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To: OFSHR
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Subject: Revised MPPAS/Precepts

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02/09/2004
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Good afternoon everyone!

We are happy to announce that the Department has approved our revised Management Planning and Performance Appraisal System (MPPAS) and Precepts for the Foreign Service Selection Boards. This new revised MPPAS is the result of an extensive, collaborative effort involving officers from the field, HQ management and AFSA working over several years. Recommendations from previous Selection Boards as well as practices at other Foreign Affairs agencies were considered in the process of developing this new system. An effective, fair and transparent appraisal system is central to the success of the Commercial Service. We believe these revisions represent significant improvements to our system and will therefore benefit us all.

The new MPPAS will be effective on June 1, 2004, at the beginning of the new rating cycle. Therefore, the Precepts will be implemented with the FY-05 Selection Boards. The recently announced SES/SFS pay reform could necessitate some further modifications but we are hopeful that we can keep to this schedule.

Over the next several months we plan to conduct training sessions with officers through a variety of venues (management meetings, video and phone conferences, etc) to review the new documents and procedures to ensure a smooth transition to and resolve questions about the new MPPAS. AFSA will be collaborating with us on this training.

Senior management and AFSA are pleased that this extended collaborative effort has been completed. The documents are attached below and will be posted on OFSHR's Ourplace site (FS Human Resources) under Policies.



Attachments: (Click the filename to launch)

MPPAS.Final.doc

Precepts.final.doc



**MEMORANDUM OF UNDERSTANDING
BETWEEN THE DEPARTMENT OF COMMERCE (DOC), UNITED STATES (US) AND
FOREIGN COMMERCIAL SERVICE (FCS)
AND
THE AMERICAN FOREIGN SERVICE ASSOCIATION (AFSA)**

This memorandum constitutes the full understanding and agreement between the parties with regard to the Management Planning and Performance Appraisal System (MPPAS) and Precepts, and satisfies all bargaining obligations.

Background

The parties met during the period from May to August 2003, to discuss the AFSA proposals submitted on April 10, 2003. US&FCS asserted that the majority of the proposals were found to be non-negotiable; in order to save the time, expense and delay of filing a negotiability appeal, the parties agreed that it was in their collective best interest to discuss the issues raised by the proposals and to promote common understanding of the issues. AFSA representatives indicated that the majority of the suggestions made by their proposals were for the purpose of clarifying the information presented in the MPPAS and Precepts. As suggestions, rather than bargaining proposals, management decided to take them into consideration and would discuss and resolve the underlying issues. This memorandum documents the results of those discussions.

(Note, the numbers relate to the number of the AFSA proposal. The April 10, 2003 AFSA submission is therefore incorporated as background information for this memorandum.)

MPPAS

1. Management determined that additional clarifying language would be useful and will add the words "generic and supplemental" in front of "performance standards" in section 4, paragraph 01.
2. Management determined that additional clarifying language would be useful and will add the words "where required" following the word "used" in section 4, paragraph 02. The sentence will then read, "Adjective ratings are used where required to determine eligibility for certain awards and to provide performance feedback and guidance to the employee."
3. After an explanation that included Management's assertion that the suggested wording would severely limit management's ability to determine priority initiatives on a yearly basis, the suggestion was withdrawn by AFSA.
4. Once full explanation of the process was provided by management, AFSA withdrew the suggestion. It was noted that anytime there is disagreement as to the admissibility of any comments in the performance appraisal, the OFSHR office will make a final determination for US&FCS. This is also the case if and when any Selection Board member questions the admissibility of any comment.

5. After discussion of the process and meaning of the last sentence, management determined that adding "by the board" after the term "consideration" was necessary for clarification in section 5, paragraph 02.1.m. The final sentence would read, "The responsible employee may be precluded from receiving promotion or award consideration by the Board, and may be subject to discipline from the Director General; and ..."
6. It was agreed that the parties desired that a DOC official have the final authority on the contents of the work plan. The language in paragraph 03.b. will be amended to read, "The reviewing official, if a DOC employee, will have the final approval authority over content..."
7. The issue presented in this suggestion was already covered in the discussion and resolution of the issue regarding inadmissible comments, so this suggestion was withdrawn.
8. Management determined that the words, "is strongly encouraged" did not afford the same sense of responsibility as "must", but that the term "must" infers a penalty that does not exist. It was determined that replacing "is strongly encouraged" with "should" would confer the proper emphasis, so the wording will be changed.
9. After explanation that OFSER is not "creating" documents, but rather ensuring that the proper documents are in the file, and if not, attempting to obtain them, this suggestion was withdrawn.
10. After explanation that the weight factor of 15% on the diversity critical element is standard for DOC, the suggestion was withdrawn as AFSA supports a consistent approach to diversity requirements.
11. This suggestion was withdrawn after an explanation that the inconsistency in the time limits to prepare and document mid-year reviews for full and less than full appraisal periods serve a valid purpose--rushing the evaluation for less than a full performance period.
12. It was determined that the term "designate" resolves AFSA's concerns regarding the availability of a DOC employee to prepare a "Memorandum of Performance". Management desires that these be prepared by a DOC employee whenever possible. However, the designate could be a non-DOC employee if and when the particular situation warrants.
13. Management agreed to indefinitely suspend the use of supplemental comments, but reserves the right to reinstate them, if deemed necessary.
14. Management determined that additional language was necessary to clarify the responsibilities of the reviewing official. Therefore, the sentence in paragraph b. will be changed to, "The review statement should provide additional insight into the performance of the rated employee, and indicate whether the reviewing official concurs or does not concur with the rating official's comments."
15. It was agreed that the process of getting appraisals completed, reviewed and submitted in a six-week time frame is both necessary and difficult. Management determined that the time line

would be deleted and replaced with the establishment of specific due dates. Each Regional Director will then establish the procedures for submission of appraisals within his/her span of control. The procedures and time frames established must include a date for Rating Official submissions to the Reviewing Official, and the time frame in which the Rating Official will conduct a formal appraisal meeting with each employee after the appraisal is complete. The due dates are established as follows:

- June 5 - Officer submits an accomplishment statement to the Rating Official
- June 30 - Reviewing Official completes a reviewing statement and provides to the Rating Official and Rated Officer
- July 15 - Completed Performance Appraisals are due in OFSHR.

NOTE: ALL THE ABOVE SUBMISSIONS ARE ON ITA FORM 723.

16. This issue was resolved by suspending the use of supplementals.
17. This issue was resolved by suspending the use of supplementals.
18. This issue was resolved by deleting the timetable and establishing the due dates in item 15.
19. After discussion of the various responsibilities, the sentence at 03.c. regarding the rating official's responsibility to collect COM statements will remain unchanged.
20. After an explanation of the paragraph and an assurance that OFSHR only has a responsibility in those cases where there is disagreement between the employee and the rating/reviewing official regarding inadmissible comments, it was agreed that the paragraph is clear as written.
21. This suggestion was withdrawn and the issue of performance credit for union activity will be addressed as a separate issue and in consultation with the Office of General Counsel. AFSA indicated that there is a State Department employee who represents AFSA on a full time basis and has received awards. Management believes this is prohibited by law. However, the ITA Form 723 will be amended to add a block in item 4 where employees can indicate whether "full time" or "part time" and if part time, indicate the percentage of time spent in FCS activities for which they are being rated.
22. It was determined that "Records of Security Violations" should be removed from the title of section 11, paragraph 01.e., as these are not filed in the personnel files, but are maintained by OFSHR in separate files. It was also determined that the length of time for disciplinary actions to remain in the record has been determined by Congress, as follows: "Any record of disciplinary action of a suspension of more than five (5) days, including any correction of that record under section 1107(b)(1), shall remain part of the personnel records until the member is tenured as a career member of the Service or next promoted." This language will be added. In addition, the following language will be added to address reprimands and suspensions of 5 days or less, "Decision letters for a reprimand will remain in the record for no less than 12 months and no more than 24 months. When the period of retention is less than 24 months, the decision letter

will not be removed until the file has been reviewed by one selection or tenure board, as applicable. When the period of retention is 24 months, the decision letter will not be removed until the file has been reviewed by two selection and/or tenure boards, as applicable. Decision letters for suspensions of 5 days or less will remain in the file until they have been reviewed by two boards, selection and/or tenure, as applicable."

23. This suggestion was withdrawn.

PRECEPTS

1. Management explained that the function suggested is not a Board function, but rather a function performed by OFSHR. The suggested language was withdrawn.
2. This proposal was covered by a separate MOU for midterm bargaining proposals and is withdrawn here.
3. After discussion and understanding that due to the need for some Board members to recuse, the Chairperson cannot always be a Career Foreign Service Officer. Typically, another individual will be the "acting" Chairperson when warranted. Management determined that clarification in the language was needed for paragraph 02.a., to, "The Chairperson shall normally be a Career Foreign Service Officer, and shall preside over the Board..."
4. It was determined that the intent of this suggestion was agreeable, but the language of the last sentence will be changed to, "The Vice President of AFSA will be notified of the date, time and location of the convening briefing, and a representative of AFSA may attend the briefing, if desired."
5. This suggestion is moot as it has already been five years, and no adjective ratings would be in the file at this point.
6. This suggestions relates to the issue of inadmissible comments that has already been resolved. It was determined that the paragraph is clear as written.
7. Management determined that the suggested inserted language is beneficial for clarification, but that the phrase "may be granted" should read "may have been granted". The language will be changed accordingly.
8. Since not all employees carry the title of "officer" (there remain some administrative assistants), the term "employee" will be use throughout the document for clarity.
9. This issue in this suggestion is that the current year is listed in the guidance. Management stated that whenever the document is final, the current fiscal year will be inserted.
10. The issues were clarified, and management determined that an additional sentence is needed at the end of paragraph 05.e. That sentence will read, "The Board may also recommend

monetary awards for those employees who are recommended for promotion.”

11. This issue was resolved by the addition of the sentence in item number 10. above, and was therefore, withdrawn.

12. It was determined that adding the word “only” after “counseling purposes” and completing the sentence with “and shall not be included in the employee’s performance file,” would cure any confusion.

13. Management determined that the suggested additional sentence would clarify the Board’s involvement in the identification of employees in need of performance counseling. “The Board, at its discretion, and based on the contents of the performance file, may identify employees for performance counseling.” will be added at the beginning of paragraph 10.

14. and 15. These suggestions relate to the Performance Standards Board. It was agreed that the guidance provided in Personnel Bulletin 430.5 is sufficient.

16. It is understood that a selection board cannot select out a career candidate based on relative performance, but can recommend that the Director General take appropriate action under the Foreign Service Act, United States Code, Section 610 or 612, as applicable. A duly constituted Commissioning and Tenure Board may recommend a denial of tenure to a career candidate, which can also result in termination of a career candidate’s appointment. In addition, the following procedures will be added to the document and will be followed in the termination of Career Candidates for less than satisfactory performance:

Process for Terminating Career Candidates for Deficient Performance:

A. If termination is recommended by the Selection Board, the employee will receive written notice from OFSHR providing the specific performance deficiencies identified by the Board. The employee will have 15 calendar days from receipt of the notice to provide a written response with any supporting documentation to the Director General. Upon receipt and consideration of the employee’s response, or at the end of the 15-day time limit if no response is filed, the Director General will provide the employee with a written decision taking one of the following actions:

- (1) Support the Board’s recommendation and terminate the appointment;
- (2) Allow for a performance improvement period and make a final decision based on the employee’s improvement or lack thereof; or
- (3) Retain the employee.
 - (a) If terminated, the termination will be effective no earlier than 30 calendar after receipt by the employee of the written decision.

(b) If provided an improvement period, the procedures for Career Officers will be followed. The period for improvement will be a minimum of 90 calendar days.

If the employee is retained, he/she may also be provided guidance to improve performance during the next rating period.

B. If termination is recommended by a management official the following procedures will apply:

(1) The employee must have received counseling and be given 30-60 calendar days to improve performance prior to the recommendation for termination. The counseling and improvement actions must be documented in writing and included in the recommendation for termination.

(2) The Rating Official will notify the employee, in writing, of the proposal to terminate his/her appointment, including the specific performance deficiencies.

(3) The employee will have 15 calendar days from receipt of the proposal notice to respond, in writing, with any supporting documentation, to the Reviewing Official.

(4) The Reviewing Official will then recommend a course of action to the Director General, in writing, and forward the proposal notice, the employee's response, and a detailed description of the reasons for the recommendation. A copy of the recommendation is provided to the employee at the same time it is forwarded to the Director General.

(5) The Director General can accept, reject, or amend the recommendation resulting in one of the three options as outlined in paragraph A. above, except that the length of performance improvement period will be for a minimum of 30 days.

17. An explanation was provided that OFSHR reviews the files to determine if there is enough information (performance time covered, etc.) upon which the Board can make a recommendation. It was further explained that if the Board indicates there is insufficient information in the file on which to base a recommendation, the Board consults with OFSHR. OFSHR will determine independently or with Board consultation, if appropriate, if the employee will be placed in a non-rate year. The final decision is that of OFSHR and not the Board's. Therefore, the suggested changes were determined to be inappropriate and were withdrawn.

18. It was explained that the Board's recommendations are already provided to all employees. Therefore, this suggestion was withdrawn.

19. It was explained that employees who produce well-written evaluations are merely doing their job, and not deserving of special recognition. However, to ensure that all take this responsibility seriously, employees who do not produce adequate evaluations are put on report by the Board. It was agreed that documentation of the adequacy of evaluations, both positive and negative, would remain in the file for one year.

Unnumbered suggestion prior to number 20. It is understood that if an individual on a promotion or awards list is the subject of a current investigation or disciplinary process, his/her name is pulled from the list and the promotion or award is held until the completion of the investigation

or disciplinary process. If the investigation results are favorable, the individual will be promoted retroactively to the date on which the others on the list were promoted. Awards will be processed as soon as possible upon completion of a favorable investigation. If the results are unfavorable, appropriate action will be taken based on the record. If the individual remains employed, any resulting disciplinary action will be forwarded to the original Selection Board members for a determination as to whether each member recommends that the employee be promoted in view of the disciplinary record. The actions and rights of the Director General are unchanged from those at the time of the initial Board recommendations. Any resulting promotions will be retroactive to the date on which the others on the list were promoted.

20. and 21. It was explained that all subjects of an investigation will have an opportunity to respond to allegations so proposal 20 was withdrawn. It was determined that any disciplinary action taken will be considered by the next board to meet after completion of the investigation, so proposal 21 was withdrawn also.

22. Management determined it is necessary to change the language in section 05 to match the language in section 06. Specifically, instead of "from Class 2 or lower" the language in both sections will be "into Class FS-01 and below."


23. This proposal is already covered as it was decided that the same post-investigation procedures would apply to awards as those that apply to promotions, so this proposal was withdrawn.


24. This suggestion was withdrawn after an explanation that no employee is "entitled" to an award.

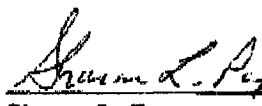
25. This item is added to confirm that section .01c will be deleted as the re-certification requirement no longer exists.


FOR THE UNION:

FOR MANAGEMENT:


Charles A. Ford Date 8/7/03


Nancy J. Kripner Date 8/7/03


Sharon L. Papp Date 8/7/03


Fran Corcoran White Date 8/7/03