

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR PART 250

RIN 3206-AL98

#### Personnel Management in Agencies

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Office of Personnel Management is issuing proposed regulations that would provide regulatory definitions related to the strategic management of human capital, clarify requirements regarding the systems and metrics for managing human resources in the Federal Government, and streamline/clarify the procedures agencies are required to follow.

**DATES:** Comments must be received on or before October 4, 2011.

**ADDRESSES:** You may submit comments, identified by RIN number “3206-AL98,” using any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*Mail:* Joseph Kennedy, Deputy Associate Director, Agency and Veterans Support, U.S. Office of Personnel Management, Room 7460, 1900 E Street, NW., Washington, DC 20415.

**FOR FURTHER INFORMATION CONTACT:** Patsy Stevens by telephone at (202) 606-1574; by fax at (202) 606-1574; or by e-mail at [Patsy.Stevens@opm.gov](mailto:Patsy.Stevens@opm.gov).

**SUPPLEMENTARY INFORMATION:** The U.S. Office of Personnel Management (OPM) is issuing proposed regulations to revise 5 CFR part 250, subpart B, Strategic Human Capital Management, and make a technical correction to subpart C, Employee Surveys. Subpart B implements the requirements of the Chief Human Capital Officers Act (CHCO Act), codified at 5 U.S.C. 1103(c). Section 1103 requires OPM to “design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies” and to define those systems in regulation. Subpart B of part 250 of title 5, Code of Federal Regulations, contains those regulations. Subpart B also provides a mechanism for Chief Human Capital Officers (CHCOs) to carry out their required functions under 5 U.S.C. 1402(a). Subpart C addresses the requirements for employee surveys.

The current regulations implement 5 U.S.C. 1103(c) by adopting the systems currently comprising the Human Capital

Assessment and Accountability Framework (HCAAF) to constitute the systems required by 5 U.S.C. 1103(c)(1) and to provide the definitions required by 5 U.S.C. 1103(c)(2). The HCAAF is a framework that integrates five human capital systems—Strategic Alignment, Leadership and Knowledge Management, Results Oriented Performance Culture, Talent Management, and Accountability. These systems define good practices for effective and efficient human capital management and support the steps involved in the planning and goal setting, implementation, and evaluation of human capital initiatives in the Federal Government.

OPM believes that incorporating the full text of the HCAAF to satisfy these requirements has proven to undermine the original concept of the HCAAF with respect to flexibility and adaptability. The original HCAAF document was integrated several years ago into a Web-based Resource Center that was being updated based on feedback, analysis, and emerging agency practices and results. Once the entire text of the HCAAF was brought into regulation, it became more difficult to keep current. OPM has concluded that it would be more effective to discharge its obligations under 5 U.S.C. 1103(c)(2) by providing definitions in the regulations that establish broad, overarching concepts, and treating the material in the HCAAF as guidance that is subject to change as Federal human capital management evolves.

In addition, OPM is clarifying requirements imposed by two separate legal authorities. In the past, there was some confusion regarding whether agencies must establish separate accountability systems in order to satisfy the statutory requirements of 5 U.S.C. 1103(c)(2)(F) and any requirement OPM previously imposed under Civil Service Rule X (5 CFR 10.2). The proposed regulations would make clear that the requirements of these two legal authorities are satisfied by the establishment of the Human Capital Accountability System (HCAS) set forth in section 250.207 of the proposed regulation. Section 250.205(e) would codify in regulation OPM’s longstanding practice in this area of these two legal authorities.

Finally, the proposed regulation would eliminate the requirement currently stated in section 250.203 to maintain a human capital plan. However, even though the requirement for a human capital plan will be eliminated, agencies are expected to continue to engage in strategic human capital planning. OPM will monitor

agency outcomes in human capital management, and agencies should continue to implement good business practices that support effective and efficient human capital management. The purpose of these proposed changes is to focus the regulations on the specific requirements that are the most significant for establishing and maintaining efficient and effective human capital management while providing agencies more flexibility in determining how they will accomplish their human capital planning activities.

The proposed regulations, therefore, will—

- Define applicable systems and include standards as required by 5 U.S.C. 1103(c)(2) to constitute a set of overarching concepts in regulation, to be supplemented with details in guidance.

- Enable agencies to have a greater alignment of human capital policies and programs with mission objectives, by simplifying the system definitions to broad, overarching concepts. The current definitions incorporate the entire text of the HCAAF, which is quite lengthy and includes much material better suited as guidance. Because of its length, the HCAAF had to be printed in an Appendix, which was published as part of the final rule in the **Federal Register** (73 FR 23013, April 28, 2008), but was not codified in title 5. Our experience in recent years has shown agencies can achieve better alignment if they focus their human capital activities on those initiatives that offer the most organizational benefits, thus allowing them to allocate budgetary and human resources more effectively. We hope the simplified system definitions will facilitate more effective alignment of human capital programs with agency mission objectives.

- Ensure consistency by clearly defining key human capital management terms, including the Human Capital Management Report (HCMR).

- Outline OPM’s requirements for the annual agency HCMR agencies currently submit, in alignment with the requirements placed on agencies’ CHCOs in 31 U.S.C. 1115(a)(3) and (f) and 1116(d)(5).

- For purposes of the required elements of their Human Capital Accountability System and their HCMR, differentiate between agencies that are required by the CHCO Act to have a CHCO (hereafter referred to as “CHCO agencies”) and agencies that are not required to have a CHCO (hereafter referred to as “non-CHCO agencies”) in how they are expected to comply with subpart B. This does not suggest that

two separate systems are being implemented, rather than we have a system that is flexible enough to accommodate the human capital requirements for large agencies (or CHCO agencies) with small subcomponents, and smaller agencies (non-CHCO agencies).

- Streamline the requirements of subpart B of part 250 for agencies, by removing the regulatory requirement for a human capital plan and eliminating redundancy in provisions relating to agency accountability systems.

The technical correction to subpart C clarifies that the definitions contained in the subpart apply only to that subpart.

#### Executive Order 13563 and Executive Order 12866, Regulatory Review

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

#### Regulatory Flexibility Act

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

#### List of Subjects in 5 CFR Part 250

Authority delegations (Government agencies), Government employees.

U.S. Office of Personnel Management.

**John Berry,**  
Director.

Accordingly, OPM is proposing to amend 5 CFR part 250 as follows:

#### PART 250—HUMAN CAPITAL MANAGEMENT IN AGENCIES

1. Revise the authority citation for part 250 to read as follows:

**Authority:** 5 U.S.C. 1101 note, 1103(a)(5), 1103(c), 1104, 1302, 1401, 1401 note, 1402, 3301, 3302; E.O. 10577, 12 FR 1259, 3 CFR, 1954–1958 Comp., p. 218; E.O. 13197, 66 FR 7853, 3 CFR 748 (2002).

2. Revise the heading of Part 250 to read as set forth above:

3. Revise subpart B to read as follows:

#### Subpart B—Strategic Human Capital Management

250.201	Coverage and purpose.
250.202	Definitions.
250.203	Agency responsibilities.
250.204	Human Capital Management.
250.205	Systems and standards.
250.206	System metrics.
250.207	Human Capital Accountability System.
250.208	Human Capital Management Report.

#### Subpart B—Strategic Human Capital Management

##### § 250.201 Coverage and purpose.

Pursuant to 5 U.S.C. 1103(c), this subpart defines a set of systems, including standards and metrics, for assessing the management of human capital by Federal agencies. These regulations apply to all Executive agencies as defined in 5 U.S.C. 105 and support the performance planning and reporting that is required by sections 1115(a)(3) and (f) and 1116(d)(5) of title 31, United States Code.

##### § 250.202 Definitions.

*Chief Human Capital Officer (CHCO)* means the person appointed or designated by the agency head as required by 5 U.S.C. 1401, who is accountable for the strategic alignment of the agency's workforce to its mission and is responsible for maintaining and effectively directing the agency's human capital management policies and programs.

*CHCO agency* means an agency required by 5 U.S.C. 1401 to appoint a CHCO.

*Human Capital Management Report (HCMR)* means the report compiling an agency's required metrics and its self-assessment of its progress in meeting the established goals, objectives and milestones in the agency's human capital programs and initiatives. Agencies may also use the HCMR to report on designated Governmentwide goals and objectives. The report helps CHCOs meet the requirements of 31 U.S.C. 1115(a)(3) and (f) and 1116(d)(5).

*Non-CHCO agency* means an agency not required by 5 U.S.C. 1401 to appoint a CHCO, although it may have one.

##### § 250.203 Agency responsibilities.

(a) An agency is responsible for planning, developing, implementing, maintaining and evaluating its strategic human capital management programs and policies and its human resources practices to ensure that they support meeting mission objectives and are efficient, effective, and compliant with merit system principles, laws, and regulations.

(b) An agency must comply with OPM instructions when assessing and reporting on its human capital management efforts.

##### § 250.204 Human Capital Management.

An agency must use the systems, standards and metrics contained in §§ 250.205 and 250.206 of this part in planning, evaluating and improving the efficiency and effectiveness of agency human capital management with respect to—

(a) Aligning with executive branch policies and priorities, as well as with individual agency missions, goals, and program objectives, and ensuring its human capital management strategies support its strategic plans and performance budgets prepared under OMB Circular A–11;

(b) Supporting human capital programs with comprehensive workforce planning and analysis;

(c) Recruiting, hiring and retaining a highly competent workforce, especially in the agency's mission-critical occupations;

(d) Ensuring leadership continuity through the implementation of recruitment, development, and succession plans;

(e) Sustaining an agency culture that values, elicits, identifies, and rewards high performance;

(f) Developing and implementing a knowledge-management strategy, supported by appropriate investment in training and technology; and

(g) Holding the agency head, executives, managers and human resources officers accountable for efficient and effective human capital management, in accordance with merit system principles.

##### § 250.205 Systems and standards.

The five human capital management systems and standards are—

(a) *Strategic Alignment.* A system led by senior management—typically the CHCO—to promote the alignment of human capital management strategies with agency mission, goals, and objectives through analysis, planning, investment, measurement, and management of human resources programs. The core standards for the Strategic Alignment system require an agency to have—

(1) Human capital management strategies and practices that effectively promote accomplishment of its mission; and

(2) Measurable, observable agency performance results.

(b) *Leadership and Knowledge Management.* A system that ensures continuity of leadership by identifying and addressing potential gaps in effective leadership and implements and maintains programs that capture organizational knowledge and promote learning. The core standards for the Leadership and Knowledge Management system require that agency leaders and managers—

(1) Manage people effectively, ensure continuity of leadership, sustain a learning environment that drives continuous improvement in performance;

(2) Provide a means to share critical knowledge across the organization; and  
 (3) Support knowledge management by appropriate investment in training and technology.

(c) *Results-Oriented Performance Culture.* A system that fosters a high-performing organizational culture that offers challenging work and is supported by effective performance management systems and awards programs. The core standards for the Results-Oriented Performance Culture system require an agency to have—

(1) A diverse, results-oriented, high-performing workforce; and

(2) A performance management system that effectively differentiates between high and low levels of performance and links individual/team/unit performance to organizational goals and desired results effectively.

(d) *Talent Management.* A system that addresses competency gaps, particularly in mission-critical occupations, by implementing and maintaining programs to attract, acquire, develop, promote, and retain quality talent. The core standards for the Talent Management system require an agency to—

(1) Close skills, knowledge, and competency gaps/deficiencies in mission-critical occupations; and

(2) Make meaningful progress toward closing skills, knowledge, and competency gaps/deficiencies in all occupations used in the agency.

(e) *Accountability.* A system an agency is required to establish under § 250.207 of this part that contributes to agency performance and mission accomplishment by measuring, monitoring and evaluating the results of its human capital management policies, programs, and activities; by analyzing compliance with merit system principles; and by identifying and monitoring necessary improvements. The core standards for the Accountability system require an agency to—

(1) Guide its human capital management decisions by a data-driven, results-oriented planning and accountability system;

(2) Inform the development of its human capital goals and objectives by the results of the agency's accountability system, in conjunction with the agency's strategic planning and performance budgets; and

(3) Effectively apply its accountability system to promote effective human capital management in accordance with the merit system principles and in compliance with Federal laws, rules, and regulations.

(f) OPM may augment the core standards set forth in this section with additional standards that the Director of OPM will publish in such form as the Director determines appropriate.

#### § 250.206 System metrics.

(a) The required metrics that an agency must address focus on the three systems that implement the human resources life cycle (Leadership and Knowledge Management, Results-Oriented Performance Culture, and Talent Management) and include—

- (1) Organization metrics;
- (2) Employee perspective metrics; and
- (3) Merit system compliance metrics.

(b) OPM will provide instructions on the specific metrics an agency must include in its Human Capital Management Report described in § 250.208.

(c) OPM may provide additional suggested metrics in guidance on human capital management activities that an agency may use in its reports.

#### § 250.207 Human Capital Accountability System.

(a) Each agency must establish and maintain a Human Capital Accountability System (HCAS), consistent with § 250.205(e), that—

- (1) Is formal and documented; and
- (2) Is approved by OPM.

(b) For a CHCO agency, the HCAS also must provide for an independent audit process, subject to full OPM participation and evaluation, to review periodically the agency's human resources transactions to ensure legal and regulatory compliance.

(c) An agency must—

(1) Take corrective action to eliminate deficiencies identified in the independent audit and to improve its human capital management programs and its human resources processes and practices; and

(2) Report the analysis, HCAS results, and corrective actions taken to its leadership and OPM.

#### § 250.208 Human Capital Management Report.

(a) An agency must submit a Human Capital Management Report (HCMR) to OPM that—

(1) Assesses human capital performance in relationship to the agency's mission;

(2) Addresses agency human capital programs and initiatives, including the required metrics specified in OPM instructions; and

(3) Informs the development of human capital management goals and objectives to support the agency's strategic planning and annual

performance budget formulation processes, as well as the treatment of human resources results during the annual performance and accountability reporting process.

(b) A CHCO agency must submit an HCMR annually.

(c) A non-CHCO agency must submit an HCMR in accordance with the timeframe established by OPM.

4. Revise the introductory text to § 250.301 to read as follows:

#### § 250.301 Definitions.

In this subpart—

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[FR Doc. 2011-19844 Filed 8-4-11; 8:45 am]

BILLING CODE 6325-39-P

## DEPARTMENT OF ENERGY

### 10 CFR Parts 430 and 431

[Docket Number EERE-2011-BT-NOA-0038]

#### Energy Conservation Program: Treatment of “Smart” Appliances in Energy Conservation Standards and Test Procedures

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Request for information (RFI).

**SUMMARY:** The U.S. Department of Energy (DOE) seeks information and comments related to the analytical treatment of “smart” appliances in the development of DOE's energy conservation standards, as well as in test procedures used to demonstrate compliance with DOE's standards and qualification as an ENERGY STAR product.

**DATES:** Written comments and information are requested on or before September 6, 2011.

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2011-BT-NOA-0038, by any of the following methods:

- *E-mail:* to [SmartApplianceRFI-2011-NOA-0038@ee.doe.gov](mailto:SmartApplianceRFI-2011-NOA-0038@ee.doe.gov). Include EERE-2011-BT-NOA-0038 in the subject line of the message.

- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, Energy Conservation Standards: Treatment of Smart Appliances, EERE-2011-BT-NOA-0038, 1000