band to a position or pay band with the same basic salary potential.

Moving an employee from one team to another within the same pay band and with identical skills may occur at any time. This might result from an employee's request or at management's discretion because of work load changes or other related issues.

Moving an employee from one team to another with the same pay band but different skills may be effected without financial penalty to an employee in two situations:

(1) At the employee's request, when the employee has at least a Fully Successful performance rating, is at Pay Level IV, and has been certified in all team skills on the currently assigned team for at least 6 months. Team leader support will be required from both the losing and gaining team. A vacancy must exist or a member of the gaining team must request a similar transfer. Maximum time gate requirements of the new team will apply. The horizontal integration of skills between teams resulting from this kind of move may prove very beneficial to activity flexibility and employee job enrichment.

(2) Following a management directed move because of the need to reallocate team resources or to establish new teams. Maximum time gate requirements of the new team will apply.

In other instances, such as a voluntary request, salary on the new team with the same pay band but different skills will be set at whatever level is supported by formal skill certification for the new team. Non-competitive movement must be preceded by a determination that entry level qualification requirements are met in accordance with X-118 and X-118C.

(c) Changes to Lower Levels. Under the demonstration project, a change to lower level will be defined as movement from one position or pay band to a position or pay band offering a lesser basic salary potential.

Moving an employee from one team to another team with a lower pay band and different skills may be effected without financial penalty to an employee in one situation—following a management directed move because of the need to reallocate team resources or to establish new teams. In this situation, normal pay retention and revised RIF provisions will apply.

Pay setting for voluntary requests will be based on the formal certification process unless the employee has been certified in all team skills on the currently assigned team for 6 months and is already at Pay Level IV. In this case, movement may be effected to the lower pay banded team at Pay Level IV, but without pay retention.

2. Selection of Team Leaders

Team leaders must be completely knowledgeable regarding all of the team skills and work processes. Accordingly, those selected for team leader positions will be subject to the existing probationary period for new supervisors, and one condition for competing this probationary period will be the requirement to become certified in all skills on the team within 12 months. Team leaders who come from the existing supervisory work force and have already completed a one-year supervisory probationary period will not be subject to another probationary period. However, performance-based action will be warranted if satisfactory progress toward developing team leader skills is not achieved.

Qualification requirements for team leaders will be based on experience related to the major function(s) of the team and on demonstrated ability to lead and work with groups.

Selection for team leader vacancies will be made by the responsible manager with input from team members. As teams move toward greater autonomy and the team leader role changes, selection of the team leader may become a team responsibility subject to manager review.

The non-competitive movement of team leaders will be consistent with the same principles as movement of team members. Movement from one team to another team with the same pay band and identical skills may occur at any time. Movement to another team with the same pay band but with different skills may occur whenever the team leader has been certified in all skills on the currently assigned team for at least 6 months or following a management directed move. Movement to a lower pay band may occur voluntarily (without pay retention) following certification in all skills on the currently assigned team for at least 6 months. Qualification requirements must be met for non-competitive movement. If such a movement is management directed, normal pay retention and revised RIF provisions will apply.

3. Selection of Managers

The flattening of the organizational structure will virtually eliminate hierarchical levels between team leaders and organizational managers. This should lead to a larger competitive base from which to select future managers. Team leaders who have developed good leadership skills and have, through competitive or noncompetitive actions, served as a team leader on multiple teams should be better able to compete for managerial vacancies.

The qualification process for managers will remain the same. Selection procedures may require the use of assessment center technology. A long term objective of the project is to organize managers into business teams with qualification requirements reflecting the new concepts of operation and pay banding based on the new Compensation Schedule.

E. Performance Evaluation

Performance evaluation is an important feedback mechanism for letting employees know how well they are meeting organizational expectations. The appraisal system to be used during the demonstration project will be used to answer these kinds of questions:

- Does the individual's performance merit progression to the next pay level?
- Does the individual deserve recognition?
- Does the individual need additional training?
- Does the individual's work measure up to expectations?

The demonstration project's new performance appraisal system, as described in this section, will apply to all Depot employees except managers. All managers will be appraised and recognized under the current Performance Management and Recognition System (PMRS), as it is applied to GM employees throughout DLA.

Performance Standards

A set of performance standards will be developed for each team description and will be applied to each individual assigned to a team. The standards will specifically address two elements of performance: (1) Operational and (2) team participation. Performance standards will also be developed for non-team members, team leaders, and teams.

All employees will not fit into a team structure. Employees who are not team members will have performance standards structured around the critical elements of their positions. In addition, their performance standards will include critical elements related to the quality and timeliness of product(s) and/or service(s) they provide to teams. The system will accommodate input from the team leaders of the teams supported by these individuals during the evaluation period.

1. Operational Performance Standards

The mission of the test site dictates that performance goals be clearly defined and communicated throughout the organization. Performance monitoring under the demonstration project will be continual and, in most operations, supported by objectively established measurement standards. The majority of these performance measurements will be the same as those currently used for operational performance, *e.g.*, on-time receipt processing, on-time shipping, material denial, and customer complaints.

In many mission support operations, performance measurements are not as clearly defined and are often dependent on the requirements of the "customers." In these areas, performance measurement will be tied to operation objectives developed to support the customer. In either situation, operational performance evaluation factors will be developed to describe what is expected. These factors should be attainable, skill-relevant, pay-level-relevant, specific, realistic, and observable.

2. Team Participation Performance Standards

Each individual employee's contribution to the performance of the team will be considered as critical. The team participation portion of the appraisal will consist of factors, such as:

- Maintenance of an orderly work environment,
- Constructive participation in meeting team requirements, and
- Individual efforts which improve group performance.

Team participation evaluation factors, to the extent possible, will be uniformly applied to all teams covered by the project. Using peer input and common evaluation factors when possible should help reduce current employee perceptions that performance appraisals are inconsistent and unfair.

3. Team Leader Performance Standards

The leader of each team, in addition to being evaluated on operational performance, will also be evaluated on individual evaluation factors assessing ability to effect the team process and build team competence and autonomy. The factors will include:

- Facilitating team member interaction,
- Leading team meetings,
- Working with groups to develop performance measures and goals,
- Providing continuous feedback on performance, and
- Facilitating interaction among teams.

4. Team Performance Standards

Performance evaluation factors for the teams will reflect common elements, such as meeting unit cost goals, safety and quality. Additional elements will be developed to assess the unique multi-skilled operations of the teams.

Mechanics of Evaluations

A menu of critical element and performance standards addressing all skill-relevant evaluation factors will be developed for each team. This menu will accommodate the multi-skilled environment and the fact that skills can be acquired by the individual in either a sequenced or an unsequenced manner.

The development of the critical elements will be a team leader responsibility with team member participation. Performance will be evaluated based on criticality of assigned tasks during the rating period. Each critical element related to assigned task(s) will be evaluated using only three levels of performance: Exceptional, Fully Successful and Unacceptable. Performance standards will be written only at the Fully Successful level and may be modified during the performance period to accommodate changes in work load, resource allocations, etc. To be rated on a critical element within a team performance plan, the employee will have to have been performing under that critical element for a minimum of 90 calendar days.

1. Individual Evaluation

The performance of employees will be assessed every 12 months. Although the final evaluation will be completed by the team leader, the process will involve active participation of the team members. Each team member will complete a confidential performance evaluation for all other team members. Peer input will be provided to the team leader for consideration during discussions with individual employees.

A summary rating will be determined for each employee based on the following definitions:

- *Exceptional:* no more than one critical element rated Fully Acceptable and no critical element rated Unacceptable
- *Fully Acceptable:* any other combination of ratings with no critical element rated Unacceptable
- *Unacceptable:* one or more critical element rated Unacceptable

Summary ratings of Fully Successful will be presumptive and automatic, requiring no further action by the team leader. Only summary ratings of Exceptional and Unacceptable will require documentation. It will be the responsibility of the team leader, based in part on input from the team members, to identify those individuals that have Exceptional or Unacceptable performance.

If an individual has an Exceptional rating, and the team is rated Satisfactory (see Team Evaluation, below), the individual will be eligible for recognition. Individuals receiving an Unacceptable rating will not be eligible to move to a higher pay level until their performance is at least Fully Successful.

Individuals identified as having unacceptable performance will be provided with an opportunity to demonstrate acceptable performance as required by 5 U.S.C. 4302(b)(6) and 5 CFR part 432. All current requirements in 5 CFR part 432 for reduction in grade or removal based on unacceptable performance will be followed.

2. Team Leader Evaluation

The team leader evaluation will be completed by the manager. The process will be identical to that of the individual evaluation. Input will include that of team members and other team leaders. Input from other leaders will be mandatory for a team where interaction is critical and input will be optional for all other team leaders.

3. Team Evaluation

Management will evaluate team performance at least every 12 months using a two-level system, Satisfactory or Unsatisfactory. This evaluation will be based on team performance standards which will cover both work performance and participation in team processes.

4. Manager Evaluation

The process for evaluating a manager's performance will be consistent with current PMRS concepts, with one additional enhancement. The process will provide for input from other managers as well as team leaders directly affected by the manager being evaluated.

Review and Management Process

All reviews of other than Fully Successful performance appraisals will be done by the next level of management. The Office of Civilian Personnel will be responsible for assisting and advising teams in the performance appraisal system, evaluation techniques, dispute resolution, etc.

F. Incentive/Recognition

In developing the incentive/recognition program, specific minimum objectives were established: (1) The program should be fair and based on achieving clear and measurable objectives, and (2) the individual, the team, and the activity must all be considered in developing a balanced and comprehensive incentive/recognition program. The following program, which will be applicable to all activity employees, should provide a mechanism to recognize individual performance without disrupting team efforts and provides the incentive for a total commitment to the activity. With the exception of the Employee Suggestion Program and certain honorary awards, the current performance award incentive/recognition system will no longer be applicable.

Individual Incentives

All employees rated Exceptional under the project will be eligible for an additional time off award if team performance has been evaluated as Satisfactory. During each annual performance appraisal cycle, employees who receive an Exceptional performance rating in teams rated Satisfactory will automatically receive 4 days of paid incentive leave. The additional time off must be scheduled during the 12-month period following the award. It will be the team leader's responsibility to assure that appraisal at the Exceptional level is fully justifiable and warranted.

Authorization for performance-based discretionary time off for an entire team will be provided for at the manager level. Extended lunch periods or partial days off may be forms of rewarding special achievements or outstanding production-related situations attained by a team.

Individual Incentives for Managers

The current PMRS incentive program for managers will be expanded to include all depot managers. The mechanisms for rating and distributing the PMRS performance award pool will remain the same.

Management of Incentives

The incentive/recognition program is designed not only to enhance cooperation between teams, but to encourage individual teams to take maximum advantage of the tools provided to contribute to the overall success of the activity. Team productivity will be tracked and measured to the maximum extent practical. Productivity measures are a valuable feedback mechanism to a team that is motivated to do their best to support the activity.

All aspects of the demonstration project's incentive/recognition program will be operative during the first year of the demonstration project. The effectiveness of the incentive/recognition program will be evaluated as the project evolves and may be adjusted accordingly.

Gainsharing System

The gainsharing program to be used in conjunction with the demonstration project will be based on the Agency-wide "Success Share" program negotiated between DLA and the AFGE Council of DLA Locals. The Success Share program will be conducted under the authority of title 5, U.S.C. and two Comptroller General decisions, *i.e.*, no waivers of law or regulation will be required. A full description of the program is contained in DLA Regulation number 7070.3, "Success Share Program," dated January 3, 1990.

The "Success Share" program is a productivity gainsharing system designed to reward all employees at an activity for reducing the cost of doing business while maintaining a high quality of service to customers.

The Success Share system is based on the concept of unit cost. Unit cost is part of a workload-driven resourcing system in which all of the costs incurred at a depot are associated with some output measure. If the depot successfully accomplishes its mission at a cost below the resources allocated for the fiscal year and within acceptable quality parameters, the difference will be shared equally (adjusted for the Quality Level Factor, described below) between DLA and depot employees.

The Quality Level Factor (QLF) is a depot-wide performance evaluation indicator used in Success Share calculations to ensure that quality is not sacrificed for increased production. The QLF is based on such indicators as on-time shipping, on-time receipt processing, material denial, and customer complaints. For a given level of cost savings, a QLF above a pre-established DLA goal will result an increased Success Share award pool for employees, and a QLF below a pre-established DLA goal will result in a decreased award pool for employees.

The Success Share award pool will be one-half of the total dollar productivity gain (as adjusted by the QLF). Individual awards will be based on an hourly award rate determined by dividing the Success Share award pool by the total number of productive hours worked by all eligible employees. (Productive hours are defined as all regular hours worked, excluding overtime. Productive hours include training time but do not include leave.) All employees will have the same hourly award rate; grade or rate of pay will not be a factor. Individual Success Share award amounts will be calculated by multiplying the hourly award rate by the number of productive hours worked by the employee.

Employees will have the option of electing to receive their Success Share awards in cash, leave, or a combination of the two. Leave earned under the Success Share program will be referred to as "incentive leave." The amount of Success Share incentive leave available to an employee will be computed by dividing the employee's award amount by his or her individual rate of pay. Success Share incentive leave will normally be used during the leave (calendar) year following the fiscal year in which it will have been earned.

G. Job Knowledge Certification

The job knowledge training and certification program will provide the mechanism for employees to learn additional skills. Documentation of this accomplishment will be placed in an employee's Official Personnel Folder (OPF). It will be a comprehensive program designed to qualify employees to perform every job function within their assigned team.

Complete training packages will be developed and continually maintained for each job knowledge/function required by a team. These packages will identify and explain all aspects of the specific function to be learned and provide the method to certify that an acceptable level of knowledge of the function has been achieved. The certification process will involve training and demonstrated proficiency.

The certification will be administered by either the team leader or a qualified instructor. Demonstrated proficiency will be witnessed by the team leader and by at least one team member who has previously been certified in the particular function being performed or by another subject matter expert.

Certification in current job skills using certification check lists began at DDOU in February, 1990. Certification for movement within pay bands will begin 90 days after project implementation when all training modules will be completed, except those for Stock Maintenance Division, Directorate of Distribution. A formal on-the-job training program for the Stock Maintenance Division will be used for certification until training modules are completed.

When workload or demand require certification scheduling, it will be provided in accordance with seniority based on service computation date.

Failure to meet certification within maximum time requirements will necessitate appropriate action based on individual performance related criteria.

For all new employees and team leaders entering a team, a condition of employment will exist that requires he/she learn all the job knowledges and be certified within the time frames specified. It will be the responsibility of management to assure that training programs are developed for all required team skills/knowledges and that all team members are afforded equal opportunity to obtain such training in a timely manner.

Team leaders will be responsible to insure and document that all team members rotate in each of the certified job functions for a sufficient period of time to maintain proficiency every 12 months. Facilitators will assist team leaders in this process. Classifiers, during their scheduled audits, will also verify that required rotation is being accomplished through reviewing team leader documentation and interviewing team members. This requirement for job rotation will allow members to maintain proficiency in the job functions, and in most instances will preclude any additional training requirement.

IV. Personnel Subsystem Administration

A. Letters of Discipline

The present system for disciplinary actions is based on the Agency "Table of Penalties", which lists most offenses and provides for a range of penalties which depend on the nature of the offense and the number of times it has been committed. For minor offenses, such as AWOL, penalties are progressive if behavior is not corrected. These penalties range from a reprimand, through a series of suspensions, culminating in removal. These actions often detract from productivity and do not fit well in a participatory team environment.

Under the demonstration project, when it has been determined that an employee has committed an offense for which formal disciplinary action is appropriate, a letter of discipline may be issued under the terms of this SBP/PWE process in lieu of a letter of reprimand or a suspension from duty and pay of not more than 14 calendar days.

The use of letters of discipline under this process will be considered an adjunct to the regular, formal disciplinary procedures outlined in DLAR 1406.1. In those circumstances where it is determined that it is not appropriate to substitute a letter of discipline for a formal disciplinary action, a regular formal disciplinary action will be taken according to DLAR 1406.1. Substitution of a letter of discipline for formal discipline, such as a reprimand or suspension, will in all cases be at the discretion of the agency.

In situations where reprimands and suspensions are replaced by letters of discipline for repetitive offenses, the letters will specify the degree of seriousness and at what point another incident might result in proposed removal. Current procedures for emergency suspensions in the event of criminal activity will be retained.

Letters of discipline will cite the specific charge(s) and a reasonable account of the offense(s) including such facts as time, date, names, place, and circumstances. As appropriate, letters of discipline will include a statement of any past disciplinary actions taken which were considered as supporting the severity of the penalty the letter of discipline is being taken in lieu of. Employees will have the right to formally question a letter of discipline taken under terms of this process using the regular grievance process (either the negotiated grievance procedure or the agency procedure, whichever is applicable). Therefore, letters of discipline must inform employees that they have the right to seek formal reconsideration of the letter of discipline by citing the appropriate grievance procedure in the letter. On receipt of a letter of discipline, the employee will be asked to acknowledge receipt. This copy of the letter will become the Official Personnel Folder (OPF) copy.

Letters of discipline will be filed in the employee's OPF as a temporary (left side) document for a period not to exceed 2 years. At the expiration of the 2-year period or sooner if so determined by the issuing supervisor or based on the outcome of the employee's grievance, the letter of discipline and supporting documents will be purged from the OPF.

These modified disciplinary procedures are intended to be easily understood by the work force and easily applicable in a consistent manner.

B. Reduction in Force (RIF)

Competitive areas will be limited to functional areas (Distribution, Installation Services, etc.) grouping employees on the basis of team skills to determine competitive levels, and ranking on the basis of veterans preference, performance appraisal, tenure, and service computation date.

Competitive levels will be based on team skills rather than classification series and grades of positions. Positions on teams with substantially the same skills in the same pay bands will be in the same competitive level. However, when the required skills are not substantially the same between teams in the same pay band, these positions will be in different competitive levels.

Since grades will not be a factor in the RIF procedure, adverse impact on employees will be determined by where an employee is placed in the compensation schedule. RIF placement of employees, e.g., bumping and retreating from one team to a lower pay banded team, from team leader to team member, from manager to team leader or member are considered as downgrades of more than two grades for purposes of determining eligibility for discontinued service retirement. There will be no limit on bumping or retreating. As referred to in the Classification Section of this plan, pay retention will be applied as appropriate, but current provisions for grade retention are not meaningful and will not be applied. Additional retention credit for performance will follow the procedures outlined in 5 CFR 351.504, as modified by DLA for the level three-level rating system.

C. Appeals and Grievance Procedures

This project will not waive any existing appeal or grievance procedures. Negotiated grievance procedures will apply for bargaining unit employees and the existing administrative grievance procedures will apply for employees not covered by negotiated procedures. No provisions of this project waive a right or remedy available to an employee under Equal Employment Opportunity (EEO) laws. Classification appeals procedures will be modified to adapt them to the team environment (See appeal procedures under Classification Section).

V. Project Costs

The costs associated with the project will be borne by DLA and the participating activity. Major costs to date have been for project development, and future costs will be for training, implementation and evaluation. Increased costs will occur at the beginning of the project; cost neutrality is anticipated by the end of the third year and cost savings at the beginning of the fourth year.

The demonstration project will have increased costs in its development, formulation, and implementation. It is important to the success of this project to have a clear, distinct separation of the routine activity costs from the additional costs resulting from the project. The design, implementation, and operation of a skill-based compensation system requires resourcing the same types of costs as other traditional pay systems. However, cost increases are sometimes incurred by activities using SBP plans in three main areas: Training, wages, and one-time overhead costs. Job rotation opportunities to develop employee skills will result in increased training costs.

Under SBP systems, basic labor costs are generally higher than under traditional compensation systems. The pay of employees increases as they learn new skills. Therefore, the wages of an employee with a short length of service may be higher than those of someone with comparable service at another activity using traditional pay systems. The majority of private SBP plans reported paying wages higher than the prevailing rate. Although the basic labor costs per hour are higher under SBP plans, the overall depot operating costs will be lower through decreased staffing requirements. Therefore, this project is projected to be cost neutral.

Increases in overhead costs will arise from SBP/PWE plan development, implementation, maintenance, administration, and evaluation. Some administrative overhead costs may be offset by decreases in turnover and absenteeism and, in some cases, reduced support personnel. Project development costs from 3rd Quarter FY 87 through 1st Quarter FY 90 are as follows:

Personnel Costs	$1,127,413
Non Personnel Costs	401,835
Training	136,954
Travel	46,835
Total	1,713,037

The anticipated operating budget for the remainder of FY 90 is $575,000.

VI. Project Administration

A. Training

This demonstration project will represent a significant change in the management practices in both the product and service arenas at the test activity. Many traditional programs and attitudes will require change. In preparation for the major environmental change proposed by the demonstration project, all depot employees were offered Pacific Institutes' 32-hour course entitled "Investment In Excellence". Fourteen hundred (1400) employees have been trained.

Also to facilitate the change to their new roles as team leaders, all depot supervisors have attended a one-day symposium conducted by Pacific Institute on "The Change Process." One hundred and forty five (145) supervisors received an additional 40-hour course offered by Zenger Miller entitled "Group Action". Approximately 3,200 hours of training has been given to supervisors and employees on the concepts of Total Quality Management.

To complete the transition to a PWE, a great deal of additional training will be necessary in all phases of the project to provide managers and employees with the necessary knowledge to successfully participate in the evolution from current structured roles to the proposed environment. Table 10 outlines the courses identified to effect this change.

TABLE 10. TRAINING MODEL

Course	Participants	Schedule	Source
Project concepts	All employees	I−1 month	Proj team.
Team leader dev	Supervisors	I−1 month	Contractor.
Group dynamics	All employees	I+3months	Contractor.
Problem solving	All employees	I+6months	In-house.
Communications	All employees	I+6months	In-house.
Goal setting	All		

I=Implementation date.

The courses identified in Table 10 are interactive and represent various aspects of a PWE. The following summarizes the course contents:

Project Concepts. Training for all employees will include the following: Description of the project plan, how personnel enter and exit the plan, pay banding and the pay adjustment process, team/individual performance evaluation, incentives, measurement and evaluation of the plan, and skills certification.

Team Leader Development. Training will include the project personnel management initiatives, human relations, leadership skills and appraising performance.

Group dynamics. Training will include working effectively, enhancing listening skills, and promoting effective interaction within groups.

Team Building. This will include training individuals to be energetic team players without sacrificing individual pride and determination. It also includes providing direction without being authoritarian.

Problem Solving. Training will include a look at various systematic problem solving approaches and their applications.

Communications. Training will include examination of the communication process, including barriers, feedback, and communication levels.

Goal Setting. Training will include establishing meaningful goals and evaluating progress towards accomplishment of those goals.

Instructor Training

Some of the courses will be contracted for, while others will be accomplished by certified instructors at the activity. The number of certified instructors at the activity will be expanded to meet these additional training requirements. This will be accomplished by giving instructor training to subject matter experts, thereby minimizing the cost of training. To accommodate the anticipated training workload, an additional 112 subject matter experts have been trained and certified as instructors.

Facilitator Training

To ensure the smooth transition from traditional roles to those of managers, team leaders and team members, some facilitators will be required. These facilitators will be trained in interpersonal skills to provide encouragement and coaching for the team and team leaders.

B. Project Evaluation Plan

A comprehensive and methodologically rigorous evaluation of this project will be conducted to assess its success in meeting its stated objectives, to determine the effectiveness of individual interventions, to document any unanticipated consequences, and to determine the applicability of project changes to other Federal installations. The evaluation will be conducted by the Navy Personnel Research and Development Center with OPM oversight as provided for in 5 U.S.C. 4703(h).

In order to portray the complex and integrative nature of the interventions and their effects on the overall organization, a model is presented in Figure 1 which describes the relationships among the specific interventions and their expected effects. On the far left side of Figure 1 are the 11 interventions that have been proposed. The interventions have been categorized into two major groups—those dealing with organizational level changes and those that primarily involve changes at the individual level. Combined, these two types of interventions have an effect on organizational processes (*e.g.*, day-to-day operations). For example, process outcomes would include increased flexibility of the scheduling of members of teams and increased employee involvement in decision-making. These changes in organizational processes, in turn, would lead to changes in intended intermediate outcomes. Intermediate outcomes are those that result from the combined effects of various changes and improvements in processes. Intermediate outcomes could take the form of changes in employee behavior and/or attitudes (*e.g.*, increased job satisfaction, decreased absenteeism) and changes in performance indicators at suborganizational levels (*e.g.*, improved fill time for supply requisitions). These various effects combine to produce changes in overall organizational performance, such as increased efficiency, timeliness, and quality of service (*e.g.*, line items shipped on time, customer satisfaction). The model serves to depict the various levels at which the interventions could have an impact and, thus, identifies the levels at which the impact of the interventions should be evaluated. Further, it suggests a sequential relationship among the effects and helps identify at what point in time effects would be anticipated at the various levels (*e.g.*, if few improvements in processes and intermediate outcomes are documented, improvements in ultimate outcomes as the result of the project will not be expected). This model will serve to guide the collection and analysis of data at various levels of organizational impact for the evaluation of the demonstration project.

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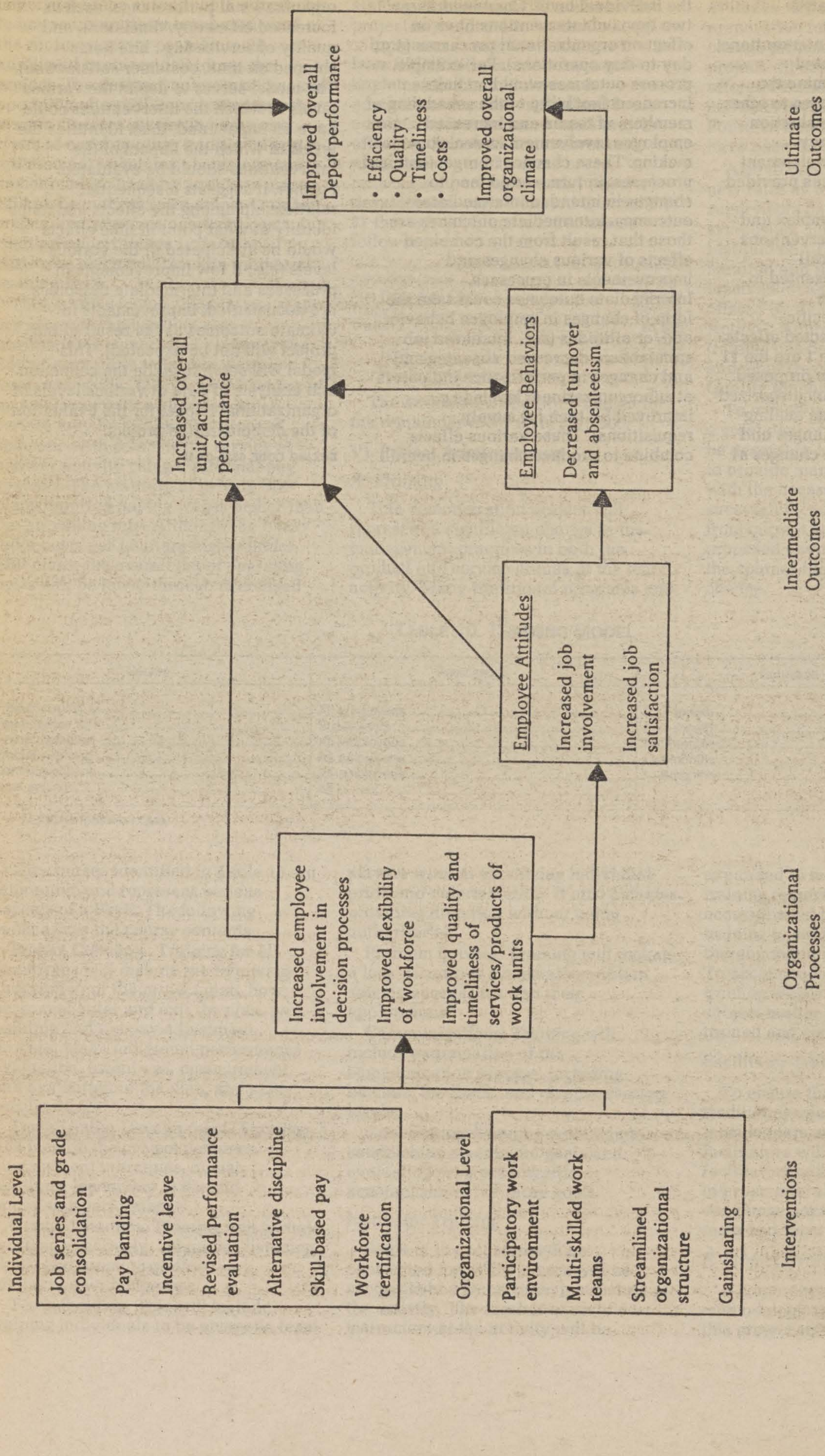

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In addition to examining the intended effects of the interventions, several other aspects of the demonstration project will be assessed. Whereas many effects of organizational change can be anticipated, change is also accompanied by unintended consequences, both positive and negative (*e.g.*, increased stress on individuals, decreased productivity resulting from training requirements, employees' inability to acquire skills, improved physical work environment through employee action, *etc.*). Information obtained in the assessment will serve to document these unplanned effects of the change. In some cases organizational indicators not expected to be directly impacted by the changes (*e.g.*, workload) will be identified at the beginning of the project and monitored to see whether they affect or are affected by the intervention. Other unintended consequences will be identified as the project progresses and subsequently monitored and documented.

Evaluation Phases

The project evaluation will be conducted in three phases, each with a slightly different focus. This corresponds to the measures dictated by the model that will be taken over the course of the demonstration project evaluation. Information relevant to the three phases of the evaluation—implementation evaluation, experimental evaluation, and summative evaluation—will be obtained. Reports on all evaluation phases will be submitted to DLA HQ, project officials at DDOU, and to OPM.

Implementation Evaluation. The implementation evaluation will be conducted to determine the extent to which the interventions were implemented in the organization as designed. This evaluation phase will focus on the time period between the development of the project plan and the time at which the changes are considered operational in the organization. Information collected in the implementation evaluation will serve to document how and to what extent the implementation has taken place and will provide the site with feedback as to how the implementation effort can be improved or enhanced. The implementation evaluation is a critical part of the evaluation plan in that it documents the intervention that was actually put in place when the proposed change was introduced into a dynamic organizational setting. From that it is possible to (1) identify what specifically led to the measured outcomes, and (2) prescribe optimal implementation approaches to potential future users.

The implementation evaluation also will include an assessment of the organization in which the demonstration project is conducted. The organizational assessment is designed to depict the environment in which the change is introduced to determine whether there are characteristics of that particular environment that predispose it to a more or less successful adoption of the change. Such aspects of the organization as organizational climate (*e.g.*, resistance to innovation, work-group cooperation), employee satisfaction, and employee commitment will be measured. A similar assessment will be conducted at the comparison site to determine whether differences in data collected at the two sites are, at least in part, due to differences between the sites rather than to the intervention.

Information for the implementation evaluation will be collected through examination of project-related documents (e.g., training materials, directives), ongoing contact with key players in the participating organizations, on-site interviews with project participants, observations, exit interviews with employees leaving the Depot, and other data collection methods. The implementation evaluation will address such issues as:

- The timing of various aspects of project implementation,
- The degree to which project elements are implemented as designed,
- What training/orientation is delivered to facilitate implementation,
- What new organizational structures and operating procedures/guidelines are developed to manage the project implementation,
- The degree to which individuals in the organization possess capabilities necessary to carry out the implementation, including (1) their personal understanding of the changes and their part in them, (2) the requisite skills and knowledges required for the change, and (3) their perceived ability to carry out the change,
- The degree to which individuals in the organization are committed to implementing and testing the project initiatives, their perceptions of the need for the change, their personal responsibility for the change, and their intention to carry out the change,
- The similarity of test and comparison sites,
- The extent to which "unrelated" events occurring at the same time may confound project results, and
- What unintended consequences of project initiatives may be observed.

The implementation evaluation will be presented in a report compiled shortly after the project has been deemed operational however, the monitoring and documentation of project implementation will continue throughout the life of the project in order to provide a qualitative context in which to understand and interpret other evaluation findings.

Experimental Evaluation. Although data collection for this phase must begin prior to project implementation to provide an adequate baseline for future comparisons, the primary focus of this evaluation phase will be on the period after the project is considered to be operational. Data collection initiated prior to implementation will continue on a periodic basis. Reports analyzing the effects of the various interventions will be issued by NPRDC on at least an annual basis.

Summative Evaluation. Upon conclusion of the demonstration period, an overall assessment of the combined effects of project interventions will be made. Impact of specific system changes will be discussed separately and in combination. The effect of each intervention and the project as a whole in meeting stated objectives will be assessed. Both positive and negative unanticipated outcomes will be discussed, as well as any unanticipated events that may have influenced project outcomes. The final report will also address the generalizability of project results to other Federal installations.

Evaluation Design

A "quasi-experimental" interrupted time series design with a nonequivalent comparison group will be used. *Baseline data* will be collected on a variety of the factors identified (*e.g.*, organizational performance measures, employee attitude measures) during the period of time prior to the implementation of the change. Measures of the same factors will be taken at routine intervals throughout the course of the experiment. Data will be collected from both the test site and one or more *comparison sites* not implementing the project interventions. Trends over this period of time at the test site in Ogden, Utah (DDOU) will be compared with trends at the comparison site. This design, combined with ongoing implementation monitoring, will provide a reasonable basis for making causal attributions regarding project results to the demonstration project interventions.

DLA's Defense Depot Memphis, Tennessee (DDMT) has been selected as the comparison site for this experiment. DDMT is one of five other DLA sites throughout the country currently performing functions similar to those at DDOU. Three major factors on which the two sites are considered similar are organizational structure, mission, and recent association with innovative personnel programs.

Of the five other DLA sites, DDMT is one of two "stand-alone" depots. Like DDOU, the stand-alone depots are not co-located with other installations, and all overhead services, such as personnel, are provided by the organization and follow the same configuration. Other depots in the system are co-located and overhead services are located outside their organization (*e.g.*, Defense Depot Mechanicsburg, Pennsylvania, which is on a Navy installation and for which the Navy provides all overhead services). DLA has eliminated Defense Depot Tracy, California, the remaining stand-alone depot, from consideration as a comparison site because of the major changes expected to result from DoD's recently announced consolidation prototype for San Francisco Bay Area depot management. Under the consolidation prototype, Tracy will become the administrative center for five Bay Area distribution facilities.

DDOU and DDMT perform the same essential functions of receiving, storing, and issuing DLA and other DoD component-managed materials, (including hazardous materials not handled by other depots), with some variation in commodities handled (*e.g.*, only DDOU assembles Deployable Medical Systems).

Like DDOU, DDMT is experimenting with innovative personnel systems. Both DDOU and DDMT have been actively involved in DoD's Model Installations Program (MIP). DDMT has also been involved in the DoD Experimental Personnel Office (EXPO) program and is currently developing self-managing work teams, an attempt to achieve many of the same objectives sought by this demonstration project, but within the bounds of current law and regulation.

An assessment of the test and comparison organizations to be performed by the external evaluator during the implementation phase of this evaluation will serve to identify and control for differences between the experimental and comparison sites.

Because all six such DLA organizations provide routine reports of organizational performance to DLA Headquarters, the other four depots will also serve as partial comparison sites. This will provide a broader base of comparison to help determine whether trends in measures of overall Depot functioning are common to the non-experimental sites in the Depot system or are unique to DDOU.

Project Objectives

Assessment of the results of this demonstration project will ultimately rest upon its success or failure in meeting its stated objectives. Four main objectives have been set by DLA for this project. This section discusses each objective, its relationship to the project interventions, and the types of data that will be collected to assess whether or not the objective has been met.

Objective 1: Increase employee involvement in day-to-day decision processes. The introduction of PWE concepts, along with corresponding changes in organizational structure, are intended to increase employee participation in work-related decisions. As part of the project, team leaders will be taught to encourage participation, and team members will be expected to participate in interviews and recommendations for selection, peer appraisals, work methods analysis, equipment recommendations and day-to-day problem resolution. Revised classification will support a more participative structure, as all members of a team will be classified at the same level. Changes to the performance evaluation and incentive awards systems will also encourage individual employees to see a greater link between their actions and group and organizational performance.

Increased employee involvement is expected in turn to improve the quality of worklife, as perceived by employees. This should include increases in employee satisfaction levels and greater commitment to the organization.

In order to track progress toward this objective, an attitude survey will be administered prior to project implementation and annually thereafter to depot employees. In addition to perceptions regarding employees' involvement, the instrument will cover a wide range of issues such as job satisfaction, pay equity, organizational climate, commitment, authority relationships, and attitudes regarding personnel procedures and policies.

Changes in the quality of worklife will also be measured using non-survey techniques including exit interviews, examination of personnel records, and analysis of computerized personnel data. Such measures will include absence and turnover rates, reasons for leaving, grievance activities, and adverse actions.

Objective 2: Improve the flexibility of the work force to respond to workload changes. Under a team-based organizational structure, employees will learn and perform all of the job skills related to a product or service. Having employees with multiple skills in an environment where broadened classification expands the range of possible assignments will mean that work assignments within teams will be able to be varied quickly to meet workload fluctations. The Workforce Certification Program will provide managers with an ongoing inventory of available skills that will aid in planning large scale workload changes.

Perceived changes in organizational flexibility will be measured through the annual attitude survey and through interviews with team leaders and managers. Actual production data will be used to assess depot reponses to workload changes occurring during the project.

Objective 3: Improve product/service quality and timeliness. The introduction of PWE practices is expected to contribute to increases in quality and timeliness. The test site already has a number of quality initiatives in place. Project orientation and training will continue to stress the importance of quality and of employee involvement in team efforts to improve quality. As project employees and teams become more self-managing, they are expected to take more pride in the quality and timeliness of their work. Quality considerations will also be included in team performance appraisals and computation of productivity gainsharing bonuses.

The test site currently has many goal-oriented activity performance and quality measures. Analysis of these measures will focus on DLA and DoD directed indicators. This will ensure that comparable measures will be available at both test and comparison sites. These measures cover such depot supply functions as effectiveness of processing receipts, accuracy of stock selection for shipment, transportation functions, inventory accuracy, and customer complaints. Safety measures will also be analyzed.

Objective 4: Reduce the overall cost of Depot operations. While the introduction of a skill-based compensation system will result in higher operating costs during the initial phases of the project, the institutionalization of the SBP/PWE concepts is expected to ultimately result in increased efficiency and productivity with a corresponding decrease in resource requirements. Leaner staffing, achieved through natural attrition over several years, will enable the test site to accomplish the same workload at reduced cost. Although increased costs will occur at the beginning of the project, cost neutrality is anticipated by the end of the third year, and cost savings are expected at the beginning of the fourth year.

Currently, DLA Depots employ a unit cost method to depict operational costs which allows tracking of costs at the cost center level. Cost savings analysis will examine all aspects of operations including non-labor costs *e.g.*, the cost of supplies, equipment, service, and related support. Costs will not be analyzed independently, *i.e.*, changes in cost will be considered along with changes in efficiency (the number of actual hours required to accomplish the workload) and changes in wage rates.

Quality measures will also be included in the cost savings analysis. The inclusion of these measures will ensure that observed declines in cost which may be gained at the expense of quality and timeliness are not erroneously attributed to increase in productivity. Data will be collected from existing systems and will be analyzed quarterly, at a minimum.

Evaluation Approach

In order to evaluate the impact of the interventions as depicted in Figure 1, a multi-method measurement approach will be employed, using such techniques as interviews, questionnaries, and analysis of work and production measures. Table 11 presents each intervention along with its expected effects, the measures that will be used to assess those effects, and the data sources that will be used to provide the necessary information. During the baseline data collection period, the appropriateness of these measures as well as the need for additional measures will be determined. The collection, consolidation, and storage of data will involve the participation of DDOU, DDMT, DLA Headquarters, and NPRDC.

TABLE 11—PROJECT INTERVENTIONS, EXPECTED EFFECTS, AND MEASURES

Intervention	Expected effects	Measures	Data sources
Participatory Work Environment [Includes (1) replacement of supervisors with team leaders, (2) management and employee training in PWE concepts/skills, and (3) creation of participatory work teams].	Increased employee involvement	Opportunity for participation Impact of participation	Attitude survey. Interviews/observations. Attitude survey. Interviews/observations.
	Enhanced job-related attitudes	Job satisfaction Job enrichment Organizational commitment Turnover intent	Attitude survey. Attitude survey. Attitude survey. Attitude survey.
	Increased cooperation within and across work groups.	Group functioning Organizational integration	Attitude survey. Attitude survey.
	Improved timeliness and quality	Timeliness rates Quality measures Customer Satisfaction	Production data—Mechanization of Warehouse and Shipping Procedures (MOWASP). Quality assurance data (from Quality Directorate). Customer complaint system.
	Increased productivity	Earned hours/worked hours Unit cost	Production data—Labor and Performance Effective Report (LAPER). DLA Unit Cost Program.
Multi-skilled work teams	Increased workforce flexibility	Response to workload changes Perceived organizational flexibility	LAPER. Attitude survey. Interviews.
	No decline in safety	Safety measures	Personnel Office/Safety Office measures.
Workforce Certification Program (WCP) [Includes (1) training packages for each function, (2) demonstrated proficiency, and (3) periodic recertification].	Broadened skill levels	Skill base of workforce	WCP data
	Enhanced job-related attitudes	Job enrichment Satisfaction with job enhancement opportunities.	Attitude survey. Attitude survey.
Skill-Based Pay	Broadened skill levels	Skill base of workforce	WCP data.
	Enhanced job-related attitudes	Pay satisfaction Perceived pay equity	Attitude survey. Attitude survey.
Job series and grade consolidation	Simplified job classification process	Number of classification actions Number of promotions, reassignments, details. Number of personnel staff supporting classification function (by grade/pay band).	Personnel records. Personnel records. Personnel Office data. Interviews.
	Increased workforce flexibility	Response to workload changes Perceived organizational flexibility	LAPER. Attitude survey. Interviews.
Pay Banding	Increased pay satisfaction	Pay satisfaction Perceived pay equity	Attitude survey. Attitude survey.
Gainsharing	Increased pay satisfaction	Pay satisfaction Perceived pay equity	Attitude survey. Attitude survey.

TABLE 11—PROJECT INTERVENTIONS, EXPECTED EFFECTS, AND MEASURES—Continued

Intervention	Expected effects	Measures	Data sources
	Increased indentification with overall mission of organization.	Organizational commitment	Attitude survey.
	Increased link between organizational performance and reward.	Preceived link between organizational performance and reward. Actual link between organizational performance and reward.	Attitude survey. Success Share data. LAPER.
Incentive leave	Enhanced job-related attitudes	Job satisfaction Perceived fairness of reward system Perceived value of rewards	Attitude survey. Attitude survey. Attitude survey
Revised performance evaluation system.	Increased link between performance and recognition.	Perceived link between performance and recognition.	Attitude survey.
	Increased employee involvement	Opportunity for participation Impact of participation	Attitude survey. Interviews/observations. Attitude survey. Interviews/observations.
Alternative disciplinary procedures	Decreased productivity losses due to disciplinary actions.	Manhours lost to disciplinary actions Perceived productivity losses due to disciplinary actions.	Personnel Office Data. Attitude survey.
	Enhanced job-related attitudes	Perceptions of disciplinary system Perceived supervisor/employee relations.	Attitude survey. Attitude survey.
Streamlined organizational structure	Increased productivity	Earned hours/worked hours Unit cost	LAPER. DLA unit cost program.
	Increased workforce flexibility	Responses to workload changes Perceived organizational flexibility	LAPER. Attitude survey. Interviews.
	Improved timeliness	Timeliness rates	MOWASP.
	Reduction of staffing levels through attrition.	Staffing levels Overall payroll costs	Workforce data. Workforce data.
Combined Effects of Project Interventions.	Improved overall organizational performance.	Overall depot efficiency	DLA unit cost Program. LAPER.
		Quality measures	Quality Assurance data. Customer complaint system.
		Timeliness rates	MOWASP.
		Total Depot costs	DLA unit cost program.
	Improved overall organizational climate	Organizational Climate	Attitude survey.

C. Entry/Exit

Current Employees

A "full employee protection" approach will be used to enter the SBP plan without a loss of pay. Employees placed on teams will be converted from the current wage and general schedule grade and step into the CS compensation schedule at the same dollar salary they hold in the current compensation system. If current pay exceeds the top of the CS pay band, employees will be "grandfathered" into the new system. Other employees entering the new compensation schedule at their current salary will have their pay set at some point between two pay levels, or, in rare instances, it may fit exactly at one of the new pay levels. If pay falls between two pay levels, employees may advance at any time after entry on the team to the next higher pay level as soon as they are certified for all the skills required at that level. Although no minimum time gate will apply in this situation, the maximum time gate will apply. If pay is initially set at an exact pay level, the normal minimum and maximum time gates will apply for advancement to the next level, just as they apply for all subsequent advancement of employees between levels who achieve the next, or target level.

Employees who are placed on a team but choose not to participate in SBP will continue normal duties, will not be subject to rotation, and will not lose status or be subject to adverse actions because of this choice. An employee not participating in SBP will be transferred into the new compensation schedule at their exact current rate of pay. Future increases will be based on full comparability increases for the General Schedule. These employees will be required, however, to be certified in those job knowledges needed to accomplish their normal duties. A decision on whether to participate in SBP must be made within 90 days of the SBP implementation date.

As conditions of employment, employees participating in SBP will be required to be certified in all of the team skills within time limits and will be required to maintain proficiency through rotation.

Employees competing for positions at other activities during the course of the project may request a statement of comparison between the SBP pay levels to corresponding wage and general schedule positions and grades. These statements may then be submitted with applications. Eligibility for job positions outside DDOU will be determined by the outside activity from employee application information as is currently the case.

Grandfathering/Saved Pay

Employees assigned to teams whose current pay rate exceeds the maximum of a pay band at the time the SBP demonstration project is implemented will be covered by modified saved pay provisions for the duration of the project. They will receive the full annual comparability increase granted to General Schedule employees to insure no loss of pay as a result of the demonstration project. If the project is terminated, current saved pay provisions will apply whenever appropriate. These "grandfathered" employees will have the option of participating in the SBP aspects of the demonstration project or continuing to specialize in their current jobs. As an incentive to participate in SBP, grandfathered employees will be offered a one-time bonus of 10% of their annual base salary, to be paid at the time they complete their 100% certification. This single cash payment is contingent on successful certification of all team job functions within a 36-month period. A decision on whether to participate in SBP must be made within 90 days of the SBP implementation date.

Employees who elect to participate in SBP but fail to complete certification requirements within the maximum time gate (39 months) will lose all bonus entitlements and the appropriate performance based corrective action will be initiated. These employees will be given an opportunity period as required by 5 U.S.C. 4302(b)(6). All other current requirements for reduction in grade or removal based on unacceptable performance will be followed.

Team Members Not Electing to Participate in SBP Compensation

Employees who are assigned to multi-skilled work teams, but who do not elect to participate in SBP, will have their pay set at their current level, with full comparability increases for the General Schedule. Step increases will no longer be applicable.

Current Supervisors

Although the team leader will initially be appointed from the current supervisory work force, he/she will also be required to be certified in the job knowledges of the team within a 12-month period. The demonstrations of proficiency will be performed and witnessed by a subject matter expert and at least one team member certified in a particular skill. The sequence of administering the training and proficiency demonstrations are the same as for team members.

Team leaders whose current pay rate exceeds the 20% above level IV of their pay band will be covered by modified saved pay provisions. They will receive the full annual comparability increase for the duration of the project to insure no loss of pay as a result of the demonstration project.

New Hires

Newly hired personnel from outside the Federal service will be brought in at team entry level. Hires from other Federal agencies may be brought in at any dollar salary or team pay level within the appropriate pay band dependent upon their qualifications and the activity's staffing needs. During the initial phases of the project, however, most newly hired individuals will be employed at the entry level of the team, or at the trainee level for pay bands CS-4 and CS-5. Mastery and certification of the job knowledge on that team will be a condition of employment.

Table 12 briefly summarizes the pay setting conditions under the demonstration project.

TABLE 12. PAY SETTING SUMMARY

Team Leaders	20% above Level IV of assigned pay band.
Trainees	35% & 15% below Level 1 of assigned pay band.
New Hires (from outside Federal Service).	Level 1 of pay band.
New Hires (current Federal employees)	Pay rate individually based on existing dollar salary, highest previous rate, or team pay level dependent upon their qualifications and activity staffing needs.

Current Employees—Dependent upon current pay:
1—Exceed level IV—grandfathered.
2—May match pay Level I, II, III, or IV.
3—Between levels until certified to next higher pay level.

Termination of the Project

All positions will be reclassified in accordance with nondemonstration criteria to determine the traditional series, pay plan and grade level. Employee placement rights will then be considered as outlined below:

1. An employee's new grade level will not be lower than his/her grade at project entry.

2. If an employee is converted to a grade whose maximum rate falls below his or her current salary, the employee will retain his/her current pay under 5 U.S.C. 5363 and 5 CFR part 536, but receive the lower grade designation.

3. If an employee's salary falls between the two steps, salary will be set at the higher rate, except for employees placed in a PMRS position (who will continue to receive their current rate of pay). The placement authority will be 5 CFR 335.102.

4. Realignment placement, if necessary, will be based on RIF procedures.

Exit from the Project

An OPM-approved information sheet describing the demonstration project, the positions/series included in the team(s) to which the employee was assigned, and the formula for converting SBP pay bands/salaries into GS or FWS grades will be inserted on the right side of the Official Personnel Folder of each employee who exits from the SBP plan for any reason. Grade/pay determinations for former SBP employees will be the responsibility of their subsequent employers.

VII. Authority Requirements

Authorities for a number of plan elements are not included in present Civil Services laws and regulations. They are needed to implement the SBP/PWE plan, and include the following provisions:

1. The establishment of a CS (compensation schedule) wage system with multiple pay bands to compensate different levels of multi-skilled work teams, each with a broad range of work skills.

2. A classification system based on skill levels within teams which encompasses a broad range of skills and which are described by a team position description.

3. A formal skill acquisition certification program as a basis for promotions within pay bands.

4. A performance appraisal system that encompasses three summary rating levels, and that incorporates a peer review input process.

5. The use of excused absence as an individual incentive award for Exceptional performance not to exceed 32 hours per year per individual. (This is currently authorized for DLA under Pub. L. 100-463 § 8067.)

6. Expansion of the Performance Management and Recognition System to include all managers above team leader level.

7. A modification of competitive areas in reduction-in-force situations to coincide with functional areas and acquired skills.

VIII. Waivers of Law and Regulation

Provisions of civil service laws or regulations that must be waived to implement this demonstration project are included as Table 13. The project is in accordance with 5 U.S.C. 4703(c) and is consistent with all merit system principles. All waivers are made *only* to the extent that project provisions as outlined in this plan conflict with existing laws or regulations.

TABLE 13. PROVISIONS OF LAWS OR REGULATIONS THAT REQUIRE WAIVERS

Title 5, United States Code

Section 5101 (1)(B) and (2)
Classification (grouping of positions by classes and grade)

Section 5102
Classification, Definitions—e.g., classification, grade, etc.

Section 5104
Basis for grading positions [1]

Section 5105(c)
Standards for classification of positions [1]

Section 5106 (a) and (b)
Basis for classifying positions [1]

Section 5107
Classification of positions [1]

Section 5110
Review of classification of positions [1]

Section 5111
Revocation and restoration of authority to classify positions [1]

Section 5331 through 5336
General Schedule pay rates and step increases [1]

Section 5342(a)(2)
Definition of "prevailing rate employee" [1]

Section 5343
Prevailing rate determinations; wage schedules; night differentials [1]

Section 5346
Job grading system [1]

Section 5361
Grade and pay retention, Definitions [1]

Section 5362
Grade retention following a change of positions or reclassification [1]

Section 5402(a)
Performance management and recognition system, Coverage

Section 5544
Wage-board overtime and Sunday rates; computation

Section 7503
Suspension for 14 days or less; cause and procedure

Title 5, Code of Federal Regulation

Section 300.601
Time in grade restrictions, applicability [1]

Section 315.902
Probation on initial appointment to a supervisory position, Definition of "supervisory position," as applied to team leader positions

Section 351.402(b)
Reduction in force, Competitive area

Section 351.403(a)
Reduction in force, Competitive Level

Section 351.504
Retention standing, Credit for performance

Section 351.701
Retention standing, Bump and retreat rights

Section 430.204(h)
Performance appraisal systems for General Schedule and prevailing rate employees [1]

Part 511, Subpart B
Coverage of the general schedule [1]

Part 511, Subpart F
Classification Appeals [1]

Part 511, Subpart G
Effective dates of position classification actions or decisions [1]

Part 531
Pay under the General Schedule [1]

Part 532
Prevailing rate system [1]

Part 536, except section 536.104
Grade retention [1]

Section 540.102
Performance Management and Recognition System, Definitions

Section 752.203
Suspension for 14 days or less, Procedures

[1] Only as applied to employees assigned to teams.

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federal register

Wednesday
June 27, 1990

Part VI

Federal Election Commission

11 CFR Parts 100, 104, 114, and 116

Debts Owed by Candidates and Political Committees; Final Rule

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 104, 114, and 116

[Notice 1990—10]

Debts Owed by Candidates and Political Committees

AGENCY: Federal Election Commission.

ACTION: Final rule; Transmittal of Regulations to Congress.

SUMMARY: The Commission has deleted its regulations at 11 CFR 114.10 and has prepared new 11 CFR part 116 concerning the extension of credit and settlement of debts owed by candidates and political committees. These regulations implement sections 433, 434, 439a, 441a, 441b and 451 of the Federal Election Campaign Act of 1971, as amended ("the Act" or "FECA"), 2 U.S.C. 431 *et seq.* In addition, the Commission has made several corresponding amendments to 11 CFR 100.7(a), 104.3(d) and 104.11(b) to bring those provisions into conformity with new 11 CFR part 116. Finally, the Commission is preparing a new form to facilitate the submission of debt settlements, which will be transmitted to Congress at a later date. Further information on these revisions is provided in the supplementary information which follows.

EFFECTIVE DATE: Further action, including the announcement of an effective date, will be taken after these regulations have been before Congress for 30 legislative days pursuant to 2 U.S.C. 438(d). A document announcing the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463, (202) 376–5690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is publishing today the final text of new regulations at 11 CFR part 116, which concern debts owed by candidates and political committees. The new rules replace current § 114.10, which is being removed from 11 CFR. In addition, the Commission is publishing conforming amendments to §§ 100.7, 104.3 and 104.11 to reflect the new provisions in part 116 of the regulations.

On December 6, 1988 the Commission issued a Notice of Proposed Rulemaking (NPRM) is which is sought comments on proposed revisions to these regulations 53 FR 59193. Seven written comments were received in response to the Notice. A public hearing was held on February 15 and 16, 1989 at which four witnesses presented testimony on the issues raised in the rulemaking.

Section 438(d) of title 2, United States Code requires that any rules or regulations prescribed by the Commission to carry out the provisions of title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative days before they are finally promulgated. These regulations were transmitted to Congress on June 22, 1990.

Explanation and Justification

The Commission has extensively revised and reorganized its regulations regarding debts owed by candidates and political committees to ensure that the creation and settlement of such debts do not result in excessive or prohibited contributions to the debtor committees, and to promote the timely public disclosure of such transactions. During the course of this rulemaking, the Commission has re-examined several fundamental issues regarding debts owed by political committees, such as which types of committees should be permitted to seek debt settlement, whether debt settlements should be reviewed as agreements are reached or only after all creditors have ratified settlements, the scope of the Commission's review of debt settlements, and the relationship between the Commission's procedures and the procedures established by Congress in the Federal Bankruptcy Code.

The principal areas in which new 11 CFR part 116 differs from the previous language of 11 CFR 114.10 are as follows:

(1) Under the new rules, ongoing committees will no longer be permitted to settle debts (*see* 11 CFR 116.2).

(2) New procedures are included regarding situations in which either the political committee's creditors have gone out of business (*see* 11 CFR 116.9) or the political committee is essentially defunct (*see* 11 CFR 116.8).

(3) Special provisions have been added regarding authorized committees (including authorized committees of publicly-funded Presidential candidates) that wish to settle debts, terminate, or assign debts to other committees authorized by the same candidate (*see* 11 CFR 116.2(c)).

(4) New provisions have been added which address debts owed to unincorporated commercial vendors (*see* 11 CFR 116.3 and 116.4), committee employees (*see* 11 CFR 116.6), or other individuals who have advanced funds to or on behalf of a political committee (*see* 11 CFR 116.5).

(5) A more complete explanation of the procedures for submitting debt settlements for Commission review and a more detailed list of the information that must be provided have been added. (*see* 11 CFR 116.7).

(6) The treatment and reporting of disputed debts is clarified (*see* 11 CFR 116.10).

After considering the public comments and testimony regarding the Commission's role in bankruptcy proceedings under chapters 7 and 11 of the Federal Bankruptcy Code (11 U.S.C. Ch. 7 and 11), the Commission has decided to add a provision regarding the submission of debt settlement plans by terminating committees that have obtained releases from debts subject to chapter 7 bankruptcies. However, the new rules do not specifically address chapter 11 proceedings. Nevertheless, as explained more fully below, the promulgation of the new debt settlement rules may affect such proceedings.

The Commission has also decided to continue the current approach of permitting committees to file debt settlement requests as they reach agreements with creditors. Thus, the Commission is not adopting the previous proposals that would have required committees to present all their debt settlements at one time in a single unified plan for Commission review.

The Commission also notes that federal tax questions may arise concerning the proper treatment of bad debts owed to taxpayers by political parties or political committees. The reader should consult section 271 of the Internal Revenue Code regarding such matters. 26 U.S.C. 271.

Section 116.1 Definitions

New § 116.1 sets out definitions for the terms "terminating committee," "ongoing committee," "commercial vendor," "disputed debt," "extension of credit," and "creditor."

The previously proposed definition of "terminating committee" in paragraph (a) has been reworked to exclude committees that are continuing to make or accept contributions or expenditures for purposes other than winding down and paying outstanding bills. This is consistent with § 116.7(e)(6), which requires committees to demonstrate that they qualify as terminating committees. They should do so when they file their first debt settlement plan. The classification of a political committee as a terminating committee is of significance because only terminating committees are permitted to settle debts. While the new rules do not require terminating committees to terminate within any set amount of time after they have settled all their outstanding debts, the Commission anticipates that most committees will file a termination report shortly after the Commission has concluded its debt settlement reviews. Failure to do so may raise questions about the committee's *bona fide* intent to terminate.

A definition of "commercial vendor" has been included in § 116.1(c) to clarify that debts owed to commercial vendors may be settled under these rules only if the vendor's usual and normal business involves providing goods or services of the type provided to the candidate or political committee. The Commission has modified the definition that appeared in the NPRM by deleting the language indicating that the provision of such goods or services must be "for profit." Transactions involving nonprofit entities and transactions between political committees will be addressed on a case-by-case basis. *See, e.g.* Advisory Opinion ("AO") 1989-4.

The Commission has also added a definition of "extension of credit." *See* 11 CFR 116.1(e). This term includes unintended credit which results when payment is due upon delivery but the political committee simply does not pay, as well as situations where the committee's creditor either decides in advance to provide goods or services on credit, or decides on or after the due date to allow more time for payment.

Finally, a new definition of "creditor" has been added to ensure that the term is correctly read to include both commercial vendors and other entities or persons, including individuals, to whom a debt is owed. *See* 11 CFR 116.1(f).

Section 116.2 Debts Owed by Terminating Committees, Ongoing Committees and Authorized Committees

The previous debt settlement regulations at 11 CFR 114.10 did not expressly limit debt settlements to political committees that are in the process of winding down their activities and preparing to terminate, although the vast majority of those seeking debt settlement are in that posture. Thus, questions arose as to the appropriateness of permitting ongoing committees, including party committees, separate segregated funds and nonconnected committees, to settle their debts for less than the full amount owed, particularly since these committees may have the ability and intention to continue soliciting funds for political purposes. Consequently, the NPRM sought comments on proposed regulatory language limiting debt settlements to political committees in the process of termination, and prohibiting ongoing committees from settling their previous debts.

The Commission heard testimony from one commenter who favored continuing to allow ongoing committees to seek debt settlements. The commenter stated that fairness to creditors would be promoted if the creditors could accept a generous settlement immediately, rather than being forced to wait substantially longer with little assurance that complete payment would be forthcoming. The commenter also pointed out that ongoing committees may have little choice other than to continue to support candidates and carry on normal operations while they are negotiating timetables for payment of previous debts.

The Commission has now decided to adopt the proposed language prohibiting ongoing committees from settling debts for less than the full amount owed. As the comment indicates, these committees have the intention to continue to solicit funds and to engage in election-related activities. Consequently, the settlement of an ongoing committee's debts cannot be considered to be commercially reasonable given that the committee is continuing to receive funds that could be used to pay its past debts. Moreover, by freeing additional funds for future electoral activity, such a practice could result in indirect corporate subsidization of a political committee's speech, and amplification of such speech beyond the committee's ordinary capacity. *Cf. FEC* v. *Massachusetts Citizens for Life*, 479 U.S. 238, 257-58 (1986) (individual contributions to political committees "reflect popular support for the political positions of the committee," while "corporate spending on political activity raises the prospect that resources amassed in the economic marketplace may be used to provide unfair advantage in the political marketplace"). Permitting settlement of an ongoing committee's debts is also inconsistent with section 433(d)(2) of the Act. That section contemplates the orderly application of a political committee's assets to reduce its outstanding debts only in the situation where the committee is insolvent and preparing to terminate.

Please note that under the new rules, "ongoing committee" includes party committees, separate segregated funds and nonconnected committees while such committees continue to engage in political activities. However, if a party committee, separate segregated fund or nonconnected committee decides to end its election-related activities, it may settle debts once it has qualified as a terminating committee.

Although the Commission has concluded that it is inappropriate to permit ongoing committees to settle debts, the Commission is adopting provisions that give ongoing committees the necessary flexibility to resolve certain concerns. Thus, ongoing committees may continue to resolve *bona fide* disputes with creditors regarding debts under new § 116.10. Ongoing committees, as well as terminating committees, will also be able to resolve difficulties created when their creditors have gone out of business. *See* 11 CFR 116.9. The Commission has also encountered the opposite situation, where the creditor is unable to locate the committee, or the committee is essentially defunct. Under certain limited conditions, the creditor may seek Commission approval of a complete forgiveness of the remaining debt. *See* 11 CFR 116.8.

The NPRM observed that there have been debt settlement requests in which different creditors were offered and accepted very different terms and payments from the same political committee. Thus, the NPRM sought suggestions as to whether the Commission should encourage political committees to pay each creditor approximately the same percentage for each outstanding debt. It also presented the possibility of establishing mandatory or suggested priorities for the settlement of debts owed to different categories of creditors and possibly requiring committees to adhere to the priorities set out in Federal Bankruptcy Code. *See* 11 U.S.C. 507. The Commission noted that section 433(d)(2) of the FECA refers to the Commission's authority to establish procedures to determine the insolvency of political committees, to liquidate the assets of insolvent committees for the reduction of outstanding debts, and to terminate insolvent committees after liquidation.

The commenters and witnesses at the hearing strongly opposed the creation of such priorities and pointed out several difficulties that the Commission could expect to encounter if it sought to oversee the liquidation of insolvent committees. It was also suggested that the Commission lacks the practical experience needed to resolve issues traditionally handled by the bankruptcy courts.

The Commission has now decided not to establish mandatory or suggested priorities for payment of creditors and not to implement new insolvency rules or procedures. Instead, the Commission will use its limited resources to ensure that debt settlements presented to the Commission do not conceal transactions involving the making and acceptance of prohibited or excessive contributions.

The NPRM also sought comments on the related question of the Commission's role when an insolvent political committee files a petition under chapter 7 or chapter 11 of the Federal Bankruptcy Code. *See* 11 U.S.C. 301. In the past, the Commission has concluded that where candidates first sought release from dischargeable debts under chapter 7, the debts were settled for purposes of Commission review. *E.g.* Debt Settlement Request 87–11. The Commission received comments and testimony to the effect that the Commission should petition Congress to amend the Bankruptcy Code to permit the Commission to be notified, and if appropriate, to become a party in interest in bankruptcy cases involving political committees so that it could ensure compliance with the FECA. The comments preferred to let bankruptcy courts handle the liquidation or reorganization of a political committee's assets to the alternative of Commission supervision of insolvency proceedings for indebted committees. After further consideration, the Commission has decided that it should add language to the new rules to clarify how a release from dischargeable debts under chapter 7 affects the subsequent filing of a debt settlement plan by a terminating committee. *See* discussion below of new 11 CFR 116.7(g).

The reorganization of a political committee under chapter 11 presents many of the same concerns as are raised by the settlement of an ongoing committee's debts. As one federal bankruptcy court has acknowledged, such chapter 11 reorganizations implicate important policy considerations, such as the potential for the debtor committees to "deceiv[e] new donors by failing to inform them of the pending petition" for reorganization, as well as the "unfair advantage of chapter 11 political committees allowed to compromise debts while others may pay in full, and the potential for indirect corporate subsidization of a political committee's speech." *In Re: Fund for a Conservative Majority*, 100 Bankr. 307, 309 (Bankr. E.D. Va. 1989). The court concluded that some of the Commission's concerns in this area could be addressed by providing the Commission with an opportunity to review the reorganization plan submitted by the debtor committee. Unfortunately, the types of information needed to determine whether FECA violations have occurred may not be available in a committee's reorganization plan. While the new part 116 regulations prohibit ongoing committees from settling debts absent special circumstances, the new rules do not specifically address chapter 11 reorganizations involving political committees. Nevertheless, the Commission may seek to participate in bankruptcy cases presenting FECA questions and will continue to examine chapter 11 reorganizations of ongoing committees for evidence of FECA violations.

The NPRM also contained draft language that would have required terminating committees to submit all debt settlements as part of a single unified debt settlement package. This was intended to facilitate a more orderly review by the Commission of debt settlements and to enable the Commission to ascertain how the terminating committee plans to dispose of its remaining debts. This is a concern in situations where the committee had substantially more debts and obligations than cash on hand, and only limited fundraising prospects.

One commenter expressed the concern that the proposal for submission of all debt settlements in a single document would substantially delay creditors who reach settlements quickly from receiving any payments for lengthy periods of time while the political committee is negotiating agreements with all its other creditors.

In light of this concern, the Commission has revised §§ 116.2(a) and 116.7 so that the submission of all debt settlements in a single unified plan is not required. Thus, terminating committees may submit debt settlement plans in which agreements have been reached with some creditors but not others. However, the debtor committees will be required to include in their submissions summaries of their overall financial situation, including their plans for settling or resolving all remaining debts. This information is needed to enable the Commission to evaluate the commercial reasonableness of the debt settlements presented. In many cases, this approach will ensure that the details of a committee's earlier debt settlements will be placed on the public record more quickly than if the settlements were delayed until every creditor has signed an agreement to settle. Further information on submitting debt settlement plans and the scope of Commission review are explained below in 11 CFR 116.7.

New § 116.2(c)(1) prohibits authorized committees from settling debts if the candidate has another authorized committee with permissible funds available to pay part or all of the amount owed. This language also prohibits authorized committees from terminating if they have funds or assets to pay the outstanding debts of another authorized committee that cannot meet its own obligations.

The Commission received no public comments on proposed language in another section that expressly stated that the availability of funds to transfer from one authorized committee to another is a factor the Commission would consider in reviewing debt settlements. Such language has now been deleted since new § 116.2(c)(1) addresses this situation. Another comment expressed concern that new part 116 could well permit candidates to eliminate their previous campaign debts and then form new committees that would receive substantial extensions of credit from the same incorporated vendors, thereby allowing these candidates to put impermissible corporate contributions behind them. The language in new § 116.2(c) should alleviate such concerns. Moreover, the debt settlement review procedures set out in new § 116.7 will enable the Commission to question whether vendors have engaged in this type of activity with selected candidates, and to initiate enforcement actions in appropriate cases.

The new language in § 116.2(c)(1) regarding authorized committees parallels the provisions prohibiting ongoing committees from settling debts. The Commission notes that many candidates form a new principal campaign committee for each election cycle rather than simply rolling over their previous committee. Thus, a series of principal campaign committees is in many respects equivalent to an ongoing committee. The Commission has determined that the reasons for not permitting ongoing committees to settle debts should also prevent principal campaign committees from settling debts in situations where the candidate has another campaign committee capable of paying the amount owed.

For the same reasons, paragraph (c)(2) has been added to prohibit transfers of funds between a candidate's authorized committees for different elections if the transferor committee has net debts outstanding.

New paragraph (c)(3) has been added to assist authorized committees that would like to terminate but are unable to do so because they have outstanding debts which they are unable to pay. It permits indebted authorized committees to assign their debts to other authorized committees of the same candidate and then terminate. Such assignments may not be made until after the election has been held, to prevent the formation of a new committee solely for the purpose of avoiding payment of debts. However, if either committee is an authorized committee of a Presidential candidate receiving public funding, the assignment may not take place until after the audit, repayment and enforcement processes have ended. The original committee must notify the creditors of the debt assignment. The authorized committee receiving the assigned debts must accept the obligation to pay the amount owed and must assume the reporting responsibilities for the assigned debts. This committee should report financial activity related to such debts and contributions received for their payment on a separate FEC Schedule A and Schedule D, but should include these figures in the totals reported on the committee's summary page. The Commission notes that contributions designated to pay the previous debts would be subject to the contribution limits for the previous election, rather than the upcoming election, under the net debts outstanding rules set forth in 11 CFR 110.1(b)(3). Thus, a separate schedule will assist the committee and the Commission in tracking these separate limits.

The concept of assigning debts is based in part on proposed activity approved by the Commission in AOs 1980–43 and 1977–52. One witness indicated that this approach would serve a useful disclosure function. Another commenter expressed the concern that the ability of the creditors of the committee accepting the assigned debts to obtain payment could be jeopardized by the committee's increased indebtedness. In practice, the Commission has not encountered such difficulties in the time since this approach was originally approved in AOs 1977–52 and 1980–43.

Another issue on which the NPRM sought comments was whether publicly-funded committees of Presidential candidates should be permitted to settle debts, and if so, whether higher standards should be used to evaluate their debt settlements. The NPRM also questioned whether such settlements should be submitted for Commission review as soon as practical, or whether the campaign committees should be permitted to wait until the Commission's audit process has been completed.

The Commission heard testimony from one commenter who proposed an alternative approach under which the contribution limits would be removed for Presidential candidates who are defeated and do not run again for President in the succeeding election. This would enable such indebted Presidential committees to seek additional contributions from those who have already given the maximum amount permitted under the Act. However, another commenter opposed this suggestion and argued that it would encourage more liberal campaign spending rather than responsibility and accountability. The Commission is not adopting the proposal regarding waiving the contribution limitations because this would be contrary to the plain wording of the statute as well as some of the basic principles underlying the FECA and the public financing statutes.

The Commission has now concluded that debts owed by publicly-funded Presidential committees should not be treated differently than debts owed by authorized committees of nonpresidential candidates. Thus, new § 116.2(c) of the Commission's regulations allows publicly-funded Presidential committees to settle debts if no other committee authorized by the same candidate has permissible funds available to pay the amounts outstanding. The indebted Presidential campaign committee is subject to the same requirements and procedures as other political committees eligible to settle debts. Furthermore, the original amounts of their debts will continue to be counted against their spending limits under 11 CFR 9035.1(a)(2). Under current 11 CFR 9038.2(b)(1)(v), the settlement of debts also reduces the indebted Presidential campaign committee's remaining entitlement to matching funds on its statement of net outstanding campaign obligations, which could affect the committee's repayment obligations. The new provisions in § 116.2(c) will not change this.

The Commission notes that questions were raised in Advisory Opinion 1988–5 as to whether a current publicly-funded Presidential committee may contribute or transfer funds to another publicly-funded committee of the same candidate for a previous election cycle to pay debts from the earlier campaign. The opinion concluded that such transfers or contributions are not qualified campaign expenses under 11 CFR 9034.4 and are not includable in the candidate's statement of net outstanding campaign obligations under 11 CFR 9034.5. However, such payments could be made from excess campaign funds once the audit process is concluded and any repayment or possible penalty obligations have been satisfied. Nothing in new 11 CFR part 116 would alter this conclusion.

Section 116.3 Extensions of Credit by Commercial Vendors

This new section generally follows previous § 114.10 by setting forth the standards for the extension of credit by corporations in the ordinary course of their business as commercial vendors. As under the previous rules, the failure to meet these standards results in an impermissible corporate contribution. New § 116.3 also adds corresponding standards for unincorporated commercial vendors who extend credit to candidates or political committees. An unincorporated vendor's failure to comply with these standards results in the making of a contribution subject to the dollar limits set forth in 11 CFR 110.1.

Paragraph (c) of § 116.3 lists the factors the Commission will consider in determining whether credit was extended in the ordinary course of business. These factors are intended to provide guidance so that commercial vendors and political committees may avoid situations resulting in the making or acceptance of excessive or prohibited contributions. The factors need not be accorded equal weight and in some cases a single factor may not be dispositive. In determining whether the ordinary course of business standard has been met, the Commission will also consider compliance or noncompliance with regulations issued by other Federal agencies.

One comment suggested that, instead of relying on these factors, the Commission adopt a presumption that a commercial vendor's credit arrangements reflect sound business judgment and that the presumption may be overcome with compelling evidence of a noncommercial motivation. The Commission has decided not to adopt this approach because it would provide committees and their creditors with little, if any, guidance as to what types of evidence would be evaluated or would be considered compelling.

Another witness at the public hearing suggested that it would be preferable for the Commission to rely upon judicial interpretations of the Federal Bankruptcy Code and the Internal Revenue Code regarding the meaning of "ordinary course of business," as well as the meaning of "commercially reasonable," a term which is used in § 116.4. Although the Commission will take these judicial interpretations into account in an appropriate case, these terms must be interpreted in light of the special focus of the FECA.

Section 116.4 Forgiveness or Settlement of Debts Owed to Commercial Vendors

Section 116.4 addresses the forgiveness or settlement of a political committee's debts owed to both incorporated and unincorporated commercial vendors. Previously, § 114.10 covered debts owed to corporations, but did not address debts owed to unincorporated commercial vendors. The forgiveness or settlement of such debts will result in the making of a prohibited corporate contribution or possibly an excessive contribution by an unincorporated vendor unless the debt settlement is commercially reasonable or unless the amount is not treated as a contribution under 11 CFR 100.7(b). In determining whether a debt settlement is commercially reasonable, the Commission will evaluate both the political committee's efforts to satisfy the debt and the creditor's efforts to obtain payment. However, the rules do not require the creditor or the debtor to undertake particular activities that are not likely to result in the reduction of the debt. For example, the commercial vendor is not required to go beyond its usual efforts to collect debts of similar amount from non-political entities.

One commenter questioned the validity of comparisons to non-political debtors and suggested instead that the Commission should focus on whether the vendor's actions were motivated by commercial or political considerations. The Commission recognizes that there are significant differences between political committees and other entities seeking to do business on credit, but believes that the standard suggested by the commenter is too subjective. Thus, reliance upon the "ordinary course of business" and "commercially reasonable" standards found in both the new rules and the previous regulations provides clearer guidelines for determining whether a commercial vendor's actions comply with the FECA than would be provided if the commenter's suggestion were adopted.

The Commission has revised the language of the previously proposed rules to clarify the political committee's obligations to make reasonable efforts to pay the debt and to comply with the debt settlement procedures specified in 11 CFR 116.7 and 116.8, including Commission review. *See* 11 CFR 116.4(c). Paragraph (d)(2) of § 116.4 lists the types of actions that the debtor committee may undertake to satisfy the reasonable efforts requirement.

Although the proposed rules had stated that a debt settlement would be considered commercially reasonable if the initial extension of credit was made in accordance with regulations issued by other agencies pursuant to 2 U.S.C. 451, this language has now been deleted to avoid creating the appearance that noncompliance with rules regarding such matters as reporting requirements of other agencies would automatically be viewed as not commercially reasonable. Nonetheless, regulations issued under section 451 may be used by the Commission as guidance in determining whether the activity in question was commercially reasonable under the FECA.

New paragraph (e) indicates that the Commission's regulations are not intended to force a commercial vendor to forgive or settle a political debt if the vendor does not wish to do so. This is consistent with the previous Commission practice of examining debt settlement statements for indications that creditors have agreed to the terms of the settlements. *See* Federal Election Commission Directive No. 3, Agenda Document #82–110 (effective July 22, 1982). Please note that a sentence has been deleted from the previously published version of paragraph (e) which merely restated the idea that committees and their vendors could agree to debt settlement or debt forgiveness.

In 11 CFR 116.4, new paragraph (f) has been added to clarify that the reporting obligations continue until the debt is paid, or until Commission review of the settlement or forgiveness is completed. This language parallels the corresponding reporting provisions in §§ 116.5 and 116.6, and is consistent with the continuous reporting requirements set out at current 11 CFR 104.11.

Section 116.5 Advances by Committee Staff and Other Individuals

New § 116.5 has been prepared to clarify the Commission's treatment of payments by individuals, including campaign staff, from personal funds and personal credit cards to purchase various goods or services for political committees with the expectation of subsequent reimbursement. The Commission has encountered situations, for example, where individuals have used, or sought to use, personal funds to purchase airfare, rental cars, meals, lodging, postage, office supplies, messenger services and a variety of other election-related items on behalf of political committees. *See, e.g.,* MUR 1349 and AO 1984–37. Although many campaign workers may only be able to advance relatively small amounts, individuals with sizable resources may have the ability to circumvent the contribution limitations by paying committee expenses and not expecting reimbursement for substantial periods of time. The Commission is concerned that this could occur during critical periods in a campaign when a candidate's authorized committee may be experiencing financial difficulties.

Under current § 100.7(b)(8), payments for personal transportation expenses incurred by individuals while traveling on behalf of candidates or political party committees are not contributions if they do not exceed $1000 per candidate per election or $2000 per year for the political committees of a political party. Personal funds used by volunteers for usual and normal subsistence expenses incidental to volunteer activity are also not considered contributions under 11 CFR 100.7(b)(8). However, payments by individuals for travel expenses that do not fall within these two exemptions are contributions under FECA.

The Commission has now decided to add new § 116.5 to clarify that payments by individuals using personal funds or personal credit cards to obtain goods or services for or on behalf of a political committee are contributions to that committee unless they fall within one of the exemptions set forth in § 100.7(b), as outlined above. In addition, this new provision sets out a limited exception for an individual's personal tranportation expenses, and for usual and normal subsistence expenses of an individual who is not a volunteer, where such expenses are incurred while the individual is traveling on behalf of a candidate or party committee. These exemptions only apply, however, if the individual's transportation and subsistence expenses are reimbursed within sixty days for credit card transactions or thirty days in other cases. On the other hand, an in-kind contribution will result if an individual pays the transportation or subsistence expenses of others or pays other types of campaign expenses, such as the costs of meeting rooms or telephone services, regardless of how long reimbursement, if any, takes.

The purpose of this provision is to provide flexibility in situations where individuals may find it necessary to pay personal travel and subsistence expenses. The Commission recognizes that campaign committees may not want to provide credit cards to their field workers. This regulation is also consistent with the treatment of credit card transactions in the public financing regulations. *See* 11 CFR 9035.2(a)(2).

One commenter testified that campaign staff should be able to make advances of up to $500 for legitimate campaign expenses beyond the personal travel and subsistence expenses, provided the campaign reimburses the staff member within thirty or sixty days after receipt of a request for reimbursement. If such a request is not forthcoming, the campaign should seek it. The commenter argued that the expenses in question are usually for caterers, hotel rooms, and rental cars, not the staff's personal transportation or subsistence and, therefore, the commenter believed the proposed approach was simply too restrictive.

The Commission has decided not to adopt the commenter's suggested approach because it is inconsistent with the limited nature of the exemption from the definition of contribution in section 431(8)(B)(iv) of the FECA. Thus, under the final rules, advances made by individual staff members for expenses other than personal transportation or subsistence expenses are treated as in-kind contributions subject to the applicable contribution limits. Consequently, reimbursements for these nonexempt expenses are treated as refunds of the staff members' contributions.

Another commenter urged the Commission is extend this provision to committees other than campaign committees and party committees. The Commission believes that limiting this provision to candidates' committees and party committees parallels the transportation and subsistence exemption in section 431(8)(B)(iv) of the FECA. The Commission notes, however, that individuals may advance funds to separate segregated funds, and other unauthorized committees to the extent permitted by the contribution limits of the Act. *See* AO 1984–37 n. 2.

Paragraphs (b) and (d) of the new rule indicate that an unreimbursed payment must be treated as a debt and reported as such until the debt has been paid or settled or forgiven and the Commission's review of the debt settlement or forgiveness has been completed. The Commission wishes to emphasize that this rule does not require individual creditors to settle or forgive debts if they do not wish to do so.

A new "scope" paragraph has also been added to the final version of this regulation to clarify that individuals who are acting as commercial vendors are covered by the commercial vendor provisions of §§ 116.3 and 116.4. Thus, they are not covered by § 116.5, which is intended to apply to individuals extending credit or using credit cards in their personal capacities. The subsequent paragraphs of § 116.5 have been renumbered accordingly.

Finally, the Commission notes that individuals may also lend funds directly to political committees. Under both the old and new regulations, such loans are contributions until repaid, and if not repaid, such loans are contributions to the extent forgiven by the lender. 11 CFR 100.7(a)(1)(i)(B). Under new part 116 of the regulations, such personal loans must also be treated as outstanding debts, and if settled, the settlements are subject to Commission review under 11 CFR 116.7. Please note that the Commission's treatment of bank loans is discussed below in the Explanation and Justification for § 116.7.

Section 116.6 Salary Payments Owed to Employees

New § 116.6 addresses several situations which have arisen concerning unpaid salaries owed to committee staff. For example, a political committee and its campaign workers may agree that salary will be paid only as funds are available. In other cases, the committee may wish to treat the individuals as volunteers retroactively. Under section 431(8) of the Act and 11 CFR 100.7(b)(3), the value of services provided by a volunteer is not a contribution.

The language of new § 116.6 permits committees to treat the unpaid amount either as a debt owed to the employee or as volunteer services under 11 CFR 100.7(b)(3), provided the employee agrees in writing to be considered a volunteer. This decision may be made at any time, thereby allowing committees and their staffs to set up arrangements in which the staff members are paid up until the point at which the compaign is low on funding. If, on the other hand, the committee and the employee agree that the unpaid salary is to be treated as a debt, the amount owed is reportable as a debt under 11 CFR 104.3 and 104.11 and must be addressed in a debt settlement plan filed under 11 CFR 116.7. The new rules do not treat unpaid salary obligations as contributions, although the NPRM sought comments on situations in which it might be advisable to do so.

The Commission received one comment on § 116.6. The commenter stated that the Commission should avoid becoming involved in contractual disputes between committees and their employees, and supported the language in paragraph (a) which states that unpaid salaries shall not be treated as contributions. The commenter also questioned whether paragraph (b) would permit the settlement of such debts owed to employees, but would prohibit the complete forgiveness of these obligations. The new rules do permit such employees to forgive in full these unpaid amounts. Commission review of such forgiveness is not needed because the amounts would not be potential contributions, and a complete forgiveness would not adversely affect the committee's funds available to pay other creditors. The Commission notes that although an employee of a committee may become a volunteer, an individual who is an independent contractor, such as a consultant, may not convert to volunteer status. Such person is selling his or her services as a commercial vendor, and is therefore subject to the requirements of §§ 116.3 and 116.4. Consequently, an individual who is an independent contractor may agree to the settlement of a debt arising from the committee's failure to pay his or her fee, provided that such settlement is commercially reasonable and the settlement otherwise satisfies the Commission's debt settlement standards.

Section 116.7 Debt Settlement Plans Filed by Terminating Committees; Commission Review

New § 116.7 contains guidelines concerning the submission of debt settlement plans by terminating committees and explains the Commission's review procedures. For the reasons stated above, these rules differ from previous § 114.10 in that ongoing committees may no longer settle debts or file debt settlement requests. Another change is that the new regulations no longer provide for the filing of debt settlements by creditors. However, creditors wishing to write off bad debts should refer to new § 116.8, below.

New § 116.7 continues to permit terminating committees to file debt settlements once they have reached agreements with some of their creditors. Thus, the Commission has decided not to adopt the proposal published in the NPRM that would have required committees to postpone the filing of a debt settlement plan until they have reached agreements with every creditor. That approach would have enabled a single creditor to refuse to settle, thereby adversely affecting the ability of other creditors to be paid. However, the new rules encourage terminating committees to include as many proposed settlement agreements as possible in a debt settlement plan. In an appropriate case, the Commission may require the submission of additional debt settlement agreements before reviewing a terminating committee's debt settlement plan. This may be necessary to permit the Commission to conduct a realistic evaluation of the debt settlement plan.

The new rules do not establish a deadline for submitting a debt settlement for review once an agreement with a creditor has been reached. However, under new § 116.7(a), the terminating committee must postpone payment of the amount agreed to in the settlement with the creditor until the settlement has been submitted as part of a debt settlement plan and the Commission has completed its review of that plan. Please note that terminating committees are not required to settle all their debts or terminate within any prescribed amount of time. One commenter found the lack of a timetable to be troubling. Unfortunately, the establishment of an overall time limit is not feasible because different committees and different creditors may need different amounts of time to reach settlements.

The language of § 116.7(a) has been reworded from the proposals published in the NPRM to clarify that all debts and obligations must be paid, settled, forgiven, extinguished, or otherwise discharged, or become unpayable, prior to the political committee's termination.

Paragraphs (b) and (c) of § 116.7 indicate which types of debts may be settled subject to Commission review, which types may be settled but are not subject to review, and which debts may not be settled. New paragraph (b) has been added to explain that debts owed to commercial vendors, committee staff, employees, and debts arising from loans made by political committees and individuals, including candidates, may be settled and that the Commission will review such settlements. Under paragraph (c), publicly-funded Presidential candidates may not settle repayment obligations arising under 26 U.S.C. chapters 95 and 96. In addition, disputed debts are specifically excluded from the Commission's debt settlement process. This is based on current Commission policy and FEC Directive Number 3. Other debts or obligations owed to the United States government are not specifically mentioned in paragraph (b) or (c) because they may be governed by other applicable laws. Obligations to pay civil penalties are also omitted from these two paragraphs.

At the time the Commission issued the NPRM, it indicated that the revised debt settlement rules would not apply to bank loans, since the Commission does not generally consider bank loans in the debt settlement process, and does not intend to change its approach. Further guidance on this may be provided in a separate rulemaking regarding the bank loan rules at 11 CFR 100.7(b)(11) and 100.8(b)(12). *See* NPRM, 54 FR 31286 (July 27, 1989).

The reporting provisions of this section have been removed from draft paragraph (a) and placed in a separate paragraph (d) for the convenience of the reader.

Paragraph (e) sets forth a list of the information to be provided when the terminating committee submits a debt settlement plan for Commission review. From now on, the indebted committee will be required to include a signed statement from each creditor included in the plan evidencing agreement to the terms of the settlement of the debt owed to that creditor.

The wording of paragraph (e)(4) has been amended from the language presented in the NPRM to indicate that if the debt settlement plan does not provide for the settlement of all debts, the terminating committee must state how it intends to resolve all remaining debts and obligations, regardless of whether such debts may be settled. The purposes of this provision are to aid the Commission's evaluation of the debt settlements presented thus far in light of the terminating committee's overall financial picture, and to indicate how the terminating committee intends to complete its financial activities.

New paragraph (f) of § 116.7 sets out the factors the Commisson may consider in reviewing debt settlement plans. Most of these factors have been drawn from FEC Directive Number 3. They are now listed in the new rule to enable political committees and their creditors to better understand how the Commission evaluates debt settlement requests.

The Commission received one comment expressing concern that the Commission's review would be based on intuitive judgments rather than fixed standards. The Commission believes that it is impractical to establish fixed standards, given the potential for varying circumstances in debt settlement requests. However, the inclusion of these factors will offer sufficient guidance regarding the Commission's process. The commenter also stated that settlement agreements should become effective when made, and should not be delayed until completion of the Commission's review process. This concern may be alleviated, to some extent, by the Commission's decision to return to the current procedure of reviewing debt settlements as they are presented to the Commission, rather than waiting until all settlements have been reached.

New paragraph (g) has been added to this section to clarify the Commission's treatment of debts and obligations that are released through Bankruptcy Court decrees pursuant to 11 U.S.C. chapter 7. The terminating committee should attach a copy of the court order to its debt settlement plan, along with a list specifying which debts are covered by the order. For each debt covered, the terminating committee need not provide the signed affidavit from the creditor or the information regarding the initial extension of credit, subsequent efforts to collect, settlement terms, or the committee's ability to pay. However, the terminating committee is required to demonstrate that it qualifies as a terminating committee, and it must list in the debt settlement plan all debts not released, as well as the disposition of any residual funds or assets. Although a political committee may not be eligible for a chapter 7 discharge, the Commission will treat the debts as settled for FECA purposes if the candidate received a discharge under chapter 7 that applies to those debts.

116.8 Creditor Forgiveness of Debts Owed by Ongoing Committees; Commission Review

Section 116.8 establishes conditions under which creditors may forgive the outstanding balances of debts owed by committees not intending to terminate. For the reasons stated above, part 116 does not permit ongoing committees to settle debts with creditors if those committees have the ability and the intention to continue fundraising for election-related purposes. Consequently, new § 116.8 only allows creditors to forgive ongoing committees' debts if the creditors cannot locate the ongoing committees or if the ongoing committees meet certain conditions demonstrating that they are essentially defunct and clearly unable to pay their bills. An additional requirement has been added to those set out in the proposed rule: that the ongoing committee's disbursements not exceed $1000 during the previous twenty-four month period. Without this restriction, ongoing committees would be able to pay part of their debts and settle the rest simply by having the creditor declare that it has "forgiven" the outstanding balance. This section also establishes review procedures so that the Commission may ascertain whether the creditor's actions are commercially reasonable or whether the foregiveness would result in an apparent violation of the Act or the regulations.

Section 116.9 Creditors That Cannot be Found or That Are Out of Business

During the course of this rulemaking, the Commission determined that it is advisable to address the situation where either an ongoing or a terminating committee cannot locate a creditor or the creditor has gone out of business. Consequently, new § 116.9 has now been added to permit committees in such circumstances to request that the debt be determined to be "unpayable" for purposes of the Act. Such a determination does not mean that the debt has been extinguished or is no longer owed. The political committee must demonstrate that it made the necessary efforts to reach the creditor. Once the Commission determines that a debt is "unpayable," the political committee may so indicate on its next due report, and then omit the debt from subsequent reports until there is a change in the status of the debt. Political committees with "unpayable" debts may terminate under 11 CFR 102.3.

Section 116.10 Disputed Debts

New § 116.10 has been added to the regulations to clarify the reporting of disputed debts, and to indicate what information concerning disputed debts should be included in a terminating committee's debt settlement plan.

The Commission has now revised the proposals presented in the NPRM in two respects. First, the final rule does not require the committee to report the fair market value of what was provided, since that may be in dispute. Secondly, paragraph (b) has been rewritten to more clearly state what information must be disclosed in the debt settlement plan regarding the disputed debt. The Commission received one comment on this new provision, which supported the draft rule.

Conforming Amendments

The Commission has determined that conforming amendments to §§ 100.7, 104.3, and 104.11 of the regulations are needed to clarify those provisions, and to make them consistent with the language of new part 116. One public comment was received, which supported the proposed changes to § 104.11.

The Notice of Proposed Rulemaking also suggested revising the definition of excess campaign funds in § 113.1(e) to prevent campaign committees from declaring excess campaign funds until after the campaign has ended and the committee has determined that it is not in a net debt situation. This proposal was intended to ensure that campaign funds would be used to pay for goods and services provided to the campaign rather than for a variety of political or nonpolitical purposes unrelated to the campaign. One comment opposed this revision in the absence of evidence that it is a common problem. The Commission has now concluded that the proposed language is not needed because the new requirements set out in § 116.2(c) adequately address these concerns.

Section 100.7 Contribution (2 U.S.C. 431(8))

The language of 11 CFR 100.7(a)(4) has been revised to clarify when the extension of credit, or the failure to attempt to collect the amount owed, or the settlement of a debt will result in a contribution by the creditor. The revised language more closely parallels the requirements set out in new 11 CFR part 116. In addition, new cross-references to 11 CFR 116.3 and 116.4 have been included to replace the current cross-references to 11 CFR 114.10.

Section 104.3 Contents of Reports (2 U.S.C. 434(b))

There are no substantive changes in this section. However, in paragraph (d), the cross-reference to previous § 114.10 has been revised to refer to new § 116.7.

Section 104.11 Continuous Reporting of Debts and Obligations

The Notice of Proposed Rulemaking sought comments on possible conforming amendments to 11 CFR 104.11(b), which concerns continuous reporting of debts and obligations. The Commission has now decided to make several changes to this regulation. First, the new language clarifies that debts exceeding $500 should be reported as of the date the debts are incurred. The current language says "as of the time of the transaction." Second, as the NPRM indicated, for amounts exceeding $500, disclosure is currently required for "any loan, debt or obligation," whereas for smaller amounts committees must disclose any "debt, obligation or other promise to make an expenditure." The revised language makes these two provisions consistent, since in practice the Commission has not drawn distinctions between these two categories. The revisions also clarify that periodic administrative costs incurred for rent and staff salaries need not be reported as debts if payment is not due before the end of the reporting period. However, if payment is not made on the due date, the amount outstanding must be reported as a debt. Finally, new language is also included which follows the current policy that if the exact amount of a debt is not known, the committee should report an estimated amount on schedule D, and then either amend the report or include the correct figure in a subsequent report when the exact amount has been determined. *See* AO 1980–38.

List of Subjects

11 CFR Part 100

Elections, Political committees and parties.

11 CFR Part 104

Political candidates, Political committees and parties, Reporting requirements.

11 CFR Part 114

Business and industry, Elections, Labor.

11 CFR Part 116

Administrative practice and procedure, Business and industry, Credit, Elections, Political candidates, Political committees and parties.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The attached final rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that any small entities affected are already required to comply with the requirements of the Act in these areas.

For the reasons set out in the preamble, subchapter A, chapter I, title 11 of the Code of Federal Regulations is amended as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for part 100 continues to read as follows:

Authority: 2 U.S.C. 431, 438(a)(8).

2. 11 CFR part 100 is amended by revising § 100.7(a)(4) to read as follows:

§ 100.7 Contribution (2 U.S.C. 431(8)).

(a) * * *

(4) The extension of credit by any person is a contribution unless the credit is extended in the ordinary course of the person's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation. If a creditor fails to make a commercially reasonable attempt to collect the debt, a contribution will result. (*See* 11 CFR 116.3 and 116.4.) If a debt owed by a political committee is forgiven or settled for less than the amount owed, a contribution results unless such debt is settled in accordance with the standards set forth at 11 CFR 116.3 and 116.4.

* * * * *

PART 104—REPORTS BY POLITICAL COMMITTEES (2 U.S.C. 434)

3. The authority citation for part 104 continues to read as follows:

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(i), 434, 438(a)(8), and 438(b).

4. 11 CFR part 104 is amended by revising § 104.3(d) to read as follows:

§ 104.3 Contents of reports (2 U.S.C. 434(b)).

* * * * *

(d) *Reporting debts and obligations.* Each report filed under 11 CFR 104.1 shall, on schedule C or D, as appropriate, disclose the amount and nature of outstanding debts and obligations owed by or to the reporting committee. Loans obtained by an individual prior to becoming a candidate for use in connection with that individual's campaign shall be reported as an outstanding loan owed to the lender by the candidate's principal campaign committee, if such loans are outstanding at the time the individual becomes a candidate. Where such debts and obligations are settled for less than their reported amount or value, each report filed under 11 CFR 104.1 shall contain a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the amount paid. *See* 11 CFR 116.7.

* * * * *

5. 11 CFR part 104 is amended by revising § 104.11(b) to read as follows:

§ 104.11 Continuous reporting of debts and obligations.

* * * * *

(b) A debt or obligation, including a loan, written contract, written promise or written agreement to make an expenditure, the amount of which is $500 or less, shall be reported as of the time payment is made or not later than 60 days after such obligation is incurred, whichever comes first. A debt or obligation, including a loan, written contract, written promise or written agreement to make an expenditure, the amount of which is over $500 shall be reported as of the date on which the debt or obligation is incurred, except that any obligation incurred for rent, salary or other regularly reoccurring administrative expense shall not be reported as a debt before the payment due date. *See* 11 CFR 116.6. If the exact amount of a debt or obligation is not known, the report shall state that the amount reported is an estimate. Once the exact amount is determined, the political committee shall either amend the report(s) containing the estimate or indicate the correct amount on the report for the reporting period in which such amount is determined.

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

6. The authority citation for part 114 continues to read as follows:

Authority: 2 U.S.C. 431(8)(B), 431(9)(B), 432, 437d(a)(8), 438(a)(8), and 441b.

§ 114.10 [Removed and reserved]

7. 11 CFR part 114 is amended by removing and reserving § 114.10.

8. 11 CFR part 116 is added to read as follows:

PART 116—DEBTS OWED BY CANDIDATES AND POLITICAL COMMITTEES

Authority: 2 U.S.C. 433(d), 434(b)(8), 438(a)(8), 441a, 441b, and 451.

§ 116.1 Definitions.

(a) *Terminating committee.* For purposes of this part, "terminating committee" means any political committee that is winding down its political activities in preparation for filing a termination report, and that would be able to terminate under 11 CFR 102.3 except that it has outstanding debts or obligations. A political committee will be considered to be winding down its political activities if it has ceased to make or accept contributions and expenditures, other than contributions accepted for debt retirement purposes and expenditures representing payments of debts or obligations previously incurred or payments for the costs associated with the termination of political activity, such as the costs of complying with the post election requirements of the Act, if applicable, and other necessary administrative costs associated with winding down a campaign or winding down committee activities, including office space rental, staff salaries and office supplies.

(b) *Ongoing committee.* For purposes of this part, "ongoing committee" means any political committee that has not terminated and does not qualify as a terminating committee.

(c) *Commercial vendor.* For purposes of this part, "commercial vendor" means any persons providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of these goods or services.

(d) *Disputed debt.* For purposes of this part, "disputed debt" means an actual or potential debt or obligation owed by a political committee, including an obligation arising from a written contract, promise or agreement to make an expenditure, where there is a bona fide disagreement between the creditor and the political committee as to the existence or amount of the obligation owed by the political committee.

(e) *Extension of credit.* For purposes of this part, "extension of credit" includes but is not limited to:

(1) Any agreement between the creditor and political committee that full payment is not due until after the creditor provides goods or services to the political committee;

(2) Any agreement between the creditor and the political committee that the political committee will have additional time to pay the creditor beyond the previously agreed to due date; and

(3) The failure of the political committee to make full payment to the creditor by a previously agreed to due date.

(f) *Creditor.* For purposes of this part, "creditor" means any person or entity to whom a debt is owed.

§ 116.2 Debts owed by terminating committees, ongoing committees, and authorized committees.

(a) *Terminating committees.* A terminating committee may settle outstanding debts provided that the terminating committee files a debt settlement plan and the requirements of 11 CFR 116.7 are satisfied. The Commission will review each debt settlement plan filed to determine whether or not the terminating committee appears to have complied with the requirements set forth in this part, and whether or not the proposed debt settlement plan would result in an apparent violation of the Act or the Commission's regulations.

(b) *Ongoing committees.* Ongoing committees shall not settle any outstanding debts for less than the entire amount owed, but may request a Commission determination that such debts are not payable under 11 CFR 116.9, and may resolve disputed debts under 11 CFR 116.10. Creditors may forgive debts owed by ongoing committees under the limited circumstances provided in 11 CFR 116.8.

(c) *Authorized committees.*

(1) An authorized committee shall not settle any outstanding debts for less than the entire amount owed if any other authorized committee of the same candidate has permissible funds available to pay part or all of the amount outstanding. Except as provided in paragraph (c)(3), of this section, an authorized committee shall not terminate under 11 CFR 102.3 if—

(i) It has any outstanding debts or obligations; or

(ii) It has any funds or assets available to pay part or all of the outstanding debts or obligations owed by another authorized committee of the same candidate and that other authorized committee is unable to pay such debts or obligations.

(2) No transfers of funds may be made from a candidate's authorized committee to another authorized committee of the same candidate if the transferor committee has net debts outstanding at the time of the transfer under the formula described in 11 CFR 110.1(b)(3)(ii).

(3) An authorized committee that qualifies as a terminating committee may assign debts to another authorized committee of the same candidate to the extent permitted under applicable state law provided that the authorized committee assigning the debts has no cash on hand or assets available to pay any part of the outstanding debts, and provided that the authorized committee assigning the debts was not organized to further the candidate's campaign in an election not yet held. If a Presidential candidate elects to receive federal funds pursuant to 11 CFR part 9001 *et seq.* or 11 CFR part 9031 *et seq.*, the authorized committee(s) of the Presidential candidate shall not assign debts or receive assigned debts until after the authorized committee(s) or the Presidential candidate has made all required repayments pursuant to 11 CFR parts 9007 and 9038 and has paid all civil penalties pursuant to 2 U.S.C. 437g. An authorized committee that has assigned all its outstanding debts may terminate if—

(i) The authorized committee that has assigned the debts otherwise qualifies for termination under 11 CFR 102.3; and

(ii) The authorized committee that received the assigned debts notifies the Commission in writing that it has assumed the obligation to pay the entire amount owed and that it has assumed the obligation to report the debts, and any contributions received for retirement of the assigned debts, in accordance with 11 CFR part 104. The assigned debts shall be disclosed on a separate schedule of debts and obligations attached to the authorized committee's reports. Contributions received for retirement of the assigned debts shall be disclosed on a separate schedule of receipts attached to the authorized committee's reports. *See* 11 CFR 110.1 (b)(3) and (b)(4) and 110.2 (b)(3) and (b)(4). The authorized committee that has assigned the debts shall notify each creditor in writing of the assignment no later than thirty days before the assignment takes effect and shall include the name and address of the authorized committee that will receive the assigned debts.

§ 116.3 Extensions of credit by commercial vendors.

(a) *Unincorporated vendor.* A commercial vendor that is not a corporation may extend credit to a candidate, a political committee or another person on behalf of a candidate or political committee. An extension of credit will not be considered a contribution to the candidate or political committee provided that the credit is extended in the ordinary course of the commercial vendor's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation.

(b) *Incorporated vendor.* A corporation in its capacity as a commercial vendor may extend credit to a candidate, a political committee or another person on behalf of a candidate or political committee provided that the credit is extended in the ordinary course of the corporation's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation.

(c) *Ordinary course of business.* In determining whether credit was extended in the ordinary course of business, the Commission will consider—

(1) Whether the commercial vendor followed its established procedures and its past practice in approving the extension of credit;

(2) Whether the commercial vendor received prompt payment in full if it previously extended credit to the same candidate or political committee; and

(3) Whether the extension of credit conformed to the usual and normal practice in the commercial vendor's trade or industry.

(d) *Extension of credit by regulated industries.* The Commission may rely on the regulations prescribed by the Federal Communications Commission, the Interstate Commerce Commission, and the Department of Transportation on behalf of the Civil Aeronautics Board, issued pursuant to 2 U.S.C. 451 and any other regulations prescribed by other Federal agencies to determine whether extensions of credit by the entities regulated by those Federal agencies were made in the ordinary course of business.

§ 116.4 Forgiveness or settlement of debts owed to commercial vendors.

(a) *Unincorporated vendor.* A commercial vendor that is not a corporation may forgive or settle a debt incurred by a candidate, a political committee or another person on behalf of a candidate or political committee for less than the entire amount owed on the debt. The amount forgiven will not be considered a contribution by the commercial vendor to the candidate or political committee if—

(1) The amount forgiven is exempted from the definition of contribution in 11 CFR 100.7(b); or

(2) The commercial vendor has treated the debt in a commercially reasonable manner and the requirements of 11 CFR 116.7 or 116.8, as appropriate, are satisfied.

(b) *Incorporated vendor.* A corporation may not forgive or settle a debt incurred by a candidate, a political committee or another person on behalf of a candidate or political committee for less than the entire amount owed on the debt unless—

(1) The amount forgiven is exempted from the definition of contribution in 11 CFR 100.7(b); or

(2) The corporation has treated the debt in a commercially reasonable manner and the requirements of 11 CFR 116.7 or 116.8, as appropriate, are satisfied.

(c) *Reasonable efforts by a political committee.* A debt or obligation owed by a candidate or a political committee may be totally forgiven (*see* 11 CFR 116.8), or settled (*see* 11 CFR 116.7), provided that—

(1) The amount forgiven is exempted from the definition of contribution in 11 CFR 100.7(b); or

(2) The candidate and the political committee have undertaken all reasonable efforts to satisfy the outstanding debt and the requirements of 11 CFR 116.7 or 116.8, as appropriate, including the submission of the information specified in those sections and Commission review, are satisfied.

(d) *Commercially reasonable.* The Commission will determine that a debt settlement between a political committee and a commercial vendor is commercially reasonable if—

(1) The initial extension of credit was made in accordance with 11 CFR 116.3;

(2) The candidate or political committee has undertaken all reasonable efforts to satisfy the outstanding debt. Such efforts may include, but are not limited to, the following—

(i) Engaging in fundraising efforts;

(ii) Reducing overhead and administrative costs; and

(iii) Liquidating assets; and

(3) The commercial vendor has pursued its remedies as vigorously as it would pursue its remedies against a nonpolitical debtor in similar circumstances. Such remedies may include, but are not limited to, the following—

(i) Oral and written requests for payment;

(ii) Withholding delivery of additional goods or services until overdue debts are satisfied;

(iii) Imposition of additional charges or penalties for late payment;

(iv) Referral of overdue debts to a commercial debt collection service; and

(v) Litigation.

(e) *Settlement or forgiveness not required.* The provisions of this part shall not be construed to require a commercial vendor to forgive or settle the debt for less than the entire amount owed.

(f) *Reporting.* The political committee shall continue to report the debt in accordance with 11 CFR 104.3(d) and 104.11 until the Commission has completed a review of the debt settlement plan pursuant to 11 CFR 116.7(f) or until the Commission has completed a review of the request to forgive the debt pursuant to 11 CFR 116.8, or until the political committee pays the debt, whichever occurs first.

§ 116.5 Advances by committee staff and other individuals.

(a) *Scope.* This section applies to individuals who are not acting as commercial vendors. Individuals who are acting as commercial vendors shall follow the requirements of 11 CFR 116.3 and 116.4.

(b) *Treatment as contributions.* The payment by an individual from his or her personal funds, including a personal credit card, for the costs incurred in providing goods or services to, or obtaining goods or services that are used by or on behalf of, a candidate or a political committee is a contribution unless the payment is exempted from the definition of contribution under 11 CFR 100.7(b)(8). If the payment is not exempted under 11 CFR 100.7(b)(8), it shall be considered a contribution by the individual unless—

(1) The payment is for the individual's transportation expenses incurred while traveling on behalf of a candidate or political committee of a political party or for usual and normal subsistence expenses incurred by an individual, other than a volunteer, while traveling on behalf of a candidate or political committee of a political party; and

(2) The individual is reimbursed within sixty days after the closing date of the billing statement on which the charges first appear if the payment was made using a personal credit card, or within thirty days after the date on which the expenses were incurred if a personal credit card was not used. For purposes of this section, the "closing date" shall be the date indicated on the billing statement which serves as the cutoff date for determining which charges are included on that billing statement.

(c) *Treatment as debts.* A political committee shall treat the obligation arising from a payment described in paragraph (b) of this section as an outstanding debt until reimbursed.

(d) *Settlement or forgiveness of the debt.* The individual and the political committee may agree to the total forgiveness of the debt (*See* 11 CFR 116.8) or a settlement of the debt for less than the entire amount owed (*See* 11 CFR 116.7), provided that the requirements of 11 CFR 116.7 or 116.8, as appropriate, including the submission of the information specified in these sections and Commission review, are satisfied. The provisions of this part shall not be construed to require the individual to forgive or settle the debt for less than the entire amount owed.

(e) *Reporting.* The political committee shall continue to report the obligation arising from the payment as a debt in accordance with 11 CFR 104.3(d) and 104.11 until the Commission has completed a review of the debt settlement plan pursuant to 11 CFR 116.7(f) or until the Commission has completed a review of the request to forgive the debt pursuant to 11 CFR 116.8, or until the political committee pays the debt, whichever occurs first.

§ 116.6 Salary payments owed to employees.

(a) *Treatment as debts or volunteer services.* If a political committee does not pay an employee for services rendered to the political committee in accordance with an employment contract or a formal or informal agreement to do so, the unpaid amount either may be treated as a debt owed by the political committee to the employee or, provided that the employee signs a written statement agreeing to be considered a volunteer, converted to a volunteer services arrangement under 11 CFR 100.7(b)(3). The unpaid amount shall not be treated as a contribution under 11 CFR 100.7.

(b) *Settlement or forgiveness of the debt.* If the unpaid amount is treated as a debt, the employee and the political committee may agree to a settlement of the debt for less than the entire amount owed pursuant to 11 CFR 116.7. The provisions of this part shall not be construed to require the employee to settle the debt for less than the entire amount owed.

(c) *Reporting.* If the unpaid amount is treated as a debt, the political committee shall continue to report the debt in accordance with 11 CFR 104.3(d) and 104.11 until the Commission has completed a review of the debt settlement plan pursuant to 11 CFR 116.7(f) or until the employee agrees to be considered a volunteer, or until the political committee pays the debt, whichever occurs first.

§ 116.7 Debt settlement plans filed by terminating committees; Commission review.

(a) *Procedures for filing debt settlement plans.* Every terminating committee as defined in 11 CFR 116.1(a) shall file at least one debt settlement plan with the Commission prior to filing its termination report under 11 CFR 102.3. The terminating committee shall file a debt settlement plan after the creditors included in the debt settlement plan have agreed to the settlement or forgiveness of the particular debt(s) owed to each of them. The terminating committee shall not make any payments to the creditors included in the debt settlement plan until completion of Commission review. The Commission encourages terminating committees to include as many debt settlement agreements as possible in a debt settlement plan. The terminating committee shall not file its termination report under 11 CFR 102.3 and shall not terminate until each debt or obligation owed either:

(1) Has been paid in full;

(2) Has been settled and the requirements of this section, including Commission review, have been satisfied;

(3) Has been forgiven by the creditor and the requirements of 11 CFR 116.8, including Commission review, have been satisfied;

(4) Has been determined not to be payable pursuant to 11 CFR 116.9; or

(5) Has been otherwise extinguished or discharged.

(b) *Debts subject to settlement.* Debts and obligations subject to the debt settlement and Commission review requirements and procedures set forth in this section include:

(1) Amounts owed to commercial vendors (*See* 11 CFR 116.3 and 116.4);

(2) Debts arising from advances by committee staff and other individuals (*See* 11 CFR 116.5);

(3) Salary owed to committee employees (*See* 11 CFR 116.6); and

(4) Debts arising from loans from political committees or individuals, including candidates, to the extent permitted under 11 CFR part 110.

(c) *Debts that shall not be settled; Disputed debts.*

(1) Debts and obligations that shall not be forgiven or settled for less than the entire amount owed include repayment obligations pursuant to 11 CFR 9007.2, 9008.10, 9008.11, 9038.2 or 9038.3 of funds received from the Presidential Election Campaign Fund or the Presidential Primary Matching Payment Account.

(2) Disputed debts are not subject to the debt settlement and Commission review requirements and procedures. (*See* CFR 116.10).

(d) *Reporting.* The terminating committee shall continue to report each outstanding debt or obligation included in a debt settlement plan in accordance with 11 CFR 104.3(d) and 104.11 until the Commission has completed a review of the debt settlement plan pursuant to paragraph (f) of this section. The terminating committee shall continue to report all remaining debts and obligations not included in the debt settlement plan in accordance with 11 CFR 104.3 and 104.11.

(e) *Contents of debt settlement plans.*

(1) The debt settlement plan shall provide the following information on each debt covered by the plan—

(i) The terms of the initial extension of credit and a description of the terms under which the creditor has extended credit to nonpolitical debtors of similar risk and size of obligation;

(ii) A description of the efforts made by the candidate or the terminating committee to satisfy the debt;

(iii) A description of the remedies pursued by the creditor to obtain payment of the debt and a comparison to the remedies customarily pursued by the creditor in similar circumstances involving nonpolitical debtors; and

(iv) The terms of the debt settlement and a comparison to the terms of the creditor's other debt settlements involving nonpolitical debtors in similar circumstances, if any.

(2) Each debt settlement plan filed under this section shall include a signed statement from each creditor covered indicating agreement to the terms of the settlement of the debt owed to that creditor.

(3) The debt settlement plan shall include a statement as to whether the terminating committee has sufficient cash on hand to pay the total amount indicated in the debt settlement plan, and if not, a statement as to what steps the terminating committee will take to obtain the funds needed to make the payments.

(4) If a debt settlement plan does not include settlements for all of the terminating committee's outstanding debts and obligations, the debt settlement plan shall include a separate list of all of the terminating committee's remaining debts and obligations, including debts that are not subject to debt settlement as set forth in paragraph (c) of this section. The debt settlement plan shall indicate—

(i) Whether the terminating committee intends to pay the entire amount still owed on each remaining debt or obligation or to settle such debts and obligations, and if settlement is contemplated, the terms that were or will be offered to the creditor(s); and

(ii) Whether the terminating committee has sufficient cash on hand to pay such remaining debts and obligations, or to pay a lesser portion of such amounts, and if not, what steps the terminating committee will take to obtain the funds needed to make such payments.

(5) If the terminating committee expects to have residual funds or assets after disposing of all its outstanding debts and obligations, the debt settlement plan shall include a statement as to the purpose for which such residual funds or assets will be used. *See* 11 CFR 110.1(b)(3)(iii) regarding contributions received to pay net debts outstanding owed by authorized committees.

(6) The political committee filing the debt settlement plan shall demonstrate in the debt settlement plan that such political committee qualifies as a terminating committee under 11 CFR 116.1(a) and shall state when the political committee expects to file a termination report under 11 CFR 102.3.

(7) Upon the Commission's request, the candidate, the terminating committee or the creditor shall provide such additional information as the Commission may require to review the debt settlement plan. The Commission may also require the submission of additional debt settlement agreements prior to Commission review of the debt settlement plan.

(f) *Commission review of debt settlement plans.* In reviewing the debt settlement plan, the Commission will consider—

(1) The information provided by the terminating committee and the creditors under this section;

(2) The amount of each debt that remains unpaid and the length of time each debt has been overdue;

(3) The amount and percentage of each debt that would be forgiven under the plan;

(4) The total amount of debts and obligations owed by the terminating committee to all creditors, compared to the total amount of cash on hand and other amounts available to pay those debts and obligations;

(5) The year to date expenditures and receipts of the terminating committee; and

(6) Whether the total percentage that was or will be repaid on any loans made by the candidate to the terminating committee is comparable to the total percentage that was or will be paid to other creditors.

(g) *Debts dischargeable in bankruptcy.* If a terminating committee is released from debts or obligations pursuant to a discharge under 11 U.S.C. chapter 7, the terminating committee's debt settlement plan shall include a copy of the order issued by the Bankruptcy Court of the United States so indicating, and a list of all debts and obligations from which the terminating committee is released, in lieu of the information specified in paragraphs (e)(1), (e)(2), and (e)(3) of this section.

§ 116.8 Creditor forgiveness of debts owed by ongoing committees; Commission review.

(a) *General requirements.* A creditor may forgive the outstanding balance of a debt owed by an ongoing committee if the creditor and the ongoing committee have satisfied the requirements of 11 CFR 116.3 or 116.5, as appropriate, regarding extensions of credit by commercial vendors and advances by committee staff and other individuals, and the debt has been outstanding for at least twenty-four months, and—

(1) The creditor has exercised reasonable diligence in attempting to locate the ongoing committee and has been unable to do so; or

(2) The ongoing committee—

(i) Does not have sufficient cash on hand to pay the creditor;

(ii) Has receipts of less than $1000 during the previous twenty-four months;

(iii) Has disbursements of less than $1000 during the previous twenty-four months; and

(iv) Owes debts to other creditors of such magnitude that the creditor could reasonably conclude that the ongoing committee will not pay this particular debt.

(b) *Procedures for forgiving debts.* A creditor that intends to forgive a debt owed by an ongoing committee shall notify the Commission by letter of its intent. The letter shall demonstrate that the requirements set forth in paragraph (a) of this section are satisfied. The letter shall provide the following information—

(1) The terms of the initial extension of credit and a description of the terms under which the creditor has extended credit to nonpolitical debtors of similar risk and size of obligation;

(2) A description of the efforts made by the candidate or the ongoing committee to satisfy the debt;

(3) A description of the remedies pursued by the creditor to obtain payment of the debt and a comparison to the remedies customarily pursued by the creditor in similar circumstances involving nonpolitical debtors; and

(4) An indication that the creditor has forgiven other debts involving nonpolitical debtors in similar circumstances, if any.

(c) *Commission review.* Upon the Commission's request, the ongoing committee or the creditor shall provide such additional information as the Commission may require to review the creditor's request. The Commission will review each request to forgive a debt to determine whether the candidate, the ongoing committee, and the creditor have complied with the requirements of 11 CFR part 116, and whether or not the forgiveness of the debt would result in an apparent violation of the Act or the Commission's regulations.

§ 116.9 Creditors that cannot be found or that are out of business.

(a) *General requirements.* A political committee may request that the Commission determine that a debt owed to a creditor is not payable for purposes of the Act if the debt has been outstanding for at least twenty-four months, and the requirements of paragraph (b) or (c) of this section, as appropriate, have been satisfied, and—

(1) The creditor has gone out of business and no other entity has a right to be paid the amount owed; or

(2) The political committee has exercised reasonable diligence in attempting to locate the creditor and has been unable to do so. "Reasonable diligence in attempting to locate the creditor" means the political committee has attempted to ascertain the current address and telephone number, and has attempted to contact the creditor by registered or certified mail, and either in person or by telephone.

(b) *Terminating committees.* If the political committee making the request is a terminating committee, the terminating committee shall include the request in a debt settlement plan filed with the Commission, and shall demonstrate that the requirements of 11 CFR 116.3, 116.5 or 116.6, as appropriate, and 116.9(a) are satisfied. The terminating committee shall continue to disclose the debt on its schedules of outstanding debts and obligations until the Commission has completed its review of the debt settlement plan pursuant to 11 CFR 116.7(f) and has determined that the debt is not payable for purposes of the Act.

(c) *Ongoing committees.* If the political committee making the request is an ongoing committee, the ongoing committee shall make the request in writing and shall demonstrate that the requirements of 11 CFR 116.3, 116.5 or 116.6, as appropriate, and 116.9(a) are satisfied. The Commission will review the request to determine whether the ongoing committee and the creditor have complied with the requirements of 11 CFR part 116, and to determine whether reporting the debt as not payable would result in an apparent violation of the Act or the Commission's regulations. The ongoing committee shall continue to disclose the debt on its schedules of outstanding debts and obligations until the Commission has completed its review of the request and has determined that the debt is not payable for purposes of the Act.

(d) *Reporting.* Upon notification that the Commission has determined that the debt is not payable for purposes of the Act, the political committee may list the debt as not payable on the next due report. Notwithstanding 11 CFR 104.11, the debt does not have to be included in subsequent reports unless the status of the debt changes. The presence of a debt that the Commission has determined is not payable shall not bar the political committee from terminating its registration pursuant to 11 CFR 102.3.

§ 116.10 Disputed debts.

(a) *Reporting disputed debts.* A political committee shall report a disputed debt in accordance with 11 CFR 104.3(d) and 104.11 if the creditor has provided something of value to the political committee. Until the dispute is resolved, the political committee shall disclose on the appropriate reports any amounts paid to the creditor, any amount the political committee admits it owes and the amount the creditor claims is owed. The political committee may also note on the appropriate reports that the disclosure of the disputed debt does not constitute an admission of liability or a waiver of any claims the political committee may have against the creditor. (*See also* 11 CFR 9035.1(a)(2) regarding the effect of disputed debts on a candidate's expenditure limitations under 11 CFR part 9035.)

(b) *Disputed debts owed by terminating committees.* If a terminating committee and a creditor have been unable to resolve a disputed debt, and the terminating committee files a debt settlement plan covering other debts or other creditors, the terminating committee shall include in the debt settlement plan a brief description as to the nature of the dispute and the status of the terminating committee's efforts to resolve the dispute. The debt settlement plan need not include a signed affidavit from the creditor involved in the dispute pursuant to 11 CFR 116.7(e)(2).

Dated: June 22, 1990.

Lee Ann Elliott,

Chairman, Federal Election Commission.

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