

Supplement Number 125
between
U.S. Department of Housing and Urban Development
and
American Federation of Government Employees National Council 222

SUBJECT: Performance Appraisal

SCOPE: This supplement applies to performance appraisal for all bargaining unit employees represented by American Federation of Government Employees Council 222.

PURPOSE: The parties agree that this supplement provides an immediate update to the terms of the existing (1998) collective bargaining agreement and intend for it to be included as the Article regarding Performance Appraisal upon completion of a subsequent collective bargaining agreement. It is the Union's understanding that employees can grieve the application of the current elements and standards already in place if the ratings violate the Supplement at the end of the rating period because management agrees that the Supplement would be effective immediately upon the signature of both parties.

Section 1 - Performance Appraisal System. The Department shall implement a performance appraisal system which conforms to Chapter 43 of Title 5, United States Code and Part 430 of the Code of Federal Regulations. The purpose of performance appraisal is to establish and apply objective, reasonable, and relevant standards of work performance. A performance appraisal system works best when senior management, supervisors, and employees contribute to standards, communicate regularly on the status and quality of actual performance against the standards, and collaborate on the means to improve and achieve excellence in performance. The Department recognizes that employees possess particular technical knowledge about their positions and annual performance goals. The Union recognizes that it is the Department's responsibility to appraise employee performance. The Department will notify the Union of OPM approval of changes in the performance appraisal system or certify that OPM approval is not needed for the changes.

Section 2 - Definitions.

(1) For this article, the following terms are defined in 5 CFR 430.203:

- (a) Appraisal means the process under which performance is reviewed and evaluated.
- (b) Appraisal period means the established period of time for which performance will be reviewed and a rating of record will be prepared.
- (c) Appraisal system means a framework of policies and parameters established by an Agency as defined at 5 USC 4301 (1) for the administration of performance appraisal programs under subchapter (i) of Chapter 43 of Title 5 USC in this subpart.

- (d) Critical Element means a work assignment or responsibility of such importance that unacceptable performance on the element would result in a determination that an employee's overall performance is unacceptable. Such elements shall be used to measure performance only at the individual level.
 - (e) Non-critical Element means a dimension or aspect of individual, team, or organizational performance, exclusive of a critical element, that is used in assigning a summary level. Such elements may include, but are not limited to, objectives, goals, program plans, work plans, and other means of expressing expected performance.
 - (f) Performance means accomplishment of work assignments or responsibilities.
 - (g) Performance Plan means all of the written or otherwise recorded, performance Elements that set forth expected performance. A plan must include all critical and non-critical elements and their performance standards.
 - (h) Performance Rating means the written, or otherwise recorded, appraisal of performance compared to the performance standard(s) for each critical and noncritical element on which there has been an opportunity to perform for the minimum period. A performance rating may include the assignment of a summary level within a pattern (as specified in 5 CFR §430.208(d)).
 - (i) Performance Standard means the management-approved expression of the performance threshold(s), requirement(s), or expectation(s) that must be met to be appraised at a particular level of performance. A performance standard may include, but is not limited to, quality, quantity, timeliness, and manner of performance.
 - (j) Performance Review means communicating with the employee about performance compared to the performance standards of critical and non-critical elements.
 - (k) Rating of Record means the performance rating prepared at the end of an appraisal period for performance of agency-assigned duties over the entire period and the assignment of a summary level within a pattern (as specified in 5 CFR §430.208(d)), or (2) in accordance with 5 CFR §531.404(a)(1). These constitute official ratings of record.
- (2) **Rating Official:** The Rating Official is usually the immediate supervisor.
 - (3) **Reviewing Official:** The Reviewing Official is normally one (1) level above the Rating Official.
 - (4) **Performance Improvement Plan/Opportunity To Improve:** A PIP or OIP is outlined in the Unacceptable Performance Article in this Agreement.

Section 3 - Function of the Appraisal System. The appraisal system shall:

- (1) Provide for periodic appraisals of job performance of employees to achieve accountability at all levels;
- (2) Encourage and/or involve employee participation in establishing performance standards including the performance planning process that develops critical elements and standards tailored to the individual employee's role in accomplishing actual job performance which addresses the Department's goals;
- (3) Assess employee contributions to the achievement of Departmental requirements, goals, and priorities;
- (4) Strengthen communication between employees and supervisors;
- (5) Communicate and integrate Departmental goals, priorities and strategies to all levels of employees; and
- (6) Use the results of performance appraisals as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees.

Section 4 - Components of the Appraisal System. The appraisal system shall require that each employee be covered by an appropriate written and recorded performance plan based on work assignments, responsibilities, and standards as defined below. The performance appraisal system shall consist of:

- (1) **Critical Elements:** Consistent with HUD Handbook 430, Chapter 2-12, the Department agrees that only critical elements will be used in performance plans. To the maximum extent practicable, the Department shall have no less than three (3) and no more than seven (7) critical elements. Critical elements will be based on major duties in an employee's position description.
- (2) **Performance Plans:** To the maximum extent feasible, performance plans shall permit the accurate evaluation of job performance on the basis of objective criteria (which may include the extent of courtesy demonstrated to the public) related to the job in question for each employee or position under the system. Employee behavior may be appropriate in performance plans provided that it is consistent with an employee's position description. Performance plans are specific descriptions of relevant work activities, assignments, and responsibilities. In the application of elements and standards, the qualitative and quantitative goals and objectives and deadlines must be achievable in the determination of the employee's final performance rating.
- (3) **Communication of Plans:** Performance plans will be communicated to each employee at the beginning of the appraisal period. Barring exceptional circumstances, performance plans will be finalized within thirty (30) days of each appraisal period.

- (4) **Continual Feedback:** In order to achieve optimal performance, the Department recognizes that continual feedback is necessary. Upon request, employees may receive informal feedback on their performance at other times during the performance year. Therefore, supervisors are encouraged to provide informal feedback at any time during the performance period. The Department agrees feedback shall occur more often than the mid-year and final performance ratings.
- (5) **Evaluation:** Each employee will be evaluated during the appraisal period on performance elements and standards. An employee shall be evaluated based on work assigned during the appraisal period.
- (6) **Recognition and Reward:** The performance system will provide for recognition and rewarding employees whose performance so warrants.
- (7) **Assistance:** Employees will be offered assistance in improving unacceptable performance.
- (8) **Reassignment, reduction in grade, or removal:** Employees who continue to have unacceptable performance may be reassigned, reduced in grade, or removed from service, but only after an opportunity to demonstrate acceptable performance.
- (9) **Written justification:** The rating of each element rated other than Level 3 (fully successful) on the annual rating of record will include written justification.
- (10) **In-Service days:** It is understood that managers will exercise consideration in scheduling meetings with their employees by providing adequate notice and not designating telework days or scheduled leave days as meeting dates as much as possible. Meetings with employees do not have to take place on in-service days.

Section 5 - Appraisal Period.

- (1) Generally, the appraisal period begins October 1 and ends the following September 30. The minimum appraisal period is ninety (90) days.
- (2) The Department reserves the right to change the dates of the appraisal period. Any change shall maintain uniform appraisal periods Department-wide. The adverse impact of changes in dates is subject to bargaining.

Section 6 - Performance Planning Process.

- (1) **Development of SMART Standards and Elements:**
 - (a) Supervisors/managers or employees may develop draft standards, or supervisors/managers may secure examples of draft standards prepared by Headquarters, Hubs, or field offices, which may be modified.

- (b) Prior to the communication of performance plans, supervisors/managers shall:
 - i. hold performance planning meetings with employees either in groups of similarly situated employees, or individually. (Participation is voluntary but highly recommended);
 - ii. provide information necessary to determine performance parameters and necessary to enable the Union to engage in full and proper discussions; and
 - iii. notify the Union of performance planning meetings in accordance with Article 3, Section 3.04 and provide a meaningful opportunity to participate. To the maximum extent possible, management and union officials will coordinate and plan the meetings in advance to maximize union participation in performance planning meetings. When the Department directs a substantive change in the performance appraisal elements and standards, it will provide additional official time to local union representatives who do not have sufficient official time to attend the performance planning meetings.
- (c) With consideration given to input from the performance planning meeting, supervisors/managers shall enter the critical elements and standards into the performance management system for each employee supervised.
- (d) Once the elements and standards have been entered into the performance management system, employees will then be provided seven (7) days to review and comment on the elements and standards based upon their unique circumstances (i.e. collateral duties, particular workload, etc.).
- (e) After consideration of individual employees' input, the supervisor will finalize the elements and standards, and communicate them to employees. Where possible, communication will be done face-to-face; however, at a minimum, communication will be done over the phone, except in extenuating circumstances. Supervisors are responsible for communicating and clarifying:
 - i. Specific tasks and projects to be accomplished;
 - ii. Performance expectations;
 - iii. Critical elements;
 - iv. Performance standards; and
 - v. How their plan is linked to the organization's goals and objectives and the Department's strategic plan.

- (2) **Applicability of SMART Standards at All Rating Levels.** Standards that are written to SMART methodology must include SMART criteria for each defined rating level, i.e., 5, 3, and 1.
- (3) **SMART Standards Methodology:** Critical elements and standards in ePerformance shall be applied in a fair and equitable manner. Supervisors shall comply with the SMART Standards methodology when developing employee performance plans. The Department agrees to implement the SMART standards methodology, as defined below:
- (a) **Specific:** The elements in the employee's performance plan need to clearly identify what needs to be accomplished - that is, the results that the employee is aiming towards should be the central focus of each critical element (i.e., if the goal is to complete reports, the standard should specify what milestones need to be achieved to count the report as complete).
- (b) **Measurable:** Elements should have clearly defined measures (quality, quantity, timeliness or cost-effectiveness), which will allow both the employee and the supervisor to know that the requirement has been achieved. The supervisor will communicate to the employee how the results will be determined. To maximize the value of performance measures, they must reflect accomplishments that are meaningful and important.
- (c) **Attainable:** All elements and standards must be achievable. The employee and the supervisor will discuss the work relating to the critical elements to establish a clear expectation of what must be done to achieve the results expected. In the discussion, consideration will be given to the time, tools, training, support or other resources and control factors that are necessary for the employee to perform at the required level. The supervisor should create a situation where the employee has a reasonable expectation of achieving his/her goal given the necessary resources (training, time, support) to perform at the required level.
- (d) **Relevant:** Critical elements and performance standards are to be aligned with the goals of the Department and the mission of the employee's organization. Critical elements must be based on major duties in an employee's position description and the employee's organization's Management Plan/Annual Performance Plan. Supervisors will communicate to employees how their role contributes to the success of the organization and how their critical elements support that contribution. If the employee does not have a position description, the Department shall prepare one within sixty (60) days of the establishment of the employee's performance plan, and the employee will have five (5) work days to review the new position description and recommend further revisions to the performance standards consistent with major duties in the position description.

- (e) **Time-bound:** The employee will be made aware of when the expected result is to be achieved. Critical elements should include milestones, or a schedule, and all dates should be clearly communicated so that the employee will have an understanding of what is expected and by when it is expected.
- (4) **Prohibition of Absolute Standards:** Performance standards should avoid the appearance of requiring perfection rather than excellence. Standards should not be absolute, allowing no room for error.
- (5) **Equitable Goals:** The goals of an individual or group of employees will not be inflated in order to allow another individual or group to receive a higher rating.
- (6) **Performance Plan Disputes:** Employees may bring disputes concerning their Performance Plans to the attention of the Reviewing Official. The Reviewing Official may exercise authority to change the disputed portion of the Performance Plan after discussion with the Rating Official.
- (7) **Supervisory Notice:** The Department will notify employees of the names of their rating and reviewing officials at the beginning of each performance period. Generally the reviewing official will be the employee's second line supervisor.

Section 7 - Appraisal Process.

- (1) The Department agrees not to adversely affect employees in their performance appraisal ratings for the period when they were working without finalized, written elements and standards. The rating period for new or modified elements will begin at the time they are issued. Any modified or additional elements shall not be applied retroactively in an adverse manner. Standards implemented after the beginning of the rating period shall be achievable by the end of the rating period.
- (2) Performance on each critical element shall be appraised according to performance standards.
- (3) Provided the employee has been working under a performance plan for ninety (90) days, the employee shall have one (1) progress review meeting by the midpoint, barring exceptional circumstances. If the appraisal period begins on October 1, then the midpoint shall be April. The supervisor will provide at least three (3) work days' notice for scheduling the meeting. Any performance appraisal of less than fully successful must be accompanied by written feedback from the employee's rating and/or reviewing officials. The meeting shall be face to face if the employee and supervisor are located in the same office, otherwise the meeting will be conducted telephonically.

- (4) The employee may submit self-assessments to the supervisor at any time during the performance period (e.g. monthly, quarterly, mid-year, etc.). The employee's self-assessment shall be voluntary. The Department shall provide guidance or training to the employee on preparing self-assessments and using the system. The Department shall not alter an employee's self-assessment. The Department shall provide employees no less than seven (7) days to insert their self-assessment for mid-year and final approvals. Employees who submit a self-assessment should expect that it will be seriously considered and, upon request, may meet with their supervisor prior to proposing the initial rating. The self-assessment does not relieve the rating official of the responsibility for preparing a fair and thorough performance assessment. The rating official should be aware of the accomplishments of the employee throughout the performance period.
- (5) In applying performance element(s) and standards, an employee's performance appraisal shall take into account all of the job functions the employee is expected to perform and the actual amount of time available (or not available) to perform those functions. Factors beyond an employee's control may include, but are not limited to, unusual or extenuating circumstances such as availability of resources, delays attributable to others, unanticipated additional work assignments, changing priorities or high volume workloads. Deadlines and quantitative goals should be extended or adjusted by management as conditions warrant.
- (6) The Department will communicate the rating to the employee within 45 days following the end of the rating period, barring exceptional circumstances.
- (7) Throughout the year, supervisors will inform employees of performance errors prior to providing a rating.
- (8) The rating official shall give the employee an opportunity to comment in writing through a self-assessment, prepare a proposed appraisal, and then discuss the appraisal with the rating and/or reviewing official. Employees shall have access to the rating and reviewing official's written comments, assessments, and ratings in HIHRTS or successor system. There shall be no quota system or predetermined percentages regarding how many employees within a program office can receive Level 5, Level 4, or Level 3 rating. If any management official changes, influences or advises a rating or reviewing official to lower or raise an employee's rating for any element, that management official shall base his or her assessment on a review and analysis of documentation on the employee's performance.
- (9) At the employee's request, the reviewing official will meet with the employee to discuss the rating.
- (10) If during the performance cycle, the employee's summary rating is rated at Level 2, a written Performance Improvement Plan (PIP) shall be prepared.

- (11) If an employee is put on a Performance Improvement Plan (PIP), supervisors shall identify the critical elements that are at Level 2 and ways the employee may improve performance. Supervisors also are encouraged to provide continual feedback, technical assistance or training to assist the employee in improving performance. The supervisor shall meet with an employee and explain and document performance deficiencies once the employee's performance is at Level 2; the employee will be provided with summary and illustrative examples of the performance deficiencies and ways to improve. The employee will be placed on a PIP as soon as possible after the explanatory meeting. The supervisor will regularly meet with the employee to provide assistance, which may include training (formal, on-the-job, etc.), and/or technical assistance during the PIP period to assist the employee to achieve fully successful/Level 3 performance. The mere assignment of outstanding, pending or new work shall not be construed as constituting training or technical assistance in a Performance Improvement Plan (PIP). A PIP must provide at least thirty (30) days to improve performance prior to the end of the appraisal year. The purpose of the PIP is to improve performance and not to be a predetermined step to impose a performance-based adverse action.
- (12) Upon written request from the employee, the supervisor shall provide in writing the employee's current status on the performance improvement plan as well as the employee's current level of performance.
- (13) The rating is considered official when it is:
 - (a) Signed by the Rating Official and the Reviewing Official;
 - (b) Signed by the employee or held by the employee for the five (5) workdays comment period without being signed (the employee may request additional time); and
 - (c) Placed in the Employee's Performance File System of Records.
- (14) After supervisors communicate the final rating, employees have five (5) work days to comment on their final performance ratings. Supervisors shall consider the availability of the employee when communicating the rating. If the employee is not afforded five (5) work days to comment prior to approved leave, then upon the employee's return, they will be given five (5) work days to comment, unless the employee agrees to waive the comment time. If an employee is not available during the five (5) work day comment period or is on approved leave, supervisors shall not acknowledge or approve performance ratings in the automated performance rating system until the five (5) work days have passed.
- (15) The performance plan expires at the end of the appraisal period, unless the rating is delayed in accordance with the Agreement.
- (16) Performance appraisals superseded through an administrative or judicial proceeding, or pursuant to a mutual agreement and/or settlement, will be changed or destroyed.

Section 8 - Changes Occurring During the Appraisal Cycle

- (1) Reassessment of SMART Elements and Standards During the Rating Year: At any time during the appraisal period, employees may raise any issues concerning the critical elements and standards in the performance plan to the supervisor. Employees may bring disputes concerning their Performance Plan to the attention of the Reviewing Official. The Reviewing Official may exercise authority to change the disputed portion of the Performance Plan after discussion with the Rating Official. If a substantive adjustment is made which adversely impacts the employee, the employee must have at least ninety (90) days to perform under the revised critical element and standards in the revised plan.
- (2) Employees who occupy more than one (1) position during an entire rating period due to reassignment, promotion, temporary promotion, or demotion, and that were under elements and standards for at least ninety (90) days, will be rated based on the interim rating(s) and the current position of record to arrive at the final (combined) summary rating. Specifically:
 - (a) Upon leaving a position of record the employee will receive an interim rating within thirty (30) days and in writing.
 - (b) The interim rating will be forwarded to the new supervisor of rating.
 - (c) All interim ratings will be combined (scored, as stipulated in this agreement) to arrive at the final summary rating.

An interim rating will be clearly identified as an interim rating.

An interim rating is not considered an official rating of record, unless the interim rating is the only rating given during the performance period. Further, if the employee separates from the Department before the end of the rating period, the interim rating will become the rating of record.
- (3) Employees who are detailed within the Department for ninety (90) days or longer must have written performance plans communicated within the first thirty (30) days of the detail or as soon as possible after the beginning of the detail.
 - (a) If the employee returns to the permanent position of record at the end of the rating period, the temporary supervisor will communicate all element ratings to the supervisor of record and if the employee has spent at least ninety (90) days in the permanent position, the supervisor of record will combine the ratings of the temporary and permanent positions.
 - (b) If, however, the employee is still on the detail at the end of the rating period, the permanent supervisor will prepare an interim rating, and it is the responsibility of the temporary supervisor to prepare the combined rating if applicable (meaning the employee worked at least ninety (90) days in the permanent position).
- (4) All ratings for non-supervisory positions issued during the official rating period shall be combined to arrive at the annual rating of record, regardless of bargaining unit status.

- (5) If an employee is demoted or reassigned due to Level 1 performance (unacceptable) prior to the completion of the end of the appraisal period, the rating of record is unacceptable. The employee will be rated again after the employee has worked at least ninety (90) days under new performance standards. If less than ninety (90) days remain in the performance period, the rating will be delayed. The new rating of record will be based on the performance plan of the new position.

Section 9 - Rating Levels.

- (1) Each critical element shall be rated according to one of the following five performance levels: Level 5 (Outstanding), Level 4 (Excellent/Highly Successful), Level 3 (Fully Successful), Level 2 (Marginally Successful), and Level 1 (Unacceptable). Performance standards shall be written for the Level 5 (Outstanding), Level 3 (Fully Successful) and Level 1 (Unacceptable) levels. The definitions for each rating level are as follows:
 - (a) Level 5 (Outstanding): Job performance meets the performance standards established for the Level 5 (Outstanding) level.
 - (b) Level 4 (Excellent/Highly Successful): Job performance exceeds the performance standards established for the Level 3 (Fully Successful) performance level, but does not meet the performance standards for the Level 5 (Outstanding) level.
 - (c) Level 3 (Fully Successful): Job performance meets the performance standards established for the Level 3 (Fully Successful) level.
 - (d) Level 2 (Marginally Successful): Job performance exceeds the performance standards established for the Level 1 (Unacceptable) level, but does not meet the performance standards for the Level 3 (Fully Successful) level.
 - (e) Level 1 (Unacceptable): Job performance meets the performance standards established for the Level 1 (Unacceptable) level.

Section 10 - Rating Delays.

The reason for a delay of performance ratings is limited to one or more of the following five (5) reasons:

- (1) The employee has not worked under elements and standards for at least ninety (90) days.
- (2) Sufficient performance information does not exist for a new supervisor who has not supervised an employee for at least ninety (90) days or for a Reviewing Official to make a rating. In this case, the rating is delayed for ninety (90) days.
- (3) If the employee is working under an Opportunity to Improve Plan (OIP). The rating is given after a decision is made on the OIP.

- (4) The employee's overall performance is temporarily Level 1 or Level 2 because of illness, alcoholism, drug abuse, or another similar reason when the supervisor expects the performance to become fully successful in the near future because the employee is expected to recover, has entered a rehabilitation program, or gives other indications of resolving the problem which led to the Level 1 or Level 2 performance.
- (5) The employee has been performing at the Level 1 or Level 2 and has been reassigned or demoted to another position within ninety (90) days of the end of the appraisal period. The employee shall receive a delayed rating in his/her current position.

Section 11 - Summary Ratings. The procedures for converting individual element ratings to an overall (summary) rating are as follows:

- (1) If one or more critical elements are rated Level 1 (Unacceptable), the summary rating shall be Level 1 (Unacceptable).
- (2) If no critical elements are rated Level 1 (Unacceptable), and two or more critical elements are rated Level 2 (Marginally Successful), the summary rating shall be Level 2 (Marginally Successful).
- (3) If one critical element is rated Level 2 (Marginally Successful) and all remaining elements are rated Level 3 (Fully Successful) or above, the summary rating shall be Level 3 (Fully Successful).
- (4) If no critical element is rated Level 1 or Level 2 (Unacceptable or Marginally Successful), the summary rating shall be computed using the following procedure:

3 points for each critical element rated Level 5 (Outstanding)
2 points for each critical element rated Level 4 (Excellent)
1 point for each critical element rated Level 3 (Fully Successful)

The total points are divided by the number of Critical Elements to yield an average. The average is computed to two decimal places and should always be rounded up.

- (5) Summary ratings are as follows:

2.75 or higher – Level 5 (Outstanding)
1.80 to 2.74 – Level 4 (Excellent)
1.79 or lower – Level 3 (Fully Successful)
- (6) If work has not been assigned under a Critical Element, then there will be no rating under that Critical Element and that Critical Element will not be considered in the computation of the summary rating. If work has not been assigned under a particular performance standard, the rating will be based on the remaining performance standards under the Critical Element. If a fully successful performance rating is based on a given number of completed items, and less than that number of items has been assigned, the performance standard will be adjusted downward accordingly.

Section 12 - Constructed Performance Ratings for Reduction-In-Force Purposes. (See Section 15.23 of the Article on RIF in this Agreement.) In addition, grievances on performance appraisals prior to the RIF must be resolved (and on an expedited basis) and, if applicable, the revised rating will be used in the RIF process.

Section 13 - Analysis of the Aggregate Rating Data. Upon request, the Union shall be provided with summary rating data for each appraisal period.

Section 14 - Training. The Department will provide formal training and guidance to all employees on the performance appraisal system, as required by 5 CFR 430.209.

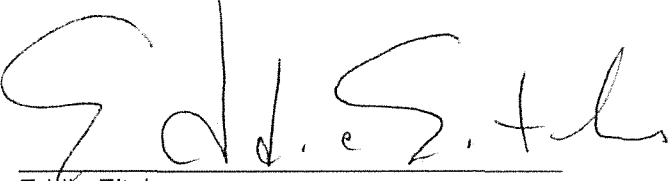
Section 15 - Policy and Guidance. Any differences between Departmental policy and guidance and this Agreement on the subject of performance appraisal will be resolved in favor of this Agreement.

Section 16 - Performance Appraisal System Evaluation. When the Department begins any evaluation or other assessment of the performance appraisal system, the Union will be given a fifteen (15) days' notice and provided a copy of the proposed assessment and methodology. When the Department compiles the results, the Union will be given a copy of the report.

APPROVED:



Karen Newton Cole
Chief Human Capital Officer



Eddie Eitches
President, Council 222
Chief Negotiator

Date Signed: 10 June, 2013

Date Signed: 6 June 2013