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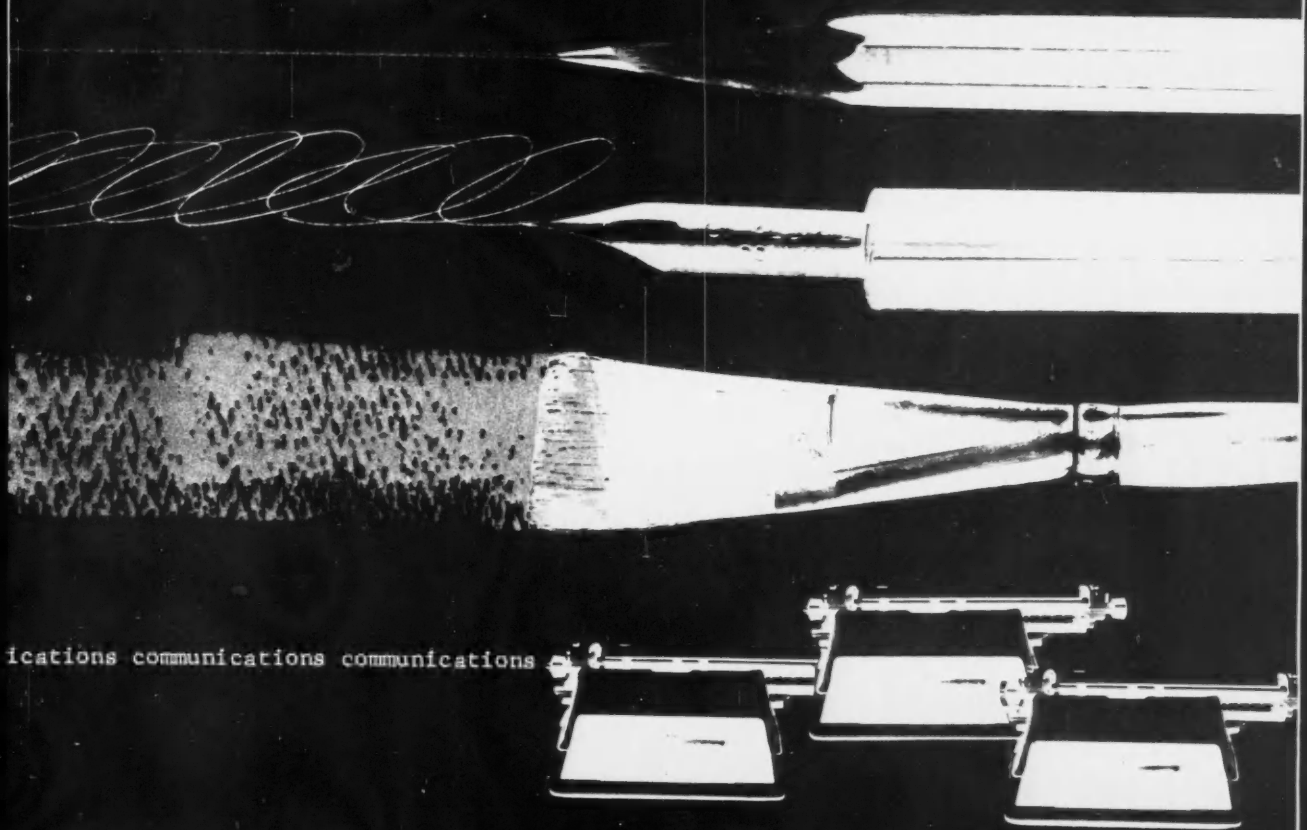

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ARTICLES

DEPARTMENTS

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WORTH NOTING

☐ HIGH-LEVEL PAY PANEL. The Panel on Federal Compensation has reviewed the major Federal pay systems and proposed policy recommendations to the President. In many cases the recommendations would require congressional approval.

Vice President Nelson A. Rockefeller was chairman of the Panel, and CSC Chairman Robert E. Hampton served as vice chairman. James T. Lynn, Director of the Office of Management and Budget, and John T. Dunlop, Secretary of Labor, were among those on the Panel.

Among the Panel's major recommendations are:

—The many separate Federal civilian pay systems should be reviewed, and combined with other pay systems or eliminated if no longer needed.

—The principle of comparability should be extended to include benefits as well as pay. Development and testing should take place over the next 2 years to determine the best approach to implementation.

—The present General Schedule, which covers white-collar employees, should be replaced by a Clerical/Technical Service

(Continued—See Inside Back Cover)

memo to government writers:

DON'T BE TONE-DEAF

by David W. Ewing
Executive Editor—Planning
Harvard Business Review

SOME PUBLIC OFFICIALS I know were once discussing a letter that had come to their organization from another agency executive. The letter dealt with a sensitive question of procedure, and it made everyone in the group feel irritated. Yet it contained no threatening ideas, it was phrased correctly, and it was organized clearly. Why did it get under everyone's skin so much?

"The trouble with this guy," one of the members finally said, "is that he's tone-deaf."

At first it seemed a strange explanation—after all, writing is not heard, only seen—but everyone appreciated the insight. Several generations ago, children, too, were "to be seen, not heard" at the dinner table. But that did not mean they could not communicate. They did it quite well, I understand, by their smiles or grimaces, attentiveness or inattentiveness, and table manners. Their parents "heard" them loud and clear.

Similarly, the words of a report, memorandum, or letter are heard by the reader. They may sound comforting or abrasive, harmonious or dissonant, happy or unhappy—just as clearly as a piece of music.

When we consider how to make our written communications more effective, we tend to stress such matters as clarity, sentence structure, and punctuation. Such matters are important. But the tone of a document is important, too; in fact, tone-deafness is probably an even greater hindrance to writers in government, business, and professional organizations than are incorrect usage and sloppy organization. Often the tone comes across louder than the words themselves. "I understand a fury in your words," says a character in Shakespeare's *Othello*, "but not the words."

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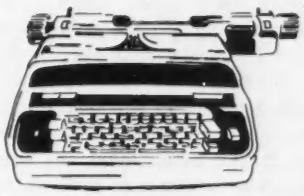

The agency executive mentioned did not intend to irritate his readers as he did (though in his heart he may have felt unkind toward them). Without meaning to, he injected words and phrases that subtly conveyed impatience and disdain. It probably never occurred to him he was doing that—and to this day he may not know why he received such a cool, uncooperative response to his letter.

Awareness, Mood, Feedback

What accounts for the tone-deafness in much of our writing? Sometimes the reason is lack of awareness; we just do not know how our choices of words can affect the reader. Sometimes our mood at the time of writing is at fault. We may be distracted by office interruptions, worried about someone's health, or disgruntled because our favorite baseball team has lost six straight.

Perhaps the most important reason is lack of feedback. When we talk with someone, we can watch the listener's face and reactions, gaining clues in real-time, as the computer people say, concerning whether we are going too fast, being tactless, or confusing the listener. We began learning to look for such clues at an early age in oral communication. On the other hand, in writing we may get no feedback for days or weeks—and sometimes none at all. We have fewer opportunities to see how our written words affect readers.

Most books and courses on writing deal only with written documents themselves. But there is also

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much to be learned from studying reader *responses* to writing in government, business, and the professions. These responses can be examined in a variety of settings—for instance, when employees receive written messages during the work day, when groups or classes analyze their reactions to a piece of writing, or in readership studies. I have used studies of all such types to develop the guidelines that follow.

Guidelines To Combat Tone-Deafness

1. *Analyze the writer-reader situation.*

There is no such thing as a good or bad piece of writing *by itself.* Its strengths and weaknesses can be judged only in relationship to the writer-reader relationship, readers' attitudes toward the problem at hand, their familiarity with the problem and its implications, the way the rest of the organization thinks about the issues, and so forth. Accordingly, we must try first to put ourselves in the reader's chair, glancing down the page with the kinds of feelings he or she is likely to have.

For instance, a message that is appropriate when written by a boss to a subordinate is usually inappropriate coming from the subordinate to the boss. In a memorandum to the Joint Chiefs of Staff, the Secretary of Defense was justified in writing: "I desire and expect a detailed, line-by-line analysis of these requirements to determine that each is essential. . . . I expect that you will want to query CINCPAC about these and other units for which you desire clarification. . . ." On the other hand, words like these from the Joint Chiefs to the Secretary would have been offensive, and he in turn would never have thought of writing to the President in that manner.

Again, if the memorandum or report is one that the reader is awaiting with great interest, we are usually justified in using detail, spelling out assumptions, and mentioning all important alternatives. But if the message is a fairly routine one, or one of only incidental interest to the reader, we had better make it "short and sweet" or expect no readership at all.

How serious is the occasion or problem? If we are giving instructions for an emergency or explaining a policy affecting readers' jobs, salaries, or basic rights, we would do well to write carefully, conservatively, and comprehensively. On the other hand, such a tone may sound ludicrous in a memorandum concerning a festive occasion or a minor event.

For instance, someone at Western Electric Company in North Andover, Mass., wrote a memorandum to all department chiefs in 1969 about how employees should proceed to get pieces of a company birthday cake. The instructions were so careful and minute they would have done justice to a cease-fire agreement in the Middle East. Lines like these were typical:

"Prior to the first rest period each department will send one person, for each twenty-five employees in the department, to a preassigned cafeteria to pick up cake which will be distributed at rest period . . . departments will pick up tickets at the Public Relations Office for their employees. There will be two types of tickets: pink tickets for 25 pieces of cake and a yellow ticket for odd numbers. . . ."

Another important consideration is our friendship, closeness, and prior experience with the reader. Joseph Wilson, the head of Xerox Corporation, once began an important memo to 13 of his top executives, with whom he had worked long and closely, with these words: "Never have I made a suggestion which was so unanimously frowned upon by you, my beloved associates. . . ." On the other hand, I once saw a long letter from a precocious junior manager to his boss which, because it included familiarities and the "light touch," made a disastrously negative impression on the senior man.

2. *Decide what kind of relationship with readers is desired.*

This is a crucial step. Are we asking readers to buy a service, idea, or product from us? Are we asking them to believe or do something that is new, foreign, or opposed to what they have been thinking? Do we want to stir them up, even at the risk of making them feel hostile to us for a time?

Rudolf Bing, the famous general manager of the Metropolitan Opera, once wrote a "Dutch uncle" letter to a leading tenor with whom he was negotiating. It was important to Bing that his authority be recognized from the start by the tenor; the singer had to cooperate fully or there could not be a successful program. Bing admonished:

"You will have to unlearn what you have done and to learn new ways of moving and acting on the stage. . . . You are so much younger than I am I feel that I have not only a right but almost an obligation to put you on the right way—believe me, you are not quite on the right way yet."

In contrast, a well-known investment adviser tells me that he *never* takes a strong position on a buy-or-sell opportunity with a client, or criticizes the client or any institution in any way. "It's their money, not mine," he explains. "I'm an expert, I know the facts—but I'm only their counsel, a resource for them, and I never let them forget I know that." Accordingly, all his written communications are factual and humble in tone, explaining options and alternatives but never purporting to know what the reader should do.

Both writers are right. Each has decided what kind of writer-reader relationship best fits his circumstances, and then has chosen words and phrases consistent with that relationship.

But it is not easy to do this. As

every veteran communicator in government and business knows, the kind of relationship that seems best from an organizational viewpoint is often different from the kind a writer would like to have if he or she were free. So we find ourselves writing letters with a conciliatory, placating tone when what we would really *like* to do is give the reader a strong piece of our mind; and we end up writing recommendations that exude clarity, confidence, and firmness when in reality we possess grave doubts about the venture in question. No one has ever come up with a good formula for avoiding such conflicts in organizational life. Reconciling them so that our report or letter has one unifying consistent tone can be a trying task.

3. *Assess credibility and authority from the reader's standpoint.*

The extent to which our opinions count in the reader's mind has an enormous influence on the proper tone of many letters, memoranda, and reports. A letter to the President of the United States that changed the course of world history was brief and unpretentious. It began simply: "Sir: Some recent work by E. Fermi and L. Szilard, which has been communicated to me in manuscript, leads me to expect that the element uranium may be turned into a new and important source of energy. . . ." Signed by most people who lived in 1939, when it was written, this letter never would have been read personally by Franklin D. Roosevelt. But it was signed by Albert Einstein, and for that reason the opinion carried great weight.

If we are the boss sending directions to a subordinate, or an engineer analyzing a structural stress problem we have been specializing in, or a close friend of the departmental secretary giving an opinion on his political ambitions—in such cases phrases like "I think," "it seems to me," "in my opinion," and "my judgment is" are appropriate and fitting. The judgments need not be backed up by a recitation of facts.

But suppose it is the other way around, that we are the subordinate writing to the boss, or an amateur worrying about a structural stress problem? Then summary statements of opinion are not only unconvincing but may cause the reader to "turn off" in disgust at our presumptuousness. Instead, we must present facts, cite the testimony of people who are experts or in positions of authority, and avoid all temptations to be assertive.

4. *Be careful about appearances.*

Too often government and professional people overlook the role of physical properties in creating the right tone for a written communication. Again and again a message is distorted, in the reader's perception, by hard-to-read typing, the quality or shape of the paper, the symbols or "glyphs" on the letterhead, the color of the paper, margins and spacing, and, in the case of a long report, inappropriate binding. These qualities can be as influential in a written communication as in the merchandising of cookbooks, games, calendars, make-it-yourself kits, and many other items.

Before our reader looks at the first sentence of our letter, memo, or report, he often gets a variety of impressions about us. From an overly "busy" letterhead he may get the feeling that we are egotistical or vain; from a letterhead design and symbols that have a 1920-like vintage, the feeling that we are out of step with the times; from stingy margins and cramped spacing, the feeling that we are "pushy" or difficult to deal with; from the color, weight, or shape of paper employed, the feeling that we are dull, awkward, artistic, or odd; from the poor quality of typing, crudeness of corrections, or hard-to-read photocopies, the feeling that we are thoughtless. The style of charts and tables may convey similar impressions.

Skillful writers know that the appearance of a document is a kind of surrogate for the writer. It plays something of the same role in written communication that is played by facial expression, voice tone, and style of dress in oral communication.

5. *Choose words that will be heard in the intended way.*

Finally, it is important to choose words and phrases that convey the attitude we want the reader to feel when he or she reads our communication.

For example, if we want to convey a friendly, warm, gracious tone, we should use such words as glad, pleased, delighted, benefit, pleasure, privilege, welcome, successful. "Apt words," said John Milton, "have power to suage the tumors of a troubled mind." As much as possible, we must avoid words like dissatisfied, complain, assert, fail, insist, demand, reserve judgment, and take exception to. We must not write, "You are hereby notified that. . . ." Instead, we should write, "You will want to know" or "We would appreciate it if you would. . . ." We must not write, "Please let us know whether you intend to comply with the deadline." Instead we should write, "May we hear from you whether you can meet the deadline?"

If we want to stress a close, informal relationship with our reader, and he or she knows something about our personal manner, it may be appropriate in a letter or memo to use words that remind the reader of our conversational style. Bantering expressions such as "How about that?" and "Bill's got to be kidding!" may be suitable if they are natural for us to use in talk. The injection of first names, done as we might do in conversation, also may be appropriate—for instance, "The point to emphasize, Alice, is that you'll lose the interest on this loan unless. . . ." Allusions to "in-

house" anecdotes, puns, and cute remarks may have their place, too.

Of course, such a tone can ruin a letter to a stranger, a memo to a senior official, or a report to a mass audience. Here readability and clarity are the qualities to stress. Unfortunately, we tend sometimes to become *too* solemn and impersonal in our communications to senior officials and distant audiences. Forgetting that they have the same instinctive reactions as anyone else, we convey such attitudes as pomposity, lack of interest, and lack of confidence by using a stilted, self-conscious style.

Suppose it is important to convey respect for the reader's authority, to indicate our recognition that the question is one for the reader to decide? Now such phrases as *it seems to me, I would suggest, if you would be willing,* and *your judgment* become apt. We must make it clear that anything we know or suggest is of advisory value only.

For instance, if we are arguing for locating a new office in Natick instead of Framingham, we might sum up with some such sentence as "It seems to me, therefore, that the advantages of Natick are more important to our organization than those of Framingham . . ." instead of the more presumptuous statement, "Obviously, therefore, we should decide on the Natick location instead of Framingham. . . ."

If we must refer to a mistake or shortcoming of our readers or their organization, we should begin with a phrase like "As you know . . ." instead of the more officious, "I want to call to your attention . . ." or "Let me remind you . . . ." We can be frank with superiors, associates, and valued customers so long as we have the sense to use kind words, much as we would do presumably if we were conversing face to face.

Perhaps we need not go to the extreme of using what Elinor Hoyt Wylie once referred to as "Honeyed words like bees, gilded and sticky, with a little sting," but neither do we need to use harsh words and phrases, such as incomprehensible, stupid, impossible, irresponsible, fool, conceit, and traitor.

At the same time, we should guard against sounding obsequious. Many men and women in senior positions are allergic to the subordinate who "spreads it on too thick" or, worse, sounds so awestruck and fearful in writing to the boss that he or she cannot venture an opinion on a subject.

Now suppose our letter, memorandum, or brief deals with a sensitive matter for the reader or a relationship that must be handled with delicacy? Certainly we can hope we do not have to write such documents often, but when we do, the following rules should prove helpful: (l) err on the side of clarity in showing sensitivity to the problem; (2) be explicit about motives and expectations in raising the issue; (3) write with humility.

By the time he was a lieutenant colonel, George S. Patton had learned this approach, and it helped him often. For example, one time he was asked to act as intermediary for a senior officer who wanted to be promoted. It was a tough spot to be placed in. In a letter to General John J. Pershing, Patton solved the problem by writing lines like these:

"Now I have to bother you with a personal problem. . . . Yesterday Gen. Drum wrote me and asked if I could find out from you how you felt about him in respect to his ambition. My loyalty to Gen. Drum makes it incumbent on me to ask you this question but since you are the center of all my loyalty I do not wish to place you


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in a position which might prove inconvenient to you. If you care to write me some statement which I could quote to Gen. Drum it would be helpful to me in my relations with him. If, however, you do not feel disposed to say anything I shall understand. . . ." (Martin Blumenson, *The Patton Papers, 1885–1940*).

Reading this letter, Pershing might have felt irritated at General Drum—we don't know. But Pershing hardly could have been peeved at Patton, who obviously was trying to play his role with tact and sensitivity.

Creating a Consistent Impression

It is impossible to escape the connotations of words and phrases. Relatively few words are neutral, as numbers are, and the fact that their implications reach our senses and biases, rather than our rational minds, means it is all the more important to be aware of them. Inappropriate tone in a written communication makes as indelible an impression on the reader as a song or symphony that is unpleasant to the ear. According to the dictionary there is only a small difference between such phrases as *you allege* and *you say,* or between *this is to inform you* and *you will be sad to learn.* But such logic is no defense when we err with an offensively toned communication.

Effective writers in government, business, and the professions are masters of consistency. They decide carefully on what they want to say. They choose deliberately the thoughts and ideas that best make the points desired. And they choose words and phrases that effectively convey the intent of the ideas.

The difference between their writing and the writing of ineffective communicators is the difference between teamwork in a police car and a famous clown act played in a Ringling Brothers circus. Four frantic characters drove a car, one pressing on the gas pedal, another on the brake, the third clutching the steering wheel, and the fourth blowing the horn. Nobody needs to be told how the drive ended. When we do not think through our intent in a written communication, we do little better than the clowns did.

Of course, effective writing takes more time. In the long run, however, time is probably saved all around—at the reader's end as well as the writer's. So there's a trade-off to consider. Two centuries ago Samuel Johnson observed that "What is written without effort is in general read without pleasure." More recently Robert Frost put it more succinctly still: "No tears in the writer, no tears in the reader."

#

LEGAL DECISIONS

Classification

The last several months have seen some interesting developments in an area that previously was considered totally within the ambit of the administrative process and therefore virtually immune from judicial attention—classification. Up to a very short time ago, a Federal employee attempting to challenge his classification would have been told by the court that this was an area left by Congress to the Civil Service Commission and the judiciary would not review what the Commission had done. This is no longer true.

As was noted in the last issue, the United States Supreme Court currently has before it the case of *Testan* v. *United States,* in which the Court of Claims had held in a split decision that the Commission had been arbitrary in refusing to compare the appellants' jobs against those at another agency, and had ordered the Commission to make such comparisons retroactive to 1970, the time that the appellants had first appealed. The court further held that if it were determined they properly should have been classified at GS–14 in 1970, they should be retroactively reclassified as of that time. The Supreme Court has heard argument on both issues involved in the case—the jurisdiction of the Court of Claims and the Commission's authority under the Classification Act—and a decision should be issued shortly. We would note, however, that if the Court should hold that the Court of Claims had no jurisdiction to decide the question, it will not be necessary for the Supreme Court to reach the Classification Act issue.

Three decisions in the Southern District of New York have caused considerable attention in recent months. The first, *Schlachter* v. *United States Civil Service Commission,* was brought by a GS–11 Civil Service Commission investigator on behalf of himself and others contending that they should properly be classified at GS–12. At the outset, the court noted the limited nature of its review authority, limiting itself to a determination of whether the Commission deci-

sion was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."

In rejecting the contention that the employees were entitled to a position-to-position comparison, the court noted that classification of positions is to be made with reference only to the Commission's standards. Any other procedure would mean that in every reclassification case the Commission would be required to select analogous positions for comparison, and that evaluations of the levels of difficulty, responsibility, and expertise would have to be made of the comparative sample to insure that the bases for comparison were valid. The court found that such a procedure was not required by the statute.

In *Kavazanjian* v. *Immigration and Naturalization Service*, the plaintiffs were GS–11 investigators for the New York Office of the Immigration and Naturalization Service who claimed they should properly be classified at GS–12. In considering their contentions, the court limited itself to the same narrow scope of review as that put forward in *Schlachter:* a review for arbitrary or capricious action.

In its decision, the court noted that "many of the plaintiffs were doing work that would be classified as GS–12 part of the time and work that was GS–11 or less part of the time. The rule of the CSC in such cases is that an employee is to be upgraded if he or she is doing the higher grade work a majority of the time . . . . There is, however, an exception of this rule under which, in certain circumstances, an employee may be upgraded if he engages in the higher grade work for a 'substantial' portion of his time . . . . Whether the exception should have been applied to these appeals is one of the central issues of this suit."

The plaintiffs had contended that using the "majority of time" rule in New York and the "substantial time" exception elsewhere constituted arbitrariness on the part of the INS and CSC and was a violation of 5 U.S.C. § 5101(1)(A) requiring equal pay for substantially equal work. The court, however, upheld the policy, noting that the application of the "substantial time" exception was justified in geographical regions where the investigators must handle all of the work that arises. In that instance, the higher grade work cannot be efficiently distributed to higher grade positions.

The court, noting that the INS and CSC had used the same classification standards but disagreed on certain classifications, refused to find any arbitrariness therein, stating, "the applicable standards are not, and probably could not be so precise that two honest human beings could not disagree in evaluating any given task. The inference suggested by the plaintiffs is not warranted by the evidence and will not be drawn by the court."

A subgroup of plaintiffs alleged that at the time of their appeals higher grade work was taken away from them to prevent their being upgraded. In this regard, the court noted that if CSC did not consider the work that the plaintiffs were doing at the time of the appeal, "it is arguable that CSC would have violated its responsibility under 5 U.S.C. § 5112(a)(1) and (b) to, upon the request of the employee, ascertain currently the facts as to the duties, responsibilities, and qualification requirements of a position." The court further noted that it had not been proven that the Commission had not considered the work that the subgroup was doing at the time of the appeal.

After noting that the distinctions between GS–11 and GS–12 work are not always clear, the court held that "the INS's original determination that the GS–12 work in its office was minimal and that what there was of it was done by supervisors was not in bad faith and was neither arbitrary nor capricious, though, as subsequent events point out, it may have been erroneous." With regard to those plaintiffs who had been upgraded by the CSC upon appeal, the court refused to grant back pay, finding that "the Commission may reclassify a position, but there is no provision for retroactive reclassification and back pay."

In yet another decision in the Southern District of New York, *Leopold* v. *Hampton*, the court held that in reviewing the classifications of Immigration and Naturalization Service Examiners (General Attorneys), the Commission had concentrated on the degree of difficulty in the attorneys' tasks but had not given adequate consideration to the level of responsibility as required by statute. The case was remanded to the Commission for a reevaluation concerning the level of responsibility factor.

In a related decision, an Immigrant Inspector brought a class action contesting a revised Commission classification standard for Immigrant Inspectors, GS–9, alleging that the new standard was based upon an inaccurate description of the duties and functions exercised by Immigrant Inspectors.

The Court of Appeals overturned a previously granted district court dismissal, finding that if there was any substance to the plaintiff's claim, there was a genuine issue of fact for the court to consider. However, since plaintiff had not appealed to the Commission, he had not exhausted his administrative remedies and the case was remanded to the Commission for processing. The fact that the plaintiff's union had commented on the proposed revised standard previous to its issuance was not considered a substitute for the formal appeals procedures of 5 CFR 511.603.

Thus it is clear that the courts are prepared to review Commission classification decisions. Although the Commission retains the discretion granted by Congress in this area, it retains that discretion only so long as its actions are not "arbitrary, capricious, or contrary to existing law."

—*Sandra Shapiro*

WHEN "NOT BAD" ISN'T GOOD ENOUGH

by Leila G. Treese
Bureau of Recruiting and Examining
U.S. Civil Service Commission

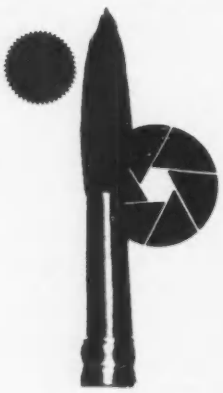
"A picture is worth ten thousand words."

AT A CONFUCIAN RATE, the equivalent of 300 million words was examined this summer as panelists from across the country convened in Washington to evaluate portfolios submitted by graphic designers, illustrators, and photographers seeking Government jobs.

The mammoth portfolio review was one of the final steps in a project initiated in 1972 as part of the Federal Design Improvement Program. At that time, a task force appointed at the request of the President began a year-long study on ways in which we could attract, better evaluate, and retain highly qualified designers for Federal service.

The group, composed of Government and non-Government designers and administrators, with representatives from the National Endowment for the Arts and the Civil Service Commission, submitted its report to Chairman Hampton in early 1974. Among actions advocated by the task force was the recommendation that applicants for jobs in the field of visual communications be required to submit portfolios that would better indicate the quality and scope of their work, and that these work samples be reviewed by blue-ribbon panels of professionals in the occupations involved.

The task force report, *Excellence Attracts Excellence,* acknowledged the fact that the number of hires in design-related occupations each year is relatively small, but emphasized that the impact of each hire in the field of visual communications far outweighed the statistics involved. It said, in part, "The appearance of publications—and millions are published every year—conveys a



distinct impression of Government programs and activities. So do posters, circulars, signs and drawings, photographs and exhibits; they reach millions of Americans in all parts of the country with the message of what their Government is doing and how well the work is being done."

In response to the report, CSC's Bureau of Recruiting and Examining was designated action office for implementing its recommendations. Thomas Coleman, a designer, administrator, and educator on contract with the National Endowment for the Arts, served as program officer, working with staff members from BRE and the Personnel Research Development Center, in CSC's Bureau of Policies and Standards.

Knowledges, Skill, Abilities

Education does not necessarily result in creativity—nor does the fact that a photographer has been taking pictures for 14 years guarantee that that photographer is better at the job than one who's been taking pictures for 2 years. Therefore, the Job Element Method was adopted as the best way to evaluate applicants in the visual communications fields. Using this method, applicants are rated on the knowledges, skills, and abilities necessary to do a job, rather than on written tests, the amount of education they have, or the number of years they have been working.

An extensive study was undertaken to determine what knowledges, skills, and abilities (elements) were necessary at various levels of responsibility in Government and which elements would differentiate superior applicants from mediocre applicants. The job element study required the time and talents of many professionals in the occupations studied and included members of professional societies and practitioners from the private sector as well as those already in Government.

It was at times a frustrating exercise. Combing one's brain to come up with the special qualifications needed by a competent illustrator, for example, is much more difficult than arbitrarily saying a competent illustrator must graduate

THIS WAS THE SCENE as blue-ribbon panels of professionals in the fields of graphic design, illustration, and photography met to review portfolios submitted by applicants in a pilot examination for Federal jobs in the visual communications field. (Photos for this article courtesy of National Endowment for the Arts.)

from an accredited school of illustration. If you say an applicant must be able to draw freehand and with instruments, do you specify which instruments? How do you measure personal reliability? Or craftsmanship?

Panels of subject-matter experts convened and reconvened. There was a great deal of spirited discussion, accompanied by brow furrowing, head scratching, and contemplation of ceilings. There was also a great deal of semantic disagreement, with its concurrent exasperation. Gradually, though, we progressed through initial brainstorming, to clarification discussions, to individual rating of the group's list of elements, to tabulating the results, and finally to concurrence on each job's particular dimensions. From this final information, supplemental forms were developed for applicants to complete as part of their examination package, as were evaluation forms for use during the panel's review of portfolios.

A portfolio of 20 35-mm slides enclosed in a plastic sleeve was determined to be adequate to indicate an applicant's skills, as well as being convenient for mailing and storage in the CSC's Washington Area Office.

With the groundwork done, the next step was to see whether the new procedures worked. A pilot examination was announced for graphic designers, illustrators, and photographers, grades GS–5 through GS–12, in the Washington, D.C., area only.

The trial exam opened May 19, 1975, and closed June 20, with an extension date of July 11 for receipt of portfolios. An attractive black-and-white poster announcement, together with a special package of application and supplemental forms, was distributed to Federal Job Information Centers, schools, and professional societies nationwide. With no precedent for estimating what kind of response we would get, it was like putting a note in a bottle and sending it to sea, hoping someone would read it.

Comes the Deluge

Very soon the Area Office was inundated with applications, first trickling in, then arriving by the shopping cartfull. Bulging brown envelopes were piled on tables, on desks, under desks, in boxes, on top of filing cabinets, and were mounting ceilingward by the hour. Each package had to be opened, checked for completeness, and logged in. Many had to be returned for additional information because they were incomplete or incorrect.

Examining Office employees developed claustrophobia and a pathological fear of mail deliveries. Applicants appeared in person, not trusting their portfolios to the Postal Service. Extra people were assigned to help with the workload. And still the applications poured in. In all, over a thousand applications in each of the three fields were received.

"What's not in my job description?"

With a project of this sort, organizational lines become blurred, if not disconnected; everybody does whatever needs to be done—or learns to, very fast. For starters, a room is needed that will accommodate five portable light tables (for viewing the slides) and about 15 people doing concentrated work, with the need to stretch and pace occasionally, and where boxes of applications can be shuffled, stacked, and stored. Chairs that do not induce paralysis of the lower extremeties are needed, as are good lighting and enough wall sockets to service the light tables. Finding all these attributes in a room that can be tied up for 3 solid weeks is a chore. (Luckily a nearby agency loaned us a comfortable training room.)

Other problems are as knotty as guaranteeing the security of applications and as nitty-gritty as locating the coffee machines. In the process of problemsolving, one discovers that the people in Office Services can get just about anything done—even to designing and making stands for the light tables in a week. It's all wonderful qualifying experience, if there were only a classification for Coping.

"This is hard work" (private sector panelist)

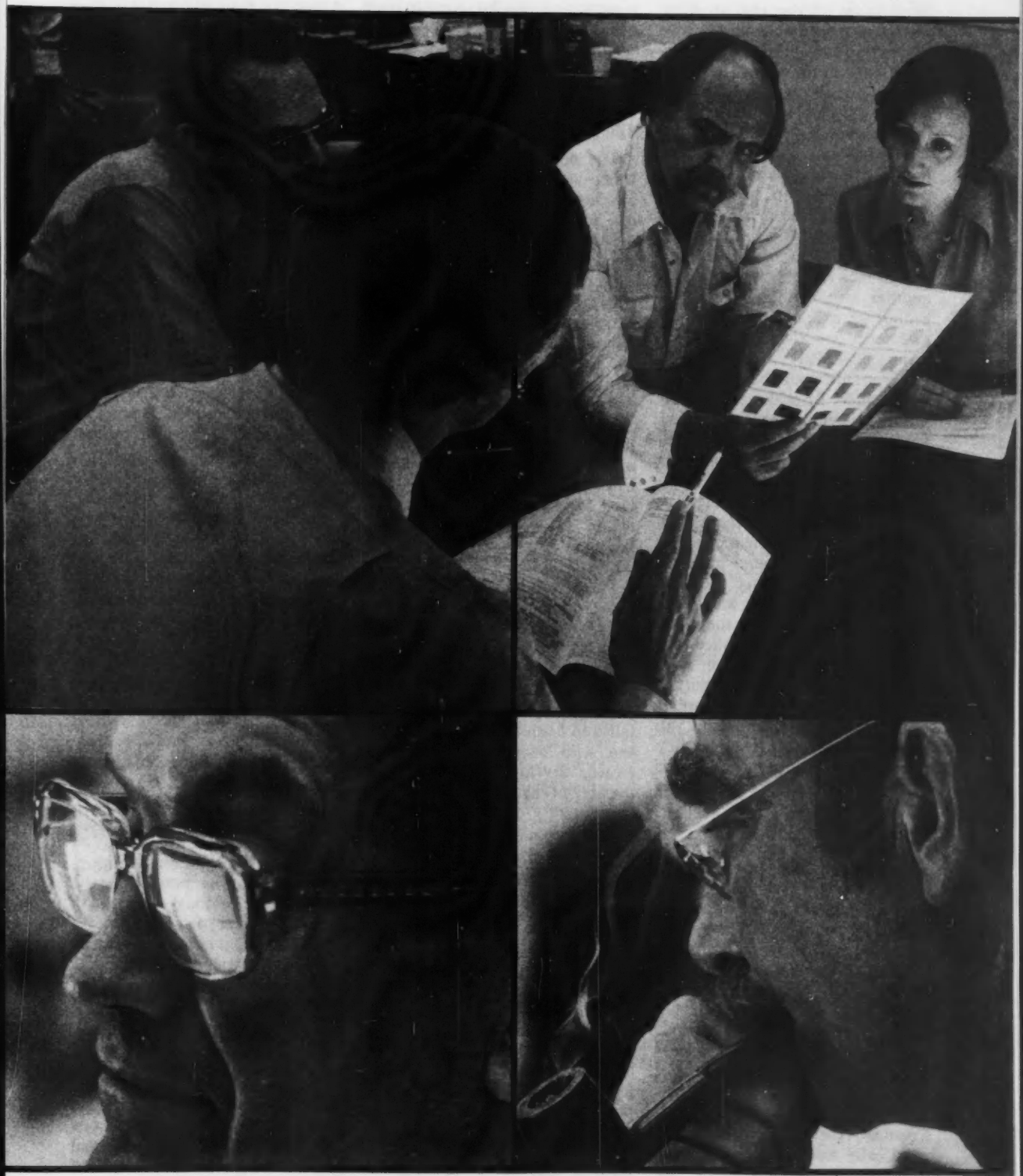
Aside from professional expertise, the examination of 500 to 600 portfolios in a week requires strong legs and backs, unwavering eyes, and an unflagging sense of humor. All were in abundant supply as panelists gathered for the evaluation, beginning with the Illustrators on July 21.

Our feeling somewhat apologetic about asking anyone to come to Washington in July wasn't helped much by a heat inversion that occurred that week. At the opening briefing, the light table bulbs flickered temperamentally, adding a special note of anxiety until speedy repairs corrected the situation.

The panelists arrived, dressed in proper office clothes—coats and ties, travel suits, and the women in high heels. Lani Lattin, Executive Secretary, Federal Council on the Arts and the Humanities, sketched a brief background of the Federal Design Improvement Program and told how the new evaluation program fits into the President's design initiatives. BRE staff members explained the basis for job element examining and the way in which operations were planned to proceed. Then everyone settled down to work, at a level of concentration and cooperation that hit high "C" and continued throughout the week.

"Document! Document!" (sign on the meeting room wall)

One of the differences between evaluating an applicant for Federal employment and evaluating one for a private design firm is the fact that Federal job applicants are not usually considered in terms of an individual vacancy, but are eval-



uated to see whether they are qualified to be placed on a register with others who are eligible for Government work in the fields for which they apply. They are measured against a general standard, rather than in terms of a particular job.

Another big difference is the need for documentation. If an applicant is found to be ineligible, the reason why he or she did not meet the standard must be documented. The reason why one applicant receives a higher score than another must also be shown; it cannot be a matter of particular preference or whim. This of course means paperwork, which we had not been sure would be understood by members from the private sector in particular and might have been found irksome by the panelists in general. However, once the evaluation forms were explained and a system for filling them in evolved, all panel members were cooperative and conscientious.

The evaluation took place in several phases. During the first phase, all applications and portfolios were examined at the grade levels for which they applied and grouped into four general categories, ranging from ineligible to highly qualified, with the applicants rated ineligible having the reasons for their ineligibility documented. During the second phase, a detailed evaluation was made of those portfolois remaining eligible. During this second phase, numerical ratings were assigned by consensus of the group. This involved a great deal of give and take among panel members. Strong personal preferences were expressed and discussion was often spirited, but consensus was ultimately not difficult.

The pattern remained the same for all three panels. After the first day, it was a shirt sleeves operation. The coats and ties, travel suits, and high heels gave way to safari shirts, slacks, and sandals. Lunches were brief, coffee breaks practically nonexistent, and concentration intense. Most of the Government panelists went to their offices at the crack of dawn, worked on the panels for a full day, and often returned to their offices in the evening.

The Tie That Binds

The potential for disagreement when many strong-minded people are closeted in a room all day every day for a solid week, under the workload pressure that the panels were under, seems extremely great. But when talented professionals, whether in Government or out of Government, get together, there is a basic rapport that far outweighs any surface differences. That rapport, which enabled the panels to work smoothly and enthusiastically on an overwhelming and sometimes exhausting task, is firmly rooted in their seriousness about what they do for a living—and their expectation that anyone applying to work in their fields should be equally serious about the profession.

The demand for quality surfaced time and time again—in dismay, if not outright indignation—with art schools that graduate unqualified people; with applicants who have been exposed to excellent training and work situations and have failed to learn from that exposure; and with people who have not grown, developed, kept up with the state of the art.

"There's something poignant about this guy's portfolio, but he's not a photographer"

Although professionalism has many definitions, what it means when portfolios are being evaluated for employment is that there is a difference between what one designs or paints or photographs to express one's self and something one is assigned (and paid) to draw or photograph in order to communicate a specific idea. For example, in the field of illustration, many applicants submitted samples of their studio art exclusively, some of which were excellent. But it was not illustration and it gave no indication of an applicant's ability to function as a general illustrator, technical or natural science illustrator, or medical illustrator.

Since virtually anyone with a steady hand and camera can take pictures, the question of professionalism cropped up more often during the photography panel than during the panels for illustration and graphic design. "My summer vacation" pictures were a favorite submission, as were pictures of tree branches, pretty women (with and without clothes), children, cats (usually yellow), children *with* cats, sunrises, sunsets, flowers (usually red), cars, trains, glassware, and water lilies. There were lots of brides, with and without grooms. ("Ah," sighed one panelist, "always a bride, never a bridesmaid.")

Although many of the pictures were fine for the family album, they were not the stuff of which professional photography is made. This is not to say that the range in Government photography is a narrow one. The practical applications of photography are many: as design, photography can concentrate on interesting images; as illustration, it must be storytelling or journalistic; as studio photography, its purpose is to clearly show an item, as it would be shown in a catalog. Portfolios were not expected to meet all of these criteria, but many didn't meet any of them—apparently because applicants viewed the portfolio as a means of personal expression ("this is what I do to please myself") rather than a means of presenting examples of the range of their work ("this is what I can do for you").

"She's been around a long time. She should have grown."

The problem with many graphic design portfolios was not so much the subject matter (most applicants did understand what professional graphic design is all about), but

with the lack of professional growth and versatility. Many design projects seemed old-fashioned, showing no influence of what is currently going on in the field, either in technical breakthroughs or in what the best of contemporary design looks like.

Common pitfalls were: lack of knowledge of typography ("when she gets into type, she gets in trouble"); overly elaborate design ("these are cosmetic graphics; cosmetic graphics are like wearing colored contact lenses" . . . "when he gets all dressed up, he looks like a stolen car"); and design that fails to communicate ("maybe I'm wrong, but I think posters should be legible").

Several portfolios indicated that the people who submitted them had stopped growing and trying new approaches to communication through design several years ago; it was as if they found a formula and stuck with it. Since many people submitting that type of portfolio were already working in Government, it was an indication that there is a need for designers who are presently employed in Federal agencies to have refresher courses to update their skills and learn the language of contemporary visual communication.

"Good work isn't accidental."

Graphic design, illustration, and photography can solve communication problems; that is what professionals in those fields are paid to do. What separates a professional from an amateur is, to a considerable extent, the problem-solver's approach: "How can I convey this or that idea? . . . What will happen if I try a different lens? . . . If I draw it from this perspective, will it do a better job?"

An approach that lacks this point of view is comparable to Robert Frost's description of writing blank verse: It's like "playing tennis with the net down." When you get paid for your work, the net is generally up. This does not necessarily mean, particularly among applicants for jobs at grades GS–5 and GS–7, that examples of paid work experience had to be submitted: what it does mean is that people applying for Federal jobs, even at trainee levels, should exhibit a disciplined attitude toward their work.

The Wheat From the Chaff

In comparison with the total number of applications, the number of applicants finally selected for the register was small: 20 of the illustrators were eligible, 12 of the graphic designers were eligible, and 14 of the photographers were eligible. These figures are based on slightly more than half of the applications received.

It became obvious during the first week of evaluations that the panels could not complete the job in three 1-week sessions. Plans were immediately set into motion to reconvene the panels to evaluate the remaining portfolios. This meant a delay in establishing the register since it wouldn't have been fair to begin referring people to agencies having vacancies when all portfolios had not been reviewed.

The prospect of going through the entire procedure all over again would have been demoralizing, if it hadn't been for the quality of the register we could see emerging. At the end of each week, the portfolios of applicants rated eligible were lined up around the room on the light tables so that panelists could see the fruits of their labors and so that we could get an idea of the quality of talent we would be able to refer to Federal agencies.

There was an enthusiastic response to the excellent work in the selected portfolios, a sense of satisfaction and shared excitement about it. The air was peppered with comments like, "Exciting images!" . . . "This is a person I'd hire—that I'd be enthusiastic about hiring." . . . "I'd hate to see the Government lose somebody like that." . . . "That's a very intelligent photograph. He's thinking." . . . "That's tack-sharp; needle-sharp." It was clear that we would have a register of highly qualified applicants who could be referred for jobs with confidence.

"If we got one good person for the Government, this work was worth it." (Government panelist)

In terms of job performance, the impact of any new examining program is not likely to be immediate, and is often frustratingly difficult to measure. In the fields of graphic design, illustration, and photography, the impact will at least be visible—eventually. In the meantime, progress has been made and satisfactions gained through working on the program, some being directly related to the Commission's mission and some being a pleasant extra.

The review of portfolios by a blue-ribbon panel was a significant "first" which can and will be applied to other occupations. ("History," we solemnly announced to coworkers who lacked the good fortune to be working on the project, "is being made this summer.") And getting forms and procedures off the drawing board and into action is always satisfying, especially when the forms are actually usable and the procedures do work.

The really interesting part was working with the panels. By working together they not only contributed immeasurably to the quality of Federal design, but opened some good channels of communication between Government and the private sector. In the process, they learned that the standards of excellence are shared ones.

And there was one added attraction: One Federal panelist, whose previous attitude toward CSC procedures can mildly be described as hostile, looked up from his work the third day of evaluations, grinned, and announced, "I'm finally understanding the civil service."

All this, and a fine register, too.#

APPEALS DIGEST

Termination of Probationers

Probationary period

Appellant was appointed to her position effective October 14, 1973, subject to the satisfactory completion of a 1-year probationary period. She was separated by her agency on October 11, 1974, 2 days prior to the end of her probationary period. She appealed to the Federal Employee Appeals Authority, which sustained the agency action. Upon appellant's petition to reopen, the Appeals Review Board reconsidered the appeal, reversed the decision of the FEAA, canceled the termination, and restored appellant to her position.

The Board cited FPM chapter 315, paragraph 8–4f, which provides that an agency desiring to terminate an employee "must separate him before the end of his tour of duty on the last day of probation" since "separations are effective at *midnight* and probationary periods are completed at the *end of a tour of duty.*"

Noting that the 2 days immediately following appellant's termination were a Saturday and Sunday and thus not a part of appellant's scheduled workweek, the Board found that the last day upon which appellant could complete a "tour of duty" was Friday, October 11, 1974. The Board found that upon completion appellant was entitled to receive the benefit of all adverse action procedures provided under subpart B, part 752 of the regulations. Since appellant's separation was not accomplished under those procedures and was effective at midnight October 11, 1974, after completion of the probationary period, the Board found her separation to be procedurally defective. (Decision No. RB315H60004.)

Reduction in Force

Bumping rights

Appellant was identified by his agency for release from his competitive level by reduction in force and was separated from the position of Supervisory Guidance Counselor, GS–1710–11. On appeal, appellant contended he had been improperly denied the right to displace (bump) an employee in a lower retention subgroup who occupied the position of Guidance Counselor, GS–1710–9, for which he believed himself to be fully qualified.

The agency did not dispute appellant's basic qualifications for the GS–9 position, but stated that appellant had no right to displace the female incumbent because the agency had determined the position required the employment of a woman. FEAA reversed the agency action since the Commission had not approved sex as a selective certification factor for the position at issue and an employee's sex may not be considered as a qualifications requirement for a position without the specific approval of the Commission. (Decision No. SE035160001.)

Salary Retention

Demotion

The promotion of the appellant from GS–14 to GS–15 was cancelled by his employing agency pursuant to an arbitrator's award ordering the promotion vacated. The appellant filed an appeal under part 752B of the Commission's regulations alleging that the cancellation of his promotion was a reduction in grade subject to that regulation. However, the field office found this appeal not within its jurisdiction because the appellant is in the excepted service and is not a preference eligible as defined in 5 U.S.C. 2108.

The appellant also filed an appeal contending that the cancellation of his promotion was tantamount to demotion and pointing out that he met all the requirements for salary retention upon demotion. The agency contended that salary retention did not apply because he was returned to the lower grade by cancellation of an erroneous personnel action.

In finding for the appellant, the FEAA determined that the action which the agency listed as a cancella-

tion was in fact a demotion under the terms of 5CFR531.201(a), which in pertinent part defines demotion as a change of an employee, while continuously employed, from one General Schedule grade to a lower General Schedule grade, with or without reduction in pay. (Decision No. DE531E60001.)

Discrimination Complaint

Informal adjustment

The complainant filed a discrimination complaint in connection with the agency's failure to attempt to obtain a waiver of physical qualification requirements necessary for appointment to the position for which he had applied. The complaint proceeded to a hearing, during which an agreement was reached that the complaint would be withdrawn if the agency was able to obtain the necessary waiver.

In light of this verbal agreement, the complaints examiner referred the case back to the agency. The agency subsequently obtained the required waiver and complainant was appointed to the position sought. Complainant then requested that the hearing be reconvened to address the matter of retroactive appointment. The agency denied this request and complainant appealed to the Appeals Review Board.

The Board noted that section 713.217(a) of the regulations provides that an adjustment of a complaint shall be reduced to writing and made a part of the complaint file. FPM chapter 713, paragraph B–7a, states that a written adjustment shall be signed by the parties and shall show that the adjustment serves as a basis for termination of complaint processing.

The Board found that the hearing transcript which reflected the adjustment was merely a record of verbal exchange and did not constitute a written agreement of the sort required by regulations and the FPM. Since complainant had never formally withdrawn his complaint, the Board found that the agency was without basis for declining to proceed with the complaint from the point at which processing ceased. The Board rescinded the agency's termination of the complaint and remanded the case for a new offer to complainant of a hearing or a decision on the merits without a hearing. (Decision No. RB071360025.)

Adverse Action

Resignation—right to withdraw

The appellant submitted a resignation that was to be effective 1 month later. One week later he requested permission to withdraw the resignation. The agency denied the request on grounds that administrative disruption would occur because his training had been discontinued and recruitment to fill the vacancy had been accomplished.

The FEAA found no evidence that the resignation was involuntary. The evidence reflected, however, that appellant's training was interrupted for only 5 working days, that the individuals allegedly recruited to fill the vacancy were selected from a certificate requested 1 month prior to appellant's submission of his resignation, and that the selections were made 1 day before appellant attempted to withdraw his resignation. Based on the record, the FEAA concluded the agency did not have valid reasons for denying appellant's request to withdraw his resignation prior to the effective date as required by section 715.202(b) of the regulations.

The FEAA found that the agency's failure to allow the appellant to withdraw his resignation was, in effect, an adverse action. Since the action was taken without following the precedures set forth in section 752.202 of the regulations, the appellant's separation was held to be fatally procedurally defective. (Decision No. DE752B50137.)

Suspension

Decision notice

The appellant received a notice of proposed suspension from duty and submitted a reply. The agency subsequently issued a decision indicating that consideration had been given to the reply and informing the appellant of the decision to suspend. The decision did not specifically state that the charge was sustained.

The Federal Employee Appeals Authority cited section 752.302(c) of the regulations, which provides that the employee is entitled to notice of the agency's decision and the notice shall inform the employee of the reasons for the suspension. The FEAA found that since the agency decision did not state that the charge was sustained, it did not meet the requirement of informing the employee of the reasons for the suspension. Accordingly, the decision reversed the agency action on the basis of procedural error.

The agency requested that the Appeals Review Board reopen and reconsider the FEAA decision, alleging that it was erroneous and precedential in nature. The Board reopened and affirmed the FEAA decision based on findings that the agency had committed fatal procedural error in not advising the employee of whether the suspension action was based on one or both of the reasons cited in the proposal notice. Accordingly, the FEAA decision was found not to involve new or unreviewed policy or an erroneous interpretation of law or regulation or a misapplication of established policy. (Decision No. RB752C50055.)

Decision notice—another view

The agency issued a notice of proposed 10-day suspension on August 28, 1974, for expectorating on a supervisor. Appellant replied on September 5, 1974. He was retained in active duty status on an uninterrupted basis. No further word was received by appellant regarding this matter until he received the decision letter dated April 2, 1975, finding the charge sustained and suspending him for 3 days.

The FEAA field office found the action unreasonable and reversed the agency suspension. The field office quoted FPM Supplement 751–1, section S7–5, in support of its decision. This section provides that delivery of notice of decision shall be effected at the earliest practicable date. "It is important that an agency issue a final decision within a reasonable time after the employee has made his reply . . . . No exact minimum period within which this must be done can be established. However, if the agency takes no action for an extended period of time, and gives no indication to the employee that the final action to be taken is still being considered, the employee may be justified in concluding that the agency has abandoned its proposal."

Since the agency had failed to take timely action, in breach of its duty, and since in the alternative, did not submit any evidence to indicate whether it was prevented from taking prompt action by unusual or extenuating circumstances, the field office found the delay unreasonable and in violation of the principle noted in section S7–5 above. Accordingly, the field office found the agency action procedurally defective. (Decision No. NY752C50012.)

—Paul D. Mahoney

MANAGEMENT EXCELLENCE AND PUBLIC POLICIES

by Anthony L. Mondello

MY CONCEPTION OF THE TERM "public policies" is a kind of travel license. I think I can recognize an articulated public policy when I see one. Congress often states such policies in the opening "findings," which it uses in statutes concerning new programs. Such findings at the start of the Intergovernmental Personnel Act, although very broad, are a useful definition of what a "merit system" consists of.

Recently I have had occasion to refer to other enabling statutes that created agencies such as HUD, and the Consumer Product Safety Commission. You will find there the kind of broad statement of functions and objectives agencies find comfortable to apply. They furnish a roomy framework within which administrative discretion may be exercised, and they provide a useful first step in agency courses on Management by Objectives.

But if you want to chart a course that will discover all the ingredients necessary to achieve sustained managerial excellence, particularly in that narrow stratum defined as "executives," you have to enlarge your conception of the content and formulation of public policy. Specifically, you must make some allowance for the dynamics involved in the shifting of powers between the branches of Government, and the erosion of the capacity for executive direction. This latter notion is fostered by the tendency of the legislative and judicial branches to commit to oversight *by the public* matters that formerly were regarded as suitable subjects only for executive or legislative branch scrutiny, deliberation, and resolution.

Who's Got the Power?

The first notion—the shift of power between the branches—becomes more visible every day. There has always been tension and rivalry between Congress and the President, and historians record which Presidents were strong in this battle, and which were weak. Recently, however, the handling of this tension has changed. Some of the issues are fundamental and persistent—like impoundment of funds (i.e., who controls resource expenditure), or executive privilege (i.e., who controls sensitive information). The new twist is that Congress has sought confirmation of its powers in the courts, and in the process all doubt has been removed about the superior position of the judicial branch among the three branches of Government.

FOI

It is interesting to trace a related series of episodes that show this process at work in the newly discovered area of public information. The Freedom of Information Act itself was a Congressional reaction to miserable management by the executive branch of its information policies. It was conceived because of mistrust of the willingness of executive branch managers to follow rational and relatively open policies of information disclosure. Congress opened up *everything,* subject only to the provisions of some crudely drawn exemptions that sought to satisfy only the executive branch's most crying needs.

When Congresswoman Patsy Mink failed to get the classified documents she had requested concerning the Amchitka explosion, she and about 30 other Congressmen made no attempt at correcting the first exemption by legislative means—they simply brought suit in court. Ultimately the Supreme Court decided that the first exemption did not mean what about 30 Congressmen agreed it meant (it exempted matters required by Ex-

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MR. MONDELLO was General Counsel of the U.S. Civil Service Commission until his retirement in July 1975. Appearing here are excerpts from a speech he delivered shortly before retirement at a meeting of the San Francisco Federal Executive Board in Yosemite, Calif.

ecutive order to be kept secret in the interest of national defense or foreign policy), so the documents on the Amchitka explosion were not available. Congress has since changed that result in the 1974 Amendments to the Freedom of Information Act so that anyone can cause a court to read classified documents to decide whether they are in fact properly classified.

As a result of the President's veto message on these amendments (which Congress overrode), the legislative history makes it clear that Congress expects the courts to consider seriously what the executive branch says when it describes, in affidavits and pleadings, the classified context that must be understood in order to judge whether specific documents are properly classified.

Think of it—a monumental clash occurs between the President and the Congress that requires an opinion by the Supreme Court, is followed by more legislation, then a veto with a sharp message from the President, and then the override. And the net result is a process that requires an executive branch executive to call upon his finest powers of articulation to persuade his audience (a judge) not to harm an important Government function.

Sooner or later one of those cases under the new amendment will get to the Supreme Court, and the ultimate resolution will probably be cast in terms of the weight the lower court should have given to judgmental statements in the executive branch affidavit.

Civil Rights

This sounds like an uneasy—even unlikely—basis for a rule that keeps these important contending parties at bay. But lest you discount it too quickly, I remind you that a similar judicial rule, having to do with the shifting of the burden of proof, permitted the courts to become the cutting edge of the civil rights movement in an effort to cure a monumental congressional default.

Remember *Brown* v. *Board of Education*, which reversed *Plessy* v. *Ferguson* and held that separate is not equal?

Here was a serious problem that threatened to tear the country apart. That was 1954.

How long did it take for Congress to react? The Civil Rights Act was passed in 1964.

It took 10 long years!

And when they finished, they created the Equal Employment Opportunity Commission with little enforcement power and a small budget. They proved they were willing to *say* "don't discriminate." They say it again and again. But they have never *done* enough about it. As yet, there are no massive programs specially focused and designed to bring our historically disadvantaged minorities to levels of education, housing, and employment shared by a large segment of middle-class Americans.

By 1972, Congress recognized that it could create enforcement powers in the Civil Service Commission with respect to executive branch employment, and we are showing effective progress with it. But by and large, Congress has not done much to solve our civil rights problems.

All the courts did some years ago under the 1964 Act was to accept disparate racial composition of work force statistics as the equivalent of a *prima facie* case of discrimination and the burden was then shifted to the employer to prove that the facts are otherwise explainable. Along the way, the courts have made it clear that employers must keep records of the policies they follow in making hiring selections, and they must announce those policies so all who are affected can (1) judge those policies, and (2) bring lawsuits if they are not satisfied with the policies or the practices followed.

Again, you have the resolution of important functions affecting the public being resolved by the *articulation of policy and practice by managers,* subject to review in the courts, i.e., oversight in the public gaze.

Other Cases

There are other cases where Congressmen have conceded judicial jurisdiction in order to bring the executive branch to heel. Senator Ervin tried to enforce his subpoenas against the Nixon White House, and Congress's Special Prosecutor used the courts to get his hands on the Presidential tapes. That last one was a bit costly. They got the tapes, but the Supreme Court made it plain in lengthy dictum that the occasion was a relatively unusual occurrence where a broad Presidential claim of executive privilege would be denied as against specific competing interests in the fair administration of criminal justice. The doctrine of executive privilege, which Congress has for years been trying to destroy, was given a new lease on life

in the Nixon tapes case.

The lesson in all of this is that the legislative and executive branches suffer wins and losses against each other, while the courts simply pick up more jurisdiction.

The People and the Courts

Oversight by the public was the other strain I noted a while ago. Congressional oversight is notoriously sporadic and spotty—where it exists at all. So congressional committees now play a role of getting involved selectively in disputes between members of the public, or unions, or public interest groups on the one hand, and the executive branch on the other. To assist the process, Congress has passed a number of statutes giving the public access to the courts.

On their own, of course, the courts had so broadened the judicial concept of standing to bring suit, and the statutory-judicial concept of class actions, that it had become very easy for anyone to find his way into a court suit. And to add to the mix, the Warren court—which fortunately had addressed national problems that Congress had not faced up to—spawned an intense and pervasive mood of judicial activism that broadly construed both statutes and the Constitution in such a way as to create new opportunities for the ordinarily very litigious American people.

That path, too, is easy to trace. Again—starting with *Brown* v. *Board of Education,* then *Baker* v. *Carr* (one man, one vote), through *Griswold* v. *Connecticut* (where Justice Douglas said, after citing some cases, that "the foregoing cases suggest that specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance"), to *Miranda* (coerced confessions), and *Gideon* v. *Wainwright* (right to counsel for indigent accused)—the Warren court fashioned real rights under the Constitution for literally millions of people in broad classes whose paper rights had previously gone unfulfilled.

This was very heady wine for the judicial branch (something less than 700 strong) who, sleeves rolled up, found they could run and desegregate entire school systems and directly countermand the deliberations of State legislative committees on gerrymandering apportionment.

For a while the courts ran relatively unbridled. But they learned soon enough what we always learn—you can push what appears to be a good policy too far, and when you do, public resistance will overcome you. For example, they learned that busing is no panacea in education—not merely because it was fought by whites in Detroit and Boston—but also by blacks in some cities in the south.

In darker moments, I used to fear the judiciary would directly run everything, and I concocted the suggestion that when the book on *The Demise of Democracy in America* was written, its final chapter would be titled "The Judicial Tyranny." But we have been very lucky in this country with our judicial appointments to Federal courts, despite some of what you can read in that recent book entitled *The Benchwarmers.* We have a great corps of generally wise judges. And there are clear, current indications of a renascence of habits of judicial restraint that formerly prevailed, with the Supreme Court leading the way.

The Courts Are Listening

Recently, within about a year's time, the Civil Service Commission had a hand in winning four cases in the Supreme Court that lend credibility to my suggestion about judicial restraint, and our heightened capacity to exercise discretion in the affairs for which we are responsible. The cases are: the *NALC* case on constitutionality of the Hatch Act; *Christian* v. *N.Y. Dept. of Labor* on exhaustion of administrative procedures; *Mancari* on limited nonracially based approval of Indian preference; and *Arnett* v. *Kennedy's* upholding of employee dismissal for speech recklessly critical of his immediate superior. These cases can generally be interpreted to make the point that management does have ample discretion to make our system work well. Indeed, the *Sampson* case was very specific about this, and the court talked of the ". . . established rule that the Government has traditionally been granted the widest latitude in the dis-

patch of its own internal affairs."

Who grants it? The courts, of course.

But the courts are listening. Recently the Judicial Conference of, and attended by, all the Federal district and circuit court judges of the District of Columbia invited me to speak to them of our problems.

I told them how easy it is for court decisions on particular matters to blunt our effectiveness. But I was also anxious to tell them what we are doing to help ourselves and to streamline our procedures, to show them we could indeed be trusted to handle executive branch affairs on our own, and without too much judicial interference.

There are some things we have to face. There was an episode called Vietnam that really happened. And Watergate also happened. The effect was a monumental set of mistrust of clandestine executive branch operations built one right on top of another. We have been keeping the Government running despite these happenings, and it falls to our lot to overcome this heritage of mistrust. The task is not easy and Congress is busy setting new rules for the game. You will find these rules in the following statutes concerning openness:

Openness Mechanisms	*Oversight*
Freedom of Information 1 (1967)	Congressmen
Freedom of Information 2 (1974)	Committees
Fair Credit Reporting Act	Unions (know as much about our business as we do)
Advisory Committee Act	
Privacy Act	Public Interest Groups
Criminal Justice Information Bill	Federal Employees
Government in Sunshine Bill	Members of the Public
Whistleblowers Bill S.1210	Press and Media
Create Some Records Act S.1289	

There is a special point in treating the various acts very seriously because of civil sanctions against Federal employees who perform poorly under Freedom of Information 2, and criminal sanctions in the Privacy Act that became effective in September 1975, and in S.1289.

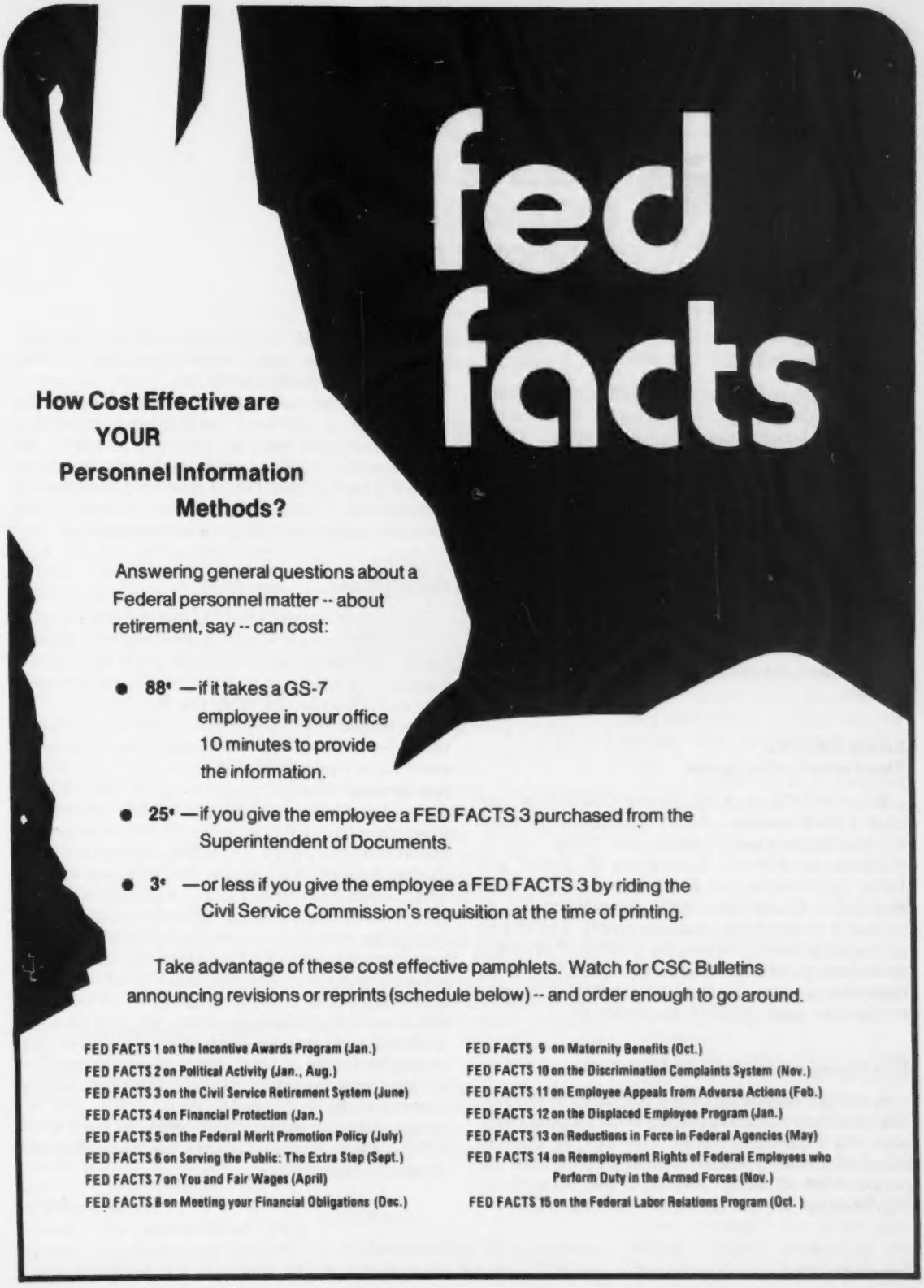
The Office of Management and Budget says the Freedom of Information Act Amendments will cost 300 to 500 million dollars per year for the first 5 years. If that is a silly way to spend our money, and in part it is, you should at least remember that despite our disgorging of documents, the walls of Government have not yet begun to crack and crumble, and in the process of defending against disclosure of some documents we have become very precise and persuasive demonstrators, based on our superior position and knowledge, of the harm disclosures would cause. But in future management of Government affairs managers will be operating more and more in a goldfish bowl, and will be receiving very public criticism from many groups viewing them from different vantage points.

New Kind of Excellence

What this means, and what *managerial excellence* must come to mean, is that Government managers must prove their competence as never before. In formulating new or changed policy, he or she must take into account all of the likely views of many critical publics, and must take them into account in advance, and probably after consultation with potential critics. They must then determine the policy to be followed, and publish it and proceed to enforce it. At whatever stage it reaches public debate, they must mount the public podium and defend it. In doing this, whether in or out of court, they must be the most knowledgeable and articulate spokesmen of all who speak.

If you need comfort in this new role, remember that judicial activism is receding, and that there is a Supreme Court. Remember, too, that despite the injunctions formerly obtained by environmentalists and others that stopped the Government in its tracks on specific projects, these effects, in the hands of the courts, are becoming less devastating.

As the courts begin to recognize our increased competence, they will be more and more willing to trust us, and to defer to our expertise. The game can be won, and effective government will prevail, if we proceed to demonstrate this new kind of excellence. #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facts
How Cost Effective are
YOUR
Personnel Information
Methods?
Answering general questions about a Federal personnel matter -- about retirement, say -- can cost:
• 88¢ —if it takes a GS-7 employee in your office 10 minutes to provide the information.
• 25¢ —if you give the employee a FED FACTS 3 purchased from the Superintendent of Documents.
• 3¢ —or less if you give the employee a FED FACTS 3 by riding the Civil Service Commission's requisition at the time of printing.
Take advantage of these cost effective pamphlets. Watch for CSC Bulletins announcing revisions or reprints (schedule below) -- and order enough to go around.
FED FACTS 1 on the Incentive Awards Program (Jan.)
FED FACTS 2 on Political Activity (Jan., Aug.)
FED FACTS 3 on the Civil Service Retirement System (June)
FED FACTS 4 on Financial Protection (Jan.)
FED FACTS 5 on the Federal Merit Promotion Policy (July)
FED FACTS 6 on Serving the Public: The Extra Step (Sept.)
FED FACTS 7 on You and Fair Wages (April)
FED FACTS 8 on Meeting your Financial Obligations (Dec.)
FED FACTS 9 on Maternity Benefits (Oct.)
FED FACTS 10 on the Discrimination Complaints System (Nov.)
FED FACTS 11 on Employee Appeals from Adverse Actions (Feb.)
FED FACTS 12 on the Displaced Employee Program (Jan.)
FED FACTS 13 on Reductions in Force in Federal Agencies (May)
FED FACTS 14 on Reemployment Rights of Federal Employees who Perform Duty in the Armed Forces (Nov.)
FED FACTS 15 on the Federal Labor Relations Program (Oct.)

FPM Bulletin on Standards Projects

A list of classification and qualification standards projects underway or scheduled for FY 1976 and into FY 1977 is being released via FPM Bulletin. This is the first time official feedback of the CSC Standards Division's scheduled and possible standards projects for the year has been provided to agencies and unions in response to their recommendations. Accompanying the bulletin is a cover letter soliciting comments about the individual occupations planned for study. This release is intended to provide more time than in the past for agencies and unions to schedule and develop input for projects not yet initiated. The release will replace the separate notices formerly sent to agencies and unions upon initiation of individual projects.

Restructuring the Blue-Collar Coding System

Early in 1976 the Civil Service Commission will issue a draft revision of the "Handbook of Blue-Collar Occupational Families and Series" (to be published as Part III, Definitions of Trades and Labor Occupations, Job Grading System for Trades and Labor Occupations/FPM Supplement 512–1, for use in coding trades and labor jobs). The revised coding system would reduce the number of titles and series from more than 1,700 to about 450, with most reductions coming from those series already consolidated by the set of 124 basic standards.

New Manager/Superintendent Standard

A new position classification standard for Production and Maintenance Managers in the General Facilities and Equipment Series, GS–1601 (a General Schedule standard) will supersede that portion of the present Job Grading Standard for Supervisors WS/NS that applies to superintendents. Agencies will be responsible for determining which of the present Wage System superintendent positions will become General Schedule positions.

Originally the standard was intended only for the Department of the Navy, but it is being issued as a Government-wide standard in order to aid in the classification of similar positions in other agencies. Care will have to be taken by non-Navy classifiers to translate the "Scope of Operations" criteria to their own management and program environment.

Revised Guide . . . New Guide

The revised Supervisory Grade-Evaluation Guide and a first-time-ever Work Leader Grade-Evaluation Guide for clerical and other one-grade interval occupations in the General Schedule will be available for regular distribution about March 1976.

The revised SGEG provides definitions for and distinguishes between supervisory and managerial positions for all personnel purposes other than labor-management relations purposes. As a result of the revised Introduction and Part I to SGEG, some positions now identified as supervisory will no longer be considered supervisory. The titling criteria have been tightened so that a minimum core of duties and responsibilities must be met to title a position as supervisory. Also, many changes have been made in Part I's grading criteria. For example, grade-level criteria have been provided for evaluating second-level supervisory positions, and the lowest grade level for supervisor has been raised from GS–4 to GS–5 to reflect the more demanding criteria for supervisor.

Clerical and other one-grade interval positions that involve leadership of other employees will sometimes be titled with the prefix "Lead" and evaluated by reference to the Work Leader GEG.

Only editorial changes were made in Part II of SGEG, which provides criteria for supervisors of two-grade interval work.

—Sandra Blake

assessment center approach:

SELECTING EMPLOYEES FOR UPWARD MOBILITY

by William A. Gorham
Director, Personnel Research and Development Center
U.S. Civil Service Commission

AGENCIES have long been concerned with the problem of identifying supervisory and managerial talent in the work force, but in the last few years there has been a growing concern with identifying employees who possess knowledges, skills, and abilities that are far greater than the demands of the low-level positions they are currently in. These agencies are providing lower graded employees in apparently dead-end positions the opportunity to move into bridging jobs, which lead to career fields that more closely match their individual work objectives and potential.

An individual at this level may not have an opportunity in his or her current job to demonstrate proficiency in the skills and abilities required for a higher level bridging position. It is necessary in such cases to provide an evaluative situation that will permit the individual to demonstrate skills and abilities to perform tasks that are related to the job demands of the higher level position.

The use of the assessment center technique is ideally suited for this type of situation.

What Is an Assessment Center?

The assessment center is a method of measurement involving multiple evaluation techniques. Generally, the evaluation techniques are various forms of job-related simulation exercises to include group discussions, simulations of interviews with subordinates, oral presentations, and written communication exercises. These exercises are designed to elicit behaviors related to the skills essential to success on the job.

The assessment center method has been used extensively by the Federal Government for identifying and developing supervisory and management potential from the existing work force. Until recently, the only Federal agency known to have used the assessment center for an upward mobility program was the Federal Aviation Administration, Department of Transportation. The FAA staff successfully integrated the assessment center technique into their selection process and are in the second year of their upward mobility program.

Case History

In the autumn of 1974, representatives from the Bureau of Engraving and Printing, Department of the Treasury, requested assistance from the Civil Service Commission to develop and operate an assessment center, as one of the evaluative tools for selection of employees for the agency's upward mobility program. Members of the Commission's Personnel Research and Development Center (PRDC) responded to this request and successfully developed an assessment center model tailored for this program.

The positions that were identified for the upward mobility program were: production controller, accounting technician, voucher examiner, supply clerk, physical science technician, management assistant, and engineering draftsman.

A job analysis of these positions was conducted. One source of data came from a quantifiable job analysis form that was administered to supervisors and incumbents of the positions. Another input came from the classification standards covering the positions. A review of all the data by representatives from the PRDC staff and the Bureau of Engraving and Printing produced nine skill/ability areas essential to the positions.

Although many factors were considered in the total evaluative process, the assessment center provided a great input in making the final selection. A total of 82 candidates elected to participate in the program and were evaluated by the assessment center. This assessment center consisted of three job-related exercises tailored to the Federal work force and requiring

approximately 4 hours of the candidate's time. The three exercises consisted of an individual written problem, group discussion, and an individual oral presentation.

The assessors for this program were employees in the agency who were currently enrolled in the agency's initial management development program and represented the different departments in the agency. The group of eleven assessors received 2 days of on-site training that required each of them to participate in each of the exercises, including a discussion of the range of behaviors observable in each of the exercises, and also required them to observe and rate a group of mock candidates.

The assessment center was operated at the Bureau of Engraving and Printing, with each team of 2 assessors observing and rating a group of 6 candidates for a period of a half day (8:30–12:30). The candidates returned to their jobs in the afternoon, while the team of assessors developed an assessment center report for each of the candidates. This program was designed to use three teams of assessors to observe and evaluate 18 candidates per day.

Results

The results of the overall assessment center scores for the 82 candidates indicate the process was able to differentiate among the candidates in terms of their skills and abilities to perform job-related tasks.

Categorically, a total of 12 (14.6%) scored high, 52 (63.4%) scored satisfactorily, and 18 (22%) scored low. The final selection of candidates for the program indicates the assessment center results had a considerable impact on the selection panel's decision.

In addition to its value in the selection process, one of the features of the assessment center was that the evaluation reports were used in feedback and counseling sessions for each of the candidates. Every person was given a summary of his/her strengths and weaknesses as observed in the assessment center. This information can form the basis of further developmental efforts.

Post-assessment surveys were administered to assessors and candidates. Generally, they elicited a favorable response to the total assessment center process.

More Information

Details of the program can be obtained from a Technical Memorandum published by PRDC titled "An Overview of the Upward Mobility Assessment Center for the Bureau of Engraving and Printing," written by Dale Baker and Hardy Hall, or by contacting Kenneth Kalscheur, coordinator of the Bureau of Engraving and Printing's Upward Mobility Program (964–7218). #

INTERGOVERNMENTAL PERSPECTIVES

Although a successful campaign can transform the novice politician into a Governor or county commissioner, it does not necessarily prepare him or her adequately for this transformation. As a result, newly elected officials are often stymied by the transition they must make virtually overnight.

Freshman officials must become familiar with the basics of government, while both they and their veteran colleagues must confront an increasingly complex array of problems. For these reasons, IPA funds are being used across the country to support training programs for elected officials.

Governors and Legislators

At the State level, both Governors and State legislators have participated in IPA training programs. A series of Seminars for Governors-Elect has been developed and conducted by the National Governors' Conference to help new Governors organize their offices and to give them some early, nonpartisan advice on management and executive-legislative, Federal-State, and press relations. The National Governors' Conference has also published *The Critical Hundred Days,* a transition manual for new Governors, with IPA assistance.

States as distant as New Hampshire and Alaska have used IPA funds to run training programs for State legislators. In Fiscal Year 1975 alone, three States conducted training for this target group. Minnesota ran a joint session of the legislature on problems the State will face in the next two decades. New Hampshire conducted training in parliamentary procedures and briefings on various State departments. And Delaware sponsored both orientation for freshman legislators and training for all members of the legislature in the appropriations process, legislative procedures, and collective bargaining in the public sector.

In previous years, IPA has funded the following projects involving State legislatures: in Alaska, training in computer auditing and statistical sampling for the Division of Legislative Audit; in Maryland, training in public labor-management relations for State legislators; in Illinois, specialized training for the legislative fiscal staff and general orientation for new legislators; in Montana, an open hearing on new classification and collective bargaining bills for legislators and key labor and management officials; in Washington, internship programs in both the State Senate and House; and in California, training in parliamentary procedures and government structures for newly elected legislators. The California legislature now supports this effort with its own funds.

Members and staff of State legislatures throughout the country have also benefited from training funded by a national IPA grant awarded jointly to the National Legislative Conference and the Council of State Governments. This was a two-part project involving a seminar on State-Federal issues and a training program on legislative presession conference and legislative orientation and training.

Elected Local Officials

With IPA assistance, two organizations conducted training throughout the country for elected city officials in FY 1975. The National League of Cities ran a series of Policy Leaders Seminars for City Council Members, and the Joint Center for Political Studies administered training for newly elected mayors and city council members from smaller, disadvantaged communities.

On the local level, IPA grants have been involved in the following training projects for elected and appointed municipal officials: in West Virginia, publication of a handbook on responsibilities and authorities of mayors as set forth in the State Code; in California, orientation for new city officials; in Pennsylvania, training in supervision and labor relations for nearly 250 municipal officials; and in South Dakota, training in such topics as parliamentary procedure in intergovernmental relations.

In Arizona and Iowa, State associations of counties conducted orientation programs for newly elected county officials with IPA assistance; and in Michigan, the State association of counties and the State university cosponsored seminars in financial management and county budgeting for newly elected county commissioners.

On the national level, the IPA-funded management development service to counties in several States, administered by the National Association of Counties, included training and technical assistance for elected county officials.

At many IPA-funded training courses, elected officials from both State and local jurisdictions participate together. Such courses have included training in communications and decisionmaking offered by the University of California at San Diego, fiscal management training by the State of West Virginia Tax Department, and management training for local officials by the State of North Carolina and the University of Texas at Austin's LBJ School of Public Affairs. In addition, Cornell University's New York State School of Industrial and Labor Relations has published a series of manuals on local legislative duties and local budgeting.

Through its funding of the National Training and Development Service, the IPA is involved in training that cuts across jurisdictional lines. NTDS makes training in a wide variety of subjects available to elected officials in State, county, and municipal government.

IPA training helps both freshman and veteran elected officials to be better prepared to meet their policymaking and management responsibilities. The increasing activities in this area indicate the need for continuing education of elected officials.

—Susan Tejada

A Worthwhile Investment

Fiscal Year 1975 Federal Incentive Awards program results show that the Government received a return of $1 for every 11 and a half cents paid in awards to employees. In all, over $216 million in measurable benefits to the Government were realized through the program during the year—a better than 10 percent increase over Fiscal Year 1974 savings.

Add to this the almost $4 billion in tangible benefits that have resulted from employee contributions beyond job responsibilities in the previous 20 years that the program has been in operation and there is little doubt that the Federal Incentive Awards program continues to make a substantial contribution to cost reduction in Government.

In addition to these tangible benefits, employee ideas, inventions, and other achievements have helped conserve our natural resources, advance medical science and scientific exploration, and contribute to our national security. From the many noteworthy employee contributions made during the fiscal year the following examples illustrate the wide variety of contributions for which employees are recognized.

☐Twenty-three forestry technicians, detailed to the Bankhead National Forest following a devastating tornado, worked under emergency conditions to prepare over 12 million board feet of damaged timber for sale in one month, saving the Government approximately $117,584.

☐An audiologist with the Bio-Acoustics Division of the U.S. Army's Environmental Hygiene Division designed a device to insure the correct fitting of earplugs. This contribution will save the Government millions of dollars annually in compensation for hearing loss disability.

☐A criminal investigator with the Drug Enforcement Administration, Department of Justice, without regard for his own life, braved gunfire from several sources in order to drag another agent to safety. The agent received a special award for exceptional heroism.

☐Forty-five employees assigned to the Naval Ship Weapon Systems Engineering Station, Port Hueneme, Calif., developed transfer equipment for underway replenishment of ships at sea so that this inherently hazardous operation could be accomplished as quickly and safely as possible. These employees saved an estimated $6,552,000 and played a vital role in keeping naval forces combat-ready.

Facts and Figures

Achievements 1975 is a comprehensive report by the Commission's Office of Incentive Systems on Federal Incentive Awards program results during FY 1975. Some interesting highlights from this publication include the following:

☐ Employee *performance* contributions with measurable benefits produced an average saving of $15,018 each.

☐ Adopted employee *suggestions* with measurable benefits produced an average saving of $7,531 each.

☐ One out of every four eligible suggestions submitted was adopted.

☐ One out of every eleven employees was recognized for a contribution beyond job responsibilities.

Commission Initiatives Toward Program Improvement

During Fiscal Year 1975, constructive agency comments assisted the Civil Service Commission in the development of guidance and training materials to improve Incentive Awards program effectiveness.

Included were evaluation guidelines for agency use in strengthening their programs; orientation and training materials to improve the first-line supervisor's understanding of how to use incentive awards effectively; and a survey of honorary awards in Government to assist agencies in policy decisions concerning this type of recognition. In addition, agreement was reached with seven departments and agencies to participate in an FY 1976 pilot test of a higher awards scale for contributions with tangible benefits, to determine whether the results—in terms of the quality of employee contributions and the overall benefits—would support a change in Civil Service Commission guidelines.

Presidential Cost Reduction Campaign

On May 6 President Ford announced a Cost Reduction Campaign to be conducted within the framework of the Federal Incentive Awards program. In announcing the campaign, President Ford requested that agencies encourage and recognize employees whose efforts result in significant cost savings. He asked that agency heads bring to his attention employee contributions that save the Government $5,000 or more so that he could add his congratulations and appreciation through a personal letter. During the first 8 months of the campaign, 761 employees in 26 agencies received Presidential recognition for contributions that saved the Government nearly $50.5 million.

Information on the Federal Incentive Awards Program

Limited quantities of the following informational

material on the Incentive Awards program are available from the Office of Incentive Systems, Room 3526, U.S. Civil Service Commission, Washington, D.C. 20415. Phone 632-5568/9 or code 101-25568/9. (Where a GPO catalog or stock number is indicated, bulk copies may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.)

☐ *Achievements 1975*—Report on FY 1975 results of the Federal Incentive Awards program.

☐ *Achievements 1954–74*—Report on FY 1974 results of the Federal Incentive Awards program, plus an overview of the program's 20-year results.

☐ *Introduction to the Federal Incentive Awards Program*—A handbook for Incentive Awards Program Administrators and others with program responsibilities. (Revised edition will be available early in 1976.)

☐ *Honorary Awards in the Federal Government*—A survey of the use of honor awards, designed for use by persons with policy-making responsibilities.

☐ *Fed Facts 1 on the Incentive Awards Program*—Useful for informing new employees and reminding others of the value of the program. Catalog no. CS 1.59: 1, price $1.

☐ *A Partnership in Creativity*—Explains the Presidential Cost Reduction Campaign and the Incentive Awards program.

☐ *A Supervisor's (15-Minute) Guide to the Federal Incentive Awards Program*—Provides information for supervisors concerning various types of cash and honorary awards and other forms of recognition. Stock no. 006–000–00848–8, price 45¢.

—Edith A. Stringer

SPOTLIGHT ON LABOR RELATIONS

Some 90 Labor Relations Officers from 46 Federal agencies and major field activities attended the sixth annual Collective Bargaining Symposium at the Federal Executive Institute in Charlottesville, Va. From its inception as a training course in 1970, the Symposium has evolved into a forum for labor relations executives to explore and discuss the latest developments in the program. Indicative of that evolution was the theme for this symposium, *"Federal Labor Relations: A Threshold Program."*

For openers, Tony Ingrassia, Director of CSC's Office of Labor-Management Relations, offered several observations on the current state of the program, notably: recent court involvement in Federal labor relations; the need for agencies to have improved technical competence on their labor relations staffs; signs that labor relations practitioners may be losing sight of the human aspects of the program in becoming immersed in legal technicalities; and concern over the impact of the broadened grievance/arbitration provisions of the Executive order (*Journal,* vol. 15, no. 4, p. 32) if managers do not approach the bargaining table and the arbitrator with extreme care, fully prepared.

Law Versus Order

The highlight of the conference was a debate on a subject that has, in recent months, received much attention—proposed labor-management legislation for the Federal sector. Attilio DiPasquale, Navy's Labor Relations Director, and Robert Hastings, Labor Relations Director of IRS, debated the relative merits of legislation v. the Executive order as a framework for the program. (These respective positions were argued for the sake of debate and do not necessarily reflect their own views or those of the administration.)

Both "advocates" directed their arguments primarily to the scope of bargaining and management rights. It was argued, for example, that neither management nor labor is ready to take on the job that would be required if the scope of bargaining were suddenly and dramatically expanded under a statutory framework. On the other hand, it was countered that an Executive order framework with a narrower scope of bargaining diverts and focuses union pressure and demands into the vital areas of management rights.

In concluding this debate, Mr. Ingrassia framed the broader question: "How do we reconcile the differences between the public and private sectors—namely, the ways in which politics tend to make negotiations in the public sector "multilateral" instead of "bilateral" with different branches of government involved along with differing public and political pressures? And, how will the public interest be protected at the bargaining table?"

Shortcuts in Arbitration

Since arbitration, the terminal step in a negotiated grievance procedure, has become more and more costly, the labor relations community has been exploring and experimenting with alternatives more and more frequently. Expedited arbitration, for example, is a comparatively recent innovation pioneered in the steel industry.

According to Anthony St. John, Manager of Labor Relations for Bethlehem Steel Corporation, expedited arbitration evolved out of necessity—the mother of all invention. Grievances in the steel industry were taking 2 to 3 years to process through the negotiated procedure and full-scale arbitration. Faced with a growing backlog of grievances, steel management and steel labor both recognized the need for some alternative to the traditional grievance-arbitration process.

Expedited arbitration in the steel industry is confined to individual-case grievances, as distinguished from basic-policy disputes that the parties reserve for full-scale grievance arbitration. Before expedited arbitration can be invoked, the parties must agree that the grievance involves only a factual dispute and not a novel contract interpretation. As practiced in the steel industry, grievances going the expedited route usually involve short-term discipline, overtime assignment, and simple seniority questions. Expedited arbitration follows procedural shortcuts that facilitate and economize the processing and resolution of the grievance: the hearing is informal, no briefs are filed, no transcripts of the proceedings are made, and the arbitrator is given 48 hours in which to render the award.

The results have been impressive. The average time in processing a grievance under expedited arbitration has been reduced from 2½ years to 2½ months. The cost of arbitration has been pared substantially—from $1,600 for a full-scale arbitration case to around $70 for "mini-arbitration"; and the backlog of cases has been cut from 1,500 down to 250. These results have been achieved since the parties adopted expedited arbitration in the March 1973 "Experimental Negotiating Agreement" in basic steel, which also featured a no-strike, no-lockout pledge for its duration.

Another alternative to traditional arbitration is the use of a permanent panel of arbitrators, as reported by Irv DesRoches, Chief Negotiator for the Internal Revenue Service. By using a permanent panel of arbitrators, IRS hopes to build up a core of expertise and thereby familiarize the arbitrators with government procedures. The National Treasury Employees Union sees this as a way to expedite the arbitration process by eliminating the need to request a new panel of arbitrators every time a grievance is elevated to arbitration.

Whatever the approach taken, the labor relations executives were agreed on the need to explore measures aimed at cost reduction while keeping in mind that justice delayed is justice denied.

Future Developments

Another area of emphasis was the possible impact that recent revisions to Section 13 of the Executive order (*Journal*, supra, p. 31) will have on higher level agency regulations.

To avert possible conflicts in this matter, the Labor Relations Officers noted that arbitrators, through appropriate negotiated language, can be limited in their review to appropriate levels of authority in interpreting and applying the agreement. On a related point, the conferees were near-unanimous in their agreement with respect to the need to locate, train, and retain personnel with skills in labor-management relations. A common thread ran through all the suggestions—that labor relations specialists have strong personnel backgrounds. This is essential because labor-management relations is not a program in isolation, but touches all areas of personnel administration.

Federal labor relations specialists will focus on two major areas in the immediate future: proposed labor legislation, and the implementation of the new amendments to E.O. 11491. Regardless of the specific direction the labor relations program may take, it is clear that collective bargaining is becoming a fact of life for Federal managers and that the need to develop the capabilities to manage in a collective-bargaining environment is becoming paramount.

—Robert E. Spycher

WORTH NOTING (CONT.)

and a Professional/Administrative/Managerial/Executive Service.

—The Clerical/Technical Service should be paid local or other geographical rates.

—Merit, rather than length of service, should be the principal basis for within-grade pay advancement for employees in the Professional/Administrative/Managerial/Executive Service.

☐ CLASSIFICATION AFFECTED. The U.S. Civil Service Commission announced two decisions affecting the program for classifying Federal white-collar jobs.

The Commission announced (1) approval of a plan to implement a new method for classifying nonsupervisory white-collar jobs in grades GS-1 ($5,559) through GS-15 ($31,309) and (2) approval to consult with Federal agencies and unions on the development of a Classification Standards Advisory Board.

(1) Factor Evaluation System—The new method of classifying, called the Factor Evaluation System (FES), provides a classification standards approach and format that describes and evaluates occupations in terms of factors, factor levels, and benchmarks, with point-rating used as an aid to evaluating and grading individual jobs.

Tests of the new system call for a review of all important factors in a given job, as contrasted with the present concept of classification of the "whole" job. The factors to be evaluated are knowledges required by the job, supervisory controls, purpose of contacts, physical requirements, and work environment.

Then a quantification or point rating is performed from which grade ratings are eventually derived.

(2) Advisory Board—The proposed Advisory Board would have an equal number of agency and union members and would be chaired by a CSC official. Agency members would represent both large and small agencies, and union members would represent labor organizations with a nationwide representation of GS employees, those affiliated with AFL-CIO and independent unions.

☐ EMPLOYMENT OF WOMEN ADVANCES. Women employed in full-time white-collar jobs in the Federal Government increased by 38,843 in the year ended October 31, 1974, the U.S. Civil Service Commission has reported.

This advance continued the trend of recent years in which the goal of equal opportunity for women has been given Government-wide emphasis through the Federal Women's Program. The current emphasis on assuring consideration of women for employment in higher level positions and observance of International Women's Year should assure continuation of the trend.

The Commission's October 1974 survey showed that women represented 61 percent of the overall net increase of 63,677 in Federal white-collar jobs in the 1-year period, raising their representation in that work force by nearly 1 percent—from 34.0 in October 1973 to 34.9 a year later. The number of jobs held by men increased by only 24,834.

☐ DISCIPLINARY ACTIONS ON MERIT VIOLATIONS STOP. The U.S. Civil Service Commission has withdrawn charges against 10 employees of the General Services Administration, the Department of Housing and Urban Development, and the Small Business Administration in cases in which disciplinary actions had been proposed for alleged violations of merit staffing requirements.

The Commission will take steps to correct deficiencies in present provisions that have made it impracticable for the Commission to carry out the disciplinary actions proposed as a result of its investigations of merit system abuses in the agencies.

Decisions of the Administrative Law Judge and the Appeals Review Board in cases already decided made it clear that the Commission could not successfully prosecute the remaining cases because, among other reasons, of the construction that the ALJ and ARB placed upon the principal enforcement authority the Commission relied on in bringing charges. Therefore, on the advice of the Commission's General Counsel, the charges were withdrawn in the remaining cases.

The Commission recently announced an inquiry into examining and staffing practices. The Commission is of the view that such inquiry will, in addition to bringing forth the facts as to examining and staffing practices, serve as a base for needed definitional and regulatory changes clearly spelling out prohibited and permissible conduct.

In addition to taking actions to buttress its enforcement authority, the Commission will also develop an improved procedure for enforcement of disciplinary actions to avoid complicated, time-consuming processes in any future cases of this kind. Further, to assure full understanding of merit staffing requirements, the Commission will spell out in more detail the kinds of practices that may or may not be proper.

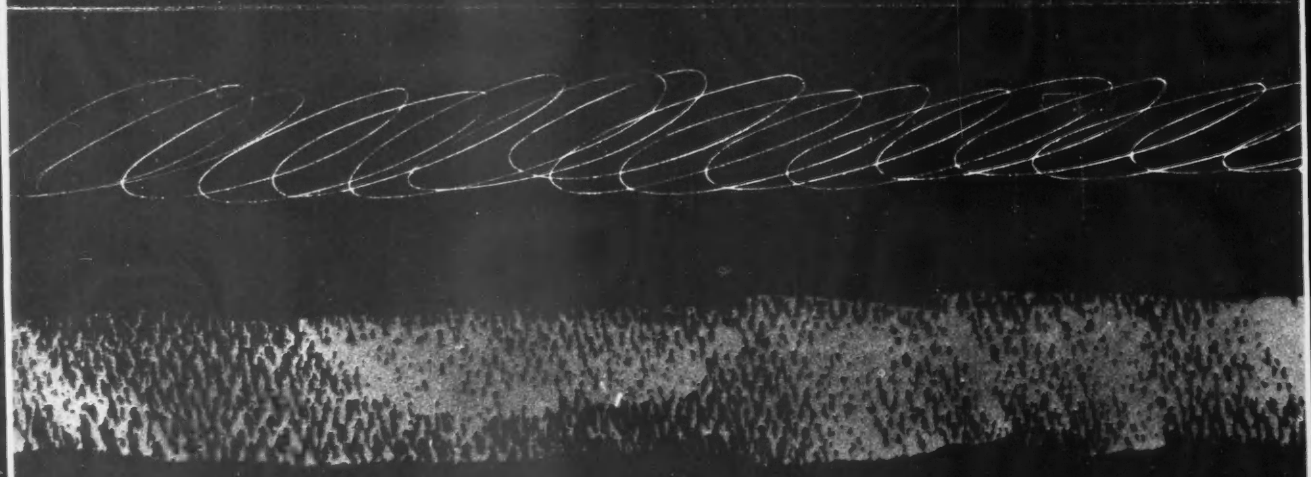
☐ $216.4 MILLION IN INCENTIVE AWARDS. Federal employees' cost-saving ideas and achievements beyond job responsibility during Fiscal Year 1975 saved the Government $216.4 million.

Over 180 thousand Federal employees were recognized for adopted suggestions that resulted in benefits of $136.8 million and for special achievements that netted benefits of $79.6 million, an overall increase of 10 percent over the previous year. In addition to these significant savings, employee contributions represent a variety of scientific advances, medical achievements, and improved services to the public that cannot be measured.

☐ NEW FLRC REGULATIONS. Only a limited number of agency policies and regulations may now be raised as a bar to negotiations under E.O. 11491, as amended. Policies and regulations for which a compelling need exists and which are issued at the headquarters or primary national subdivision level will be permitted, but no others. Illustrative criteria for determining "compelling need" are identified in new regulations recently published by the Federal Labor Relations Council.

☐ JOURNAL READERS SURVEYED. Over 500 *Journal* readers have been surveyed to determine whether the magazine is meeting their needs (112, or 21 percent, responded). About 80 percent of the respondents replied affirmatively. Readers told us that they would like to continue seeing general management and "how-to" articles, and we are modifying our editorial content and policies to be more responsive to the needs expressed in the survey.

—Ed Staples



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