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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 250

RIN 3206-AK77

Personnel Management in Agencies—Employee Surveys

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations implementing mandatory employee surveys as required by the National Defense Authorization Act for Fiscal Year 2004. The regulations add a new subpart which requires agencies to conduct an annual survey of their employees. In addition, the final regulations provide a list of questions that must appear in each agency's employee survey.

DATES: *Effective Date:* This rule is effective on January 1, 2007.

FOR FURTHER INFORMATION CONTACT: For information on the survey questions, contact Julie Brill by phone on 202-606-5067, by FAX on 202-606-1399, or by e-mail at julie.brill@opm.gov. For all other information, contact Hakeem Basheerud-Deen by phone on 202-606-1434, by FAX on 202-606-2329, or by e-mail at hakeem.basheerud-deen@opm.gov. You may contact Ms. Brill and Mr. Basheerud-Deen by TTY on 202-418-3134.

SUPPLEMENTARY INFORMATION:

Requiring Annual Employee Surveys

Section 1128 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136, 5 U.S.C. 7101 note) requires each agency to conduct an annual survey of its employees "to assess—

(1) Leadership and management practices that contribute to agency performance; and

(2) Employee satisfaction with—
(A) Leadership policies and practices;
(B) Work environment;
(C) Rewards and recognition for professional accomplishment and personal contributions to achieving organizational mission;
(D) Opportunity for professional development and growth; and
(E) Opportunity to contribute to achieving organizational mission."

Prescribing Certain Survey Questions

The law requires OPM to "issue regulations prescribing survey questions that should appear on all agency surveys." In addition, the law requires agencies to make the survey results available to the public and post the results on their Web sites, unless the head of the agency determines that doing so would jeopardize or negatively impact national security.

Discussion of Comments

On September 16, 2005, OPM issued proposed regulations at 70 FR 54658 and requested comments by October 17, 2005. OPM received written comments from seven agencies, three non-profit organizations, three labor unions, one academic institution, and nine individuals. Generally, the comments were very supportive of the proposed regulations. Below we summarize and respond to comments that suggested changes or recommended clarification.

Survey Administration

One agency recommended OPM exempt small agencies with fewer than 1000 employees from the survey requirement. As an alternative to full exemption, this agency recommended OPM consider exempting these agencies in the years when the Federal Human Capital Survey is not administered by OPM. This agency commented the costs involved in survey administration are too great for small agencies. OPM did not adopt this agency's primary or alternative recommendation regarding the exemption of small agencies. While OPM appreciates the financial impact that all agencies must take into consideration when administering the employee survey, we note that the law has defined the jurisdiction of these regulations as all executive agencies and, therefore, must include small agencies in this requirement.

Another agency commented it would be more cost-efficient for OPM to

administer the annual survey for all Federal agencies than each agency administering on its own. OPM disagrees because the law requires each Federal agency to conduct an annual employee survey. Each agency has the flexibility to administer the employee survey in a manner that meets its objectives. In years when OPM administers the Federal Human Capital Survey (FHCS) it will include the items in subpart C. Agencies participating in the FHCS will satisfy the annual survey requirement for any year in which the FHCS is conducted if all major components are represented in the FHCS. It is the agency's responsibility to ensure all major components are represented in the results because the law does not exclude different segments of agencies, even if they are not reported to OPM's Central Personnel Data File (e.g., intelligence employees). As a result, agencies may need to supplement their FHCS results with survey results from employees not sampled by the FHCS.

Two labor unions, three non-profit organizations, and one academic institution suggested OPM provide one or more survey administration options agencies can pursue. As noted in the preceding paragraph, agencies have several survey administration options.

Additionally, these same entities recommended OPM add to the regulation a statement prescribing agencies to administer their surveys between September 1 and December 31, thus ensuring data comparability. OPM does not agree with this recommendation. We believe agencies should have the flexibility to administer the employee survey according to mission requirements.

One agency suggested OPM extend the data collection date to January 31 because of the impact on agencies' abilities to meet the requirements related to the Office of Management and Budget's Proud-to-be-Three Goals. OPM did not adopt this suggestion noting that agencies have a 12-month window to meet the survey requirements. We believe this timeframe will not cause undue hardship on agencies.

Another agency recommended OPM provide a clear statement of why employees are being asked the questions in these surveys. The Act clearly states the purpose is to assess employee satisfaction and leadership and

management practices that contribute to agency performance. OPM is issuing these regulations and the required items in accordance with the legislation.

One individual requested that OPM mandate followup action to hold agencies accountable for the results of the survey. While OPM agrees that followup action should be an integral part of an agency's survey process, it is beyond the scope of this regulation for OPM to mandate such action because the law only authorizes OPM to issue regulations prescribing survey questions. However, OPM will provide supplemental guidance to agencies on potential followup actions and the use of results from the employee surveys on our Web site at <http://www.opm.gov>.

Two agencies conducting employee surveys for the past several years expressed concern this new requirement may have a negative impact upon the progress these agencies have made in their survey programs. These agencies wish to continue to use their agency-specific surveys and not participate in the required annual survey. OPM notes this requirement is mandated by law and agencies must participate. However,

an agency can append the required items to an existing survey, or collect data from a small, statistically valid sample (OPM will provide supplemental guidance on sampling on our Web site at <http://www.opm.gov>) with minimal or no impact on an existing program. We commend those agencies that have developed and refined agency-specific surveys that meet their goals.

Survey Content

One agency commented on the lack of reference points and/or definitions of key terms for agencies and survey respondents. This agency suggested OPM provide a definition of the concepts/terms in context with the questions being asked (e.g., manager, supervisor, organization). OPM agrees that providing a definition of the key terms used in the annual survey will give agencies and respondents a clearer understanding of the questions. We have modified section 250.301 to include a definition of the terms *agency*, *executives*, *managers*, *supervisors*, *team leaders*, *leaders*, *work unit*, and *organization*. The definitions of these

terms are consistent with their use in OPM's Federal Human Capital Survey. In addition, we have renumbered the subsequent sections of this regulation to ensure uniformity.

OPM received multiple comments and suggestions on additions to, and deletions from, the proposed list of survey items. These comments suggested various constructs were not covered in the items, or were not covered well, including: pay-for-performance; nepotism; favoritism; waste and fraud; managerial performance; employee involvement in decision-making; an agency's adherence to Federal laws, rules, regulations, and accepted employment practices (particularly as they relate to working through unpaid lunch time); and leadership competencies. While OPM notes agencies maintain flexibility to expand their own surveys and add agency-specific items, we revisited the proposed list of survey items to ensure coverage of the legislated constructs. As a result, OPM is adding the following items:

5. I have trust and confidence in my supervisor.
12. Supervisors/team leaders in my work unit support employee development.
13. My talents are used well in the workplace.
14. My training needs are assessed.
18. In my most recent performance appraisal, I understood what I had to do to be rated at different performance levels (e.g., Fully Successful, Outstanding).
20. Pay raises depend on how well employees perform their jobs.
24. My supervisor supports my need to balance work and family issues.
29. Employees have a feeling of personal empowerment with respect to work processes.
30. My workload is reasonable.
31. Managers communicate the goals and priorities of the organization.
33. How satisfied are you with the information you receive from management on what's going on in your organization?
35. How satisfied are you with your opportunity to get a better job in your organization?

One agency recommended OPM provide a "Do Not Know" (DNK) option for all items while an individual suggested OPM remove the DNK option. This individual suggested the practice of comparing dissimilar data is not consistent with scientific methodology. OPM disagrees, noting it is appropriate to leave out the DNK option when an employee clearly should have an opinion and should provide one. For example, all employees have opinions about certain benefits, such as pay, so it would be appropriate to leave out the

DNK option on questions pertaining to it (e.g., Question 40, "Considering everything, how satisfied are you with your pay?") It should be noted response options for the required items are consistent with prior administrations of the items in the Federal Human Capital Survey.

One individual stated the survey questions are biased and provide responses favorable to management. This individual indicated unions should be given the opportunity to provide their own set of questions, which can be

appended to the management survey, and data should be collected by unbiased agency representatives to guard against management "skewing the data" in their favor. OPM disagrees the items are biased. Results from the Federal Human Capital Survey range from very positive to much less positive. Additionally, several unions have indicated they are in favor of OPM's proposed set of items. Finally, agencies can expand their own survey and add agency-specific items, and have the

option to have a third party collect their data.

Another individual commented that item 19 in the proposed rule; "In my organization, leaders generate high levels of motivation and commitment in the workforce" captures the Senior Executive Service Executive Core Qualification (ECQ) "Leading People" while the other four ECQs are not captured. This individual recommends OPM include items to capture all the ECQs. OPM did not adopt this recommendation noting the survey items are not intended to measure qualifications, but rather managerial and leadership practices.

Agency Web Sites

Three labor unions, three non-profit organizations, and one academic institution suggested OPM change the requirement for agencies to post survey results to their Web sites from 120 days to 90 days after an agency completes survey administration each year. OPM did not adopt this suggestion because we believe a shorter timeframe would create an undue hardship on many agencies, especially large departments that may have to compile results from their different components.

Additionally, these same entities suggested OPM post all survey results on OPM's Web site, while one agency suggested OPM make survey results available to the Federal community in odd-numbered years. We did not adopt this suggestion noting the Act requires agencies, not OPM, to post results on their own Web sites. In addition, agencies have the flexibility to add items to their surveys, and therefore, survey results may be unique to each specific agency.

Data Reporting

Three labor unions, three non-profit organizations, and one academic institution suggested OPM require all survey data be reported as weighted data, if applicable. OPM did not adopt this suggestion noting it would be a burden to require agencies to weight their data. However, OPM suggests agencies evaluate their data for representativeness, and will provide supplemental guidance on processes and procedures for doing so. To allow for such evaluations, OPM is adding the

following demographic items for agencies with 800 or more employees to assist in evaluating representativeness: supervisory status, gender, ethnicity, race, and agency subcomponent. Agencies with fewer than 800 employees are exempt from this requirement. We are including this exemption in section 250.302 in an attempt to protect the anonymity of respondents in small agencies. Small agencies who wish to add demographics to their survey may do so if they wish to evaluate representativeness of the survey responders. These demographic items will be listed as items 41 through 45, respectively.

Guidance

Several individuals and agencies submitted questions and requests for guidance on administering, analyzing, and reporting on the annual employee surveys. To assist agencies in their compliance with these rules, OPM will provide supplemental guidance on our Web site to include frequently asked questions and answers, instructions on sampling and administration, evaluating representativeness, followup actions, and strategies for using survey results to effect change in various human capital initiatives, at <http://www.opm.gov>.

Regulatory Flexibility Act

I certify this regulation will not have a significant economic impact on a substantial number of small entities because it will only apply to Federal agencies and employees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 250

Authority delegations (Government agencies), Government employees.

Office of Personnel Management.

Linda M. Springer,

Director.

■ Accordingly, OPM is amending 5 CFR part 250, as follows:

PART 250—PERSONNEL MANAGEMENT IN AGENCIES

■ 1. The authority citation is revised to read as follows:

Authority: 5 U.S.C. 1101 note, 1103(a)(5), 1104, 1302, 3301, 3302, 7101 note; E.O. 13197, 66 FR 7853, 3 CFR 748 (2002); E.O. 10577, 12 FR 1259, 3 CFR, 1954–1958 Comp., p. 218.

Subpart B—[Added and Reserved]

■ 2. Add and reserve subpart B.

■ 3. Add subpart C to read as follows:
Sec.

Subpart C—Employee Surveys

250.301 Definitions.

250.302 Survey requirements.

250.303 Availability of results.

§ 250.301 Definitions.

Subpart C—Employee Surveys

In this part—

Agency means an executive agency as defined in 5 U.S.C. 105.

Executives are members of the Senior Executive Service or equivalent.

Leaders are an agency's management team. This includes anyone with supervisory or managerial duties.

Managers are those individuals in management positions who typically supervise one or more supervisors.

Organization means an agency, office, or division.

Supervisors are first-line supervisors who do not supervise other supervisors; typically those who are responsible for employees' performance appraisals and approval of their leave.

Team leaders are those who provide employees with day-to-day guidance in work projects, but do not have supervisory responsibilities or conduct performance appraisals.

Work unit means an immediate work unit headed by an immediate supervisor.

§ 250.302 Survey requirements.

(a) Each executive agency must conduct an annual survey of its employees containing the definitions and each question in this subpart.

(b) Each executive agency may include survey questions unique to the agency in addition to the prescribed employee survey questions under paragraph (c) of this section.

(c) The definitions and 45 prescribed employee survey questions and response choices are listed in the following tables:

Key terms	Definitions
Agency	An executive agency as defined in 5 U.S.C. 105.
Executives	Members of the Senior Executive Service or equivalent.
Leaders	An agency's management team. This includes anyone with supervisory or managerial duties.
Managers	Those individuals in management positions who typically supervise one or more supervisors.
Organization	An agency, office, or division.

Key terms	Definitions
Supervisors	First-line supervisors who do not supervise other supervisors; typically those who are responsible for employees' performance appraisals and approval of their leave.
Team leaders	Those who provide employees with day-to-day guidance in work projects, but do not have supervisory responsibilities or conduct performance appraisals.
Work unit	An immediate work unit headed by an immediate supervisor.

Employee survey questions	Employee response choices
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Personal Work Experiences

(1) The people I work with cooperate to get the job done	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, or Strongly Disagree.
(2) I am given a real opportunity to improve my skills in my organization.	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, or Strongly Disagree.
(3) My work gives me a feeling of personal accomplishment	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, or Strongly Disagree.
(4) I like the kind of work I do	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, or Strongly Disagree.
(5) I have trust and confidence in my supervisor	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, or Strongly Disagree.
(6) Overall, how good a job do you feel is being done by your immediate supervisor/team leader?	Very Good, Good, Fair, Poor, or Very Poor.

Recruitment, Development & Retention

(7) The workforce has the job-relevant knowledge and skills necessary to accomplish organizational goals.	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(8) My work unit is able to recruit people with the right skills	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(9) I know how my work relates to the agency's goals and priorities	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(10) The work I do is important	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(11) Physical conditions (for example, noise level, temperature, lighting, cleanliness in the workplace) allow employees to perform their jobs well.	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(12) Supervisors/team leaders in my work unit support employee development.	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(13) My talents are used well in the workplace	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(14) My training needs are assessed	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.

Performance Culture

(15) Promotions in my work unit are based on merit	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(16) In my work unit, steps are taken to deal with a poor performer who cannot or will not improve.	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(17) Creativity and innovation are rewarded	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(18) In my most recent performance appraisal, I understood what I had to do to be rated at different performance levels (e.g., Fully Successful, Outstanding).	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or No Basis to Judge.
(19) In my work unit, differences in performance are recognized in a meaningful way.	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(20) Pay raises depend on how well employees perform their jobs	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree or Do Not Know.
(21) My performance appraisal is a fair reflection of my performance	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(22) Discussions with my supervisor/team leader about my performance are worthwhile.	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(23) Managers/supervisors/team leaders work well with employees of different backgrounds.	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(24) My supervisor supports my need to balance work and family issues.	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.

Leadership

(25) I have a high level of respect for my organization's senior leaders	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(26) In my organization, leaders generate high levels of motivation and commitment in the workforce.	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.

Employee survey questions	Employee response choices
(27) Managers review and evaluate the organization's progress toward meeting its goals and objectives.	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(28) Employees are protected from health and safety hazards on the job.	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(29) Employees have a feeling of personal empowerment with respect to work processes.	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(30) My workload is reasonable	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(31) Managers communicate the goals and priorities of the organization	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.
(32) My organization has prepared employees for potential security threats.	Strongly Agree, Agree, Neither Agree Nor Disagree, Disagree, Strongly Disagree, or Do Not Know.

Job Satisfaction

(33) How satisfied are you with the information you receive from management on what's going on in your organization?	Very Satisfied, Satisfied, Neither Satisfied Nor Dissatisfied, Dissatisfied, or Very Dissatisfied.
(34) How satisfied are you with your involvement in decisions that affect your work?	Very Satisfied, Satisfied, Neither Satisfied Nor Dissatisfied, Dissatisfied, or Very Dissatisfied.
(35) How satisfied are you with your opportunity to get a better job in your organization?	Very Satisfied, Satisfied, Neither Satisfied Nor Dissatisfied, Dissatisfied, or Very Dissatisfied.
(36) How satisfied are you with the recognition you receive for doing a good job?	Very Satisfied, Satisfied, Neither Satisfied Nor Dissatisfied, Dissatisfied, or Very Dissatisfied.
(37) How satisfied are you with the policies and practices of your senior leaders?	Very Satisfied, Satisfied, Neither Satisfied Nor Dissatisfied, Dissatisfied, or Very Dissatisfied.
(38) How satisfied are you with the training you receive for your present job?	Very Satisfied, Satisfied, Neither Satisfied Nor Dissatisfied, Dissatisfied, or Very Dissatisfied.
(39) Considering everything, how satisfied are you with your job?	Very Satisfied, Satisfied, Neither Satisfied Nor Dissatisfied, Dissatisfied, or Very Dissatisfied.
(40) Considering everything, how satisfied are you with your pay?	Very Satisfied, Satisfied, Neither Satisfied Nor Dissatisfied, Dissatisfied, or Very Dissatisfied.

Demographics (for agencies with 800 or more employees)

(41) What is your supervisory status?	a. Non-Supervisor: You do not supervise other employees. b. Team Leader: You are not an official supervisor; you provide employees with day-to-day guidance in work projects, but do not have supervisory responsibilities or conduct performance appraisals. c. Supervisor: You are responsible for employees' performance appraisals and approval of their leave, but you do not supervise other supervisors. d. Manager: You are in a management position and supervise one or more supervisors. e. Executive: Member of the Senior Executive Service or equivalent.
(42) Are you	a. Male. b. Female.
(43) Are you Hispanic or Latino?	a. Yes. b. No.
(44) Please select the racial category or categories with which you most closely identify (Please select one or more).	a. White. b. Black or African American. c. Native Hawaiian or other Pacific Islander. d. Asian. e. American Indian or Alaska Native.
(45) What is your agency subcomponent? (If Applicable)	An agency provided list of major divisions, bureaus, or other components one level below the agency/department.

§ 250.303 Availability of results.

(a) Each agency will make the results of its annual survey available to the public and post the results on its Web site, unless the agency head determines that doing so would jeopardize or negatively impact national security. The posted survey results will include the following:

- (1) The agency's evaluation of its survey results;
- (2) How the survey was conducted;

(3) Description of the employee sample, unless all employees are surveyed;

(4) The survey questions and response choices with the prescribed questions identified;

(5) The number of employees surveyed and number of survey respondents; and

(6) The number of respondents for each survey question and each response choice.

(b) Data must be collected by December 31 of each calendar year. Each agency must post the beginning

and ending dates of its employee survey and either the survey results described in paragraph (a) of this section or a statement noting the decision not to post no later than 120 days after the agency completes survey administration. OPM may extend this date under unusual circumstances.

(c) Each agency must submit its survey results to OPM no later than 120 days after the agency completes survey administration.

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