



Department of Energy

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MEMORANDUM FOR: INGRID KOLB
DIRECTOR, OFFICE OF MANAGEMENT

THROUGH: KEVIN T. HAGERTY
DIRECTOR, OFFICE OF INFORMATION RESOURCES

FROM: KENNETH T. VENUTO, DIRECTOR
OFFICE OF HUMAN CAPITAL MANAGEMENT

SUBJECT: Notice of Intent to Revise DOE O 328.1, *Human Capital Management Accountability Program*

PURPOSE and INTENT: The purpose of maintaining and updating this directive is to:

- Ensure compliance with applicable laws, regulations, and other directives.
- Reduce the risk of DOE losing any of its personnel authorities.
- Incorporate functional accountability to ensure that Human Resource Directors' position descriptions and classifications are appropriate, selections result in quality leadership with the skills needed, and performance plans and evaluations are consistent with Department and Administration human resources priorities and audit findings.

OUTCOMES: The outcomes of maintaining a comprehensive accountability program are:

- High quality personnel services.
- Personnel operations consistently comply with laws, regulations, and policies and guidance.
- Managers and servicing human resources staffs are accountable for their actions.
- Human Capital roles and responsibilities are aligned.

Metrics: The following measures will be used to determine the success of the program.

- Reduce the number of servicing HR offices that lose their delegated personnel authority by one-third within 3 years.
- Consistent performance of major human capital functional requirements, such as the following metrics that are tracked by the previously cited measures of performance:
 - Improving the time-to-hire for SES and GS employees (MOP 19a,b); and
 - Improving employee satisfaction with the orientation and on-boarding processes throughout the Department (MOP19c).



JUSTIFICATION: The Human Capital Management Accountability Program (HCMAP) ensures that the Department meets the requirements established in 5 U.S.C. 1103(c) (Chief Human Capital Officer Act of 2002); Executive Order 13197, Government Accountability for Merit Systems Principles; 5 CFR 250, Personnel Management in Agencies; and delegations from the Office of Personnel Management (OPM). The update will also establish and institutionalize the roles and responsibilities for functional accountability at all levels of the Department.

The attached Risk Identification and Assessment supports continued HC oversight of servicing HROs, particularly based on the results of reviews conducted over the past 3-5 years in which delegated authorities have been suspended and servicing arrangements changed to other HR offices (see the following chart). Resolution of these problems is labor intensive and involves senior management in the applicable Headquarters Program Office (PSSO) and the Departmental element.

HCMAP Audits – Suspended Delegations of Authority

	FY 09	FY 10	FY 11	FY 12
Total audits conducted	5	5	5	5
Lost delegation/suspension of authority	1	3	2	Pending

There are no conflicts with other DOE directives. The proposed directive does not duplicate existing laws, regulations or national standards and it does not create undue burden on the Department. The directive will implement controls needed to address risks and opportunities as identified in the ERM.

There are no valid external, consensus or other “Standards” (e.g., ISO, VPP, etc.) available which can be used in place of this directive.

IMPACT/COST-BENEFIT: The impact of not ensuring that personnel operations and programs are being administered properly is the loss of personnel authorities for the Department.

The estimated annual cost to maintain the HCMAP program for salary and benefits for the HC staff and associated travel costs to conduct on-site reviews is \$844K. Costs/benefits cannot be reasonably determined when a personnel authority is suspended and services are transferred to another servicing HR office on an interim basis, normally without any additional increase in FTEs.

POST-IMPLEMENTATION ASSESSMENT: The HCMAP audit process has review criteria; however, the determination to suspend delegated personnel authority is based on the audit findings, rather than a set of criteria. OPM periodically provides feedback to DOE on the program and determines annually whether or not to renew DOE’s delegated examining unit authority based on the audit reports.

WRITER: Bruce Murray, 6-3372

OPI/OPI CONTACT: HC; Bruce Murray, 6-3372

Ingrid Kolb, Director, Office of Management (MA-1):

Concur:  Nonconcur: _____ Date: 11-15-12

<u>Standard Schedule for Directives Development</u>	<u>Days</u>
Draft Development	Up to 60 days
Review and Comment (RevCom)	30
Comment Resolution	30
Final Review	30
Total	150

Attachment

REVISED 11/5/2012

Risk Identification and Assessment

Human Capital Management Accountability Program

Risk	Probability	Impact	Risk Level
People	NA	NA	None
Mission			
1. Failure to establish and maintain a compliant Human Capital Accountability System will result in OPM revoking delegated authority to the agency	Certain	High	Extreme
2. An ineffective, inconsistent, and/or non-compliant HC program could result in not having the right human resources to accomplish the mission and/or the ability to provide Human Capital services	Likely	Medium	Significant
3. Jeopardize actions or approval required from OPM – HR flexibility, recruitment, incentives, SES/SL certification, etc.	Likely	High	Extreme
4. Violating prohibited personnel practices, merit system principles and veterans preference	Possible	High	Extreme
Assets	NA	NA	None
Financial			
5. Additional resources used to answer Grievances; EEO, ombudsman and labor complaints; congressional inquiries, IG investigations; and FOIA inquiries	Possible	Medium	Significant
6. Lack of proper controls may result in excessive cost associated with salaries, incentives awards or premium pay	Likely	Medium	Significant
7. Loss of appropriations as penalty for poor management	Possible	Medium	Significant
8. Resources diverted to pay judgments in administrative and court proceedings	Possible	Medium	Significant
Customer and Public Trust			
9. Public embarrassment for the Department for noncompliance of regulations, negative media attention focused on poor Agency management	Possible	Medium	Significant

Gap Analysis of Existing Risks and Controls

Laws	<ul style="list-style-type: none"> • 5 U.S.C. 1103(c) (Chief Human Capital Officer Act of 2002)
External Regulation	<ul style="list-style-type: none"> • EO 13197, Government Accountability for Merit Systems Principles • 5 CFR 250, Personnel Management in Agencies
DOE Regulation	<ul style="list-style-type: none"> • NA
DOE Orders	<ul style="list-style-type: none"> • DOE O 328.1, Human Capital Management Accountability Program
Contract Controls	<ul style="list-style-type: none"> • NA
External Assessments	<ul style="list-style-type: none"> • OPM’s review of the HCMAP and each audit report; OPM’s annual review of DOE’s Delegated Examining Unit authority • Congressional Oversight

Risk Mitigation Techniques

Risk Assessment for DOE O 328.1, Human Capital Management Accountability Program						
Risk/Opportunity	Risk Level	Potential Cost/Benefit	External Control(s)	Proposed Mitigation Technique	Existing Internal Control/ Processes	Proposed Internal Control (if needed)
1. Failure to establish and maintain a compliant Human Capital Accountability System will result in OPM revoking delegated authority to the agency.	Extreme	Cost of having another agency provide operational services.	5 U.S.C. 1103 (c) EO 13197 5 CFR 250.203 OPM/ Congressional oversight	Mitigate/ Monitor	Maintain a Human Capital Accountability System as required by 5 CFR 250 Maintain DOE O 328.1, which is DOE's implementation directive that is responsive to the above requirement and OPM has approved DOE's HCMAP	
2. An ineffective, inconsistent, and/or non-compliant HC program could result in not having the right human resources to accomplish the mission and/or the ability to provide Human Capital	Significant	Significant costs associated with correcting personnel actions and responding to violations, investigations, and inquiries. The ability to attract and develop a highly qualified, capable	5 U.S.C. 1103 (c) EO 13197 5 CFR 250 OPM delegations of authority and oversight MSPB, EEOC,	Mitigate/ Monitor	Same as #1	Requirement for HC to review HR Director position descriptions, classification determinations, selection certificates, and performance plans and appraisals.

Risk Assessment for DOE O 328.1, Human Capital Management Accountability Program

Risk/Opportunity	Risk Level	Potential Cost/Benefit	External Control(s)	Proposed Mitigation Technique	Existing Internal Control/ Processes	Proposed Internal Control (if needed)
services		<p>workforce at the lowest practical level.</p> <p>The ability to process personnel actions at the lowest practical level.</p> <p>Ensure well-qualified HR Directors are hired, paid appropriately, and at least meet performance expectations.</p> <p>Avoid loss of productivity and unnecessary distractions.</p>	<p>FLRA, OSC and arbitrator hearings</p> <p>Congressional inquiries and hearings</p>			
3. Jeopardize actions or approval required from OPM – HR flexibility, recruitment, incentives, SES/SL certifications, etc.	Extreme	The ability to attract and develop a highly qualified, capable workforce.	<p>5 U.S.C. 1103 (c)</p> <p>EO 13197</p> <p>5 CFR 250, 300, 301, 302, 304, 307, 315, 316, 317, 330, 332,</p>	Mitigate/ Monitor	Same as #1	

Risk Assessment for DOE O 328.1, Human Capital Management Accountability Program

Risk/Opportunity	Risk Level	Potential Cost/Benefit	External Control(s)	Proposed Mitigation Technique	Existing Internal Control/ Processes	Proposed Internal Control (if needed)
			334, 335, 337, 338, 340, 351, 352, 353, 359, 362, 370, 410, 412, 430, 432, 451, 470, 511, 530, 531, 532, 534, 536, 537, 550, 551, 553, 572, 575, 576, 591, and 752 OPM delegations of authority and oversight			
4. Violating prohibited personnel practices, merit system principles and veterans preference	Extreme	Legal liabilities for the individual and for the organization. Significant costs associated with correcting personnel actions and responding to violations, investigations, and inquiries.	5 U.S.C. 1103 (c) EO 13197 5 CFR 250.203 OPM/Congressional oversight MSPB, EEOC, FLRA, OSC and	Mitigate/ Monitor	Same as #1	IG investigations

Risk Assessment for DOE O 328.1, Human Capital Management Accountability Program

Risk/Opportunity	Risk Level	Potential Cost/Benefit	External Control(s)	Proposed Mitigation Technique	Existing Internal Control/ Processes	Proposed Internal Control (if needed)
		Avoid loss of productivity and unnecessary distractions.	arbitrator hearings			
5. Additional resources used to answer Grievances; EEO, ombudsman and labor complaints; Congressional inquiries; IG investigations; and FOIA inquiries	Significant	Significant cost associated with responding to investigations and inquiries. Cost of lost productivity that reduces the ability to execute the mission.	Congressional inquiries and hearings	Mitigate/ Monitor	Same as #1	
6. Lack of proper controls may result in excessive cost associated with salaries, incentives awards or premium pay	Significant	Significant costs associated with responding to and resolving improper actions. Avoid excessive personnel costs.	5 CFR, 300, 451, 530, 531, 532, 534, 536, 537, 550, 551, 575, 576, and 591	Mitigate/ Monitor	Same as #1	
7. Loss of appropriations as penalty for poor	Significant	Significant cost associated with responding to	OMB and Congressional oversight	Mitigate/ Monitor	Same as #1	

Risk Assessment for DOE O 328.1, Human Capital Management Accountability Program

Risk/Opportunity	Risk Level	Potential Cost/Benefit	External Control(s)	Proposed Mitigation Technique	Existing Internal Control/ Processes	Proposed Internal Control (if needed)
management		<p>inquiries.</p> <p>Avoid reductions in appropriations.</p>				
8. Resources diverted to pay judgments in administrative and court proceedings	Significant	Avoid cost of litigation.	MSPB, EEOC, FLRA, OSC proceedings	Mitigate/ Monitor	Same as #1	
9. Public embarrassment for the Department for noncompliance of regulations, negative media attention focused on poor Agency management	Significant	<p>Negative publicity, more external oversight, and appropriations risks.</p> <p>Cost associated with responding to media and FOIA inquiries.</p> <p>Cost associated with increased reporting requirements.</p>	<p>5 U.S.C. 1103 (c)</p> <p>EO 13197</p> <p>5 CFR 250</p> <p>OPM/White House/ Congressional oversight</p>	Mitigate/ Monitor	Same as #1	

References

Risk/Opportunity Categories

- People – Risks that affect the individual well being.
- Mission – Risks that impede the ability of the department or offices to accomplish their mission.
- Assets – Risks that impact federal land, buildings, facilities, equipment, etc.
- Financial – Risks that may incur costs or obligations outside of DOE’s control.
- Customer and Public Trust – Risks that affect the trust and political environment around DOE.

Probability Ratings

- Rare – even without controls in place, it is nearly certain that event would not occur
- Unlikely – without controls in place, it is unlikely the event would occur
- Possible – without controls in place, there is an even (50/50) probability that the event will occur
- Likely – without controls in place, the event is more likely than not to occur
- Certain – without controls in place, the event will occur

Impact Ratings

Rating	Risk	Opportunity
Negligible	Events of this type have very little short-term or long-term impact and whatever went wrong can be easily and quickly corrected with little effect on people, mission, assets, finances, or stakeholder trust.	A benefit with little no to improvement of operations or utilization of resources.
Low	Events of this type may have a moderate impact in the short term, but can be easily and quickly corrected with no long term consequences.	A benefit with minor improvement of operations or utilization of resources.
Medium	Events of this type have a significant impact in the short term and the actions needed to recover from them may take significant time and resources.	A benefit with somewhat major improvement of operations or utilization of resources.
High	Events of this type are catastrophic and result in long-term impacts that significantly affect the ability of the Department to complete its mission.	A benefit with major improvement of operations or utilization of resources.

Risk Level Ratings

		Impact			
Probability		Negligible	Low	Medium	High
	Certain	Minor	Moderate	Extreme	Extreme
	Likely	Minor	Moderate	Significant	Extreme
	Possible	Minor	Moderate	Significant	Extreme
	Unlikely	Minor	Minor	Moderate	Significant
	Rare	Minor	Minor	Minor	Moderate

Risk Mitigation Options and Guidance

- Acceptance
- Monitoring
- Mitigation
- Avoidance

Unmitigated Risk / Strategy	Extreme	Significant	Moderate	Minor
Acceptance	<ul style="list-style-type: none"> • Not Appropriate 	<ul style="list-style-type: none"> • Not Appropriate 	<ul style="list-style-type: none"> • Not Appropriate 	<ul style="list-style-type: none"> • Risks can be handled through performance feedback and accountability
Monitoring	<ul style="list-style-type: none"> • Mandatory Contractor independent assessments • Federal oversight with a mandatory periodicity • Mandatory, periodic reporting 	<ul style="list-style-type: none"> • Mandatory Contractor Self-assessments with a minimum periodicity • Federal oversight with a periodicity that is based on performance • Mandatory, periodic reporting 	<ul style="list-style-type: none"> • Limited Federal oversight based on performance • Mandatory reporting of threshold events 	<ul style="list-style-type: none"> • Federal oversight on a for-cause basis • Standard performance evaluation processes
Mitigation	<ul style="list-style-type: none"> • Federal approvals of individual transactions • Detailed performance or process requirements • Detailed design requirements 	<ul style="list-style-type: none"> • Federal approvals of systems and programs • Detailed performance or process requirements • Detailed design requirements 	<ul style="list-style-type: none"> • Detailed performance requirements 	<ul style="list-style-type: none"> • General Performance Requirements
Avoidance	<ul style="list-style-type: none"> • Prohibition of activities or operations 	<ul style="list-style-type: none"> • Prohibition of activities or operations 	<ul style="list-style-type: none"> • Prohibition of activities or operations 	<ul style="list-style-type: none"> • Guidance