U.S. OFFICE OF PERSONNEL MANAGEMENT AND THE MERIT SYSTEM:

A Retrospective Assessment

A Report Concerning Significant Actions of the Office of Personnel Management

A Report to the President and the Congress of the United States by the U.S. Merit Systems Protection Board

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A Retrospective Assessment

A Report to the President
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THE CHAIRMAN

U.S. MERIT SYSTEMS PROTECTION BOARD
1120 Vermont Avenue, N W.
Washington, D C 20419

June 1, 1989

Sirs:

In accordance with section 202(a) of the Civil Service Reform Act of 1978 (5 U.S.C. 1205(a)(3) and 1209(b)), I submit this report titled "U.S. Office of Personnel Management and the Merit System: A Retrospective Assessment."

This report reviews some of the major activities of the U.S. Office of Personnel Management (OPM) during the agency's first 10 years. More than simply an overview, it provides a perspective on some of the major findings and conclusions from reports published by the U.S. Merit Systems Protection Board on OPM, dating back to calendar year 1980. It discusses the high expectations set for OPM by the Civil Service Reform Act and provides an assessment of the degree to which OPM has met those expectations.

This report reviews the following broad areas of OPM activity:

- decentralizing personnel management authority;
- overseeing the civil service system; and
- providing program guidance and leadership.

It concludes with suggestions for future OPM action and directions in the next decade.

I hope you will find this report useful as you develop plans for the future of the civil service.

Respectfully,

Daniel R. Levinson

Daniel R. Levinson

The President
The President of the Senate
The Speaker of the House of Representatives

Washington, DC

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SUMMARY AND OVERVIEW

In this report, the U.S. Merit Systems Protection Board (MSPB) assesses some of the major activities of the U.S. Office of Personnel Management (OPM) during the first decade of its existence. OPM was established by the Civil Service Reform Act of 1978 (CSRA) to provide the Federal civil service system with leadership, guidance, and oversight. MSPB was also established under the CSRA--as a successor to the former Civil Service Commission--to adjudicate employee appeals and to protect the merit system. One of MSPB's assigned responsibilities is to conduct special studies of the civil service system as part of a planned system of "checks and balances." This charge includes a specific requirement for an annual oversight review and report on the significant actions of OPM. In commemoration of the 10th anniversary of the CSRA, this report provides a synthesis of the findings and conclusions from published MSPB reports on OPM dating back to calendar year 1980. It also outlines the high expectations set for OPM by the CSRA and discusses the degree to which the OPM activities and programs covered by this review have met those expectations. The report concludes with recommendations for OPM action and direction in the coming decade.

BACKGROUND

The civil service system envisaged in S. 2640 gives the Office of Personnel Management the opportunity to exercise leadership in Federal personnel administration. * * * OPM will be able to concentrate its efforts on planning and administering an effective Governmentwide program of personnel management. This includes a responsibility to see that agencies are performing properly under civil service laws, regulations, and delegated authorities. * * * OPM will have the opportunity for innovative planning for the future needs of the Federal work force, executive and employee development, and pilot projects to test the efficacy of various administrative practices. * * * OPM should provide the President, the civil service, and the Nation with imaginative public personnel administration.[1]

With these words, Congress succinctly outlined its goals for the soon-to-be established Office of Personnel Management. Taken within the larger context of the other provisions of the CSRA, it is clear that Congress intended OPM to be a pro-active central personnel management agency which would provide to the Federal civil service system aggressive leadership, guidance, and oversight. That system, before passage of the CSRA, was characterized in a 1978 Presidential statement as:

> * * * a bureaucratic maze which neglects merit, tolerates poor performance, permits abuse of legitimate employee rights, and mires every personnel action in red tape, delay, and confusion.[2]

[1] "Legislative History of the Civil Service Reform Act of 1978," House Committee on Post Office and Civil Service, Committee Print No. 96-2, 96th Cong., 1st sess. (1979), p. 1470 (hereinafter "Legislative History").

[2] Message from President Carter to Congress, dated Mar. 2, 1978, transmitting to Congress draft legislation for civil service reform.

The reason for this perception of a system in trouble may be traceable to the historical evolution of the civil service system. The Civil Service Commission had been created by the Pendleton Act of 1883. Its original role was not that of a central personnel management agency but rather a bipartisan agency charged with elimination of the spoils system through establishment of competitive civil service positions filled through examination.

By the early 1930's the Commission, through the addition of new responsibilities, had moved beyond mere patronage control into broader areas of personnel management and administration, such as supervision of position classification, of efficiency ratings, and of operations created by the Retirement Act. However, as the scope of the Commission's functions expanded, so did the complex rules and procedures under which the Commission operated, with the inevitable delays and paperwork requirements of centralized systems. This situation came to undermine confidence in the ability of the Commission to protect the merit system and to effectively service the Federal work force. In May 1977, the President established a Federal Personnel Management Project to review Federal personnel management laws, policies, processes, and organization. The recommendations of that project were to form the basis for the Civil Service Reform Act of 1978. The final report of that project concluded that the public:

> * * * suffers from a system which neither permits managers to manage nor which provides employees assurance against political abuse. Valuable resources are lost to the public service by a system increasingly too cumbersome to compete effectively for talent.[3]

[3] Final Staff Report of the President's Reorganization Project, Personnel Management Project, vol. 1, p. vi, December 1977.

To address these concerns, the President proposed and, after some modifications, the Congress enacted the Civil Service Reform Act. Under the CSRA, the Civil Service Commission was abolished and replaced by the new Office of Personnel Management and an independent Merit Systems Protection Board. The Federal Labor Relations Authority also was established to enhance labor-management relations in the Government, and the Equal Employment Opportunity Commission was assigned some new responsibilities for Federal equal employment opportunity oversight.

THE OPM MANDATE

In order to assess the effectiveness of the Office of Personnel Management programs and activities covered in this report, there needs first to be an understanding of what OPM is supposed to accomplish. The standard used in this report is based on the degree to which OPM has met the actual and implied objectives established for it under the Civil Service Reform Act.

Given the magnitude and intransigent nature of some of the problems that the CSRA was intended to address, it is unrealistic to expect that any single Government agency--even one established as the central personnel management agency--would single-handedly resolve them all. Further, as evidenced by its division of responsibilities and its emphasis on decentralization, the CSRA was premised upon a multi-agency approach to the improvement of Federal personnel management. Clearly, however, OPM was to be the catalyst for change--the spark plug in the engine of reform.

The CSRA did not stop with a simple exhortation for OPM leadership in civil service improvement efforts. It assigned OPM responsibility for "executing, administering, and enforcing the civil service rules and regulations of the President," and gave some specific direction as to major areas of management emphasis. The CSRA also provided some of the primary methods or "tools" to be used in meeting the objectives of the Act. For example, the concepts of delegation and

oversight were central to the reform legislation. Congress intended that OPM provide other Federal agencies with greater delegations of personnel authority and it expected OPM to closely monitor those authorities in order to protect the health of the merit systems.

Congress believed that "[d]elegation of individual personnel actions to the affected departments and agencies will serve to make the system more effective * * * [and that] decentralization will eliminate unnecessary bureaucratic procedures." Agency misuse of these delegated powers, it was thought, could be kept in check by OPM fulfilling its "responsibility to see that agencies are performing properly under civil service laws, regulations, and delegated authorities."[4]

To assist in moving toward effective and decentralized personnel management systems, the CSRA also provided for the possibility of temporarily waiving existing personnel laws or regulations as part of an OPM-approved research and demonstration project in order to test "new and different personnel management concepts [and thereby achieve] * * * more efficient management of the Government's human resources and greater productivity in the delivery of service to the public * * * ."[5] Congress' intent was that experimenting with new approaches to Federal personnel administration would "permit responsiveness to changing public needs," allowing for greater flexibility and providing "the foresight to meet emerging issues."[6] This gave OPM another method through which, with the cooperation of other agencies, it could exercise leadership in the development of a more effective civil service system.

In summary, under the Civil Service Reform Act, it was expected that the Office of Personnel Management would:

- Delegate personnel management authorities judiciously to other Federal agencies, including authority for competitive examinations, to enhance the operation of the Federal civil service system within the context of the merit system principles.

- Establish and maintain an aggressive oversight program to ensure that Federal personnel management authorities are being used in accordance with the merit system principles and to gather data and analyses that will help improve the civil service system.

- Conduct or facilitate the conduct of research and demonstration projects to ultimately develop more effective or efficient methods of human resource management.

- Execute, administer, and enforce civil service laws, rules, and regulations, for the President, as one aspect of the provision of leadership and guidance to the Federal civil service system. This leadership was to be evidenced by active improvement efforts in a number of important personnel management areas, including (in addition to those listed above):

  -- The Government's ability to recruit and retain highly qualified employees;

  -- Performance management; and

  -- Equal Employment Opportunity.

[4] "Legislative History," p. 1467-1470.

[5] U.S.C. 1101; see the note titled Findings and Statement of Purpose in Supplement 1988.

[6] "Legislative History," p. 1476.

SUMMARY OF FINDINGS

Even before the Civil Service Reform Act was passed, considerable attention was given to the need for the proposed Office of Personnel Management to encompass a strong leadership role. For example, this concept was debated by the President's Personnel Management Project, which formulated many of the key provisions of the CSRA. The following statement by the former Executive Director of the Project is illustrative:

> We argued that the leadership role is not something to decentralize. We thought that it was extremely important for there to be strong leadership exercised by OPM and by personnel officers within the departments and agencies. We think that the more that they are concerned with individual actions, processes, and procedures, the less they are going to be able to provide the kind of leadership we were talking about.[7]

The goals and expectations established for the Office of Personnel Management under the Civil Service Reform Act were necessarily ambitious given the lofty goals of the CSRA itself. Hampering OPM in its ability to meet those expectations, however, was a steady decrease in actual staff resources at the same time the demands for OPM leadership, innovation, and expertise were increasing. OPM's current staff size is approximately three-fourths of what it was at the time the CSRA was passed. While the impact of some of the decrease was undoubtedly offset by increased efficiencies (e.g., greater use of automation, contracting out, and delegation of some workload items to agencies), part of the cost was an apparent diminution in OPM's capability to meet the multiple demands placed upon it. This situation, coupled with a series of internal reorganizations and changes in priorities, had a damaging effect on OPM's mission accomplishment capability. One end result is that OPM has often found itself in the position of reacting to events rather than anticipating, planning for, or influencing them.

The following is a summary of the Board's more significant findings concerning actions of OPM during much of the agency's first decade.

- OPM has had some important successes and there are some current indications of organizational revitalization within OPM.[8] However, based on a review of selected OPM "significant actions," OPM did not, in these areas, fully realize its intended role as a leader of the Federal civil service system. As a result, civil service reform and improvement moved forward more slowly than they otherwise would have. One event which had significant impact on OPM's activities during this first decade was a significant cutback in funding and staff resources. Since there has been no significant increase in those relative resource levels over the last several years, this may still present an obstacle to OPM's effective fulfillment of their CSRA expectations.

[7] Statement by Dwight A. Ink, former Personnel Management Project Executive Director, during a seminar held jointly by the General Accounting Office and the Senate Governmental Affairs Subcommittee on Federal Services, Post Office, and Civil Service on Mar. 31, 1988, published in "Civil Service Reform: Development of 1978 Civil Service Proposals," GAO/GD-89-18, November 1988, p. 48.

[8] The findings in this report are based on MSPB reports on OPM's significant actions plus selected special study reports on related topics published by MSPB from June 1981 through July 1988 (see app. A for a listing of those reports). There are indications that some significant changes have occurred in the direction and extent of OPM's efforts over the last several months on a number of the program areas discussed in this report. MSPB is currently assessing the full impact of those changes and whether they are likely to be continued, and will issue a followup report on this subject later in calendar year 1989.

- Although OPM's policy on delegations of personnel management authority was significantly modified twice during the last 10 years, for approximately the last 2 years OPM has actively encouraged and sought opportunities to delegate that authority. This is consistent with the intent of the CSRA and has been encouraged by MSPB. However, protection and promulgation of the merit principles were jeopardized in one major instance by the authorization of a Schedule B appointment authority (excepted from the normal competitive service requirements) as an interim replacement for a contested competitive examination system.[9]

- Although OPM oversight of agency personnel operations was to be a key element in the success of the CSRA initiatives, OPM significantly curtailed its oversight and evaluation activities during much of the time covered by MSPB reviews. A system of statistical indicators to monitor agency personnel systems met with only limited success. OPM also placed a great deal of reliance on agency self-evaluation efforts during a time when many agencies were curtailing their own evaluation activities. OPM has recently announced some significant revisions to its evaluation program, however, which may be moving the program in a more productive direction.

- Concomitant with a decline in the amount of OPM's resources devoted to oversight was a similar decline in OPM's internal research capabilities. In addition, the anticipated surge of new and improved ways of doing business through the use of research and demonstration projects did not occur, with a few notable exceptions. OPM has also recently embarked on some new initiatives to address this area of concern although it is still too soon to fully assess the impact of these initiatives.

- While OPM certainly cannot be held accountable for all of the human resource management problems or obstacles facing Federal managers today, there are clear indications that OPM could have done more to fulfill its mandate during its first decade. This observation applies to such broad areas as oversight and decentralization, as well as specific program areas such as the development of recruitment and retention strategies, performance management, and equal employment opportunity.

OPM VIEWPOINTS

Within OPM, almost all of the specific program areas and initiatives reviewed in this report fall organizationally under either OPM's Personnel Systems and Oversight Group or the Career Entry and Employee Development Group. Consequently, we asked the Associate Director for each Group to review an earlier draft of this report. In general, both Directors took exception to what they considered an overly negative assessment of OPM's leadership of the civil service system. They also stated their belief that the review was too limited in scope for an accurate assessment of OPM's overall effectiveness and, in particular, that the report gave insufficient recognition and credit to OPM's initiatives and accomplishments over the last 2 years.

In response to those viewpoints, this report now mentions several OPM initiatives or programs introduced during the last 2 years. The Board agrees that many, if not all, of these OPM actions contain the promise of beneficial impact on the civil service system. As with most major public personnel policy changes, however, the full impact of these initiatives are not immediately evident and, in a few cases, a complete assessment may not be possible until they have been in place for several years--assuming there is not another major change in either program direction or its level of institutional support. MSPB is currently gathering additional information on a number of these recent initiatives and will report on them more fully in a future report. A useful listing and discussion of some

[9] See the discussion regarding the abolishment of the Professional and Administrative Career Examination (PACE) in the section of this report dealing with decentralized personnel management authority.

of these programs and efforts is contained in "Management of the United States Government, Fiscal Year 1990."[10]

As previously noted, this report does not intend to be all encompassing. There are major OPM program areas which the Board, to date, has not reviewed in depth. For example, OPM's operation of the Federal retirement programs, including the new Federal Employees' Retirement System (FERS), has not been identified as a particularly noteworthy activity in any 1 of the last 10 years although it is undeniably a very important aspect of OPM's total operation. What this report does provide is an overall assessment of OPM's impact and effectiveness in selected program areas which have been deemed especially germane to the merit system principles.

As might be expected, OPM activity since implementation of the CSRA has not been at a constant level. Therefore, this report also attempts to note significant fluctuations in program direction or level of activity and whether current initiatives appear to be headed in a constructive direction.

FUTURE DIRECTIONS

As noted throughout this report, OPM has initiated new efforts or renewed earlier ones on a number of worthwhile fronts. To attain the full benefits of these efforts, of course, OPM will need to obtain or devote the resources necessary to follow through or sustain them over time.

The Board offers the following general suggestions as OPM enters the next decade. To the extent that OPM has already initiated new efforts to address past problems, the Board's positive observations may be viewed as encouragement for the continuation of those efforts.

- OPM should continue its currently renewed efforts to delegate personnel management authorities to the agencies but within the following parameters:

  -- Delegations--both formal and "ad hoc" (e.g., use of a Schedule B excepted appointment authority with conversion to the competitive service at the agency's discretion)--must not be abdications. OPM should continue to closely monitor the ability of each agency to manage the delegations in a manner consistent with the merit principles. This is not to suggest that it is either necessary or desirable to laden the delegations with elaborate control mechanisms or overly detailed reporting requirements. Such unnecessarily burdensome controls are not currently in place nor need they be.

  -- Delegations should be accompanied, where appropriate, with the necessary support structure or guidance to assist agencies in use of the delegations. For example, whenever possible, delegated examining authority should be accompanied by a valid competitive examination or other valid and supportable selection device/procedures that are "user friendly" and as time- and resource-efficient as possible.

  -- To facilitate development of valid and useful examinations or other selection devices/procedures, OPM has recently and should continue to encourage active involvement by other Federal agencies in the development of the examinations.

[10] "Management of the United States Government, Fiscal Year 1990," Executive Office of the President, Office of Management and Budget, Washington, DC.

- OPM needs to continue recent initiatives to develop its internal research capability so that it can provide timely legislative proposals, recommend Presidential initiatives, and develop improved personnel management tools capable of being adapted to the varied needs of individual Federal agencies.

- OPM needs to more firmly establish itself as a leader of the civil service system. Hallmarks of that leadership should include:

  -- Continuation of OPM's active efforts to achieve a fair and equitable compensation structure consistent with the goal of attracting and retaining a highly qualified and motivated work force.

  -- Building upon the framework laid in the report titled "Civil Service 2000." OPM commissioned this study only after receiving a congressionally imposed requirement. The report examines the future of the civil service system and provides broad recommendations to address some of the challenges ahead. While the report and the dialogue it generated provide a view of what could be, OPM should build upon this effort by a clear articulation of what the civil service should be 10 years and 20 years from now and by gaining consensus and support for that vision. OPM should follow through on this initiative by development of strategic plans designed to move the Federal civil service in that direction.

  -- Support for an evaluation and oversight program that is concerned not only with regulatory compliance but also with the identification and replacement or modification of outmoded or counter-productive regulations, systems, or procedures. This is consistent with OPM's current emphasis on "simplification" of the civil service system which has made some initial inroads but which still has some distance to go to achieve its goals.

DECENTRALIZING PERSONNEL MANAGEMENT AUTHORITY

It is the policy of the United States that * * * the function of filling positions and other personnel functions in the competitive service and in the executive branch should be delegated in appropriate cases to the agencies to expedite processing appointments and other personnel actions, with the control and oversight of this delegation being maintained by the Office of Personnel Management to protect against prohibited personnel practices and the use of unsound management practices by the agencies.[11]

BACKGROUND

The Civil Service Reform Act contained a clear mandate for the Office of Personnel Management to move toward decentralization of the Federal personnel management process by greater delegation of personnel management authority, especially examining authority. Congress expected this decentralization to eliminate the unreasonable delays that were seen as characteristic of many of the activities of the former U.S. Civil Service Commission. Congress anticipated that increased delegations would help Federal agencies do their jobs better by giving their managers more control and flexibility in filling their positions and effecting other personnel actions. A stated challenge was to "reduce the red tape on the one hand and * * * provide strong and effective merit protection on the other."[12]

Before the Reform Act was passed, there had been a 50-year debate over the relative benefits of centralization versus decentralization. During the years surrounding World War II, the personnel functions of the Civil Service Commission expanded beyond the Commission's ability to expeditiously handle them and decentralization became the norm. However, by the late 1950's, widespread dissatisfaction had set in over the myriad approaches which had been adopted by the various Federal agencies. Public administrators expressed concern over the confusion this variety of different systems and procedures caused job applicants, the cost effectiveness of such an approach, and the effect it was having on the Government's ability to hire highly qualified candidates. This concern led to a move toward recentralization in the 1960's. By the late 1970's, of course, the stage was set for the Civil Service Reform Act and its emphasis on decentralization.[13]

This historical see-sawing between centralization and decentralization of personnel management authority reflects the fact that each approach contains advantages as well as disadvantages. Centralization is often characterized as more cost-efficient and, by virtue of being located outside the agency, better able to provide safeguards against personnel abuses. Centralization, however, is also associated with undue rigidity and nonresponsiveness resulting in needless delays. Decentralization, on the other hand, while providing a more timely, responsive, and flexible approach to personnel management, is also characterized as less cost-effective and more susceptible to abuse of the merit principles of Government.

[11] 5 U.S.C. 1101; see the note titled Findings and Statement of Purpose in Supplement 1988.

[12] Final Staff Report of the President's Reorganization Project, Personnel Management Project, vol. 1, p. 52, December 1977.

[13] See Carolyn Ban and Toni Marzotto, "Delegations of Examining: Objectives and Implementation," in Patricia W. Ingraham and Carolyn Ban, "Legislating Bureaucratic Change--The Civil Service Reform Act of 1978," Albany: SUNY Press, 1984, p. 149.

In passing the Civil Service Reform Act, Congress was drawing upon the history of the Federal civil service system in considering the Act's response to present day needs. Congress elected to favor decentralization, with institutional safeguards, over centralization. OPM responded promptly to the decentralization charge. MSPB reported in June 1981 to the President and the Congress on OPM's significant actions during calendar year 1980. One part of that report examined OPM's success in delegating and decentralizing authority and responsibility for personnel management. After examining OPM's stewardship of the responsibility for decentralization of personnel management authorities and for monitoring the effects of that decentralization on the merit system, MSPB reported that:

> It does appear that some of the promised benefits of delegations of examining authority such as reduced timelags, improved representation of women and minorities, and improved ability to support agency mission needs are beginning to be realized.[14]

Slightly more than 1 month after the CSRA took effect, OPM made a blanket delegation of 26 authorities to the heads of agencies. These delegations covered such actions as the extension of personnel details beyond the traditional 120 days without prior approval by OPM and the ability to appoint handicapped relatives of Federal employees to summer and student positions. Three months later, OPM delegated another 29 authorities to agencies. Many of these latter delegations, however, could be effectuated only through the signing of formal delegation agreements between OPM and individual agencies. These latter delegations allowed such actions as the establishment of Schedule C positions without prior OPM approval and the waiver of restrictions on the training of Federal employees in non-Government facilities.

[14] U.S. Merit Systems Protection Board, "Report on the Significant Actions of the Office of Personnel Management During 1980," June 1981, p. 36.

These delegations were viewed by many agency personnel officials as relatively minor administrative authorities. Of greater significance was the possibility of the delegation of examining authority whereby agencies would have more direct control over the process of screening and selecting new employees. As reported by the Board in its June 1981 report:

> The "flagship" of the formal delegations which it was envisioned would grow out of CSRA was to be the delegated examining authority.[15]

DELEGATIONS OF EXAMINING AUTHORITY

OPM's activities regarding delegated examining authority have been inconsistent. By the end of fiscal year 1981, OPM had approved 836 delegations of examining authorities which were used to hire 26 percent of new Federal employees that year.[16] While generally pleased to have the added flexibility and control that went with the delegated examining authorities, a theme that emerged among Federal personnel officials at this early stage was a concern that OPM might be "dumping" examining responsibility on their laps without providing the needed resources or valid examining techniques. Some saw this as a way for OPM to avoid the time- and resource-consuming process of validating examining techniques and defending those validations.

[15] Ibid., p. 39.

[16] U.S. Merit Systems Protection Board, "Report on the Significant Actions of the Office of Personnel Management During 1983," December 1984, p. 83.

An early concern among agencies was their ability to defend their selection devices if challenged under the Uniform Guidelines on Employee Selection Procedures.[17] Over time, however, few actual challenges were made and this concern decreased significantly.

Early in calendar year 1982, however, based on a more narrow interpretation of the law's provisions relating to delegations of examining authorities, the Director of OPM announced that the policy and criteria governing delegations of examining authority would be changed. Federal Personnel Manual (FPM) Letter 331-7, dated March 10, 1982, explained that a number of recently delegated examining authorities would be terminated over a period of 3 years. OPM's rationale for this action was that a number of delegations had been made contrary to the CSRA provision that they be made only for occupations which were not common to other agencies. This rationale, however, was later disputed by the General Accounting Office, which concluded that OPM's new legal interpretation was no more persuasive than its earlier, less restrictive, interpretation.[18]

By the time OPM started withdrawing delegations early in calendar year 1982, many of the agencies had become used to the advantages of delegated examining authority and, consequently, MSPB found that in 1982 almost half of the 21 agencies that responded to an information request were satisfied with the delegations they had and were reluctant to lose them.[19] Subsequently, MSPB recommended that:

> OPM * * * reevaluate their [1982] guidelines * * * with emphasis on the "bottom line" of the competitive examination process, i.e., does that process engender adherence to the merit principles while assisting the Government in meeting in the most effective way possible its needs for well qualified personnel to carry out its many missions?[20]

Nonetheless, OPM did implement this more restrictive policy by terminating a number of previously delegated examining authorities and slowing the pace at which new delegations were granted. In the 2-year period between March 1982 and March 1984, for example, OPM granted only 85 new delegated examining authorities. By May 1987 only 449 delegations existed, a 46 percent decrease from the 836 examining delegations that existed at the end of fiscal year 1981.

[17] The Uniform Guidelines On Employee Selection Procedures were adopted in 1978 by the Equal Employment Opportunity Commission, the Office of Personnel Management, the Departments of Justice and Labor, and the Department of the Treasury's Office of Revenue Sharing. The Guidelines describe how tests should be used to make employment decisions which are consistent with Federal equal employment opportunity (EEO) laws. The Guidelines were intended to establish a uniform Federal position on prohibiting discrimination in employment practices on the basis of race, color, religion, sex, or national origin. They were also designed to assist employers and other users to comply with Federal EEO laws and to provide a framework for determining the proper use of tests and other selection procedures.

[18] U.S. General Accounting Office, "Delegated Personnel Authorities: Better Monitoring and Oversight Needed," GAO/FPCD-82-43, Aug. 2, 1982.

[19] U.S. Merit Systems Protection Board, "Report on the Significant Actions of the Office of Personnel Management During 1982," December 1983, p. 25.

[20] U.S. Merit Systems Protection Board, "Report on the Significant Actions of the Office of Personnel Management During 1983," December 1984, p. 91.

In September 1982, agencies received an ad hoc examining authority, although not of the type anticipated by the CSRA. This occurred when OPM abolished the Professional and Administrative Career Examination (PACE) and created an interim Schedule B[21] hiring authority which, in effect, was a broad delegation of examining authority--with each agency using the authority required to develop appropriate selection devices and examining procedures. [22]

Before being abolished, PACE had been the primary competitive examination through which hundreds of thousands of job seekers were competitively examined and ranked for a limited number of entry-level jobs. Faced with a lawsuit alleging that PACE adversely affected black and Hispanic job applicants, a consent decree (Luevano v. Devine, Civil Action No. 79-271) was negotiated between the plaintiffs and the Government and approved by the Justice Department on January 9, 1981. A central requirement of the decree was the eventual abolishment of the PACE and its replacement by valid alternative examinations that, presumably, would not evidence the same adverse impact. Although the consent decree allowed for a 3-year phased replacement of the PACE, OPM decided to abolish the examination prior to the development of alternative competitive examinations and established the Schedule B authority as an interim measure.[23] This action, moreover, was taken because of the high cost of developing and validating competitive examinations relative to anticipated external hiring in these occupations. Even so, these considerations have little direct bearing on strengthening the Government's ability to apply the merit principles. In announcing the Schedule B authority in May 1982, for example, OPM itself noted:

> This is not an ideal solution for filling professional and administrative positions in the Federal Government. We will not be selecting individuals by means of the best merit-hiring procedures, and for this reason, we are not giving [authority for] direct appointment to the competitive service. Nevertheless, this is the best available solution, given the very tight constraints imposed by the decree. Merit selection is wounded, but not dead.[24]

Because of this concern, it was anticipated that OPM would develop replacement examinations as rapidly as possible. However, in 1982 the relatively small OPM office responsible for examination development underwent a planned 50 percent reduction in staff. Due in large part to reduced resources, it was not until February 27, 1987--more than 5 years after abolishment of the PACE--that OPM put into place the last of 16

[21] "Schedule B" is one of three "schedules" of the excepted service. "Excepted service" is a term defined by section 2103 of title 5, United States Code. It applies to all positions in the executive branch that are specifically excluded from the competitive service by proper authority and that are not in the Senior Executive Service. The three schedules apply to different kinds of positions, with Schedule B applying to positions, not of a confidential or policy-determining character, for which it is impractical to hold competitive examinations. Consequently, individuals appointed under this Schedule B authority (Schedule B, 213.302(1), found in 5 CFR Part 213) are not part of the competitive service and, until recently, were required in most circumstances to compete for competitive service positions to advance to GS-9, which is the first level in the mid-level (GS-9-12) grade range. On May 7, 1987, the President signed Executive Order Number 12596, providing noncompetitive conversion procedures (to career-conditional status) for these Schedule B employees.

[22] See the U.S. Merit Systems Protection Board, "In Search of Merit--Hiring Entry-Level Federal Employees," September 1987, for a complete discussion and assessment of entry-level hiring under the excepted service Schedule B authority.

[23] See the U.S. Merit Systems Protection Board, "Report on the Significant Actions of the Office of Personnel Management During 1982," December 1983, pp. 104-110, for a more complete description of the events surrounding the PACE abolishment.

[24] Statement of Dr. Donald J. Devine, Director of OPM, in a May 11, 1982, OPM news release announcing the abolishment of PACE.

alternative examinations for that number of occupations. Although OPM estimated that those 16 examinations covered about 60 percent of all anticipated entry-level Professional and Administrative Career (PAC) hiring (from external sources), it still left over 110 occupations without a comparable competitive examination process. According to OPM, the vast majority of these occupations had an annual average of 20 or fewer external hires Governmentwide from 1983 to the present. OPM also indicates that, as required by the Luevano decree, it has submitted proposals to the Luevano plaintiffs for grouping these occupations under a proposed new examining system. In June 1988, with no additional examinations in place, OPM announced a new approach to competitive examining for those types of positions.[25] MSPB will be examining some rather novel aspects of this OPM proposal in a future review. This new approach, however, is targeted for implementation no earlier than summer 1989--more than 7 years after PACE was abolished. In addition, as the Board noted in 1987,[26] those employees hired during the past 7 years under the previously mentioned Schedule B authority were:

> * * * hired under procedures that do not ensure the same uniform degree of merit (e.g., attention to recruiting sources, rating and ranking candidates, and selecting from among the three highest ranked candidates) that is often required for other excepted service hiring. * * * MSPB is concerned that hiring under this authority may be inconsistent with Merit System Principle 1, which states: "[r]ecruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity."[27]

The Schedule B authority demonstrates the undesirable impact a delegated authority can have on the merit system. However, the underlying concerns are applicable to any delegated examining authority that does not somehow ensure usage of a valid and reasonable selection device or procedure--by the using agency if not by OPM.

It should be noted, however, that MSPB has recognized and encouraged the positive results that can be realized under delegated personnel authorities. While injecting a note of caution regarding their use, MSPB has consistently highlighted the advantages of greater management flexibility in the use of specific delegated personnel authorities that OPM has provided. For example, MSPB recently examined and found value in an expansion of a temporary appointment authority available to all agencies and which significantly increases their ability to use temporary appointments as part of their staffing strategies.[28] As a result of that examination, MSPB also reported that information provided by agencies included some examples of temporary appointments that were of questionable propriety, suggesting an increased potential for abuse. Therefore, MSPB recommended that OPM provide additional guidance which would give examples of situations in which it would not be appropriate to use temporary appointments. OPM responded by proposing additional language to be included in Chapter 316 (Temporary and Term Employment) of the Federal

[25] See the June 23, 1988, OPM handout "New Program to Fill GS-5 and 7 Entry-Level Jobs." See also 54 F.R. 15369, Schedule B Appointment Authority for Professional and Administrative Career Positions.

[26] U.S. Merit Systems Protection Board, op. cit., September 1987.

[27] Ibid., p. ii.

[28] U.S. Merit Systems Protection Board, "Expanded Authority for Temporary Appointments: A Look at Merit Issues," Dec. 22, 1987, p. 6.

Personnel Manual. The proposal was published in the Federal Register on August 8, 1988, and Chapter 316 is now being finalized. MSPB did find, however, that OPM's oversight of the use of the expanded authority was generally satisfactory.

In a similar vein, after following its restrictive interpretation for approximately 5 years, OPM has again modified its position regarding delegation of examining authorities and has returned to a greater emphasis on decentralization of such authorities as part of a larger effort towards "simplification" of the Federal personnel system. Consequently, OPM is delegating examining and hiring authorities to agencies at an accelerated rate and for a wider range of positions than previously. As this report is being prepared, 534 delegated examinations are in effect. Although up from the 449 that were operational in 1987, this is still 36 percent less than the number of delegated examining authorities operational in 1981.

Since passage of the CSRA, therefore, there have been differing degrees of OPM willingness to use delegated examining authority. For approximately 5 of the 10 years, OPM delegated such authorities sparingly. Ironically, during this same 5-year period, OPM's actions relative to the PACE examination allowed agencies almost unprecedented flexibility in filling certain positions.

SUMMARY OF FINDINGS

MSPB's past reports which have touched upon various aspects of OPM's delegation of personnel management authorities lead us to the following general conclusions:

- After some initial resistance from agencies concerned with the impact on workload or the need to validate their selection or examining devices under delegated examining authorities, most Federal agencies have embraced greater delegations of personnel authority as one method of enhancing their ability to obtain and develop an effective work force.

- MSPB has generally encouraged delegation of authority but has occasionally expressed some reservations about the potential for abuse without reasonable and appropriate safeguards. Most notably, when a new Schedule B authority was provided on an interim basis to replace the PACE, we found that the authority lacked such safeguards.

- OPM initially made a concerted effort to delegate examination authority to agencies--then retreated from this position for an extended period of time--and now is again making an effort to maximize delegations.

OVERSEEING THE SYSTEM

** * * (b)(2) The Office shall establish and maintain an oversight program to ensure that activities under any authority delegated under subsection (a) of this section are in accordance with the merit system principles and the standards established under paragraph (1) of this subsection. (3) Nothing in subsection (a) of this section shall be construed as affecting the responsibility of the Director to prescribe regulations and to ensure compliance with the civil service laws, rules, and regulations.* (5 U.S.C. 1104)

BACKGROUND

The above language, incorporated into the Civil Service Reform Act, provides a clear indication that oversight and related compliance activities were expected to be an integral part of OPM's operations and, therefore, a necessary part of OPM's ability to fulfill its leadership role. Insofar as a compliance and oversight mechanism was concerned, the Office of Personnel Management inherited what had been called the Bureau of Personnel Management Evaluation (BPME) under the former U.S. Civil Service Commission. Under BPME, compliance and oversight activity tended to concentrate on resource-intensive onsite reviews at various agency installations and was heavily oriented toward case work.

During its first 3 years of operation, OPM retained the BPME structure and method of operation, but changed its name to Agency Compliance and Evaluation (ACE) and expanded its role to include an expediter or agency liaison (Agency Relations) capability consistent with the Civil Service Reform Act's emphasis on increased delegations of personnel authority to line agencies. In October 1983, however, OPM announced,[29] and immediately implemented, major changes to its personnel management evaluation (PME) program. According to OPM, these revisions affected the program's:

- *Orientation*, changing it from a review of personnel management activity in agencies and their components (particularly installations), to Governmentwide review of personnel policies;
- *Emphasis*, changing it from problem resolution and ensuring regulatory compliance in agencies and their components to systemic information gathering and analysis for Governmentwide policymaking and compliance; and
- *Methodology*, changing it from labor-intensive onsite reviews of agency organizations and installations, emphasizing a case approach, to technology-intensive, structured reviews relying heavily on offsite statistical analysis.

OPM explained that the program changes were designed in part to overcome three key features of the earlier approach that it found troublesome: a relatively high cost for the results obtained; an intense investment in labor; and results that often provided considerable case information about the installation reviewed but that were of limited value in providing an overall

[29] The changes were announced through a group of OPM Operations Letters (OL's) in the 273 series, beginning with OL 273-976, Subject: Evaluation Program for Fiscal Year 1984, dated Oct. 20, 1983. The operations letters and related information were initially provided to agencies in an Interagency Advisory Group meeting for the Subcommittee on Personnel Management Evaluation, and in subsequent mailings to agencies of the OL's as they were issued.

picture of personnel management in the Federal Government. (See app. B for a description of the major components of the program, as revised in 1983.)

Of the six initial components of the system only one--the installation assessment visit, or IAV--became immediately operational when the new approach was initiated. Implementation of the other components was staged over a period of several months following initiation of the new program, except for the Compliance Oversight Review, which was never actually implemented.

OPM later added a seventh program component--the Personnel Management Indicators Report, or PMIR. This is a statistical/numerical report based on information from IAV's and other personnel data sources. Since the first report was released in July 1986 (covering 1984), the PMIR has been assigned increasing importance in OPM's PME program. It has two main purposes: 1) the direct evaluation of agency personnel management performance, and 2) the targeting of scarce evaluation resources. The 1985 PMIR was released in October 1986; the FY 1986 report was released in October 1987. The most recent report, covering FY 1987, was released in November 1988.

The PMIR is a "remote sensing" PME component. It draws on large amounts of data from the Central Personnel Data File and from other data files, subjects the data to analyses, compares each agency's resulting figures to those for all other agencies (and within agencies does the same thing for subcomponents), and provides norms for comparison purposes. Indexes are also prepared as part of the PMIR, allowing the ranking of agencies in certain areas. During the Board's last review of the PMIR, work was underway to "determine the effect of such things as agency demographics and mission on the indicators"[30] so OPM could "assess each agency's performance, both in terms of regulatory compliance and sound personnel management practice."[31]

In its December 1984 and May 1986 reports on OPM's significant actions,[32] MSPB followed the development of the revised PME program. Those reports expressed concerns about a loss within OPM of capability to ensure compliance with laws, rules, and regulations. MSPB's May 1986 report on OPM's significant actions was particularly critical of the revised PME program. In part, that criticism stemmed from the apparent one-dimensional nature of the program--because OPM had made available to agencies only information derived from its IAV component.

RESPONSIBILITY FOR REGULATORY COMPLIANCE

As previously noted, OPM's responsibility for ensuring compliance with civil service laws and regulations was emphasized in the CSRA. The legislative history of the CSRA establishes congressional intent to hold OPM ultimately responsible for this function. Agencies, of course, may and do share in this responsibility, but their responsibility and authority are subordinate to OPM's. For example, during debate in the House of Representatives over provisions of the CSRA, Congressman Benjamin A. Gilman (R-New York) offered an amendment concerning OPM oversight (which was ultimately adopted). According to the Congressman:

[30] Contained in enclosure to letter from Honorable Constance Horner, Director of OPM, to Honorable Daniel R. Levinson, Chairman, MSPB, dated Dec. 3, 1986.

[31] Ibid.

[32] U.S. Merit Systems Protection Board, op. cit., December 1984, pp. 49-68; and "Report on the Significant Actions of the Office of Personnel Management During 1984-1985," May 1986, pp. 105-127.

> In view of the sweeping authority entrusted to the Director of OPM and his ability to delegate such authority under title II, section 1104(2), and to ensure that any such delegation by the Director does not relieve him of his responsibility to assure compliance with civil service laws and regulations, my second amendment specifically prohibits delegating to the agencies the ultimate responsibility of the Director of OPM for the execution, administration, and enforcement of the Civil Service Act, other statutes, rules, and regulations of the President and the Office of Personnel Management.[33]

Congressman Gilman wasn't the only member of Congress concerned with the role OPM would play in ensuring compliance with civil service laws and regulations. Congressman Herbert Harris (D-Virginia) also spoke on this point saying:

> I offered several amendments which were accepted that make it clear that the Director of the Office of Personnel Management is the individual responsible for compliance with civil service laws and procedures. Thus, for example, if an agency adopts a hiring procedure that gives favoritism to certain applicants, OPM cannot turn a blind eye. OPM is responsible for seeing that merit system principles are enforced and that corrective action is taken when violations occur.[34]

Clearly, OPM is responsible for upholding the merit system principles and enforcing civil service laws, rules, and regulations. However, this responsibility is not limited to OPM, as can be seen from the following section of the CSRA:

> The head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management. Any individual to whom the head of an agency delegates authority for personnel management, or any aspect thereof, shall be similarly responsible within the limits of the delegation.[35]

There is, then, a partnership in ensuring compliance with personnel rules and regulations. Delegations of personnel authority flow from or through OPM, and OPM has the ultimate responsibility for their proper use. Other Federal agencies, however, necessarily share in this responsibility. Agency heads must be held accountable for legal compliance within their own agency. OPM has responsibility to help assure enforcement of that accountability.

Evaluation is a key part of any management process. It is part of a plan-execute-evaluate triad, helping to ensure that plans are executed properly and that the plans adequately serve the desired end. In the context of Federal personnel management, the importance of evaluation is enhanced by a body of requirements established by law and regulation that must be upheld, including the merit system principles. According to a former director of OPM:

> Where [OPM gives] out responsibility, there is, in the law, an even greater responsibility to ensure that agencies comply with the law. The statute gives OPM the power to require corrective action in areas in which we find problems. * * * These are core responsibilities.[36]

[33] "Legislative History," p. 882.

[34] Ibid., p. 823.

[35] 5 U.S.C. 2302(c).

[36] Statement of Dr. Donald Devine, Director of OPM, from Management Magazine, Office of Personnel Management, Washington, DC, Summer 1981, pp. 3-4.

The importance of OPM's ability to ensure regulatory compliance has increased as the administration has emphasized regulatory simplification and increased delegations of personnel authority to agencies. The extent of this emphasis was documented in "Management of the United States Government, Fiscal Year 1988," an Office of Management and Budget (OMB) publication that was the President's blueprint for his fiscal year 1988 budget.

One chapter of that OMB publication outlined "The President's Management Improvement Program." In sections of that chapter dealing with "Personnel Management" and "Human Resource Management," the following goals were identified:[37]

- Legislation "to simplify civil service classification and pay systems and to permit more effective management."
- "* * * simplify existing regulations and procedures within * * * statutory authority, including delegating examining authority to agencies * * *. In addition, * * * OPM will deregulate and simplify procedures covering these other areas: discipline, work assignments, reduction-in-force, furloughs, pay, incentive awards, leave, on-the-job injury, performance appraisals, promotions, record-keeping, training, special salary rates, and senior executive personnel policies."
- "Qualification standards * * * will be replaced by broadly-applicable guidelines * * * [and] [i]n 1987 OPM will give agencies authority to waive qualification standards in certain situations * * * ."
- "Classification standards * * * will be replaced by a smaller number of broad occupational groupings for use in organizing and classifying work."
- The very extensive ("6,000 pages of requirements and guidance") Federal Personnel Manual "is being substantially revised to reduce its size and complexity, making it more usable and understandable * * * ."

These goals are consistent with the CSRA concept of increased delegations of personnel authority to line managers. Shifting this authority, simplifying regulations and procedures, and reducing the volume of guidance contained in the Federal Personnel Manual should result in major changes in personnel management in the Federal Government.

In its oversight role, OPM must monitor both the viability of the changes it implements (whether increased delegations, simplified regulations and procedures, or reduced guidance) and the manner in which the agencies carry out the legal and regulatory requirements of the authorities that are delegated to them.

Under OPM's revised evaluation and oversight program, OPM's ability to assure regulatory compliance by the agencies was minimal. (However, as noted under the next subheading, there are indications that this situation may now be changing.)

A system of short installation assessment visits (the most used component of the revised evaluation program) focused attention on the gathering of statistical data to identify overall trends in the personnel management structure. Likewise, issue analyses (not used since 1984) and regional probe studies (discontinued since 1985) focused on the overall operation of the system. All three are or were of limited value in assuring regulatory compliance.

The Personnel Management Indicators Report can contribute to regulatory compliance to the extent that problems or violations are discernable through statis-

[37] The information presented here is drawn from pages 79-83 of "Management of the United States Government, Fiscal Year 1988," published by Executive Office of the President, Office of Management and Budget, Washington, DC.

tical/numerical analyses or profiles. However, serious problems--including ones of a systemic nature--can exist without being evident through such analyses or profiles. Therefore, the PMIR also is of limited value as an instrument for regulatory compliance.

Compliance Oversight reviews were designed to provide a mechanism for statistically based studies of possible violations of personnel laws and regulations, making them potentially important to regulatory compliance. However, none was ever conducted, and that component of the program was discontinued in 1986.

Use of the Targeted Installation Reviews (TIR) increased considerably in 1986 following 2 years of limited use. These have the potential to be a good mechanism for ensuring regulatory compliance, with realization of that potential being determined by how the initiating OPM region chooses to use the TIR. For example, the San Francisco region uses the TIR to examine installations with personnel management programs identified as either potentially bad or potentially exemplary, but the Philadelphia and Chicago regions use it only at installations with personnel management programs tentatively identified as problems. While the TIR offers a means for ensuring regulatory compliance, the relatively small number conducted--in comparison to the total number of installations--means that only the "tip of the iceberg" is being examined.

OPM participation in agency-led reviews under the new program reached its peak of 31 in 1985, holding steady at around 20 in the other 3 years. These figures are small when compared to comparable figures under the Civil Service Commission, when each of the 10 CSC regions may have participated in 20 or more agency-led reviews each year. Nonetheless, these agency-led reviews offer OPM an additional opportunity to exercise a regulatory compliance presence, and have the added benefit of allowing OPM to observe the effectiveness of the agency's evaluation program. As in the case of the Targeted Installation Review, the main reason OPM's participation in agency-led reviews is not as effective a means of regulatory compliance as is desirable is that only a small number of reviews are conducted.

Increasingly, OPM appears to be relying on its program offices as its principal means to carry out regulatory compliance, through their reviews of the specific programs they administer. Without doubt, specific program reviews can yield effective regulatory oversight. In fact, when MSPB examined this point in 1984, many agencies gave OPM high marks for the thoroughness of the compliance reviews carried out by what was then the Staffing Services Group, as its staff reviewed agencies' delegations of examining authority.[38]

Program reviews, however, suffer from the very weaknesses OPM has cited as reasons to object to the onsite review approach that was a mainstay of the earlier PME program: relatively high cost, intense investment in labor, and inability to provide information about how the program reviewed fits into the total personnel management program. (This latter weakness arises because program reviews focus on a particular program and do not, nor are they expected to examine the entire personnel management program, or all aspects of the personnel office's operations, where the review is being made.)

While program reviews are vital to the administration of any program, MSPB does not believe they are an adequate substitute for comprehensive personnel management evaluation reviews that include focusing on compliance with civil service laws, rules, and regulations.

[38] U.S. Merit Systems Protection Board, op. cit., December 1984, pp. 120-121.

RECENT INITIATIVES

Fortunately, changes to the PME program that OPM initiated in late 1987 are encouraging. First, on October 30, 1987, through an Interagency Advisory Group memorandum,[39] OPM asked agencies to complete a survey concerning their internal PME programs. The memorandum stated that OPM would use the survey results to determine what PME capability exists at various organizational levels within agencies. The information would then be used by OPM as an aid in plans to systematically monitor agency PME activity, in keeping with an OPM "major area of emphasis for FY 1987-88 (to strengthen agency PME programs)."[40] This OPM action was consistent with a recommendation MSPB made in its May 1986 report (that OPM should "improve its monitoring of agency internal PME programs * * *."[41])

Results of the OPM survey were released in February 1989. The results were released in two formats: 1) individual profiles of agency evaluation activity that were sent to the agencies they concerned; and 2) a summary report, showing the range of activity evident in all agencies' PME activity (but without identifying which agencies are doing what). According to OPM, this initial survey effort has established a baseline on activity. Followup surveys, possibly annually, will update the base data and track changes in agency programs. OPM staff plan to use the results of the initial survey to exert influence on agencies that OPM considers weak or deficient, particularly on regulatory compliance.

Second, preliminary plans for OPM's FY 1989 PME agenda were released to agencies at an Interagency Advisory Group meeting held on June 15, 1988. At that meeting, OPM's Assistant Director for Agency Compliance and Evaluation emphasized that the program was being refocused to provide greater regulatory compliance oversight. Key points contained in the handout from that meeting, outlining the proposed FY 1989 agenda, included:

- [adjustment of OPM's methodology] to focus more intensively on problem specification and resolution. In this context, the FY 1989 program will focus its efforts on:

- enhanced Governmentwide oversight of agency implementation of high-priority initiatives and selected personnel programs.

- improvement in individual agencies' administration of personnel programs, focusing on agency-specific issues which have been identified as concerns * * *.

- correction of installation-level personnel management problems.[42]

Governmentwide compliance reviews will be undertaken for several specific authorities, including "selected staffing authorities as well as several more recently delegated authorities."[43] "In-depth examination of personnel program aspects [identified as needing special attention will be conducted, focusing in FY 89] on identifying needed improvements in the effectiveness of performance management systems,

[39] OPM Interagency Advisory Group Memorandum dated Oct. 30, 1987, Subject: Personnel Management Evaluation (PME) Survey, from Michael D. Clogston, Chairman, Committee on Personnel Management Evaluation, to IAG Committee on Personnel Management Evaluation.

[40] Ibid., p. 1.

[41] U.S. Merit Systems Protection Board, op. cit., May 1986, p. 127.

[42] "OPM's Proposed FY 89 Agency Compliance and Evaluation Program," Handout from Interagency Advisory Group Committee on Personnel Management Evaluation meeting held June 15, 1988, p. 2.

[43] Ibid., p. 2.

including quality of performance elements and standards."[44] Finally, OPM proposes Governmentwide reviews of "agency utilization of increased decentralization of personnel authorities, Employee Assistance Program effectiveness, and efforts taken toward more effective clerical recruitment,"[45] all under the heading of "Improvement Initiatives."

Beginning in January 1989, OPM also has established a data base to maintain a record of legal and regulatory violations found through reviews or area office contacts with agencies. As it grows, this data base will be used to identify patterns of problems in agencies, parts of agencies, or localities.

In addition, agency analysts--specialists in ACE who are assigned to coordinate with and monitor one or more assigned agencies--routinely review the results of OPM reviews, agency-prepared evaluation reports, and PMIR analyses. They then follow up regularly with agency personnel officials on problems, trends, or good practices. This helps eliminate problems and reinforce good practices. OPM reported that PMIR emphasis is now focused more on trend and potential problem analysis within each agency, and less on the earlier idea of using its indicators to compare and rank agencies. This change was made to make the PMIR more acceptable--and more useful--to agencies.

OPM also has initiated other efforts to strengthen agency internal PME programs. OPM intends to "convey OPM's expectations of agencies' internal PME programs; provide feedback to individual agencies on their programs; and discuss possible program enhancements with key agency staff, including opportunities for greater OPM/agency cooperation."[46] These efforts will be undertaken by OPM headquarters and regional offices. Finally, the proposed FY 1989 program says "OPM's Regions are strongly encouraged to participate in agency-led reviews in support of enhanced agency internal PME activity."[47]

These plans and proposals suggest that the OPM evaluation and oversight program has made a beneficial "mid-course correction" which should enhance its ability to achieve a balance between collecting Governmentwide information necessary for program planning and direction and ensuring a strong regulatory compliance presence. It is hoped that OPM will also be in a better position to assess whether its own Governmentwide rules and regulations are achieving their intended effect or are in need of some adjustment.

SUMMARY OF FINDINGS

OPM appears to have "handed off" regulatory compliance to the agencies. As noted in MSPB's May 1986 report on OPM's significant actions, at the time OPM revised its PME program it informed agencies that they had paramount responsibility for regulatory compliance in their own organizations.[48] While agencies do have a clear responsibility for ensuring proper use of personnel authorities, this shifting of compliance responsibility from OPM to agencies appears to conflict directly with the language concerning this point quoted earlier in this report from the legislative history of the CSRA.

MSPB has found that the responsible OPM program offices have generally provided effective regulatory oversight for the delegations of authority under their jurisdiction. Their reviews, however, tend to be narrowly focused on the specific authorities assigned to

[44] Ibid., p. 2.

[45] Ibid., p. 2.

[46] Ibid., p. 3.

[47] Ibid., p. 3.

[48] U.S. Merit Systems Protection Board, op. cit., May 1986, p. 122.

their office. MSPB has also found that OPM's approach to the overall evaluation of Federal personnel management during much of this first decade has lacked the capacity to uncover systemic problems or abuses in the larger interrelated network of Federal personnel management laws regulations, programs, and procedures. This is troubling because, under the CSRA the emphasis on delegation and decentralization is premised on a strong OPM oversight role.

In short, the early revisions to OPM's evaluation program fell short of providing an adequate level of OPM capability to ensure regulatory compliance (including upholding the merit system principles and preventing or eliminating prohibited personnel practices). Had the program been left in that mode, important efforts to simplify or reduce the number of personnel regulations and to provide agency line managers greater personnel management flexibility could have posed unnecessary risks to the merit system. The potential damage from unforeseen and undetected merit system violations and prohibited personnel practices would be an unacceptable cost for an otherwise reasonable effort to increase managerial authority and flexibility. Although OPM's inability to provide overall Federal personnel program evaluation and feedback has been open to debate,[49] fortunately, the program continues to evolve in an encouraging direction.

[49] See, for example, U.S. General Accounting Office, "OPM's Approach for Conducting Personnel Management Evaluation," Report GAO/GGD-88-11, November 1987.

PROVIDING PROGRAM GUIDANCE AND LEADERSHIP

The entire personnel field has deteriorated to where, today, it lacks much capacity either at OPM or in the agencies to provide leadership.[50]

BACKGROUND

The above statement is one characterization recently provided regarding OPM's leadership capacity. MSPB's legislative charter with regard to oversight of OPM requires the Board to conduct an annual review of the "significant actions" of the Office of Personnel Management and to submit a report to the President and Congress.[51] In the course of conducting these reviews and in many of the special studies of the civil service system not directly related to OPM's actions, it is unusual to find a personnel management program area or initiative in which OPM does not have or should not have a vested interest as the Government's central personnel management authority.

Because human resource management is a shared responsibility in any organization, the success or failure of almost any Federal personnel management program or initiative, whether it be equal employment opportunity, pay for performance, or recruiting and retaining a quality work force, does not depend solely on OPM. However, if OPM is fulfilling its leadership role, it is reasonable to assume that OPM should be exerting positive influence in most personnel program areas. In many cases, this influence may start with carefully developed program guidance which has, as one of its ultimate goals, the development of sound personnel policies which allow and encourage the Federal work force to operate effectively and efficiently.[52]

In order to exert this constructive influence, of course, OPM must develop and maintain the institutional capacity to carry out the many elements of its mission including research, oversight (discussed in the previous section), technical assistance to agencies, and program development, guidance, and administration. A large part of OPM's institutional capacity resides in the agency staff. In this respect, OPM's capacity, at least in numbers, diminished significantly between 1980 and 1987.

As shown in figure 1, for example, after a precipitous 3-year decline from 1980 to 1983, overall staffing levels have hovered around 75 percent of the 1980 level. Numbers alone, of course, do not tell the whole story. Part of what might otherwise have been a

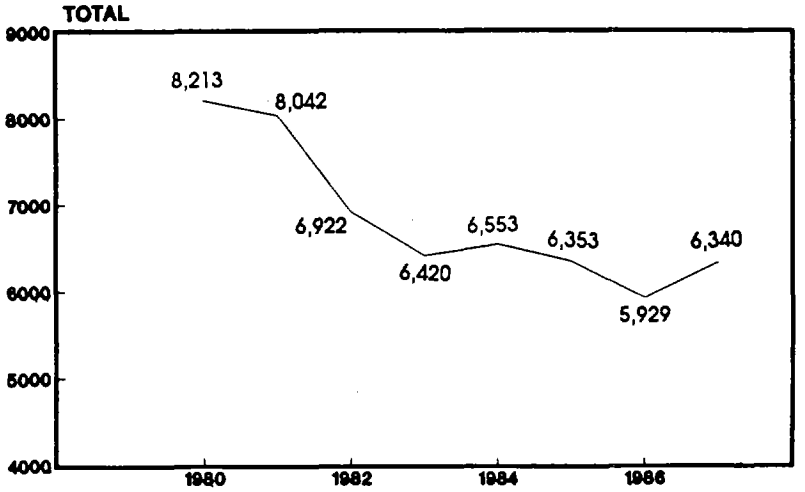
[50] Statement by Chester Newland, University of Southern California, during the seminar cited in footnote 7. See p. 48 of the proceedings.

[51] 5 U.S.C. 1209(b). Because the Board's review is to cover only those OPM actions deemed to be "significant" in any given year, there are a few Federal personnel management program areas which the Board has not reviewed in depth during the last decade, such as Federal labor management relations and employee training and development. Lack of a direct review of any particular program area does not imply that these areas are somehow unimportant but only that OPM's activities in other program areas were determined to be more significant in each of the years reviewed.

[52] Peter Drucker argues that "efficiency is doing things right, effectiveness is doing the right things." See Drucker, P. "The Effective Executive," Heinemann, 1967.

Figure 1

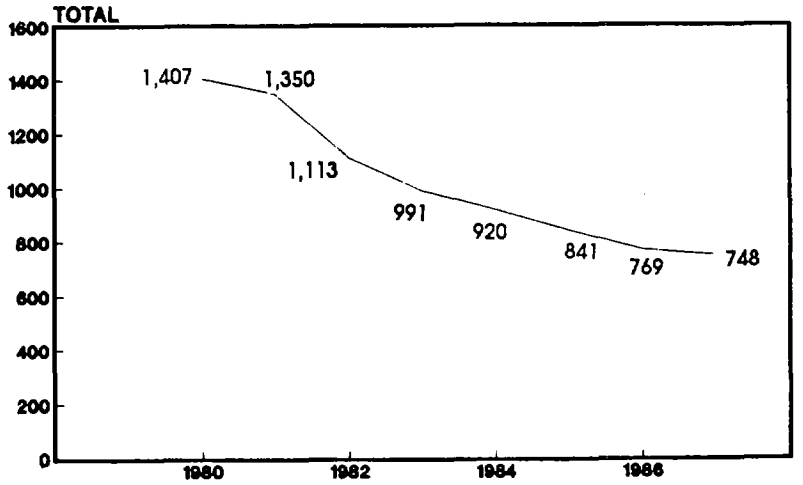
OPM EMPLOYMENT
Total Number of Employees (1980-1987)



Source: Personnel Data File, Civilian Personnel Accounting System (CPAS)

Figure 2

OPM EMPLOYMENT
OPM Employees in Personnel Management Occupations (1980-1987)



Source: Personnel Data File, Civilian Personnel Accounting System (CPAS)

Note: These data include the GS-201 (personnel management), GS-212 (personnel staffing), and GS-235 (employee development) series.

negative impact on the mission accomplishment capability of OPM may have been offset by increased productivity, automation, reduced workload due to delegations of authority, and contracting out.

As shown in figure 2, however, when personnel specialists are extracted from the total work force (which includes investigators, claims examiners, and administrative and clerical personnel) we find that the number of staff in professional personnel positions has declined more drastically than the total work force. By 1987, the number of personnel specialists had been cut almost in half compared to the number in 1980.

Personnel specialists are frequently the staff members drawn upon for personnel program development, technical assistance, and program reviews, among other responsibilities. The numbers in figure 2, therefore, provide at least an indication that OPM's ability to provide overall civil service guidance and leadership may have declined as the staff decreased, although the declines are not necessarily proportional. As seen in the following discussion of some specific personnel program areas, however, there is some support for this hypothesis.

RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

Title VI of the Civil Service Reform Act of 1978 directed the Office of Personnel Management (OPM) 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 (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.[53]

Also, under title VI of the Act, OPM was authorized to conduct or approve demonstration projects to allow controlled, measured evaluation of new approaches to personnel management. Under a demonstration project, certain restrictions of existing personnel law under title 5 could be waived. These include waiver of restrictions on:

- Establishment of qualification requirements;
- Classification methods;
- Compensation methods and incentive pay;
- Methods of assigning, reassigning, promoting, or disciplining employees;
- Hours of work per week;
- Methods of involving employees, unions, and employee organizations in personnel decisions; and
- Methods of reducing agency staff and grade levels.

[53] 5 U.S.C. 4702.

According to the General Accounting Office (GAO), "Title VI was envisioned as an ongoing mechanism for reviewing personnel techniques and systems. The objective was to be able to respond to changing needs in the federal personnel system as, and when, they arise, thereby lessening the need for overall legislative reform in the future".[54]

Demonstration projects, by definition, entail the waiver of some provision of law, rule, or regulation and are subject to some fairly stringent requirements specified in the Civil Service Reform Act, including advance notification and subsequent reports to Congress. Research projects, on the other hand, can be undertaken within the scope of existing law but may involve a waiver of OPM procedural requirements. It was anticipated under the CSRA that there would be a small but steady stream of demonstration projects and a larger flow of research projects. At the time of this report, however, OPM had approved and agencies had implemented only four demonstration projects and four research programs in the nearly 10-year history of the CSRA. (See app. C for a brief description of these projects.)

It is important to note that these research and demonstration projects appear to be worthwhile initiatives and, in most cases, are fairly major undertakings. They should provide valuable information regarding some specific personnel issues and systems. The limited number of such projects, however, has been disappointing.

In 1980, OPM informed the President that it would "play a leadership role in bringing the ideas and talents of the research communities together to address the challenge of providing better public service through improved public sector management."[55] The resources devoted to carrying out that leadership role, however, have been slow in building. For example, GAO reported that during fiscal year 1979, OPM had no one staff member assigned full time to guide, coordinate, and ensure the quality of its research. The equivalent of about two staff members were detailed from other OPM divisions. During fiscal year 1980, four staff members were authorized to perform these activities.[56] In August 1987 under an OPM reorganization, the Research and Demonstration Staff became the Research and Demonstration Division. Ten staff members are currently assigned to this division--a high point in its staffing level since 1980.

OPM's activity level under title VI has been uneven. For example, OPM produced a comprehensive plan for research and demonstration projects during fiscal year 1979. It also utilized an internal Policy and Research Advisory Board to plan a research agenda in conjunction with other agencies, unions, interest groups, and the general public. As part of this effort, OPM cosponsored, with three other central management agencies (OMB, GSA, and GAO), a 2-day public management research conference during November 1979 to foster and encourage the application of new and existing research from many academic fields to the public sector.[57]

More recently (January 1988), the Director of OPM invited Federal agencies and other interested parties to assist her in framing a research agenda intended to address the most important questions facing the Federal work force. This is part of a broad effort by OPM to look 10 to 15 years into the future to identify and test potential changes which could help to keep Federal personnel management up-to-date. That agenda has now been framed and OPM has invited agencies,

[54] U.S. General Accounting Office, Briefing Report To Congressional Requesters, "Federal Personnel: Status of Personnel Research and Demonstration Projects," September 1987.

[55] U.S. Office of Personnel Management, Annual Report for the fiscal year ended Sept. 30, 1979. This was OPM's first annual report.

[56] U.S. General Accounting Office, Report To The Congress Of The United States, "Civil Service Reform--Where It Stands Today," May 13, 1980.

[57] U.S. Office of Personnel Management; see pp. 16-17 of the report cited in footnote 55.

associations, academics, and others to work together or independently to address the issues that were presented. Unfortunately, OPM does not anticipate additional funding for OPM-conducted research relative to the agenda items. Nonetheless, OPM's objective is that the research agenda will cue agencies in their own research efforts and create possibilities for pooling resources and for leveraging any non-Federal support.

Although OPM appears to be showing some renewed interest in encouraging research and demonstration activity, an overall assessment over the last decade would suggest that its impact has been limited and far short of original expectations. Part of this may be due to certain limitations inherent in the actual legislation (e.g., there is no easy way for a successful demonstration to become permanent and the requirements placed upon an agency implementing a project are burdensome). Nonetheless, OPM's research and demonstration support and leadership would appear to have been half-hearted during much of this time. This relatively low level of activity prompted a 1983 recommendation from the National Academy of Public Administration that OPM:

> should provide positive leadership on behalf of the President by * * * carrying out far-reaching research and development efforts directly or in cooperation with agencies * * *."[58]

It is encouraging that OPM has recently initiated some significant "in-house" research projects. These projects include research on employee health insurance, market-based pay, and alternative methods for developing classification standards.

[58] National Academy of Public Administration panel report, "Revitalizing Federal Management: managers and their overburdened systems," November 1983.

Also, OPM has informed MSPB that it has approved a fifth demonstration project and published the project plan in the Federal Register for public comment. According to OPM, three additional demonstration projects have been approved in concept.

EQUAL EMPLOYMENT OPPORTUNITY

Another part of the refocusing of Federal personnel management responsibilities carried out under the Civil Service Reform Act entailed culling inherently conflicting functions from the charters of organizations (e.g., the former Civil Service Commission's roles of administering a personnel management system while at the same time serving as a watchdog over the merit system and performing adjudicatory functions). Amid much debate and disagreement, Federal equal employment opportunity functions were among those realigned.[59]

The need for a coherent equal employment enforcement effort and the desire for improved discrimination complaint processing resulted in a shift of EEO-related functions formerly performed in 18 Government units. The Equal Employment Opportunity Commission (EEOC) became the "principal Federal agency in fair employment enforcement"[60] and took over from the Civil Service Commission functions relating to Federal EEO administration and enforcement.

Despite this major realignment effort, a significant EEO role was retained in the newly constituted Office of Personnel Management, and is implicit in OPM's role as a central personnel management agency. The

[59] A comprehensive discussion of the issues involved in the debate is found in the 1977 reports of the President's Reorganization Project: Personnel Management Project, vol. 1, Final Staff Report, and vol. 2, Appendices to the Final Staff Report.

[60] Message from the President of the United States transmitting Reorganization Plan No. 1 of 1978 (to consolidate Federal EEO activities), Feb. 23, 1978.

goal of the Federal Government at the time of the CSRA was for the Government to be a "model equal opportunity employer."[61] OPM was to play a pivotal role in this endeavor by: 1) formulating and implementing policies that support the merit principles (most significantly in the staffing arena); 2) integrating personnel management and affirmative action into a comprehensive, viable program to facilitate efforts to arrive at a representative work force; and 3) providing Federal leadership in work force planning, utilization, and development.

The discussion in this report under the section on decentralizing personnel management authority touches on some of the significant staffing issues that have called for OPM's leadership and action over the last decade. For example, a major shift from centralized examining to decentralized examining was motivated, in part, by a desire to improve the representation of women and minorities. The previously discussed abolishment of the Professional and Administrative Career Examination (PACE) resulted from allegations of racial and ethnic bias in the examination.

Clearly, a major challenge for OPM in carrying out its responsibilities is to assure that there is an appropriate balance between the demands of the merit system and the goal of a representative work force achieved through true equality of opportunity and, as neeeded, by affirmative action. This is not always an easy balance to maintain given the critiques which have been levied against some of the selection devices used by the Federal Government, (e.g., the previously discussed PACE) and the pressures for increased representativeness in hiring. OPM has traditionally sought to maintain this balance through development of valid examining or selection devices and the encouragement of affirmative action and equal employment opportunity efforts consistent with the merit principles.

Following the abolishment of the PACE in response to allegations of racial bias, the lack of valid alternative competitive examinations for most PAC occupations formerly covered by PACE resulted in a de facto delegation of examining authority by OPM to the agencies.[62] This diffused responsibility to the agencies for the development and defense of a valid merit-based selection process for new hires into positions formally covered by the PACE. While OPM still continued to devote some attention to developing alternative competitive examinations, the authorization of an excepted examining authority also gave them some "breathing room" at a time when they were reducing the resources devoted to test development. The greater variety of selection procedures and devices used by the agencies were also less likely to be subject to a concerted challenge of the type levied against the PACE. This was especially true since a significant proportion of individuals hired under Schedule B were minorities. For example, minority hiring under PACE averaged only 5.9 percent between 1973 and 1980. By contrast, according to OPM, minority hiring under Schedule B rose to 24 percent in 1986 and 1987.

OPM recently announced plans for new procedures for filling entry-level GS 5 and 7 level positions. These procedures will allow Federal agencies to hire applicants directly who earn a minimum college grade point average in the 3.0 to 3.25 range (still to be determined). Additionally, applicants may qualify by scoring well on a new tool developed by OPM called the Individual Achievement Record (IAR). The IAR consists of a series of questions about certain aspects of an individual's background including education and employment. The IAR score will be combined with results of a job-related written test to form a single score. Information disseminated by OPM indicates that there are only "small differences between the IAR scores of blacks and whites." OPM also indicated that veterans'

[61] See prepared statement of Alan K. Campbell, Chairman, U.S. Civil Service Commission, contained in "Reorganization Plan No. 2 of 1978," Hearings Before a Subcommittee of the Committee on Government Operations, House of Representatives, 95th Cong., 2d sess., June 6, 13, and 15, 1978.

[62] See the previous discussion in this report of the Schedule B excepted appointment authority following the abolishment of the PACE.

preference would be applied to these hiring procedures, although its application in conjunction with the use of screening by grade point average could be problematic. Whether the new procedures will maintain the necessary balance between EEO goals and merit system considerations remains to be seen.

While EEO efforts had previously been mounted in the Federal Government,[63] the CSRA institutionalized the national policy that the Federal work force should reflect the composition of the public it serves. [64] This concept of representation was to be promoted by a Federal Equal Opportunity Recruitment Program (FEORP). OPM was given implementation responsibilities for FEORP in line with its positive personnel management role. An assessment of how OPM has complied with the spirit and intent of the law mandating a FEORP provides a characterization of OPM's EEO posture in the 1980's.

At the outset, it is important to distinguish between assessing the success of FEORP as a program, and the success of OPM in executing its pivotal role relative to FEORP. The focal point for Federal recruitment efforts is at the agency level, where the actual jobs are. Indeed, the CSRA recognized agency-level recruitment programs as the building blocks of the Governmentwide mandate for improved representation. Yet, in giving OPM the responsibility for implementing, monitoring, and evaluating FEORP, Congress clearly meant for OPM to "steer" the course of the program and facilitate its success. The history of FEORP has shown, however, that the program's course has been less than smooth.

From the beginning, the question of roles and responsibilities for this program has been problematic. Agencies experienced confusion and duplication of effort, and OPM itself in its 1981 report to Congress stated that "several agencies * * * reported their perception that OPM's guidance on FEORP and EEOC's instructions for agency affirmative action programs were confusing or inconsistent with each other."[65] Just 6 months earlier, after the House Subcommittee on Civil Service held 10 days of oversight hearings on the implementation of the CSRA, similar conclusions surfaced. Shortly after hearings ended, the following observations were entered into the record:

> The Office of Personnel Management and the Equal Employment Opportunity Commission have not made it clear to agencies what responsibilities each has for overseeing and implementing the program.
>
> * * * The Office of Personnel Management steadfastly refuses to exercise its enforcement powers to encourage agency compliance, while the Equal Employment Opportunity Commission has no enforcement powers to exercise.[66]

Some of these problems were unquestionably attributable to the new organizations and working relationships which resulted from the CSRA. Under the realignment of EEO-related functions, the EEOC became the primary Federal agency in EEO matters. However,

[63] Specific initiatives to promote EEO go back over 40 years to 1941 when President Franklin D. Roosevelt issued Executive Order 8802, aimed at aiding employment opportunities of blacks.

[64] 5 U.S.C. 2301(b)(1).

[65] U.S. Office of Personnel Management, Report to Congress, "Annual Report on the Implementation of the Federal Equal Opportunity Recruitment Program," Jan. 31, 1981.

[66] "Equal Employment Opportunity," Hearings Before the Subcommittee on Civil Service of the House Committee on Post Office and the Civil Service, 96th Cong., 2d sess., June 10, 1980, Appendix No. 4, letter to the President.

the new EEO-related minority recruitment program--FEORP--was assigned to OPM for development and implementation. Given the evidence of initial confusion over roles and responsibilities for FEORP, and how it would relate to other agency EEO efforts, OPM has faced a considerable education and information void. It has attempted to fill the void through a number of approaches, including briefings, training sessions, conference participation, seminars, workshops, and Interagency Advisory Group (IAG) meetings. OPM has also produced Federal regulations and other written program guidance that serve to explain the program and define expectations.

Nonetheless, the exact nature of FEORP planning and reporting requirements is, at best, difficult to discern at first glance. OPM has described basic requirements in its regulations (5 CFR 720.205) and in FPM Letter 720-2 (Sept. 19, 1979). Basically, agencies must have an up-to-date equal opportunity recruitment program plan which includes annual specific determinations of underrepresentation. At least eight other elements, all of which require agencywide analysis and not a small amount of narrative coverage, are required (e.g., "Identification of training and job development programs the agency will use to provide skills, knowledge and abilities to qualify increased numbers of minorities and women for occupational series and grade levels where they are significantly underrepresented").[67] These plans do not have to be submitted routinely to OPM, but in accordance with an agreement between OPM and EEOC, they must be incorporated in an agency's EEO plans, and must be "separable parts of those plans for purpose of review by and submission to the Office of Personnel Management."[68] The lack of clarity surrounding FEORP planning and reporting requirements is illustrated by the fact that, despite the aforementioned agreement, EEOC instructions to agencies for submission of their FY 1988 through FY 1992 affirmative employment plans do not specifically mention FEORP, except to say in the appendix that "statutory authority for (FEORP) program oversight was given to OPM * * *."

A valuable role which OPM can play in assisting agencies is devising practical ways to clarify and relate the various special-emphasis recruitment and hiring programs. A particularly useful tool, a pamphlet on noncompetitive appointments, was distributed by OPM in October 1980. In this pamphlet, OPM presented a comprehensive listing of appointment authorities available to Federal agencies, with a brief explanation of circumstances under which they are appropriate for use. Unfortunately, its useful life was somewhat short since it appears that the pamphlet has been neither updated and maintained nor offered through routine distribution channels.

OPM itself has acknowledged that a more systematic approach to its guidance could be achieved, and reported to Congress in January 1986 that it would be "combining all the existing Affirmative Employment Programs handbooks, including FEORP, Hispanic Employment Program, Federal Women's Program, and other affirmative employment programs into one handbook."[69] As of December 1988, OPM had not issued such a handbook, nor was publication imminent. In 1984, in response to MSPB's inquiry about regulations or other instructions on FEORP implementation it had provided to agencies, OPM asserted that it planned to revise and reissue FPM Chapter 720, "Affirmative Employment Programs." The new Chapter 720 was to contain comprehensive guidance

[67] 5 CFR 720.205.

[68] Ibid.

[69] U.S. Office of Personnel Management, Report to Congress, "Seventh Annual Report on the Implementation of the Federal Equal Opportunity Recruitment Program (FEORP)," Jan. 31, 1986.

and instructions on all elements of OPM's Affirmative Employment programs, including FEORP. OPM also reported to Congress in the January 1986 FEORP report that a complete revision of the FPM guidance and program regulations was underway. As of December 1988, these revisions were yet unpublished.

The task of assessing and reporting on the effectiveness of FEORP is the responsibility of OPM, which it fulfills each January with a report to Congress. OPM's most recent report to Congress[70] indicates that there have been overall gains for minorities and women in terms of total numbers in the Federal civilian work force. According to OPM's total representation index,[71] full parity had been achieved for most categories of minorities and women as of September 1988. However, this may be somewhat misleading since progress still needs to be made to increase the representation of minorities and women in specific occupations and grade levels. For example, black men and women are still underrepresented at higher grade levels, particularly at GS 13-15 and Hispanic males are still underrepresented at all grade levels. Because an in-depth analysis of the implications of the data is absent, the report gives a favorable first impression which may mask basic programmatic difficulties. MSPB has previously expressed concern about OPM's focus on a descriptive approach, to the exclusion of insightful analysis of the program's effectiveness.[72]

The January 1989 FEORP report also includes OPM initiatives that were taken during FY 1988 in support of recruiting and advancing minorities and women. While some of these initiatives have a broad recruiting focus which does not appear to target minorities and women (e.g., a national recruiting symposium held in Washington, DC, on June 23, 1988), most of them appear to have the recruitment of minorities and women as their primary focus. Notable in this regard is a "High Technology Minority Job Fair" which is held annually in Albuquerque, New Mexico, as well as a "Miami Targeted Job Fair" which was held in a predominately Hispanic community in Miami, Florida.

FEORP, of course, is just one aspect of the Government's overall effort to assure commitment to the goals of equal employment opportunity. Further, as reiterated by several generations of OPM Directors, it is "a recruitment program, not a hiring program." However, OPM's inconsistent handling of its FEORP responsibilities provides at least one indication that, during its first decade, OPM has provided erratic, and at times insufficient, leadership and guidance in the areas of equal employment opportunity and compliance with the merit system. Currently, however, OPM is devoting increased attention and resources to equal employment opportunity with apparent success.

PAY FOR PERFORMANCE

Performance and pay were two major components of the Civil Service Reform Act of 1978. The Act's "Findings and Statements of Purpose" state that:

[70] U.S. Office of Personnel Management, "Tenth Annual Report to Congress on the Federal Equal Employment Opportunity Recruitment Program (FEORP)," January 1989.

[71] The representation index is a single numerical index developed by OPM which shows the ratio between the percentage of a minority or gender group's representation in an employment category (occupation group and grade) with that same group's representation in the civilian labor force.

[72] Discussion about FEORP program implementation and OPM's monitorship and evaluation role has been included in a number of previous MSPB reports. See U.S. Merit Systems Protection Board, op. cit., June 1981, pp. 53-75; "Report on the Significant Actions of the Office of Personnel Management During 1981," December 1982, pp. 53-57; op. cit., December 1983, pp. 131-133; and op. cit., December 1984, pp. 91-103, 113-115, and appendix E.

> It is the policy of the United States that * * * in appropriate instances, pay increases should be based on quality of performance rather than length of service.[73]

It is clear that Congress intended for performance-based pay to be another primary "tool" for Federal agencies to use in meeting the objectives of the CSRA. Individual Federal agencies were expected to fashion the operation of their own performance appraisal systems to meet the unique needs of their own organizations and to motivate their employees toward higher levels of efficiency and effectiveness. OPM's basic responsibility is to help assure that these systems are as effective as possible in that regard. To do this, Congress expected OPM "to require agency compliance and to ensure that performance appraisal systems meet standards established by the Office of Personnel Management."[74]

The CSRA also assigned OPM specific responsibility to "make technical assistance available to agencies in the development of performance appraisal systems."[75] In carrying out this responsibility, OPM has developed requirements for agency performance appraisal systems which emphasize the need for: 1) fair standards under which work can be evaluated; and 2) standards which are reasonable and accurate. A 1986 MSPB survey[76] provides a useful gauge of the extent to which Federal employees perceive their performance standards as fair and accurate. In that survey, approximately half (52 percent) of the respondents said the job elements in their performance standards were accurate, while 15 percent said they were not accurate and about a third (31 percent) thought they were accurate to "some extent."

The survey also asked Federal employees a related question on the issue of fairness of performance standards. In response to the statement "The standards used to evaluate my performance are fair," 53 percent of respondents stated that the standards were fair, while 24 percent thought their standards were not fair and 21 percent thought the standards were neither fair nor unfair.

OPM has noted its awareness of the "continuing problems with the development of practical and reasonable standards." [77] OPM's position, however, is that individual agencies should address this problem by enhancing their internal quality control efforts.[78] This is an area where OPM could exercise more direct leadership through increased technical assistance efforts. We note that OPM has issued five handbooks and a management brochure on the subject of performance standards. This generic approach, however, will not be equally effective in all agencies and should be supplemented by other "hands on" methods of assistance. For example, OPM should target more direct technical assistance to those agencies which it identifies as being deficient in developing effective performance elements and standards.

In 1984, Congress revised the merit pay system established under the Civil Service Reform Act with a new system called the Performance Management Recognition System (PMRS).[79] The new legislation contained

[73] 5 U.S.C. 1101; see the note titled Findings and Statement of Purpose in Supplement 1988.

[74] "Legislative History," p. 658.

[75] 5 U.S.C. 4304(a).

[76] The Merit Principles Survey was an extensive survey of a stratified random sample of Federal employees. The survey, which garnered 16,651 responses from the 21,620 questionnaires sent out (77 percent response rate), was designed to provide valid results for the entire full-time, permanent Federal work force, as well as each of the 22 largest Federal agencies.

[77] See U.S. Office of Personnel Management, "Report to the President and the Congress on the Performance Management and Recognition System, March 1988, p. 1.

[78] Ibid., p. 6.

[79] 5 U.S.C. 5408

a "sunset" provision terminating PMRS after September 30, 1989, unless action is taken to extend or amend it. OPM is also required to prepare annual reports on the effectiveness of the PMRS. OPM's first report was issued September 1987 and covered the FY 1984 and 1985 performance cycles. In that report, OPM concluded that there is:

> greater acceptance of PMRS than the Merit Pay System, but concerns remain with the objectivity of performance appraisals, consistency of performance standards and equity of performance ratings.[80]

A 1987 GAO report[81] found that some of the problems that were prevalent under the merit pay system still exist under the PMRS. For example, factors unrelated to performance affected the sizes of performance awards received by PMRS employees. GAO also reported that employees have varied levels of understanding of the PMRS and some of its intended benefits. In addition, some of the negative perceptions employees had about merit pay--such as mistrust of their performance appraisal systems and concerns about insufficient funds to adequately reward performance--appear to have carried forward to the PMRS.

In MSPB's examination of the PMRS, the Board noted that many agencies believed that funding for the performance awards component of PMRS was inadequate to meet the requirements of the system.[82] The Board found evidence that high performance ratings for large percentages of employees are a major factor contributing to the problems agencies report they are experiencing in providing meaningful recognition to top performers. However, whether funding would be deemed "adequate" if a smaller percentage of employees received the highest performance ratings (presumably giving each of those employees a larger dollar award) is still an open question.

OPM's second report on the PMRS was issued in March 1988 and covered the FY 1986 performance cycle. That report concluded that the PMRS:

> was generally effective in achieving its objectives during the FY 1986 performance cycle. Problems remained, however, with respect to the employees' acceptance of PMRS and the system's ability to provide accurate assessments of performance. The demonstrated inflation of rating levels leads to the broad distribution of performance awards rather than their intended use of rewarding superior performance. These issues must receive continued attention if the system is to meet its original purpose.[83]

The problems identified in the operation of the PMRS have been persistent and may partly reflect OPM's somewhat "hands off" approach to agency implementation of the PMRS. To OPM's credit, however, it also had responsibility for overseeing the implementation of several major performance management program changes in the last few years and performed that

[80] U.S. Office of Personnel Management, Report to the President and the Congress on the Performance Management and Recognition System, July 1987, p. 1.

[81] U.S. General Accounting Office, "Pay For Performance: Implementation of the Performance Management and Recognition System," January 1987.

[82] U.S. Merit Systems Protection Board, "Performance Management and Recognition System: Linking Pay to Performance," December 1987, p. 6.

[83] United States Office of Personnel Management, op. cit., March 1988, p. 16.

responsibility well. OPM also issued separate regulations on reduction in force (RIF)[84] and incentive awards which are designed to strengthen the linkage between performance and personnel decisions.

As discussed in the section on oversight of the civil service system, OPM has also increased emphasis on performance management in its personnel management evaluation (PME) program. Performance management is now one of five personnel functional areas reviewed during Installation Assessment Visits and one of three focus areas contained in Personnel Management Indicator Reports.[85]

OPM has worked to develop analytical tools to monitor and analyze performance management patterns and trends. The Performance Management Information System (PERMIS) is one example. PERMIS is a computerized data base which draws its raw data from OPM's Central Personnel Data File. It would appear, therefore, that OPM has taken steps to increase its ability to take a more pro-active role in making pay for performance as much a reality as possible.

RECRUITING AND RETAINING A HIGH QUALITY WORK FORCE

In the wake of a revitalized interest in improving the public service, renewed awareness has been directed toward the necessity of recruiting a high quality Federal work force. For example, the National Commission on the Public Service (the Volcker Commission), a private, nonprofit organization, was formed in 1987 for the express purpose of dealing with growing concerns about the morale and quality of the Federal public service.

In an early report on OPM's significant actions during calendar year 1981, MSPB expressed concern:

> * * * about a number of areas in which we believe the "human capital" of the merit system may be at risk. In view of OPM's responsibility as the principal steward of this capital, we comment on these areas in some detail in the remainder of this report. They involve the broad issues of Federal employee morale and the government's ability to recruit, motivate, and retain highly qualified individuals.[86]

In a report several years later on the Government's ability to attract quality college graduates to Federal service, MSPB found that at least part of its original concern was still valid. It noted, for example, that:

> * * * the Government is not perceived as an "employer of choice" by many graduates of some of the country's most highly rated academic institutions. * * * This raises concerns about the future quality of the Federal work force and its ability to effectively and efficiently carry out the necessary functions of Government.[87]

In the latter report the Board also acknowledged some recent initiatives which OPM has taken to address that situation and which we encouraged be continued. The Board also made a number of recommendations for future OPM activities including the suggestion that:

[84] See U.S. Merit Systems Protection Board, "Reduction In Force: The Evolving Ground Rules," September 1987, for an analysis of the RIF regulations that were effected in February 1986.

[85] See this report's section on "Overseeing the System" for a complete discussion of OPM's PME program.

[86] U.S. Merit Systems Protection Board, op. cit., December 1982, p. 15.

[87] U.S. Merit Systems Protection Board, "Attracting Quality Graduates to the Federal Government: A View of College Recruiting," June 1988, p. vii.

> OPM should also aggressively continue exploration of ways to shorten the competitive recruitment process while preserving the underlying merit principles. Efforts need to focus on enabling the individual manager to make job offers in a more timely manner.[88]

On a number of occasions, Constance Horner, a former Director of OPM also has publicly expressed her concern about the Government's ability to maintain a highly qualified work force. In one statement she noted:

> We are coming into a period of labor shortage because of the end of the baby boom. In the next 10 years, the Federal Government is going to have to compete as it never has before.[89]

At recent hearings on proposed legislation to improve the Government's ability to attract talented employees at all levels, experienced individuals from the public, private, and academic sectors presented their views on the dilemma the Government faces. The testimony of the Comptroller General of the United States expressed the views of the General Accounting Office on this important topic. According to GAO, among the most pressing challenges in the area of Federal human resource management is the goal of:

> * * * recruiting and retaining a quality work force. Because of the work force's changing demographics and increasing competition for individuals with critical skills, the Federal government is forced to operate in a difficult labor market * * *. OPM may need to provide better Governmentwide personnel management leadership.[90]

One hopeful sign of a renewed OPM commitment is found in its 1988 report to Congress on FEORP implementation. In that report, OPM notes that it is refocusing attention on "providing leadership and guidance on developing a cost effective and practical nationwide recruiting program * * *."[91] Notable in this regard is OPM's recruiting information packet unveiled in 1988, called "Career America--The U.S. Government: Find out why it's becoming the first choice." Designed to promote the desirability of the Federal Government as an employer to college students, the packet is well-designed and visually attractive. Unfortunately, the cost of a packet per recruit (OPM estimates it to range from $4.30 to $7.50, depending on the quantity ordered) may restrict widespread use by Federal agencies.

It is also encouraging that OPM recently authorized agencies to use commercial recruitment firms to locate candidates. Once candidates are located, of course, they must still enter Government through the competitive appointment process. Nonetheless, this method has potential for increasing agencies' recruiting flexibility and effectiveness.

[88] Ibid., pp. 31-32.

[89] As quoted in "Uncle Sam Intensifies Effort to Recruit College Graduates," the Washington Times, Mar. 17, 1988, p. B4.

[90] Statement by Honorable Charles A. Bowsher, the Comptroller General, before the U.S. House of Representatives, Committee on Post Office and Civil Service, Subcommittee on Civil Service, Hearings on Excellence in Government, Mar. 24, 1988. The bill under discussion was H.R. 2882, 100th Cong., 1st sess., "Excellence in Government Management Act of 1987."

[91] U. S. Office of Personnel Management, op. cit., Jan. 31, 1988.

LOOKING TOWARD THE FUTURE

Since its creation 10 years ago under the Civil Service Reform Act, the Office of Personnel Management has undergone a series of organizational, policy, and program changes as it assumed its roles as the Federal Government's central personnel management agency and the President's personnel management agent. As described in this report's retrospective examination of some of the significant events which occurred during those first 10 years, the transition has not always been smooth or consistently in a positive direction.

This report provides an assessment of some of OPM's institutional strengths and weaknesses which have become more evident through the magnifying glass of historical perspective. The value of such an assessment is not so much what it says about the past, but what it may suggest about the future. The demands and pressures placed upon the Federal Government will continue to increase as the needs of our Nation change in an increasingly complex world. If the Government is to succeed, it must do so on the strength of a highly qualified and motivated work force. Or, as stated in a recent "transition summary" by the General Accounting Office:

> If the quality of the Federal work force is reduced, the quality of government services and programs is reduced. The bottom line in this situation is not less profit, but, more importantly, less effective government services--services that touch the lives of literally millions of people--and, therefore, less respect for the government. Sophisticated systems and controls are only as good as the people who must carry them out.[92]

Its second 10 years may be crucial ones for the Office of Personnel Management as it strives to provide guidance and leadership to the civil service system in a setting where change may be the main constant. The Board hopes the experiences of the first 10 years, objectively evaluated, will assist OPM in successfully meeting the challenges of the next decade and beyond.

[92] U.S. General Accounting Office, Transition Series,"The Public Service," GAO/CG-89-2TR, November 1988, p. 4.

APPENDIX A--PUBLISHED MSPB REPORTS CONCERNING OPM SIGNIFICANT ACTIONS

(1) Report on the Significant Actions of the Office of Personnel Management During 1980. (June 1981)

(2) Status Report on Performance Appraisal and Merit Pay Among Mid-Level Employees. (June 1981)

(3) A Report on the Senior Executive Service. (September 1981)

(4) Breaking Trust: Prohibited Personnel Practices in the Federal Service, Director's Monograph. (February 1982)

(5) The Other Side of the Merit Coin: Removal for Incompetence in the Federal Service. Director's Monograph. (February 1982)

(6) Report on the Significant Actions of the Office of Personnel Management During 1981. (December 1982)

(7) Reduction-in-Force in the Federal Government, 1981: What Happened and Opportunities for Improvement. (June 1983)

(8) Report on the Significant Actions of the Office of Personnel Management During 1982. (December 1983)

(9) The RIF System in the Federal Government: Is It Working and What Can Be Done To Improve It ? (December 1983)

(10) Significant Actions of the Office of Personnel Management: A Labor-Management Dialogue. (August 1984)

(11) Report on the Significant Actions of the Office of Personnel Management During 1983. (December 1984)

(12) The 1984 Report on the Senior Executive Service. (December 1984)

(13) Report on the Significant Actions of the Office of Personnel Management During 1984-1985. (May 1986)[1]

(14) Reduction in Force: The Evolving Ground Rules. (September 1987)

[1] In 1987, MSPB began publishing a series of reports analyzing the significant actions of OPM. This was a departure from MSPB's previous practice of publishing one significant actions report which covered each calendar year.

(15) In Search of Merit: Hiring Entry-Level Federal Employees. (September 1987)

(16) Expanded Authority for Temporary Appointments: A Look at Merit Issues. (December 1987)

(17) Performance Management and Recognition System: Linking Pay to Performance. (December 1987)

(18) Federal Personnel Policies and Practices--Perspectives From the Workplace. (December 1987)

(19) Toward Effective Performance Management in the Federal Government. (July 1988)

(20) Attracting Quality Graduates to the Federal Government: A View of College Recruiting. (July 1988)

APPENDIX B--OPM'S PERSONNEL MANAGEMENT EVALUATION (PME) PROGRAM COMPONENTS

OPM's revised PME program was originally built around the following six components, for which the current status is indicated in the table following the narrative.

(1) The Installation Assessment Visit (IAV), which was intended to obtain basic information for OPM to conduct off-site data analysis on an installation, agency, or Governmentwide basis. Originally planned as a 1- or 2-day visit for one or two people, by 1987 IAV's typically took 2 or 3 days. Data are collected before the IAV and verified and completed during the visit. Installations are selected for IAVs on a random basis intended to ensure that all installations meeting established criteria are visited during a 5-year cycle;

(2) Issue Analyses, which were major, comprehensive studies of one aspect of any of five major personnel management areas--position classification, position management, staffing, performance management, or merit personnel administration;

(3) Regional Probe Studies, which were regionally directed studies which address merit implications of Federal personnel management in the region. They are limited in scope and are intended to determine whether more factfinding is needed for policy development, or whether the regional information is sufficient;

(4) Compliance Oversight Reviews, which were studies triggered by OPM's Compliance Division's own analysis or by information from other evaluation activities. They are Governmentwide, statistically based studies of possible violations of personnel laws or regulations;

(5) Targeted Installation Reviews, which are evaluation activities performed at the discretion of an OPM regional director, dealing with areas of particular importance to the region. As originally envisioned and implemented, resources for this component were limited to no more than 5 percent of the region's fiscal year PME allocation; and

(6) Agency-Led Reviews, where OPM participates in evaluations led by Agency personnel. OPM evaluators are allowed to participate if the installation being reviewed is included in the OPM region's schedule for the year and if the OPM regional office can afford the resources to participate.

OPM later added a seventh program component--the Personnel Management Indicators Report--(PMIR) which is a statistical/numerical report based on information from IAV's and other personnel data sources. The PMIR has two main purposes: 1) the direct evaluation of agency personnel management performance, and 2) the targeting of scarce evaluation resources.

A November 1987 GAO report[1] contained figures reported by OPM for activity in each of the seven program elements for the 3-year period spanning 1984 through 1986. The 1984-1986 data below are from page 3 of the GAO report, with 1987 data obtained from OPM and added:

[1] U.S. General Accounting Office, "OPM's Approach for conducting Personnel Management Evaluation," Report GAO/GGD-88-11, November 1987.

Summary of OPM Personnel Management Evaluation

Program Activity, by Component, 1984-87

Program Component	1984 Reviews	1985 Reviews	1986 Reviews	1987 Reviews
Installation Assessment Visit	872	794	572	581
Issue Analysis	4	0	0	0
Regional Probe Study	11	a	a	a
Compliance Oversight Review	0	0	a	a
Targeted Installation Review	3	7	23	19
Agency-Led Review	18	31	16	22
Personnel Management Indicators Report	b	b	b	b

a--Discontinued.

b--This report is based on IAV's and other personnel data sources; no separate review is conducted.

APPENDIX C--APPROVED RESEARCH AND DEMONSTRATION PROJECTS

Demonstration Projects

Demonstration projects, under title VI of the Civil Service Reform Act, entail waiver of a provision of civil service law, rule, or regulation (e.g., the methods prescribed by statute for classifying positions and compensating employees) and are subject to some fairly stringent requirements regarding the scope of the project, the approval process, and the way in which it is evaluated and the results reported. The following discussion summarizes demonstration projects that have been approved by OPM and implemented by agencies.

The Navy demonstration project was implemented in 1980 at the Naval Weapons Center in China Lake, California, and the Naval Ocean Systems Center in San Diego. Congress has since extended the project until 1990. The project simplifies the personnel system by substituting four to six broad pay bands for the General Schedule system to provide managerial flexibility. The system also uses performance-based pay for all GS and GM employees, as well as a performance appraisal system that requires joint goal-setting by supervisors and their subordinates. This project has been in operation for 8 years and has involved thousands of employees in a wide variety of occupations.

The FAA Airway Science Project tests an alternative selection process for the four major FAA occupations (air traffic controller, aviation safety inspector, electronics technician, and computer specialist). The performance of graduates of Airway Science curriculums will be compared to that of traditional hires to determine whether Airway Science graduates perform better in their jobs. The FAA project was implemented in 1983. FAA has requested a 4-year extension of the project to validate the results.

The National Bureau of Standards project was mandated by Congress under the agency's funding authorization. This project tests a market-sensitive pay system which considers total compensation comparability in establishing pay ranges. It also tests: position classification based on pay bands; performance appraisal using peer comparison and ranking; performance-based pay and bonuses; supervisory/managerial pay differentials; recruitment and retention allowances; employee development including sabbaticals; and direct examining/hiring.

The Air Force PACER SHARE project at McClellan Air Force Base in Sacramento, California, is a productivity enhancement project. The objective is to demonstrate that the productivity of a Federal military installation can be significantly improved through the implementation of a more flexible personnel system and financial incentives in the form of productivity gainsharing.[1] The concept of pay for organizational performance will be tested at McClellan, and individual performance appraisal will be eliminated. Gainsharing bonuses will be paid to all employees as long as the productivity of the entire organization increases.

[1] A gainsharing program is an incentive system that measures gains in employee productivity and shares the resultant savings between employees and the organization.

Research Projects

Research projects, also encouraged under title VI of the CSRA, are those which can be conducted within the scope of existing law and regulation but which do require waiver of existing OPM procedural requirements. The approved research programs are at the Department of Defense (two); the Naval Supply Center, Department of Navy; and the Bureau of Labor Statistics, Department of Labor.

The Department of Defense Model Installation Program (MIP) is an experiment in deregulation under which OPM often agrees to waive their procedural requirements. MIP covers over 50 Defense installations which have submitted 143 requests for waivers, 64 of which have been approved or otherwise accommodated by OPM.

The Experimental Civilian Personnel Office Project (EXPO) is also a Department of Defense experiment designed to increase personnel office productivity and improve delivery of personnel services. The experiment involves 11 sites throughout the Department which test changes to current personnel operations in such areas as performance management, classification, compensation, appointments, promotions and details, training, and temporary employment.

The Naval Supply Center in Norfolk, Virginia, implemented an experiment in November 1986 which is testing an automated classification system, the delegation of classification authority to supervisors, and the substitution of generic classification standards for traditional, occupation-specific standards.

The fourth research program is a multipurpose job analysis which is being conducted by the Bureau of Labor Statistics. This program covers GS-334, Computer Specialist positions from grades 5 through 15.

A Report to the President and the Congress of the United States by the U.S. Merit Systems Protection Board