

parties to the collective bargaining agreement) and the employee is:

(i) In the competitive service and has completed a probationary or trial period.

(ii) In the competitive service, serving in an appointment which is not subject to a probationary or trial period, and has completed 1 year of current continuous employment in the same or similar position(s) under other than a temporary appointment limited to 1 year or less;

(iii) A preference eligible in the excepted service who has completed 1 year of current continuous employment in the same or similar position(s); or

(iv) A nonpreference eligible in the excepted service who is covered by subparts C and D of part 752 of the chapter.

(2) 5 U.S.C. 7114(a)(5) and 7121(b)(3), and the terms of an applicable collective bargaining agreement govern representation for employees in an exclusive bargaining unit who grieve a matter under this section through the negotiated grievance process.

(c) *Election of forum.* As provided at 5 U.S.C. 7121(e)(1), a bargaining unit employee who by law may file an appeal or a grievance, and who has exercised his or her option to appeal an action taken under this part to the Merit Systems Protection Board, may not also file a grievance on the matter under a negotiated grievance procedure. Likewise, a bargaining unit employee who has exercised his or her option to grieve an action taken under this part may not also file an appeal on the matter with the Merit Systems Protection Board.

[54 FR 26179, June 21, 1989. Redesignated at 54 FR 49076, Nov. 29, 1989; 57 FR 20043, May 11, 1992; 58 FR 13192, Mar. 10, 1993. Redesignated at 58 FR 65534, Dec. 15, 1993]

#### § 432.107 Agency records.

(a) *When the action is effected.* The agency shall preserve all relevant documentation concerning a reduction in grade or removal which is based on unacceptable performance and make it available for review by the affected employee or his or her representative. At a minimum, the agency's records shall consist of a copy of the notice of proposed action, the answer of the em-

ployee when it is in writing, a summary thereof when the employee makes an oral reply, the written notice of decision and the reasons therefor, and any supporting material including documentation regarding the opportunity afforded the employee to demonstrate acceptable performance.

(b) *When the action is not affected.* As provided at 5 U.S.C. 4303(d), if, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable for 1 year from the date of the advanced written notice provided in accordance with § 432.105(a)(4)(i), any entry or other notation of the unacceptable performance for which the action was proposed shall be removed from any agency record relating to the employee.

[55 FR 25950, June 26, 1990, as amended at 58 FR 65534, Dec. 15, 1993]

## PART 451—AWARDS

### Subpart A—Agency Awards

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AUTHORITY: 5 U.S.C. 4302, 4501–4509; E.O. 11438, 33 FR 18085, 3 CFR, 1966–1970 Comp., p. 755; E.O. 12828, 58 FR 2965, 3 CFR, 1993 Comp., p. 569.

**Subpart A—Agency Awards**

SOURCE: 60 FR 43946, Aug. 23, 1995, unless otherwise noted.

**§ 451.101 Authority and coverage.**

(a) Chapter 45 of title 5, United States Code authorizes agencies to pay a cash award to, grant time-off to, and incur necessary expense for the honorary recognition of, an employee (individually or as a member of a group) and requires the Office of Personnel Management to prescribe regulations governing such authority. Chapter 43 of title 5, United States Code, provides for recognizing and rewarding employees whose performance so warrants. The regulations in this subpart, in combination with chapters 43 and 45 of title 5, United States Code, and any other applicable law, establish the requirements for agency award programs.

(b) Section 4 of E.O. 11438 (Prescribing Procedures Governing Interdepartmental Cash Awards to the Members of the Armed Forces, December 3, 1968) requires the Office of Personnel Management to prescribe procedures for covering the cost of a cash award recommended by more than one agency for a member of the armed forces for the adoption or use of a suggestion, invention, or scientific achievement. Section 1 of E.O. 12828 (Delegation of Certain Personnel Management Authorities, January 5, 1993) delegates to the Office of Personnel Management the authority of the President to permit performance-based cash awards under 5 U.S.C. 4505a to be paid to categories of employees who would not be eligible otherwise.

(c) This subpart applies to employees as defined by section 2105 and agencies as defined by section 4501 of title 5, United States Code, except as provided in §§ 451.105 and 451.201(b).

(d) For the regulatory requirements for granting performance awards to Senior Executive Service (SES) employees under 5 U.S.C. 5384, refer to § 534.405 of this chapter.

(e) An agency may grant performance-based cash awards on the basis of a rating of record at the fully successful level (or equivalent) or above under the authority of 5 U.S.C. 4505a and the provisions of this part to eligible non-

GS employees who are covered by 5 U.S.C. chapter 45 and this part and who are not otherwise covered by an explicit statutory authority for the payment of such awards, including 5 U.S.C. 5384 (SES performance awards).

[60 FR 43946, Aug. 23, 1995; 60 FR 47646, Sept. 13, 1995, as amended at 69 FR 70359, Dec. 6, 2004; 72 FR 1270, Jan. 11, 2007]

**§ 451.102 Definitions.**

*Award* means something bestowed or an action taken to recognize and reward individual or team achievement that contributes to meeting organizational goals or improving the efficiency, effectiveness, and economy of the Government or is otherwise in the public interest. Such awards include, but are not limited to, employee incentives which are based on predetermined criteria such as productivity standards, performance goals, measurement systems, award formulas, or payout schedules.

*Award program* means the specific procedures and requirements established by an agency or a component of an agency for granting awards under subchapter I of chapter 43 and subchapter I of chapter 45 of title 5, United States Code, and this subpart.

**§ 451.103 Agency award program(s).**

(a) Agencies shall develop one or more award programs for employees covered by this subpart.

(b) Agencies are encouraged to involve employees in developing such programs. When agencies involve employees, the method of involvement shall be in accordance with law.

(c) An agency award program shall provide for—

(1) Obligating funds consistent with applicable agency financial management controls and delegations of authority; and

(2) Documenting justification for awards that are not based on a rating of record (as defined in § 430.203 of this chapter).

[60 FR 43946, Aug. 23, 1995; 60 FR 47646, Sept. 13, 1995]

**§ 451.104 Awards.**

(a) An agency may grant a cash, honorary, or informal recognition award,

or grant time-off without charge to leave or loss of pay consistent with chapter 45 of title 5, United States Code, and this part to an employee, as an individual or member of a group, on the basis of—

(1) A suggestion, invention, superior accomplishment, productivity gain, or other personal effort that contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork;

(2) A special act or service in the public interest in connection with or related to official employment; or

(3) Performance as reflected in the employee's most recent rating of record (as defined in § 430.203 of this chapter), provided that the rating of record is at the fully successful level (or equivalent) or above, except that performance awards may be paid to SES members only under § 534.405 of this chapter and not on the basis of this subpart.

(b) A cash award under this subpart is a lump sum payment and is not basic pay for any purpose.

(c) An award is subject to applicable tax rules, such as withholding.

(d) When an award is approved for—

(1) An employee of another agency, the benefiting agency shall make arrangements to transfer funds to the employing agency to cover the award. If the administrative costs of transferring funds would exceed the amount of the award, the employing agency shall absorb the award costs and pay the award; and

(2) A member of the armed forces for a suggestion, invention, or scientific achievement, arrangements shall be made to transfer funds to the agency having jurisdiction over the member in accordance with E.O. 11438, "Prescribing Procedures Governing Interdepartmental Cash Awards to the Members of the Armed Forces".

(e) An award may be granted to a separated employee or the legal heir(s) or estate of a deceased employee.

(f) A time-off award granted under this subpart shall not be converted to a cash payment under any circumstances.

(g) When granting an award paid as a percentage of basic pay under 5 U.S.C.

4505a(a)(2), the rate of basic pay used must include any applicable locality payment under 5 CFR part 531, subpart F; special rate supplement under 5 CFR part 530, subpart C; or similar payment or supplement under other legal authority. For an employee receiving a retained rate under 5 CFR part 536, subpart C (or similar authority, such as 5 CFR 359.705), the rate of basic pay is the maximum payable rate for the employee's grade or level, rather than the retained rate.

(h) Programs for granting performance-based cash awards on the basis of a rating of record at the fully successful level (or equivalent) or above, as designed and applied, must make meaningful distinctions based on levels of performance.

[60 FR 43946, Aug. 23, 1995, as amended at 69 FR 70359, Dec. 6, 2004; 70 FR 31287, May 31, 2005; 70 FR 74995, Dec. 19, 2005; 72 FR 1270, Jan. 11, 2007]

#### § 451.105 Award restrictions.

(a) In accordance with 5 U.S.C. 4508, agencies shall not grant awards under this subpart during a Presidential election period to employees who are—

(1) In a Senior Executive Service position and not a career appointee as defined under 5 U.S.C. 3132(a)(4); or

(2) In an excepted service position of a confidential or policy-determining character (schedule C).

(b) In accordance with 5 U.S.C. 4509, agencies shall not grant cash awards under this subpart to employees appointed by the President with Senate confirmation who serve in—

(1) An Executive Schedule position, or

(2) A position for which pay is set in statute by reference to a section or level of the Executive Schedule.

#### § 451.106 Agency responsibilities.

(a) In establishing and operating its award program(s), an agency shall assure that a program does not conflict with or violate any other law or Governmentwide regulation.

(b) When a recommended award would grant more than \$10,000 to an individual employee, the agency shall submit the recommendation to OPM for approval.

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(c) Agencies shall provide for communicating with employees and supervisors (e.g., through formal training) about the relevant parts of their award program(s).

(d) Agencies shall evaluate their award program(s).

(e) Agencies shall document all cash and time off awards in compliance with instructions in the OPM Operating Manual, THE GUIDE TO PROCESSING PERSONNEL ACTIONS, for sale by the U.S. Government Printing Office, Superintendent of Documents.

(f) Agencies shall file award documents in the Official Personnel Folder in compliance with instructions in the OPM Operating Manual, THE GUIDE TO PERSONNEL RECORDKEEPING, for sale by the U.S. Government Printing Office, Superintendent of Documents.

(g) Agencies shall report award data to the Central Personnel Data File in Compliance with instructions in the OPM Operating Manual, FEDERAL WORKFORCE REPORTING SYSTEMS, for sale by the U.S. Government Printing Office, Superintendent of Documents.

(h) Agencies shall maintain and submit to OPM such records as OPM may require.

(i) Agencies shall give due weight to an award granted under this part in qualifying and selecting an employee for promotion as provided in 5 U.S.C. 3362.

(j) Agencies shall take any corrective action required by OPM to ensure conformance with applicable law, regulation, and OPM policy.

### § 451.107 OPM responsibilities.

(a) OPM shall review and approve or disapprove each agency recommendation for an award that would grant more than \$10,000 to an individual employee.

(b) When a recommended award would grant more than \$25,000 to an individual employee, OPM shall review the recommendation and submit it (if approved) to the President for final approval.

(c) OPM shall review and approve or disapprove a request from the head of an Executive agency to extend the provisions of 5 U.S.C. 4505a to any cat-

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egory of employees within that agency that would not be covered otherwise.

(d) OPM may evaluate the operation and application of an agency's award program(s).

### Subpart B—Presidential Awards

SOURCE: 51 FR 8419, Mar. 11, 1986, unless otherwise noted.

#### § 451.201 Authority and coverage.

(a) Under chapter 45 of title 5, United States Code, the President may pay a cash award to and incur necessary expenses for the honorary recognition of an employee who:

(b) Awards granted under paragraph (a) of this section are subject to the restrictions as specified in § 451.105.

(1) By his/her suggestion, invention or other personal effort contributes to the efficiency, economy, or other improvement of Government operations, or achieves a significant reduction in paperwork; or

(2) Performs an exceptionally meritorious special act or service in the public interest in connection with or related to official employment.

(c) Except as provided in paragraph (b) of this section, this subpart applies to employees as defined by section 2105 of title 5, United States Code.

(d) This subpart applies to agencies as defined in section 4501 of title 5, United States Code.

[51 FR 8419, Mar. 11, 1986, as amended at 58 FR 65534, Dec. 15, 1993; 60 FR 43947, Aug. 23, 1995; 67 FR 52596, Aug. 13, 2002]

#### § 451.202 Payment.

(a) A Presidential award is paid by the agency(ies) primarily benefiting from the employee contribution.

(b) A Presidential award may be in addition to an agency award under subpart A of this part.

#### § 451.203 Responsibilities of the Office of Personnel Management.

(a) The Office of Personnel Management, in accordance with Executive Order 10717, as amended, shall review agency recommendations for the President's Award for Distinguished Federal Civilian Service and recommend to the

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President which career employees should receive this award.

(b) Under Executive Order 11228, section 2, the Office of Personnel Management has the authority to determine the activity or activities primarily benefiting from any suggestion, invention, or other contribution which forms the basis for a Presidential award under 5 U.S.C. 4504.

[51 FR 8419, Mar. 11, 1986, as amended at 58 FR 65534, Dec. 15, 1993; 67 FR 52596, Aug. 13, 2002]

### Subpart C—Presidential Rank Awards

SOURCE: 67 FR 52596, Aug. 13, 2002, unless otherwise noted.

#### § 451.301 Ranks for the Senior Executive Service.

(a) The circumstances under which the President may award the rank of Distinguished Executive and Meritorious Executive to a Senior Executive Service (SES) career appointee are set forth in 5 U.S.C. 4507.

(b) To be eligible for a rank award, a senior executive must:

(1) Hold a career appointment in the SES, as defined at 5 U.S.C. 3132(a)(4), on the nomination deadline set by OPM;

(2) Be an employee of the agency, as defined at 5 U.S.C. 3132(a)(1), on the nomination deadline set by OPM; and

(3) Have at least 3 years of career or career-type Federal civilian service at the SES level. Service need not be continuous.

(i) Qualifying service includes appointments in the SES, the Senior Foreign Service, the Defense Intelligence Senior Executive Service, and similar senior executive systems.

(ii) Qualifying service does not include noncareer, limited term, or limited emergency appointments in the SES or their equivalent, Scientific and Professional (ST) appointments, and Senior-Level (SL) appointments.

(c) Each agency may nominate up to 9 percent of its SES career appointees for rank awards.

#### § 451.302 Ranks for senior career employees.

(a) The circumstances under which the President may award the rank of Distinguished Senior Professional and Meritorious Senior Professional to a senior career employee are set forth in 5 U.S.C. 4507a.

(b) To be eligible for a rank award, a senior career employee must:

(1) Hold a career appointment in a Senior-Level (SL) or Scientific-Professional (ST) position that is subject to OPM position allocations under part 319 of this chapter and paid under 5 U.S.C. 5376 on the nomination deadline set by OPM;

(2) Be an employee of the agency on the nomination deadline set by OPM; and

(3) Have at least 3 years of career or career-type Federal civilian service above GS-15. Service need not be continuous. Qualifying service includes appointments that are not—

(i) Time-limited; or

(ii) To positions that are excepted from the competitive service because of their confidential or policy-making character.

(c) Each agency may nominate up to 9 percent of its senior career employees for rank awards.

[67 FR 52596, Aug. 13, 2002, as amended at 72 FR 44367, Aug. 8, 2007]

#### § 451.303 Restrictions.

(a) *Governmentwide limitations*—SES. During any fiscal year—

(1) The number of career SES appointees awarded the rank of Meritorious Executive may not exceed 5 percent of the career SES; and

(2) The number of career SES appointees awarded the rank of Distinguished Executive may not exceed 1 percent of the career SES.

(b) *Governmentwide limitations*—Senior career employees. During any fiscal year—

(1) The number of senior career employees awarded the rank of Meritorious Senior Professional may not exceed 5 percent of the total number of career appointees to OPM-allocated Senior-Level (SL) and Scientific-Professional (ST) positions; and

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(2) The number of senior career employees awarded the rank of Distinguished Senior Professional may not exceed 1 percent of the total number of career appointees to OPM-allocated Senior-Level (SL) and Scientific-Professional (ST) positions.

(c) *Frequency of awards.* Individuals awarded a Distinguished or Meritorious rank under this subpart shall not be entitled to be awarded that rank during the following 4 fiscal years.

[67 FR 52596, Aug. 13, 2002, as amended at 72 FR 44367, Aug. 8, 2007]

**§ 451.304 Payment of Rank Awards.**

(a) Receipt of the Distinguished rank by an SES career appointee or a senior career employee entitles the individual to a lump-sum payment of an amount equal to 35 percent of annual basic pay, which shall be in addition to the basic pay paid under 5 U.S.C. 5376 or 5382, or any award paid under 5 U.S.C. 5384.

(b) Receipt of the Meritorious rank by an SES career appointee or a senior career employee entitles such individual to a lump-sum payment of an amount equal to 20 percent of annual basic pay, which shall be in addition to the basic pay paid under 5 U.S.C. 5376 or 5382, or any award paid under 5 U.S.C. 5384.

(c) Payment of rank awards must comply with the restrictions on annual aggregate compensation at 5 U.S.C. 5307.

[67 FR 52596, Aug. 13, 2002, as amended at 72 FR 44367, Aug. 8, 2007]

**§ 451.305 Responsibilities of the Office of Personnel Management.**

(a) Annually, OPM shall establish criteria, including terms, conditions, and evaluation factors, for rank award nominations, in consultation with agencies and other stakeholders. Agencies shall nominate individuals for rank awards in accordance with OPM criteria and any other instructions.

(b) Annually, OPM shall review agency recommendations for Presidential Rank Awards for SES career appointees and senior career employees under 5 U.S.C. 4507 and 4507a, and recommend to the President which of those individuals should receive rank awards.

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**PART 470—PERSONNEL MANAGEMENT RESEARCH PROGRAMS AND DEMONSTRATIONS PROJECTS**

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AUTHORITY: 5 U.S.C. 4706.

SOURCE: 48 FR 2726, Jan. 21, 1983, unless otherwise noted.

**Subpart A—General Provisions**

**§ 470.101 Statutory authority.**

(a) Section 4702, title 5, United States Code, provides the Office of Personnel Management (OPM) with the authority to:

(1) Establish and maintain, and assist in the establishment and maintenance of, research programs to study improved methods and technologies in Federal personnel management;

(2) Evaluate the research programs established under paragraph (a)(1) of this section;

(3) Establish and maintain a program for the collection and public dissemination of information relating to personnel management research, and for encouraging and facilitating the exchange of information among interested persons and entities; and

(4) Carry out the preceding functions directly or through agreement or contract.