

ISSUES OF MERIT

Fall 2015

a publication of
the U.S. Merit Systems
Protection Board,
Office of Policy
and Evaluation

WHAT'S INSIDE

Director's Perspective
Page 2

Announcing the 2016
Merit Principles Survey
Page 3

Recognizing Federal
Employees for their
Valuable Work
Page 4

Improving Performance:
The Role of
Contextual Behavior
Page 5

SES Qualifications:
Vision and Practice
Page 6

The How and Why of an Effective Performance Improvement Plan

As explained in our 2009 report, *Poor Performers and the Law*, title 5 of the U.S. Code currently provides two avenues by which agencies can demote or remove poor performers. The first avenue is codified in Chapter 43, while the second is in Chapter 75. Chapter 43 requires that agencies offer assistance to employees in an attempt to improve their unacceptable performance prior to implementing a performance-based adverse action.¹ Chapter 75 does not require agencies to provide such assistance. However, under Chapter 75, an adverse action's reasonableness depends, in part, on the extent to which the employee was on notice of the required behaviors.² Therefore, a performance improvement plan (PIP) and a reasonable period of time to improve under the plan is necessary under Chapter 43, and can be helpful under Chapter 75.

An effective PIP will typically:

- State in clear detail what performance is expected from the employee and how it

will be measured.

- Specify the assistance the agency will provide to the employee (e.g., on-the-job training, formal class training, mentoring).
- Designate a person responsible for helping the employee through the performance improvement period and indicate how often this person will meet with the employee. (This person is often the supervisor, but it could be a team leader, co-worker, or other appropriate person).
- Instruct the employee to notify a particular person (often the supervisor) and request help if the employee does not understand a work task or how to complete it.
- State how long the PIP will be in effect.
- State the possible consequences if the employee's performance does not improve.

We note that not all of these individual elements are required in a PIP.³ The overall requirement is that the opportunity to

(continued on page 7...)

1. 5 U.S.C. § 4302(b)(5)-(6). See *Sandland v. General Services Administration*, 23 M.S.P.R. 583, 588 (1984) (an employee has a substantive right to an improvement period prior to the institution of a chapter 43 performance based action); 5 C.F.R. § 432.104-05.

2. *Fairall v. Veterans Administration*, 33 M.S.P.R. 33, 41-45, *aff'd*, 844 F.2d 775 (Fed. Cir. 1987) (an employee is not entitled to a PIP in a chapter 75 action, but the lack of a PIP can be a relevant factor when the Board assesses the reasonableness of the penalty).

3. Regulations require that the employee be told of the critical element(s) for which performance is unacceptable; what is necessary to demonstrate acceptable performance; and the possible consequences if performance does not become acceptable. The agency also must offer assistance to the employee in improving unacceptable performance. See 5 C.F.R. § 432.104.

ISSUES OF MERIT

U.S. Merit Systems
Protection Board

CHAIRMAN

Susan Tsui Grundmann

BOARD MEMBER

Mark A. Robbins

Office of Policy and Evaluation

DIRECTOR

James Read

**DEPUTY
DIRECTOR**

James J. Tsugawa

Our Mission

The MSPB Office of Policy and Evaluation conducts studies to assess the health of Federal merit systems and to ensure they are free from prohibited personnel practices.

Issues of Merit

We offer insights and analyses on topics related to Federal human capital management, particularly findings and recommendations from our independent research.

Reprint Permission

We invite you to reprint any of our articles. If you do, please include the following attribution: *Reprinted from Issues of Merit, a publication of the Office of Policy and Evaluation, U.S. Merit Systems Protection Board.*

For More Information

Contact us at:
www.mspb.gov/studies
STUDIES@mspb.gov
202-254-4802 x4802
1-800-209-8960
V/TDD: 202-653-8896
(TTY users may use the Federal Relay Service, 800-877-8339)

U.S. Merit Systems Protection Board
Office of Policy and Evaluation
1615 M Street, NW
Washington, DC 20419

DIRECTOR'S PERSPECTIVE

The Federal Civil Service Hiring System is Out of Balance

There is widespread dissatisfaction with the system for hiring into the Federal civil service. Perhaps it is worth examining how well the Government is living up to what I call the four core values of that system. They are:

1. Hiring must be merit-based, with selection “determined solely on the basis of relative ability, knowledge, and skills.”
2. There must be “fair and open competition” for Federal jobs “which assures that all receive equal opportunity.”
3. The Government should “endeavor to achieve a workforce from all segments of society.”
4. Military veterans shall receive preference for Federal jobs.¹

Few would argue with the wisdom of these values in the abstract, but in practice, the first three values appear underemphasized.

Before looking at outcomes in federal hiring, however, it is worthwhile to recount how the environment for Federal hiring has changed in recent decades. Key changes include:

Widespread abandonment of aptitude testing. Until the 1970s, the Government administered aptitude tests for entry into the civil service, but they were abandoned in the face of claims that the tests were discriminatory. Replacement tests have not been widely used.

Delegation of examining authority. In the 1990s, authority to examine for appointment was delegated from OPM

1. The four principles set forth above are part of the civil service laws. See 5 U.S.C. §§ 2301(b)(1), 3309 - 3320.

to over 600 offices in executive agencies.

Increased access to job information and ease of application. The proliferation of personal computers and broadband web connectivity have made it easier for individuals to learn about Federal job openings and to apply for them. The application process was made even easier in 2010, when the President prohibited agencies from requiring knowledge, skills, and abilities (KSA) essays as part of an initial application. HR offices now rely heavily on representations that applicants make in their resumés and in online self-assessments to determine who is qualified for a position.

One constant throughout this time has been a strong form of veterans' preference. Under the rating and ranking system that was used until 2010, before an agency could extend a job offer to a non-veteran, it was required to notify any disabled veteran who had achieved a passing examination score that it intended to pass him or her over, allow the veteran to respond, and obtain permission from the Office of Personnel Management (OPM) to hire the non-veteran.² In 2010, the President ordered agencies to use category rating instead of rating and ranking. Applicants do not receive numerical scores under category rating, but an agency must nevertheless follow the pass over procedure just described when it wants to select a non-veteran over a minimally-qualified disabled veteran. Justification is also required (although there is no OPM involvement) when an agency wishes to select a non-veteran and there is a non-disabled veteran in the best-

2. See 5 U.S.C. §§ 3313, 3318.

(continued on page 3...)

Director's Perspective

(continued from page 2)

qualified category of applicants.³

The changes outlined above, combined with the veterans' preference rules, have produced some striking outcomes.⁴ For example, from 2002 to 2012, agencies used the mainstay hiring method—a competitive examination under which any U.S. citizen may apply—less than half the time in filling positions.⁵ When HR officials were asked why competitive examination was not used more often, 28% said that a veteran who had applied “block[ed] the list” and made it effectively impossible to hire the preferred candidate.⁶ When competitive examination was used in 2012, 64% of individuals hired were men, and over 75% of individuals hired in 2012 under special authorities for veterans were men.⁷ As depicted in the chart to the right, although women made up 47% of the U.S. labor force and 52% of the U.S. adult non-institutionalized population in 2012, they made up just 37% of new hires in the Federal government in 2012.⁸ Further, although veterans made up 8% of the U.S. labor force and 9% of the U.S. adult non-institutionalized population in 2014, they made up 40% of all new hires in the Federal government in 2014.⁹

In fact, when the HR office in one large agency determines that a significant number of disabled veteran applicants meet minimum qualifications for a position, it provides the selecting official with the veterans' applications only. The applications of the non-veterans, no matter how impressive they may be, are never even seen by the selecting official.

The discussion above suggests that women and non-veterans may be systematically disadvantaged by the

3. The rules for category rating can be found at 5 U.S.C. § 3319 and 5 C.F.R. §§ 337.301 - 337.305. Veterans' preference operates differently for professional and scientific positions at the GS-9 level or above.

4. This discussion pertains to hiring under Title 5 of the U.S. Code, which governs most of the executive branch; it does not include hiring under systems outside of Title 5.

5. U.S. MSPB. *The Impact of Recruitment Strategy on Fair and Open Competition for Federal Jobs*, January 2015, pg. 19.

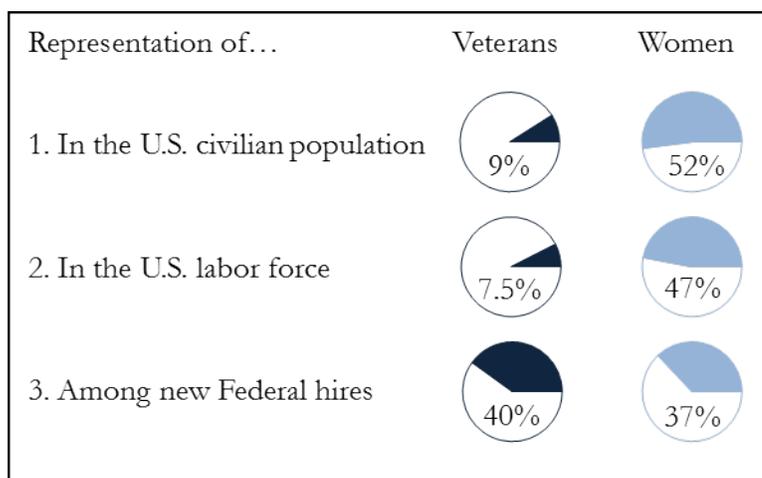
6. *Id.* pg. 16.

7. *Id.* pg. 20.

8. Sources: U.S. Census Bureau and MSPB analysis of data from OPM's Central Personnel Data File.

9. Sources: Bureau of Labor Statistics; Office of Personnel Management.

Federal hiring system, and that managers are not always allowed to hire—and sometimes not even allowed to know about—the best-qualified job applicants. If the four core values of Federal hiring are to be brought into better balance, then competition for Federal jobs should be more fair and open, the under-representation of women



and non-veterans should be addressed, and managers should have more opportunities to select the best-qualified applicants. ❖

James Read

Director, Policy and Evaluation

Announcing the 2016 Merit Principles Survey

In early 2016, MSPB will invite approximately 120,000 Federal employees to participate in the Merit Principles Survey.

This survey will cover topics such as fairness, work environment, and career plans to give Federal leaders and policymakers an objective and balanced measure of the health of the Federal civil service.

Every response is important—if you are selected, please make your voice heard!

Leaders: “Recognizing” Employees Requires More Than Just Knowing Who Works for You

Results of a 2012 American Psychological Association (APA) survey of working Americans indicate that feeling valued was a key driver of engagement and job performance.¹ For example, among employees who indicated that they were valued, 93% agreed that they were motivated to do their best at work and 88% reported that they felt engaged. In sharp contrast, employees who thought they were not valued indicated agreement levels of only 33% and 38%, respectively, to these same questions about motivation and engagement.

MSPB’s research confirms that appreciation is similarly important to Federal employees and Federal agencies. Our analysis revealed that employees who believed that their effort would result in higher performance and that they would receive recognition for that performance were more likely to perform well.²

For these reasons, appreciation and recognition for a job well done are more than a matter of courtesy. Unfortunately, the trend in Federal employees’ experience of recognition is not positive, as illustrated in the chart to the right.³

This is not surprising in light of on-going fiscal austerity, proposals to reduce Federal employee pay or benefits, and public criticism of Federal agencies and Federal officials. It is quite likely that many Federal employees interpret these occurrences as signs of how *little* their work is valued, rather than how much.

Although Federal leaders may be unable to prevent or change these adverse circumstances, or erase them from their employees’ memories, it is important that leaders take steps to try to mitigate their negative effects. Below, we outline some ways that leaders can better recognize and support Federal employees for their valuable work.

1. American Psychological Association Survey Finds Feeling Valued at Work Linked to Well-Being and Performance, March 8, 2012, accessed at: <http://www.apa.org/news/press/releases/2012/03/well-being.aspx>.

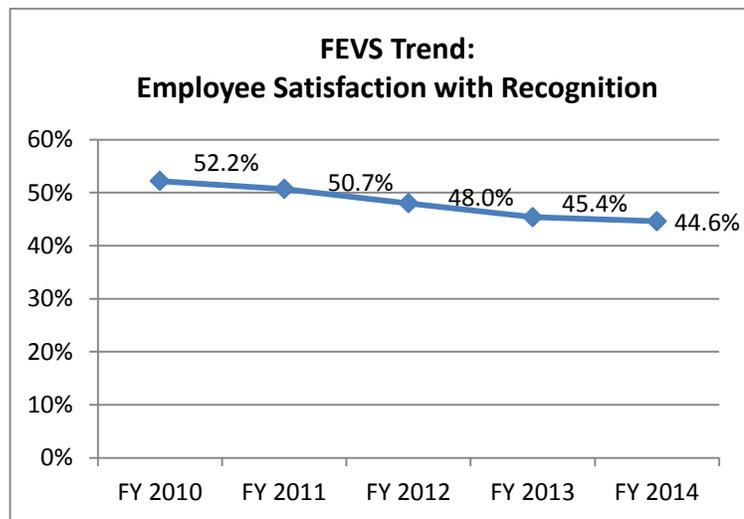
2. U.S. MSPB. *Federal Employee Engagement: The Motivating Potential of Job Characteristics and Rewards*, December 2012.

3. Data for the chart obtained from OPM’s Federal Employee Viewpoint survey data, percent favorable responses to the question: “How satisfied are you with the recognition you receive for doing a good job?”. See: <http://www.fedview.opm.gov/>; and <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/employee-surveys/>.

Reaffirm the value of the agency’s mission and how employees contribute to its accomplishment. Every employee plays a vital role. Helping each employee see—and affirming that you understand—how his or her work directly or indirectly supports mission success is one way to value employees.

Regularly recognize employees for their contributions and express appreciation for what they do. Make recognition and appreciation a habit rather than an occasion. One strategy for establishing this habit is to maintain a gratitude journal and express appreciation daily.⁴ This strategy has the additional benefit of improving tracking and documentation for purposes of feedback and formal performance evaluation.

Emphasize the agency’s successes. Every agency has functions that bring value to the American people.



Spotlight accomplishments in those functions. Help employees and work units to see how the work they did contributed to the agency’s success. Be as clear as possible when outlining such linkages; leaders who can express, in concrete terms, why *this* agency, *this* function, and *this* work unit matter are better positioned to recognize employees credibly and effectively—and to represent their agency to the public and stakeholders.

Set high (but realistic) standards—be honest about what employees can achieve with available resources.

(continued on page 7...)

4. Mosely and Irvine (2014). *The Power of Thanks: How social recognition empowers employees and creates a best place to work*. New York: McGraw Hill.

Improving Performance: The Role of Contextual Behavior

In good times and in tough times, Federal agencies need employees to direct their capabilities, energy, and effort towards more than just their core job duties. Mission success requires that employees also recognize—and seize—opportunities to support the agency in ways not necessarily specified in their position descriptions (PDs) nor tied to their formal job tasks. Indeed, agencies need employees to think and behave “outside the box” of formal job tasks and to do, support, or help with what needs to be done in the name of broader mission accomplishment. Agencies need employees to direct their effort towards both *task* and *contextual* performance.

What are Task and Contextual Performance?

Employees’ performance at work can be divided into task and contextual performance.¹ Task performance is the “meat” of an employee’s job: the technical, core duties that directly feed into creation of an organization’s products and services. Meanwhile, contextual performance behaviors are the “gravy” or those employee actions that season the work environment where task performance occurs. In essence, contextual performance behaviors make the work environment more conducive to the generation of task performance. There are five general categories² of contextual performance behaviors:

- Putting in extra effort and persistence on formally-prescribed job tasks;
- Being cooperative and helpful to other employees;
- Volunteering or taking the initiative on duties beyond one’s job;
- Being respectful of agency rules; and
- Supporting the agency and its goals.

Although many work units (and agencies as a whole) undoubtedly rely on these kinds of behaviors to successfully accomplish work, such behaviors are less likely to be specified-requirements of an employee’s job compared with task-focused activities. For example, consider the following behaviors expected of an analyst:

A: “Writes reports summarizing research findings.”

B: “Voluntarily edits peers’ research reports.”

Although both of these behaviors are important and necessary, you are more likely to see “A” as a

1. See Borman and Motowildo (1997). *Task Performance and Contextual Performance: The Meaning for Personnel Selection Research*. Human Performance, 10, pgs. 99-109.

2. *Id.*

performance element for an analyst compared with “B.” Behavior B has a greater degree of employee choice, which is a hallmark of contextual performance behaviors. Contextual behaviors tend to be more discretionary and less easily observable than task behaviors and are also less likely to be formally recognized or rewarded.

How Can Agencies Encourage Contextual Performance Behavior?

Informal recognition. Since contextual performance behaviors are less likely to be formally recognized than task behaviors (*e.g.*, through an appraisal or reward system), one way to encourage them is to *informally* recognize them. As discussed in a previous MSPB newsletter,³ informal recognition—such as giving a simple “thanks”—is easy to do and free, yet can be a very effective way of reinforcing a desired behavior. Employees may not realize how valuable certain behaviors are to others and expressing appreciation for them can serve as a “spotlight” to them (and to all other employees) that can help encourage similar behaviors in the future. Further, past MSPB research found that appreciation received was rated as important to seeking and continuing employment in their organization by 84% of survey respondents.⁴ Clearly, Federal employees appreciate appreciation. Leaders should make sure employees receive it for their contextual performance behaviors in addition to their task behaviors.

Establish explicit expectations. Supervisors may want to explore complementing *informal* encouragement of contextual behaviors with *formal* performance management strategies such as incorporating contextual behaviors into performance plans and standards. Of course, it would be wise to work with HR and any unions on executing this change, and all modifications would need to be communicated to all affected employees to provide them with a fair and equal opportunity to perform.

Review and revise hiring criteria and methods. Supervisors may also want to revisit job competency models and assessment methods to ensure they recognize and value contextual behaviors. Although they require

(continued on page 6...)

3. U.S. MSPB. Informal Recognition: A Little “Thanks!” Can Mean A Lot, *Issues of Merit Newsletter*, June 2013, pgs. 1 & 3.

4. U.S. MSPB. *Federal Employee Engagement: The Motivating Potential of Job Characteristics and Rewards*, December 2012, pg. 21.

Senior Executive Qualifications: Vision vs. Practice

In 1978, the CSRA created the Senior Executive Service (SES) “to provide the flexibility needed by agencies to recruit and retain the highly competent and qualified executives needed by agencies to provide more effective management of agencies and their functions and the more expeditious administration of public business.”¹ At its inception, the SES was envisioned as a corps of executives who would possess a broad Government perspective and could serve in a variety of leadership roles across the Federal Government.

Based on research conducted in the private and public sectors, the Office of Personnel Management (OPM) identified 22 leadership competencies that are necessary for successful performance as an executive. These leadership competencies are grouped into five categories (Leading Change, Leading People, Results Driven, Business Acumen, and Building Coalitions) and are referred to as the Executive Core Qualifications (ECQs). In addition to the ECQs, OPM identified six fundamental competencies (interpersonal skills, oral communication, integrity/honesty, written communication, continual learning, and public service motivation) that provide the foundation for performing the ECQs. Accordingly, the ECQs serve as the basis for selection into the SES.² However, it appears that agencies view possession of the ECQs alone as insufficient for many SES positions. Survey results show that only 21% of the career SES agreed that their position could be filled using just the ECQs without requiring additional technical qualifications.³ This perception is consistent with findings from an analysis of all permanent career SES vacancy announcements posted on USAJOBS during 2014. Approximately 80% of the announcements required applicants to meet at least one technical competency in addition to the ECQs to be considered qualified for the position. These findings highlight a divergence between the original vision of the SES, in which leadership and fundamental skills would suffice, and current practice, in which specific technical skills are required for entry and successful performance.

1. 5 U.S.C. § 1101.

2. SES selection process accessed at: <http://www.opm.gov/policy-data-oversight/senior-executive-service/selection-process/#url=Qualifications-Review-Board>.

3. U.S. Office of Personnel Management Senior Executive Service Survey Results for Fiscal Year 2011.

The inclusion of technical competencies in combination with the ECQs may be occurring for several reasons. Perhaps the increasingly knowledge-based work in the Federal Government has resulted in a need for leaders to possess specialized technical skills or advanced education to effectively lead agencies and programs, and supervise others performing such work. Leaders may also have to personally perform technical work because agencies may lack sufficient staff (e.g., due to hiring freezes, difficulty recruiting candidates or retaining employees with specific skills). Or, agencies may be using job announcements for leader positions that do not accurately reflect what is required to perform the job (e.g., changes in job duties not included in vacancy announcement, unrealistic assessments of job requirements). Regardless, survey and job announcement data on the usage of technical competencies in leader positions suggest that agencies believe that they are necessary.

Going forward, we suggest that agencies and policy makers responsible for establishing SES selection criteria pay close attention to the extent to which the current *practice* of the SES role in Government aligns with the original *vision* of its members’ duties and responsibilities. Continued divergence of vision and reality, as highlighted above, could reveal the need for more formal changes to the requirements for Federal leadership positions. ❖

Contextual behavior... (continued from page 5)

more effort, these formal strategies would more clearly emphasize (and encourage) the performance of any valued contextual behaviors.

Efficient and effective mission accomplishment requires employees who engage in behaviors that transcend the job as described on paper. While agencies will always need employees to focus on task performance, they also need employees to seize opportunities to engage in contextual performance. Informal recognition can do much to encourage contextual behaviors. When certain contextual behaviors are routinely necessary, more formal strategies like changing performance standards and selection criteria could also be considered. ❖

Recognizing Federal Employees...

(continued from page 4)

In these challenging times, it is essential that agencies use their limited resources effectively. But leaders should not imply to stakeholders nor employees that it is possible to do everything with nothing.⁵ Leaders must have the courage to say when expectations for performance and productivity are inconsistent with resources allocated. For example, the commissioner of the Internal Revenue Service, John A. Koskinen, has been candid in his testimony before Congress about the difficult choices that become necessary when the resources allocated to the IRS are not commensurate with the demands for its services.⁶ In Mr. Koskinen's closing remarks he warned that:

*"Even with the demonstrated capacity of our work force to successfully meet these challenges to open filing season on time, I remain deeply concerned that the significant reductions in the IRS budget will degrade the agency's ability to continue to deliver on its mission during filing season and beyond."*⁷

5. See, for example, Paul C. Light (Brookings Institution, Center for Effective Public Management, 2014), "A Cascade of Failures: Why Government Fails, and How to Stop It," for a discussion of how unrealistic expectations can contribute to poor organizational performance.

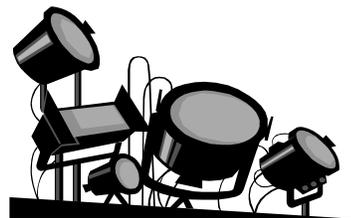
6. Testimony of John A. Koskinen, Commissioner, Internal Revenue Service, before the Senate Finance Committee, February 3, 2015, accessed at: <http://www.finance.senate.gov/imo/media/doc/2015%20JAK%20testimony%20SFC020315%20-%20FINAL.pdf>.

7. *Id.*

Advocate for the workforce and for investments in employee development and recognition. For example, in his testimony, Mr. Koskinen also took care to make the case for continuing to recognize high performance:

*"As part of this investment in our workforce, the IRS will continue to recognize qualifying employees who do exceptional work. Performance awards are a necessary incentive to motivate the workforce and retain highly qualified employees, and in that regard, I firmly believe they provide the agency and taxpayers with a good return on the dollar."*⁸

Federal employees may continue to struggle to find recognition and appreciation in the current environment. This makes it all the more important for agency leaders to take steps to recognize and defend the value added by their agency and the employees who keep it running. ❖



8. *Id.*

Effective Performance Improvement Plans...

(continued from page 1)

improve is *meaningful*.⁴ When an agency is deciding what to place in a PIP, it is crucial that the agency limit its commitments to what it is prepared to actually provide. If the agency includes promises in the PIP that it fails to keep, its unmet promises may compromise its ability to take a performance-based action under Chapter 43.⁵ Thus, the agency should include in the PIP whatever will provide the most meaningful opportunity for improvement rather than adhere too strictly to any checklist beyond the

4. See *Brown v. Veterans Administration*, 44 M.S.P.R. 635, 641 (1990) (the statutory purpose of chapter 43 was to afford a meaningful opportunity to demonstrate acceptable performance).

5. *Adorador v. Department of Air Force*, 38 M.S.P.R. 461, 466 (1988).

items required by statute or regulation.

We encourage supervisors to involve the employee in the creation of the PIP when it is practical. The employee may have a better sense of the source of the problem, or a better way to express the performance requirements, and therefore be able to help the supervisor to draft a PIP more likely to result in improved performance. Involving the employee also sends the message that the PIP is a genuine effort to help the employee rather than a punishment.

OPE is currently working on a series of new studies related to evaluating performance and addressing poor performance. In the meantime, we invite you to read *Poor Performers and the Law*, available at no cost at: www.mspb.gov/studies. ❖



U.S. Merit Systems Protection Board
1615 M Street, NW
Washington, DC 20419

FIRST CLASS MAIL
POSTAGE & FEES PAID
MSPB 20419
PERMIT NO. G-113

ISSUES OF MERIT

Fall 2015

Volume 20 Issue 3

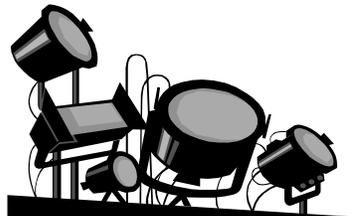
IN THIS ISSUE * IN THIS ISSUE * IN THIS ISSUE

Effective PIPs. *There are several considerations for developing an effective performance improvement plan. (Page 1)*



Director's Perspective. *There are four core values of the Federal hiring system which do not appear to be in balance. (Page 2)*

2016 Merit Principles Survey. *MSPB announces the upcoming Governmentwide survey, scheduled for January 2016. (Page 3)*



Recognizing Employees. *There are several ways for Federal leaders to better recognize and support Federal employees for their valuable work. (Page 4)*

The Role of Contextual Behavior. *Agencies need employees to engage in behaviors that transcend formal job requirements. (Page 5)*



SES Qualifications. *Analysis suggests that possession of the ECQs alone is insufficient for many SES positions. (Page 6)*