

# Working for America Act

## Frequently Asked Questions

### Employee Questions

#### Why do we need new rules?

- Your agency should be required to better manage, develop, and reward you, to better serve the American people.
- Your manager should be required to do a better job of recognizing and rewarding you for good performance.
- Your manager should be required to deal effectively with poor performers; you and your managers say you want this.
- We want to make sure you are treated as a professional public servant, not as a bureaucrat.
- We want to be better able to attract and retain quality employees.
- We need to make sure every agency has the same ability to attract and keep quality employees.

#### What's not working now?

- You tell us:
  - steps are not taken to deal with a poor performer who cannot or will not improve \*
  - differences in performance are not recognized in a meaningful way \*
  - you are not satisfied with the recognition you receive for doing a good job \*
- High and low performers get the same annual pay increases.

\* Federal Human Capital Survey 2004

#### What's in this for me?

- Your manager will be held accountable for helping you to be successful in your job.
- You will be recognized and rewarded more than those who do not perform as well as you.
- You will have written performance expectations and get feedback on how you are doing meeting those expectations.

## **Why change the rules now, before you know how successful the new rules will be at DoD and DHS?**

- Each agency's success in using their new rules will depend on how well **they** are prepared and have trained their managers, not on the performance of other agencies.
- Many domestic agencies may be better positioned to adopt new personnel rules more quickly than DoD and DHS.
- The new rules proposed for the domestic agencies are not the same as those being implemented at DoD and DHS.
- Independent organizations – Government Accountability Office, the National Academy of Public Administration, the Merit Systems Protection Board, the National Commission on the Public Service, and the Partnership for Public Service – have endorsed changing the current system.
- The importance of managing, developing, and rewarding employees is universally understood.
- Demonstration projects like China Lake tell us that a personnel system like the one we are proposing can be successful.

## **When will the new rules affect me?**

Your agency will be able to use the new rules when OPM has certified it is ready, sometime between when the bill is enacted and January 2010.

## **How will the new rules affect my pay?**

- Your future pay raises will be based on how well you perform and how much is paid for similar work.
- If you are a good performer, you will be able to get to higher pay levels faster.

## **Won't my performance appraisal be more affected by personal favoritism under the new rules?**

- Your manager will be trained and held accountable for giving you a fair appraisal.
- Since your performance appraisal will affect your pay, it will be reviewed by senior managers for fairness.
- You have the right to an independent review of your rating.

## **How can you assure my manager is well trained and treats me fairly?**

- Your manager will know what's expected under the new rules. He or she will receive the training they need to do their job; the new rules won't be implemented at your agency until that's happened.
- Since your performance appraisal will affect your pay, it will be reviewed by senior managers for fairness.
- You have the right to an independent review of your rating.

**I don't find my current performance appraisal very useful, and now you're going to tie part of my pay increase to it. How are you going to ensure my performance appraisal is accurate and useful?**

- Your manager will involve you in the development of your performance expectations so the appraisal process is useful to you.
- Your manager will, for the first time, be required and trained to provide timely and meaningful feedback to you.

**What happens to poor performers with these proposed new rules?**

- Timely feedback throughout the year helps poor performers do better.
- Managers will be required to deal more effectively with poor performers.
- An employee whose performance is rated less than Fully Successful will not receive any pay increase unless and until his or her performance reaches acceptable levels.

**If money gets tight, is it possible that I may not get an increase even if I am a high performer?**

- The budget will not impact pay any more or any less than it does today.

**What happens to my retirement, health insurance and other benefits?**

- The rules covering employee benefits are not changed.

**Will basic civil service protections be preserved – such as whistleblower protections, equal access, prohibition against favoritism, veterans' preference?**

- Yes. The proposed reforms fully affirm protections like the merit system principles and veterans' preference and prohibited personnel practices.

**Will employees still be protected from arbitrary firings at Federal agencies?**

- Yes, you will still be able to appeal disciplinary action.

**Under the new system will all of my pay increase be based on my performance evaluation? That worries me because I have a supervisor that I don't think will give me the fairest appraisal.**

- Much of your pay increase will be based on factors reflecting changes in national and local market rates, as long as you receive a "Fully Successful" performance rating. The remainder of your pay increase will be based on job performance and your evaluation. (See Attachment 1)

## **Manager Questions**

**As a manager, I realize I'll have greater responsibility for the professional growth of my employees and for being really candid with them about their performance. How are you going to help me do this extra work?**

- Part of being a good manager is providing your employees candid, constructive feedback about their performance. You want to guide your program to improve continuously. To do this you have to help your team work smarter and grow professionally. Agency leadership and your manager will provide you the training and mentoring you need to do this. They want you to be successful.

**What's in this for me?**

- You will be better prepared to manage your employees.

**I have mediocre performers in my group that I have had to give decent appraisals to because my predecessor did. Will I be able to fix that? Can I be more candid in my performance appraisals even though it won't be consistent with past appraisals?**

- Performance appraisals will be based on clearly communicated and written expectations and how an employee performs during the most recent rating period, without regard to past appraisals.

**I have a very high performing staff. Will there be quotas for how many of them can receive the highest rating?**

- No. The forced distribution of performance ratings will be prohibited under the new performance appraisal system.

**With more candid performance appraisals aren't we apt to get more complaints and lawsuits from our employees? What kind of support will I get to handle this?**

- Performance appraisal processes will be designed from the start with meaningful input from employees about what it takes to perform well in their jobs. Effective communication of performance requirements to all employees will minimize the number of complaints and grievances. Part of your training will address the ways you can deal with complaints.

**Will I get the support I need from my manager to do this right?**

- Yes. Part of your agency's obligation is to properly train supervisors, and assist in implementing the new rules.

## **General Questions**

### **Are all agencies affected by the Act?**

- No. Certain agencies – such as intelligence agencies – are excluded. The Departments of Homeland Security and Defense are already implementing more flexible personnel systems and are not automatically covered by *Working for America Act*.

### **Are blue collar employees covered?**

- Yes.

### **What does it mean when people refer to this proposal as a pay-for-performance system?**

- Employee performance will influence a significant portion of your annual pay raise. Instead of your getting the same annual raise as everyone else, you will get more recognition and reward than employees who do not perform as well.
- The system will also be sensitive to the labor market. It will consider factors such as the rate of pay for a specific occupation in a specific region.

### **Will all employees in the government move to the market- and merit-based system at the same time?**

- Agencies will not implement the new system at exactly the same time. The legislation provides for a phased implementation through January 2010. To administer the new system, an Agency will need to be certified by OPM as meeting a rigorous set of statutory standards and safeguards.
- Managers will need to have a system of goal setting and measurement that can make clear distinctions among levels of employee performance and results.
- Managers will need to be well prepared to hold a different kind of performance discussion and to provide more detailed performance feedback than they may have done in the past.
- Employees, too, will need to be actively involved in how their goals are set up and how they can document their performance ratings.
- Agencies will likely adopt pay-for-performance on a planned, but staggered schedule.

### **Aren't we proposing with *Working for America Act* what has been done at DHS/DoD?**

- No. *Working for America Act* differs significantly from the laws passed to create the personnel systems for the Department of Homeland Security and the Department of Defense.
- *Working for America Act* retains existing due process rights.
- *Working for America Act* retains most current collective bargaining rights, for example, allowing management the authority to prepare for, practice for, or prevent an emergency without bargaining.

## Attachment 1

An Example: How pay would increase under the Working for America Act for 4 different people with the same salary in different occupations in different locations and performing at different levels.

- 4 employees with different occupations, each making \$70,000
- National Market Adjustments vary by occupation and band
- Local Market Supplements vary by occupation, band, and location
- Performance Pay increases vary by rating level

	Occ A – Band B Location A Outstanding	Occ B – Band C Location A Exceeds	Occ C – Band D Location B Fully Successful	Occ D – Band E Location C Less than Fully Successful
Starting Salary	\$70,000	\$70,000	\$70,000	\$70,000
National Mkt Adj	770	1,470	1,190	0
Local Mkt Adj	1,400	350	1,190	0
Perf Shares	3	2	1	0
Perf Pay Increases	2,100	1,400	700	0
Total Pay Increase	4,270	3,220	3,080	0
New Salary	\$74,270	\$73,220	\$73,080	\$70,000
% Increase	6.1%	4.6%	4.4%	0.0%

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