



United States
Department of
Agriculture

Forest Service

Pacific Southwest
Region

January 2004



4th Semi-Annual Report
Reporting Period: June 30, 2003 to December 31, 2003

**USDA-FS Region Five's Women's
Settlement Agreement**
(Donnelly vs. Veneman)

January 6, 2004

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**United States
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**Forest
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Women's Settlement Agreement

To: Judith Rosenberg, Monitoring Council Chair

Enclosed is the Fourth Semi-Annual Report of Region 5's progress implementing the relief provisions of the Women's Settlement Agreement (*Donnelly vs. Veneman*). We have continued to make progress in implementing the Settlement Agreement.

Our goal is to evaluate and assess our program effectiveness and communicate those results to the Monitoring Council while maintaining our focus on implementation for results.

If you have any questions regarding this report, please contact Vicki Jackson. We look forward to discussing the Fourth Semi-Annual Report with you later this month.

JACK A. BLACKWELL
Regional Forester

1.0 EXECUTIVE SUMMARY

THE REPORT

The Fourth Semi-Annual Report provides the Monitoring Council (MC) with a summary and evaluation of accomplishments for the period of June 30, 2003, to December 31, 2003. This report focuses on key accomplishments, issues, and mitigation strategies planned and undertaken in each of the eight relief provisions as well as six additional areas. The required relief provision areas are: Early Intervention Program; Exit Interviews; Misconduct Investigation Procedures; Prevention of Sexual Harassment Training; The Informal Equal Employment Opportunity (EEO) Process; Mentoring Program; Scholarships; and Positive Incentives and Civil Rights Performance. The additional reporting areas include: 1) Performance Evaluation; 2) Adverse Action Digest; 3) Women's Conference; 4) Advance Advertisement of Work Details; 5) Record-keeping and Reports, and 6) Individual Relief for Class Complaints.

The report also includes two internal appendices in Section 18, which include a list of Acronyms and Cumulative Accomplishments. Section 19 is a list of external appendices including the Cumulative Settlement Agreement Implementation Plan.

THE ACCOMPLISHMENTS

Selected accomplishments from the Fourth Semi-Annual Report are highlighted in this section.

❖ Settlement Agreement Staff

- The Washington Office approved the Settlement Agreement Staff organization July 03, 2003. The new director will report February 8, 2004.

❖ Early Intervention Program (EIP)

- Region 5 (R5) selected a permanent manager for the EIP on September 7, 2003. The Program Manager has temporary assistance pending recruiting and filling of permanent staff positions.
- Eighty-two new cases were brought to EIP during the period. Thirty-eight cases were already in the pipeline for a total of 120 active cases during the period. The Region proceeded to mediation/facilitated discussion on 46 cases. Eighty-seven percent of the cases or 40 cases went to mediation resulted in resolution. Two employees were temporarily assigned to the EIP Office to help with more timely and consistent case management.
- The number of managers agreeing to participate in mediation of EEO complaints rose significantly during this reporting period. Between April 1, 2003, and September 30, 2003, R5 agreed to mediate 88% of informal complaints (16 of 18).
- EIP instituted three policy changes to improve program performance: 1) Responding officials are not present during mediation; 2) Roles of the agency

representative and technical representative are separated; and 3) Formal training for responding officials is required.

❖ **Performance Evaluations**

- The Regional Forester (RF) issued a letter requesting input from all units, staff directors, and the MC on Regional Leadership Forum (RLF) performance September 16, 2003. A checklist was enclosed that incorporated performance evaluation clarification and supplemental standards. The RF used the input that was subsequently provided during annual performance evaluations of the RLF.
- Five management officials received disciplinary action for failure to take appropriate and timely supervisory action in response to allegations of sexual harassment/discrimination. Two of the management officials were RLF members.

❖ **Exit Interviews**

- During this reporting period, 72% of the 896 departing employees returned Form AD-139. This is an increase of 32.1% since the last reporting period. This reporting period includes third and fourth quarter data for FY 2003.
- There was a 4% increase in the use of the program during this reporting period.
- The RF issued a letter to Forest Leadership and Forest Civil Rights Officer (FCROs) on August 14, 2003, which provided direction and reporting schedules for capturing Exit Interview data, assessing findings, and providing summaries to the Regional Office of Civil Rights (CR) for consolidation, documentation, and reporting.
- The Exit Interview Directives were modified in August 2003 to include program update changes that identify all staff level responsibilities, as reflected in the Forest Service Handbook (FSH) 6109.12, Chapter 29 (see Appendix B.4, pages B-10 to B-13).
- Regional Office CR staff reviewed the automated Exit Interview Program with National Federation of Federal Employees (NFFE) leadership. NFFE assessed the data retrieval capabilities, and agreed to support Exit Interview Program. NFFE provided R5 with written concurrence on September 16, 2003, to proceed with implementation of the automated database.
- Unit FCROs and Regional Office CR staff drafted the Exit Interview Standard Operating Procedures (SOPs) and held a training workshop on October 23, 2003.
- Beta testing of the automated Exit Interview Program was completed in October 2003. FCROs have begun to enter data.

❖ **Misconduct Investigations (MI)**

- R5 appointed a fulltime Regional MI Program Manager in September 2003.

- Disciplinary actions taken this reporting period related to sexual harassment include: one 30-day suspension; three to 30-day suspensions for ten supervisors; Letters of Warning issued to 15 non-supervisory employees; and a decision not to rehire a temporary employee.
- Fact-Finding Training for Forest Supervisors, Deputy Forest Supervisors, HR Officers (HROs), the Employee Relations specialists, and FCROs was developed this reporting period with training scheduled in March 2004.

❖ **Training**

- Annual mandatory Prevention of Sexual Harassment (POSH) training was delivered to 100% of the Region's 8,000 employees (April through December 2003) by Anderson-Davis, Inc. A standard assessment evaluation form was used to gather and summarize participant information from each training session.
- In July 2003, R5 developed a tailored One-On-One Specialized POSH training in for employees who have engaged in acts of sexual harassment and/or reprisal/retaliation, or for any manager or supervisor failing to take prompt and appropriate action.
- In September 2003 One-On-One Specialized POSH training began with 20 employees (10 from last reporting period, 10 from this reporting period) identified from the Adverse Action Digest (AAD) receiving two hours of specialized training.
- R5 established a database in November 2003 to identify persons who have completed specialized training. This system will allow R5 to identify repeat offenders of sexual harassment and/or retaliation.

❖ **The Informal Equal Employment Opportunity (EEO) Process**

- The non-EEO portion of the EIP remains expedient and continues to maintain a high rate of successful resolutions. The average number of days from the request for mediation to mediation completion is 18.6, and the resolution rate for non-EEO cases is 92%. The average number of days from the request for mediation to mediation completion decreased to 15.2 during the last quarter of FY 2003 reflecting a 18.3% improvement. All requests for early intervention of non-EEO issues continue to be handled by the Creative Conflict Resolution Enterprise Team, which schedules mediations and either conducts these mediations or assigns them to contract mediators.
- Between April 1, 2003, and September 30, 2003, there were 39 mediations or group problem-solving sessions conducted on non-EEO cases. Of those, 37 resulted in resolution agreements. As of September 30, 2003, three non-EEO cases were pending mediation.
- Between April and September 2003, the Employee Complaints Program (ECP) Office referred 18 informal EEO cases to the EIP Office for mediation. Seven of those cases were mediated, and three resolutions resulted. Ten of the 18 informal cases were retaliation complaints. Two of these cases were withdrawn, and three

were mediated during this reporting period. One of the mediations resulted in resolution.

- As a follow up the Associate RF issued a letter in September 2003 to all managers strongly encouraging them to respond to the satisfaction surveys if they were involved in the Informal EEO Process.
- Effective October 15, 2003, Complainants and managers are contacted by telephone and asked to provide verbal responses to survey questions, as a pilot project of the Vallejo ECP. The pilot project is designed to test whether phone calls are a more effective method of contact because many of the National Forest (NFs) are in remote locations.
- The response rate for Complainants increased from 12.9% to 18% during the reporting period based on survey analysis.
- The letter documenting the written withdrawal procedure was revised in July 2003 to include the reasons for withdrawals this should improve information tracking. Since July 2003, EEO Counselors have been sending a "second" withdrawal letter if written confirmation is not received within 10 calendar days.
- R5 used information from the database to create the first report analyzing HRO data for the period July 2003 to September 2003, and provided this report to the MC on November 10, 2003, in response to Request #03-0053.

❖ **Mentoring Program**

- The call letter offering the Mentoring Program was issued on August 29, 2003, with NFFE concurrence.
- Orientation was held on October 27, 2003, and the Design Team assisted in the final matching of mentors and mentees on November 6, 2003. Thirty-nine (39) mentor/mentee matches were made.
- Two formal training sessions were conducted from November 12 – 14, 2003, and from December 3 – 5, 2003 to develop Mentoring Agreements and Action Plans.

❖ **Scholarship Program**

- R5 granted additional FY 2003 scholarship funds in July 2003 to mitigate conflicts that employees experience with changes in course offerings, and job changes. This supplemental allocation allowed an additional \$15,087 in funding to be offered to 11 employees.
- R5 awarded \$115,900 in scholarships for FY 2004 to help ensure that at least \$100,000 would actually be spent by recipients. Funding is used to pay for tuition, books, lab fees, travel, and per diem expenses.

❖ **Adverse Action Digest**

- The AAD covering the third and fourth quarters of FY 2003 was distributed to the MC and all R5 employees on October 8, 2003.

- For this reporting period, there were no actions reported based on reprisal.
- On October 8, 2003, a letter signed by the RF was sent to all Forest Supervisors and Directors, directing them to use the AAD during all trainings and orientations with employees and to ensure that the AAD is well publicized on their Forests and Provinces in hard copy form as well as via the Forest Service (FS) Intranet.

❖ **Women's Conference**

- The 2003 Women's Conference was held at the Hyatt Regency Hotel in downtown Sacramento October 28 – 30, 2003. Training tracks in divided Career Development, Communications and Interpersonal Relations, Work/Life Balance, and Continuing Education/Professional Development.
- Forest ambassadors supported and marketed the Conference. This approach was highly effective and doubled the number of people who attended the 2003 Conference from the number in 2002.
- Agency and Department leadership were well represented at the Conference by the Chief of the National Forest System, the Associate Chief, the Deputy Chief for Business Operations, the CR Director, the USDA Assistant Secretary for CR, and the USDA Office of the General Council (OGC) Chief Counsel. The RLF met concurrently in the Hyatt Regency Hotel on October 29 and 30, 2003. Many members of the Regional Leadership Team attended sessions throughout the Conference.

❖ **Advance Advertisement of Work Details (AAWD)**

- R5 streamlined the process for accessing and using the AAWD database and updated and expanded information requested in the Manager's Request to Advertise Detail Opportunity questionnaire to ensure that more complete information is included in the outreach notice.
- R5 implemented a new policy (see Appendix H.2, page H-2) requiring the servicing HR staff to post outreach notices in the FS Outreach Notice Database within two working days of receiving a completed advertisement request from a manager.
- The Applicant Flow System (AFS) was used to provide an automated applicant-tracking program that captures applicant pool data for announced vacancies. On October 1, 2003, this replaced the team room for archiving applicant pool gender information. AFS will now provide more accessible data and reports for monitoring purposes.
- During this reporting period, there were 100 actions longer than 89 days, and 274 actions 89 days or less. From June 1, 2003, through October 18, 2003, there were a total of 374 temporary promotions or details. They were all advertised appropriately.

❖ Positive Incentives and Civil Rights Performance

- The Regional Office CR staff developed a draft proposal for an annual R5 Civil Rights Award in September 2003, which featured nominations from each Unit and two Regional awards—supervisory and non-supervisory—to recognize exceptional performance related to civil rights.
- In September 2003, Regional Office CR staff collaborated with HR to review selections for the Multicultural Award and EEO/Affirmative Action Award.
- The RF solicited Civil Rights accomplishments, from Forest Supervisors and Staff Directors in a memorandum on September 11, 2003. The memorandum noted that greater emphasis would be placed on supplemental standards in the year-end performance review.
- In October 2003, Regional Office CR staff provided an evaluative summary on civil rights performance to the RF for inclusion in the formal year-end performance reviews of the RFs Team. This practice strengthens accountability for civil rights accomplishments and acknowledges superior performance.
- During this reporting period, a data form for entry of civil rights information into a database system was developed and piloted.

❖ Individual Relief for Class Complaints

- Eight cases remain outstanding out of 63 total cases, seven of which are pending hearings by the EEOC District Office Administrative Judge.

THE SCORECARD

The scorecard, first instituted in the Third Semi-Annual Report (July 2003), was developed to assist with tracking the performance and monitoring the status of accomplishments against each of the injunctive relief provisions in the Women's Settlement Agreement (WSA). In the performance scorecard, a “red light” indicates that little to no progress has been made toward goal accomplishment, a “yellow light” indicates partial implementation and that progress toward successful completion is occurring, and a “green light” indicates on- or ahead-of-schedule performance toward successful completion. The scorecard (see Table 1-1) rates each Injunctive Relief Provision (IRP) by Plan, Approach, Deployment, Evaluation, and Results. The current status of each provisional and sub-provisional area is evaluated against the accomplishments and end results expected from successfully implementing the provisions of the WSA.

Table 1-1: Overall Performance Scorecard for Each Injunctive Relief Provision Area

Injunctive Relief Provision Area	4 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
Early Intervention Program Overall Performance	G	G	G	G	Y	Major progress during this reporting period, overall program administration is improving; the program has adapted to meet increased workload.
Performance Evaluation Overall Performance	G	G	G	Y	Y	R5 has implemented new elements and standards to hold employees accountable for their actions. Existing MOU with NFFE prohibits the Agency from implementing the provisions for bargaining unit employees covered by the MLA.
Exit Interview Overall Performance	G	Y	G	Y	Y	Program has been implemented and use is increasing. SOP's are helping with consistency across all units. Automated version will provide multi-level monitoring Data collection limitations continue. Continuous improvement in the approach. Too early to evaluate.
Misconduct Investigation Procedures Overall Performance	G	Y	G	Y	Y	Many provisions are being fulfilled, review and revision of several provisions is planned to get them on track.
Prevention of Sexual Harassment Training Overall Performance	G	G	G	G	G	92% of the targeted 8,000 employees have received the annual mandatory POSH training. R5 has developed a tailored and consistent One-On-One Specialized POSH Training.
The Informal Equal Employment Opportunity Process Overall Performance	G	G	G	G	Y	Significant improvement in the last two years. Due to revisions to the ADR/EIP election process and greater collaborative efforts between the ECP and EIP staffs, the resolution rate has improved.
Mentoring Program Overall Performance	G	G	G	Y	Y	The program has an excellent start and is well received by the workforce. The on-line evaluation component is making program oversight efficient.
Scholarships Overall Performance	G	G	G	G	G	R5 has granted in excess of \$100,000 per year and women are receiving scholarships proportionate with their representation in the applicant pool.
Adverse Action Digest Overall Performance	G	G	G	G	G	R5 has complied with and exceed the provisions outlined in the Settlement Agreement.
Women's Conference Overall Performance	G	G	G	Y	Y	Approximately 400 people attended the October 2003 Women's Conference. Evaluation is occurring now, and results will be submitted in the Fifth Semi-Annual Report. The intent of the Settlement Agreement is being met, and plans are in place for the 2004 conference.
AAWD Overall Performance	G	G	G	G	G	This policy/process is now well understood in R5 and is being followed.
Positive Incentives and Civil Rights Performance Overall Performance	G	G	G	Y	R	R5 has deployed a Civil Rights incentives program and is encouraging it use at multiple levels.

THE CONCLUSIONS

R5 remains committed to the full implementation of the WSA, as evidenced by the dedicated leadership from the Washington Office and within R5, and by the significant number of key accomplishments to date in each of the provision areas. With this report, R5 has enhanced its focus on and commitment to program deployment, evaluation and results in each provisional area. This report clearly defines R5's understanding of each provisional area, its role in implementing those provisions. Future implementation actions have been clearly defined for each provisional area, in addition to the clean definition of expected end results. Through participation in this effort, Program Managers, functional area managers, and Regional and national leadership have taken ownership and will be held accountable for oversight and successful implementation of the Agreement. The Regional Forester has unequivocally stated that this Agreement is a high priority for R5. The Region has also focused on providing timely and insightful responses to all MC recommendations, which currently number 33 in total. Each future report will provide enhanced visibility of the accomplishments, issues, and mitigation strategies for the reporting period, as well as an updated implementation plan. Each report will provide a performance scorecard that reiterates R5's emphasis and progress toward data-driven program management, deployment, and evaluation. R5 looks forward to continuous improvement and accomplishment of the ultimate objective of this Agreement, which is to establish a work environment for all employees that is free of sexual harassment and retaliation, and that promotes fair and equitable opportunities and treatment for R5 employees.

2.0 INTRODUCTION

The Fourth Semi-Annual Report covers the period beginning July 1, 2003, and ending December 31, 2003. The report is divided into eighteen sections accompanied by external appendices. Section 1.0 provides an executive-level summary of the report that highlights the key accomplishments for the reporting period. A high-level roll-up of the performance scorecard for each provision is also provided. Section 2 provides the introduction to the report followed by an overview of Leadership, Management, and Evaluation in Section 3.0.

Sections 4 through 17 report on the effectiveness of actions taken by R5 during this reporting period to implement each provisional area of the WSA and the relevant Monitoring Council (MC) recommendations. For each area, the provision and the relevant recommendations that are not confidential are outlined, background on the provision and R5's approach to addressing the provision are discussed, and a summary of key activities and accomplishments for the reporting period is provided. A performance scorecard and action plan for each of the provisional areas are also included.

The scorecard, which was first instituted in the Third Semi-Annual Report (July 2003), was developed to assist with tracking the performance and monitoring the status of accomplishments against each of the injunctive relief provisions in the WSA. In this report, the scorecard system has been enhanced. A "red light" indicates that little to no progress has been made toward goal accomplishment, a "yellow light" indicates partial implementation and that progress toward successful completion is occurring, and a "green light" indicates on- or ahead-of- schedule performance toward successful completion. While the scorecard still utilizes a stop-light approach and provides a visual performance-based report card for executives, management, and the MC, it has been modified in its design to provide one performance score in each of the PADER[®] areas. The PADER[®] components remain as developed and trademarked by JJA CONSULTANTS. They are defined as: Plan, Approach, Deployment, Evaluation, and Results. The current status of each provisional and sub-provisional area is evaluated against the accomplishments and end results expected from successfully implementing the provisions of the WSA. A scorecard has also been added to evaluate R5's compliance with the relevant non-confidential MC recommendations.

An appendix of cumulative accomplishments has also been added to the report for this reporting period (see Section 18-B) and will be maintained for future reports. Section 19 lists external appendices, including the current WSA Implementation Plan.

This report continues the precedents established in the Third Semi-Annual Report. The WSA requires R5 to document progress semi-annually in each of the following eight provisional areas: Early Intervention Program (EIP), Exit Interviews, Misconduct Investigation Procedures, POSH Training, the Informal Equal Employment Opportunity (EEO) Process, Mentoring Program, Scholarships, and Positive Incentives and Civil Rights Performance. R5 has again elected to provide status reports on six additional areas that are also closely monitored, which far exceeds the reporting requirements of the WSA. The additional six areas covered in this report are Performance Evaluations, AAD, Women's Conference, AAWD, Record-keeping and Reports and Individual Relief for Class Member Complaints.

Feedback from the March 2003 Monitoring Council Report (MCR) regarding the design and content of the semi-annual reports has been taken into consideration. R5 has also used that feedback to strengthen Agency efforts to meet the requirements of the WSA. A Cumulative Implementation Plan was developed and is used to address ongoing actions designed to strengthen R5's implementation of the relief provisions. This Implementation Plan is included in Appendix M (External Appendices). Over the entire life of the WSA, the FS intends to continue to engage the MC in an open dialog to ensure that the Agency has the organization, policies, and resources necessary to carry out settlement provisions.

A team of regional Program Managers (PMs), selected members of Agency leadership, the WSA PMs, and two consulting firms, JJA CONSULTANTS, Inc. and North State Resources, Inc., developed this report collaboratively. This team was formed to establish a comprehensive, consistent design and process for semi-annual reporting. The PMs were each responsible for the content and analysis of the effectiveness of their respective programs, and they will continue to analyze their programs and report progress in future semi-annual reports. The Acting Administrator of Workplace Relations was responsible for overall report coordination with internal and external team members and Regional leadership. Regional leadership has reviewed this report and provided oversight for its structure and development. The Forest Service Washington Office Civil Rights (OCR) Director and the Deputy Chief for Business Operations also provided oversight for the structure and development of this report. Oversight and monitoring continue to play a key role in ensuring acceptable progress in implementing the Injunctive Relief Provisions covered in the WSA.

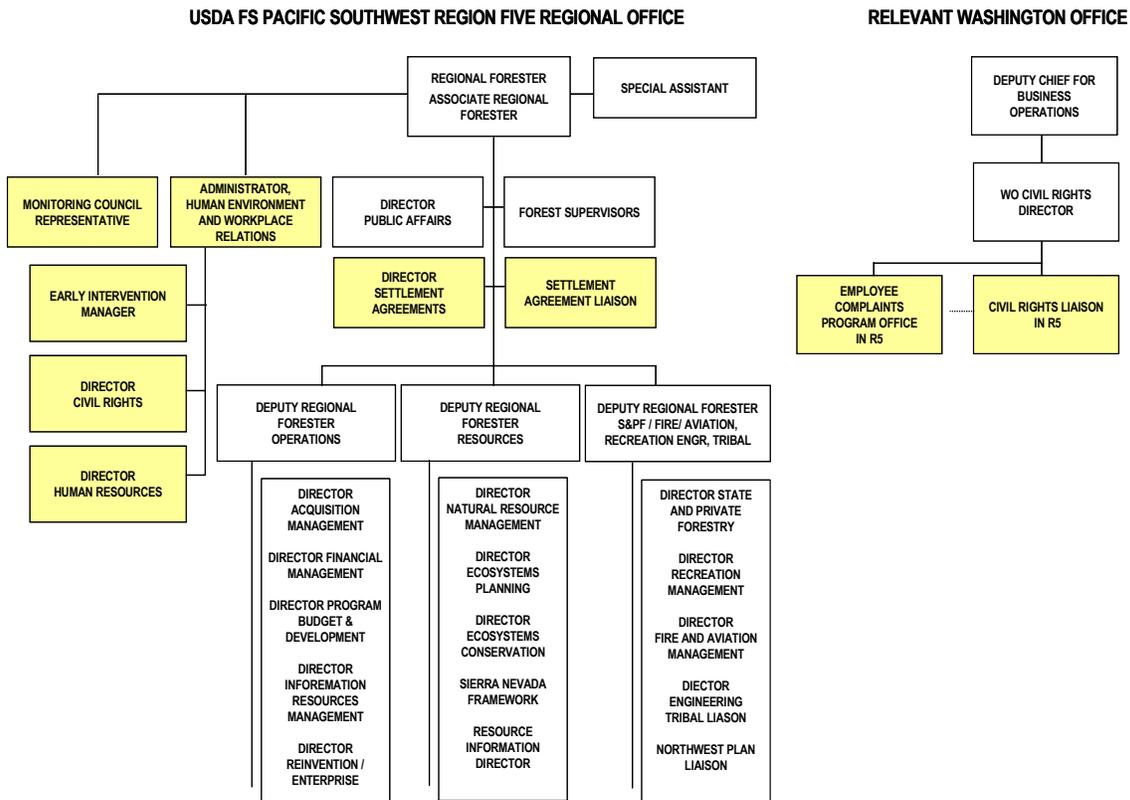
3.0 LEADERSHIP, MANAGEMENT, AND EVALUATION

RELEVANT PERSONNEL

Roles and responsibilities for implementing and monitoring R5's WSA were outlined at the inception of the WSA. The Chief approved the Settlement Agreement staff organization on July 3, 2003. The director of the SA will report on February 8, 2004. The Settlement Agreement Liaison Manager and other staff will be selected during the next reporting period. The new staff will greatly enhance the R5's ability to implement the SA. The proposed organizational structure for the Regional Office is presented in Figure 3-1. As shown, the Director, Settlement Agreements and associated staff, as well as the Settlement Agreement Liaison will report directly to the Regional Forester's Office.

The Regional Forester (RF) continues to set overall expectations for adherence to the provisions of the WSA. In addition, the RF personally initiates actions related to high-level issues that are brought to the RF's attention and responds to major media inquiries in person or through a spokesperson. The RF, through the Associate RF, leads overall implementation and is the focal point for communications on all non-litigation issues on behalf of the FS.

Figure 3-1: New Organizational Structure for Regional Office Related to the WSA



The Office of the RF conducts daily coordination meetings with a core team of management officials responsible for implementing the relief provisions. This management team includes the Administrator for Workplace Relations, HR Director, Acting CR Director, and EIP Manager. The purpose of these brief meetings is to communicate work priorities for the day, check work status, and discuss issues among functional areas. The meetings promote teamwork and help implement the relief provisions.

The HR Director, through Regional PMs, is responsible for the implementation of the following relief provisions: Performance Evaluations, Misconduct Investigation Procedures, Mentoring, Scholarships, the AAD, and AAWD.

The CR Director is responsible, through Regional PMs, for the implementation of the following relief provisions: Exit Interviews, POSH Training, and Positive Incentives and Civil Rights Performance. Specific changes in staffing relevant to the implementation of specific relief provisions are discussed in the appropriate provisional section(s) of this report.

The WO CR Director is the lead for Agency program oversight of the WSA. The WO Deputy Chief for Business Operations is responsible for overall Agency oversight of R5's implementation of the WSA. The WO Litigation Advisor coordinates official Agency responses on all issues between the WO and R5. The OCR Liaison, who reports to the OCR Director, is responsible for implementing the Informal EEO relief provision for R5.

The WO Deputy Chief for Business Operations, OCR Director, WO Litigation Advisor, WO-OGC, R5 OGC, the R5 RF's Office, and core management team continue meet monthly by teleconference to discuss WSA progress and issues. During this reporting period, a monitoring and oversight plan (see Appendix J) was developed to solidify and formalize roles, responsibilities, and relationships between the WO and Regional leadership who jointly provide oversight for the WSA. This plan also clarifies the types of oversight actions being performed by the WO to insure successful implementation of the WSA.

In September 2003 CR leaders from USDA and the WO visited R5 and were briefed on the WSA. Visitors included the new USDA Assistant Secretary for CR and the FS Director of CR. During the visit, the RF invited employees to participate in a listening forum at the McClellan Wildland Fire Training and Conference Center in Sacramento, California, so that R5 employees could engage in discussions with the Assistant Secretary. The letter of invitation and the discussion notes, which are posted on the World Wide Web, are provided in Appendix K. The USDA Assistant Secretary for CR continues to remain involved and stays updated on R5's activities. During this performance period, the Assistant Secretary conducted meetings with the Region that involved the FS Deputy Chief for Business Operations, FS Director of CR, and the OGC Chief Counsel. The Assistant Secretary also met with the MC.

In October 2003, the Assistant Secretary for CR attended the R5 Women's Conference, where he met with the Region's employees and gave presentations to Women's Conference participants and the attendees of the Regional Leadership Forum (RLF) to reinforce the USDA's commitment to civil rights and their support for the WSA activities in R5.

ONGOING INTERACTION WITH THE MONITORING COUNCIL

The RF and Associate RF meet formally with the MC on a quarterly basis to review the status of compliance and pending formal recommendations. The Agency has found these regularly occurring meetings with the MC to be highly productive.

The Associate RF meets weekly with the MC to discuss implementation issues. The RF occasionally meets alone with the MC chair. These meetings are informal and are intended to discuss information requests, recommendations, and other topics. Other impromptu meetings with MC members are frequent. The MC has direct access to the RF and Associate RF whenever necessary.

The relationship between MC members and the RF and Associate RF has been very positive. The MC has worked hard to bring WSA issues to R5's attention, which is greatly appreciated. In addition to formal communications, informal consultations have improved R5's ability to respond quickly and accurately to MC concerns. To that end, informal consultation has been established as a norm for the Acting Administrator of Workplace Relations, Staff Directors, and the PMs who have specific responsibilities for the individual provisions in the WSA. R5 believes that timely and continuous informal consultation is the key to successful implementation of the WSA.

MC members are involved in the RLF meetings, and agenda topics include WSA relief provisions status. The RLF members include the RF's Office, Forest Supervisors, and Regional Staff Directors. MC members have direct access to all Forest Supervisors and Directors and are invited to attend forest employee meetings, New Employee Orientation Training, Supervisor Training, Province Board of Director meetings, staff meetings, Forest Leadership Team Meetings, and other regional meetings. MC members also participate in functional activities. The participation of the MC members in these meetings and activities has resulted in a more comprehensive understanding of the relief provisions at the field level and has helped establish MC credibility.

The National Federation of Federal Employees (NFFE) is the exclusive representative for any proposed changes to employee working conditions. When WSA implementation plans involve proposed changes to those working conditions, it is important to have a good working relationship among FS PMs, the MC, and NFFE. The USDA FS will continue to facilitate such interactions whenever appropriate.

In October 2003, the WO Litigation Advisor, the WO Deputy Chief for Business Operations and the OCR Director met with the MC in Sacramento, California, to address WSA implementation issues. R5 continues to provide forums for discussing progress in implementing the provisions of the WSA.

LEADERSHIP REVIEW AND EVALUATION PROCESS

The WSA requires R5 to provide semi-annual reports on the status of compliance and effectiveness of some of the Injunctive Relief Provisions. The MC evaluates these semi-annual reports in their subsequent Ninth Month Report. The MC will receive a copy for review. The RF and the RF's entire leadership team will receive a copy of this report. They are responsible for ensuring that the provisions of the WSA are implemented throughout all Units in R5. The WO Deputy Chief for Business Operations and the OCR

Directors were involved with the development and review of this report. They are responsible for overall Agency oversight of the WSA in R5.

The RF's Office, Director of HR, Acting Director of CR, EIP Manager, and the OCR Director monitor the progress of the PMs in carrying out implementation plans. This group reviewed this Semi-Annual Report and will continue to review future reports to ensure ongoing and acceptable progress in implementing each Injunctive Relief Provision.

4.0 EARLY INTERVENTION PROGRAM

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 6.1:

Region 5 shall operate a conflict resolution program, known as the Early Intervention Program ("EIP"). Among the purposes of the Early Intervention Program shall be:

- (a) Reducing conflict within the workforce;*
- (b) Addressing employee requests for intervention on an expedited basis;*
- (c) Resolving conflicts at the lowest possible level;*
- (d) Providing an additional and alternative process to filing an informal or formal EEO complaint;*
- (e) Focusing resolution efforts at the root cause of the conflict;*
- (f) Reducing EEO complaint filings; and*
- (g) Affirming that EIP does not replace the EEO administrative process.*

Provision 6.2:

Region 5 shall publicize and implement the EIP according to its implementation plan.

Provision 6.3:

Region 5 may, consistent with the above stated purposes, make changes in the EIP. At least 21 days prior to making any changes to the EIP, Region 5 shall notify the Council in writing, which shall include its rationale for the proposed changes.

Recommendations Relevant to This Provision

2003-0009—Early Intervention Program

Pursuant to Section 6 and Section 11

Recommended 5/30/03; Accepted 7/16/03

1. R5 should immediately assign additional personnel to the EIP to assist with scheduling mediations for the cases that are currently backlogged as a result of R5's failure to offer mediation on cases as required by USDA policy.
2. R5 should identify and train additional Resolving Officials so that there are more qualified individuals to represent the Region in mediations.

2003-007F—Early Intervention Program

Recommended 8/20/03; Accepted 10/14/03

The Monitoring Council's intent was to ensure that employees received personalized information about the process for mediating their complaint, including the following information:

- A description of the issue for discussion in mediation to proceed;
- Identification of the individuals who will be present at the mediation and their role;
- Information about the employee's ability to provide input into the choice of a mediator; and
- A statement from Management about why the request for mediation was declined (if that is the management decision)

2003-0029—Early Intervention Program

Recommended 10/07/03; Accepted 11/24/03

1. The Monitoring Council recommends that the Region ensure that all non-EEO mediations are completed within 30 days of the initial request for mediation. Employees who request non-EEO mediation should be able to complete mediation prior to end of the 45-day period for filing EEO complaint.
2. The Monitoring Council also recommends that the Regional Office establish an email alias for the EIP Manager called "EIP" so employees can easily contact the EIP Manager to request mediation when applicable.

2003-0032—Early Intervention Program

Recommended 10/23/03; Accepted 11/24/03

The Monitoring Council recommends that the Region ensures that prior to receiving any cases, Region 5 Resolving Officials, who represent the Regional Forester in EEO mediations, receive two days of training and practice similar to training requirements for the Chief's Representative Cadre for EEO Complaint Resolution such as:

- Selected Civil Rights and EEO laws and regulations
- Theories of Discrimination and burdens of proof
- Alternative Dispute Resolution Techniques
- Negotiation Skills
- Appropriate Forms of Relief
- Information needed to support awarding compensatory damages
- Cases analysis and Department's Resolution Model
- Backlog Project Lessons Learned

Note: Although the Region interpreted some of the Monitoring Council's recommendations to be beyond the scope of the settlement agreement, the Region adopted those portions of the recommendations which appeared helpful in achieving program improvement.

BACKGROUND

The EIP is an integral part of R5's efforts to resolve disputes involving its employees and plays a significant role in the successful implementation of the WSA. The program addresses allegations of sexual harassment and reprisal and serves as an alternative to other conventional avenues of redress, such as the EEO complaint process. While the EIP is not intended to replace the EEO process, it is a valuable tool in resolving employee issues and/or disputes because employees and management participate in the process of crafting solutions and solving problems together.

RECORD KEEPING AND REPORTS

The EIP Office maintains hard copy case files and uses an Excel system for record keeping purposes. The system allows for the tracking of all relevant case information necessary to maintain and evaluate the EIP program. Although, the Excel system is the tracking method currently in use, the EIP Office also has a dedicated database in place. The Region has recently hired a contractor who is looking at the databases for all of the Region's programs which are connected to provisions of the Women's Settlement Agreement to determine the feasibility of making the Region's databases inter-relational.

ACCOMPLISHMENTS FOR THE PERIOD (JULY – DECEMBER 2003)

Note: The EIP relies on data and information that are generated at the end of each fiscal year rather than data that is generated at the end of the calendar year. Thus, this section of

the report contains the results and analysis of the EIP for the third and fourth quarters of FY 2003, which cover the period beginning April 1, 2003, and ending September 30, 2003. Developments that occur after September 30, 2003, will be included in this report wherever possible and reported more fully in the Fifth Semi-Annual Report.

- ❖ **Resolved Staffing Issues:** R5 selected a permanent manager for the EIP on September 7, 2003. While the EIP Office did not have a permanent PM from September 1, 2002, through September 6, 2003, R5 consistently ensured that support personnel were assigned to the EIP Office. The selection of a permanent EIP Manager has provided the leadership and continuity the program needs. The EIP Manager is currently working with the Human Resources Office (HRO) to secure additional staff to support the needs of the program.
- ❖ **Workload:** The number of mediations conducted and the number of resolutions reached has increased since the last reporting period. There were 82 new cases brought to EIP during the period. There were 38 cases already in the pipeline for a total of 120 active cases during the period. R5 proceeded to mediation/facilitated discussion on 46 cases and 40 of the mediations were resolved. Of the cases that went to mediation, 87% resulted in resolution. This data suggests that the EIP was a useful tool in resolving disputes during this reporting period. Two employees were temporarily assigned to the EIP Office that has helped with more timely and consistent case management.
- ❖ **Refined Tracking System:** The EIP Manager has been working with the Washington Office Civil Rights Staff who is currently developing a database system that will track all EEO cases including those referred to EIP. The EIP Manager is also working with a consulting firm who has been hired by R5 to look at the feasibility of developing an inter-relational database that will track all the program areas covered by the provisions of the WSA.
- ❖ **Evaluated Mediator Qualifications:** During this reporting period, the EIP Office began evaluating mediator qualifications by reviewing feedback submitted post-mediation and by conducting random observations during mediations. Results of this evaluation will be reported in the Fifth Semi-Annual Report.
- ❖ **Addressed Management Willingness to Mediate:** The number of managers agreeing to participate in mediation of EEO complaints has risen significantly since the previous reporting period. Between April 1, 2003, and September 30, 2003, R5 agreed to mediate 88% of informal complaints (16 of 18).
- ❖ **Completed Policy Enhancements:** Three policy changes have been adopted during this reporting period in an effort to continuously improve EIP performance:
 - 1) Responding Officials are no longer present at the table during the mediation session for cases arising from EEO complaints in order to make employees feel more comfortable and to remove some potential for confrontation from the mediation process.
 - 2) The person who has been designated to represent the Agency at third party proceedings no longer serves as the Technical Representative during the mediation because the primary focus of an Agency Representative is different

than that of a Technical Representative. This policy change helps to clearly delineate between the two roles and is consistent with the Equal Employment Opportunity Commission's (EEOC) guidance in Management Directive 110.

- 3) R5 recently provided formal training to its Resolving Officials. This formal training included guidance relative to the Policy enhancements addressed previously in this section. Training sessions occurred on five separate occasions: August 4, 11, 20, and 28, 2003, and November 12, 2003.

- ❖ **Program Publicity and Marketing:** R5 developed and distributed the *Handbook of Terms and Techniques Used in R5's EIP*. The handbook was electronically transmitted to all employees on June 12, 2003, and it continues to be readily available to employees through the EIP Website. Hard copies of the Handbook were distributed to all Units by July 15, 2003, to increase employee access.
- ❖ **Analysis of Dispute Resolution:** Three different types of dispute resolution cases are referred to the EIP Office for mediation: non-EEO cases; informal EEO cases; and formal EEO cases. Although formal complaints are a portion of the total EIP workload, formal complaints are not documented in this report as they are not covered by the Women's Settlement Agreement. Table 4-1 depicts and summarizes the applicable EIP workload during this reporting period.

Table 4-1: EIP Case Activity for the Period April – September 2003

Status	Non-EEO	Informal EEO	Total
New Cases	64	18	82
Continuing Cases with Activity	7	31	38
Total Cases with Activity	71	49	120
Mediations/Facilitations Conducted	39	7	46
Resolutions through Mediation/Facilitation	37	3	40
Other Resolutions ¹	27	1	28
Total Closed with Resolutions	64	3	67
Closed with No Resolution ²	4	4	8
Cases Remaining Open	3	42	45
¹ Includes mediation requests withdrawn.			
² Includes cases where the second party declined to mediate.			

The following paragraphs summarize the status of dispute resolution by case type. R5's goals are to eventually reduce the total number of disputes occurring, to mediate as many disputes as possible before they enter the EEO complaint process, and to mediate all disputes in a timely manner.

- 1) **Non-EEO Dispute Resolution:** The non-EEO portion of the EIP remains expedient and continues to maintain a high rate of successful resolutions. The average number of days from the request for mediation to mediation is 18.6 days, and the resolution rate among non-EEO cases is 92%. The average number of days from the request for mediation to mediation decreased to 15.2 days during the last quarter of FY 2003. All requests for early intervention of non-EEO issues continue to be handled by the Creative Conflict Resolution Enterprise Team,

which schedules mediations and either conducts these mediations or assigns them to contract mediators.

Between April 1, 2003, and September 30, 2003, there were 39 mediations or group problem-solving sessions conducted on non-EEO cases. Of those, 37 resulted in resolution agreements. As of September 30, 2003, three non-EEO cases were pending mediation.

- 2) **Informal EEO Complaints:** Between April and September 2003, the ECP Office referred 18 informal EEO cases to the EIP Office for mediation. Seven of those cases were mediated, and three resolutions resulted. Ten of the 18 informal cases were retaliation complaints. Two of these cases were withdrawn, and three were mediated during this reporting period. One of the mediations resulted in resolution.

As the data indicate, many of the interventions occurred outside of the EEO process, which reflects favorably on R5's efforts of reducing conflict at the lowest possible level and reducing the number of EEO complaints filed. The frequency with which the EIP process has been used during this period suggests that employees are aware that there is an alternative to filing EEO complaints.

- ❖ **Grievances:** While a large demand does not exist at this time, the EIP continues to be available as a tool for resolving grievances, upon request, through the negotiated grievance procedure. One grievance was mediated between April and September 2003.
- ❖ **Notices to Monitoring Council:** There have been no substantive changes to the EIP that required the EIP Manager to notify the MC during this reporting period.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	4 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
6.0 Early Intervention Program Overall Performance Scorecard	G	G	G	G	Y	Major progress during this reporting period, overall program administration is improving, the program has adapted to meet increased workload
6.1 Operate a conflict resolution program that reduces conflict, expedites requests for intervention, resolves conflicts at lowest levels, provides alternative to (but does not replace) EEO complaint process, focuses resolution at root causes, and reduces complaints.	G	G	G	G	Y	Due to pre-existing backlog of cases mediations the agency is responding by improving timeliness. Temporary staff is helping to address the backlog.
6.2 Publicize and implement EIP.	G	G	G	G	G	The program is widely publicized.
6.3 21-day notice to MC of changes to EIP.	G	G	G	G	G	The MC is notified of changes to EIP, as directed.

Accepted Recommendations	Date Requested	Date Accepted	Relevant Injunctive Relief Provision	Score	Rationale
2003-0009 Immediately assign additional personnel to the EIP to assist with scheduling mediations for the cases that are currently backlogged as a result of R5's failure to offer mediation on cases as required by USDA policy	5/30/03	7/16/03	6.1	G	R5 assigned personnel to the EIP Office immediately and continuously following this recommendation. The agency is adding two additional positions to support the program.
2003-0009 Identify and train additional Resolving Officials so that there are more qualified individuals to represent R5 in mediations	5/22/02	6/26/02	6.1	G	R5 conducted two training sessions during this reporting period to help Resolving Officials be better informed about the process and more effective in their roles during mediation. Training occurred on August 4, 11, 20, and 28, 2003, and November 12, 2003.
2003-007F Ensure that employees received personalized information about the process for mediating their complaint	8/20/03	10/14/03	6.1	G	
2003-0032 Ensure that prior to receiving any cases, R5 Resolving Officials, who represent the RF in EEO mediations, receive two days training and practice similar to training requirements for the Chief's Representative Cadre for EEO Compliant Resolution.	10/23/03	Partially accepted 11/24/03	6.1	Y	R5 agreed to expand the training for Resolving Officials to mirror that provided to the Resolving Officials who serve on the Chief's Cadre. The Region agreed to implement these changes after January 2004. However, the Region did not agree to the training outline suggested in the recommendation.

ACTION PLAN

No.	Action	Responsible Official	Date
1	Advertise and recruit for additional staff support for the EIP Office	Markette Drone, EIP Manager	January 30, 2004
2	Schedule 50% of the remaining backlog for mediation.	Markette Drone, EIP Manager	March 1, 2004
3	Select additional staff to support the EIP Office.	Markette Drone, EIP Manager	March 1, 2004
4	Modify Resolving Official Training to model the training provided to the Chief's Cadre	Markette Drone, EIP Manager	March 1, 2004
5	Conduct Interest-Based Problem-Solving Training for Resolving Officials.	Markette Drone, EIP Manager	March 31, 2004

5.0 PERFORMANCE EVALUATIONS

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 7.1:

Pursuant to an Interim Agreement executed December 15, 1998, the Agency established a Performance Evaluation Task Force that developed performance evaluation clarifications and supplemental performance evaluation standards, attached hereto as Exhibit D. Region 5 shall implement the standards developed by the Task Force insofar as they relate to sexual harassment, subject to its obligations to meet and confer under the Master Labor Agreement, within 30 days of Final Approval; provided, however, that if Final Approval occurs during the last 90 days of a fiscal year, the standards shall be implemented at the beginning of the next fiscal year.

BACKGROUND

Injunctive Relief Provision 7.1 provides a methodology and tool for management to hold employees accountable for their performance as it relates to sexual harassment, reprisal, and hostile work environments. The Performance Evaluation Task Force developed a detailed set of clarifications and supplemental performance evaluation standards as part of the performance appraisal process for all employees in R5. These clarifications and supplemental standards emphasize the importance of appropriate workplace behavior and provide a tool by which all employees can be held accountable for their performance, particularly as it relates to sexual harassment, reprisal, and hostile work environments.

It is R5's goal to evaluate all employees under the above-referenced standards using personal observations of first- and second- level supervisors and, for managers and executives, using input from the MC and others as part of the appraisal process. Employees and managers whose performance is deemed unacceptable are placed on a Performance Improvement Plan.

RECORD KEEPING AND REPORTS

R5 tracks employee performance ratings in the National Finance Center (NFC) Database, which covers current ratings as well as an employee history. Hard copies of regional office employee performance records are maintained within HR at the Regional Office. Unit employees' records are maintained at the unit level.

ACCOMPLISHMENTS FOR THE PERIOD (JULY – DECEMBER 2003)

- ❖ **Annual Performance Evaluations of Employees NOT Covered by Master Labor Agreement:** To comply with Provision 7.1, R5 notified all supervisors and employees not covered by the Master Labor Agreement (MLA) about the new performance elements and standards via a letter that was emailed to all supervisors on June 24, 2003. This letter was issued to the Units and Staff Directors so that the modified standards and clarifications would be properly applied to all non-bargaining unit employees' performance plans. Supervisors were told to discuss the modified standards and clarifications with their non-bargaining unit employees and to stress the importance of maintaining a workplace free of sexual harassment, hostility, and reprisal. Supervisors were instructed to begin the process promptly, as the clarifications had to be in place for at least 90 days in order for employees to be rated

against the modifications. Each Unit submitted a copy of the first page of the performance plans, with supervisor and employee signatures and the date, to the Monitoring Council Liaison (MCL), to verify that employees would be rated against the modified standards on their FY 2003 annual appraisal ratings.

- ❖ **Annual Performance Evaluations of Employees Covered by the MLA:** R5 has begun implementing Provision 7.1 for employees covered by the MLA; management continues to discuss this issue with the NFFE in an attempt to fully implement the provision. R5 met informally with the newly elected NFFE Vice President on June 25, 2003. The focus of the meeting was re-opening discussions regarding implementing Performance Elements #3 and #4 (see Appendix A.1, pages A-1 to A-2) for employees covered by the MLA. The current Memorandum of Understanding (MOU) between R5 and the NFFE (dated April 3, 2002) outlines the process for conducting performance evaluations for employees covered by the MLA and limits the ways Performance Elements #3 and #4 can be applied to these employees. Formal negotiations between the FS and NFFE were conducted on September 22, 2003, in efforts to standardize performance evaluations for all R5 employees. No resolution was reached at that time regarding the existing language in the MOU, but discussions between management and the NFFE are ongoing. R5 notified OGC and DOJ of the outcome of the negotiations. The parties are currently in the 'meet and confer' process regarding this issue.
- ❖ **Annual Performance Evaluations of Regional Leadership Forum Members:** The RF issued a letter requesting input from all units, staff directors, and the MC on RLF performance September 16, 2003. A checklist was enclosed that incorporated performance evaluation clarification and supplemental standards (see Appendix A.1, pages A-1 to A-2) to develop a standardized WSA checklist (see Appendix A.2, page A-4). The RF used the input during annual performance evaluations of the RLF members. Upon request, R5 will forward copies of RLF performance evaluations/ratings relating to Performance Elements #3 and #4 to the MC after the RF has completed all annual performance evaluations of RLF members.
- ❖ **Disciplinary Action of Leadership:** During this reporting period, five management officials received disciplinary action for failure to take appropriate and timely supervisory action in response to allegations of sexual harassment/discrimination. These actions were also addressed under Performance Element #4, supplemental standard/clarification I-2, during the 2003 performance evaluation for each of these management officials. Two of the management officials were RLF members.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	4 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
7.0 Performance Evaluation Overall Performance Scorecard	G	G	G	Y	Y	R5 has implemented new elements and standards to hold employees accountable for their actions but will need additional time to evaluate. Existing MOU with NFFE prohibits the Agency from implementing the provisions for bargaining unit employees covered by the MLA
7.1 Implement standards developed by Task Force related to sexual harassment subject of MLA within 30 days of final approval.	G	G	G	Y	Y	Existing MOU with NFFE prohibits the Agency from implementing the provisions for bargaining unit employees covered by the MLA

ACTION PLAN

No.	Action	Responsible Official	Date
1	Keep MC informed and updated on actions related to performance evaluations.	WSA Liaison	January 15, 2004
2	Continue dialog with the NFFE in an attempt to expand implementation of new elements and standards.	Gerald Davis, Workforce Relations	January 15, 2004
3	Evaluate the effectiveness and impact of the use of modified elements and standards once all performance evaluations/ratings have been completed using the standardized WSA checklist.	PM for Performance Management R5 Settlement Agreements Staff	March 30, 2004

6.0 EXIT INTERVIEWS

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 8.1:

Region 5 shall ensure that an Exit Interview is offered to all employees leaving a Region 5 Unit, including the following specific actions:

- (a) Region 5 shall include a notation on its property form requiring the departing employee to indicate by signature whether he or she wishes to have an Exit Interview.***
- (b) A departing employee who wishes to have an Exit Interview shall have the option of a written and/or oral Exit Interview. The Agency shall maintain a pool of interviewers to conduct oral Exit Interviews in each Province. A departing employee may choose to be interviewed by a person from outside his or her Forest or Unit.***
- (c) Oral interviews may be conducted in-person or over the telephone.***

Provision 8.2:

Each completed Exit Interview shall be reviewed by the civil rights officer who services the departing employee's Unit.

Provision 8.3:

If an Exit Interview raises possible allegations of sexual harassment, hostile environment, or retaliation for EEO activity, the Civil Rights officer who reviews the Exit Interview shall refer the allegations to the appropriate line officer, the Regional Civil Rights Director, the Regional Human Resources Director, and the Washington Office Civil Rights Officer.

Provision 8.4:

The Regional Civil Rights Director shall periodically conduct a trend analysis of all Exit Interviews received under paragraph 8.2. The trend analysis shall examine Exit Interviews for patterns of conduct or inaction.

Provision 8.5:

The Regional Human Resources Director shall consider whether corrective action is required with respect to Exit Interviews received under paragraph 8.3.

Provision 8.6:

Region 5 shall prepare a semi-annual report evaluating the effectiveness of the Exit Interview process and summarizing significant information gleaned from Exit Interviews. The Region may, in its discretion, procure a contractor to prepare the report required by the preceding sentence. The Regional Civil Rights Director shall discuss the reports annually with the Regional Leadership Team.

Recommendations Relevant to This Provision**2002—0002 Implementation of the Exit Interview Process**

Pursuant to Section 8-1

Recommended 5/22/02; Accepted 6/12/02

1. Implement the Exit Interview Process and begin record keeping no later than July 1, 2002.
2. Provide direction to all Units to use AD-139 (revised 5/01) to complete the Exit Interview statements under “Remarks” part of the form.
3. Provide definition of a “Unit” to each Forest Supervisor, District Ranger, Human Resources Officer, Forest Civil Rights Officer, and Staff Director.
4. R5 is finalizing Automated Exit Interview Program—implemented ASAP.
5. Use R5-6100-140 (6/95) as the appropriate Exit Interview Form.
6. See Supplemental Directive 6109.12-95-2 (effective 10/95) to ensure consistency of process, analysis, and reporting of findings to appropriate management officials.
7. R5 will contact all employees who have departed a ‘Unit’ from January 1, 2002, to June 30, 2002, to offer them the opportunity to complete an Exit Interview.

2003-0012—Welcome Letter for New Employees

Recommended 6/11/03; Accepted 7/17/03

R5 should require all Forest Supervisors to send out a letter welcoming employees, reminding them of the policies requiring appropriate workplace behavior, and asking that they take time to complete an Exit Interview at the end of the season.

BACKGROUND

All employees leaving an R5 Unit have the option of participating in a written and/or oral Exit Interview. The FS maintains a cadre of interviewers who conduct oral Exit Interviews at each Province. All departing employees receive the Final Salary Payment Report form (USDA Form AD-139; see Appendix B.1, page B-3), on which they indicate that they were given the option of having an Exit Interview. All departing employees receive a hard copy of the Exit Interview (see Appendix B.2, pages B-4 to B-8) as part of the separation process. Exit interviews include perceptions of workplace and behavior issues, their prevalence in the work environment, and employee sentiments. Information is captured and recorded by the Forest Civil Rights Officer (FCRO) (see Appendix B.3, page B-9). Particular attention is given to Exit Interviews containing allegations of sexual harassment, retaliation, and hostile work environment. When one of these allegations is identified, the FCRO ensures that management is notified and that all appropriate actions are taken.

A recent focus has been to identify and improve the mechanics of the Exit Interview database, data input/collection, and database output. To date, R5 has implemented various components of the Exit Interview Program and continues to move the program toward full compliance.

RECORD KEEPING AND REPORTS

Region 5 has committed adequate resources and staff to account for and maintain records, data, and Forest Unit Exit Interview information from employees separating from the

Units. To date, numerous process improvements have been initiated to improve program deliverables.

ACCOMPLISHMENTS FOR THE PERIOD (JULY – DECEMBER 2003)

❖ **Exit Interview Directives:** The Exit Interview Directives were modified in August 2003 to include program changes and to identify staff level responsibilities, as reflected in the FSH 6109.12, Chapter 29 (see Appendix B.4, pages B-10 to B-13). The update and instructional changes to the Directive were provided to the Information Resources Management (IRM) staff to formally post and institutionalize the modifications to the program. The updated Exit Interview Directives were posted by December 2003 to ensure that the Region's Directives are current and are readily available to the workforce.

❖ **Exit Interview Data (Form AD-139):** During this reporting period, 72% of the 896 departing employees (i.e. employees departing for other assignments within the agency) returned Form AD-139. This is an increase of 32.1% since the last reporting period, when 54.5% of these forms were returned. This reporting period includes third and fourth quarter data for FY 2003.

A team made up of FCROs and Regional Office CR staff developed draft Standard Operating Procedures (SOP) to strengthen the Exit Interview process. R5 continues to develop and modify the Exit Interview data-gathering tools. The Exit Interview Flow Chart identifies the steps in this process (see Appendix B.6, page B-16). Two letters (Appendix B.5, page B-14) of direction have been issued under the Regional Forester's signature.

❖ **Exit Interview Data (Form R5-6100-140 Rev. 07/29/98):** Of the 814 employees who separated from the FS (i.e. employees leaving the FS) during this reporting period, 383 (47.1%) submitted an Exit Interview Form. This represents a 47.2% improvement from the previous reporting period, when only 32% of departing employees submitted an Exit Interview Form.

❖ **Exit Interview Allegations:** Six units identified twelve allegations of sexual harassment or perceptions of a hostile work environment through the Exit Interview Form (R5-6100-140). These allegations were addressed by the following actions:

- In two cases employees were separated from each other;
- In five case, employees resigned prior to termination;
- In one case the employee was counseled, and the issue was resolved;
- In one case the allegations were unsubstantiated, and the issue was closed;
- In one case criminal charges are pending; and
- In two cases further action is still pending.

❖ **Exit Interview Program Assessment:** FCROs and Regional Office CR staff have assessed the Exit Interview process and the data-gathering tools. These parties agree that the data-gathering tools used in the Exit Interview process are working and are in

compliance with the WSA provisions. R5 has identified a Pacific Southwest Research Station employee who will assist in designing the data analysis protocols.

Assessment of the Exit Interview data, although incomplete, has provided the Agency with valuable insights into workforce perceptions and issues. Examples of questionnaire replies are as follows:

- What employees liked most about their employment: *Co-workers and Supervision*
 - Issues most frequently raised by departing employees: *Pay and Awards*
 - Competitive Sourcing (A76): *Employees indicated fears of possible unemployment*
 - Training/development: *Opportunities were lacking*
 - Opportunities in general: *Lack of advancement*
 - Other issues raised included: *Low pay, benefits, and lack of permanent placement*
- ❖ **Field Standard Operating Procedure:** A team of FCROs and Regional Office CR staff was convened to draft the Exit Interview SOPs. This task was completed, and a training workshop was conducted, on October 23, 2003, to review and comment on the draft. Approximately 25 people attended the training. The SOPs will be finalized and implemented by the end of the second quarter of FY 2004.
- ❖ **Automated Exit Interview Program:** The automated version of the Exit Interview Program has been developed. Full beta testing was completed in October 2003. FCROs have begun to enter data. Departing employee access to the Automated Exit Interview via R5's Intranet is not available to them at this time. The Automated Exit Interview Program will provide multi-level monitoring, but the ability to notify management immediately via an automated email from the database when a departing employee alleges sexual harassment, hostile work environment, or retaliation is not fully operational.
- The IRM staff and a CR staff member provided a demonstration to the FCROs, Regional Office CR staff, and the MC on October 23, 2003. During this session, participants viewed the database and were able to ask questions regarding the use of this Program tool. As of 12/05 the R5 Units had entered 665 Exit Interviews returned from employees.
- ❖ **NFFE Concurrence:** During this reporting period, the Regional Office CR staff worked with NFFE leadership and discussed the objectives of implementing the Automated Exit Interview Program on a Region-wide basis. NFFE leadership reviewed the program content, assessed the program data retrieval capabilities, and agreed to support the goals of the Exit Interview Program. NFFE provided R5 with written concurrence on September 16, 2003, to proceed with implementation of the automated database.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	4 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
8.0 Exit Interview Overall Performance Scorecard	G	G	G	Y	Y	Program is implemented and use is increasing.
8.1 Offer written or oral Exit Interview to all employees leaving an R5 Unit.	G	G	G	Y	Y	SOP are increasing consistency of use across all units. Program use is increasing
8.2 Unit's CR officer review of all interviews.	G	G	G	G	G	Unit FCROs are in full compliance with this provision.
8.3 Where appropriate, the CR office refers the information to the appropriate Line Officer, Regional CR Director, Regional HR Director, and the OCR Officer.	G	G	G	G	G	Unit FCROs are in full compliance with this provision.
8.4 Conduct a trend analysis for patterns of conduct resulting in attrition.	G	G	G	Y	Y	Automatic system is providing data necessary to complete analysis.
8.5 Regional HR Director determines if corrective action is required.	G	G	G	G	G	Unit FCROs and R5 CR staffs are in full compliance with this provision.
8.6 Prepare a semi-annual report evaluating the effectiveness of the Exit Interview process and summarizing information from the interviews.	G	G	G	Y	Y	The PM continues to prepare a semi-annual report that evaluates program effectiveness, but workforce analyses are limited by the inconsistency of data provided from the Units.

Accepted Recommendations	Date Requested	Date Accepted	Relevant Injunctive Relief Provision	Score	Rationale
2002-0002 Implement the Exit Interview Process and begin record keeping no later than July 1, 2002	5/22/02	6/26/02	8.1	G	Assessments of the process continue, with necessary actions being developed and modified as needed.
2002-0002 Provide direction to all Units to use AD-139 (rev 5/01) to complete the Exit Interview statements under "Remarks"	5/22/02	6/26/02	8.1	G	All Units received instructions and direction from R5 and have responded by replacing and accounting for the AD-139. CR/FCRO staffs continue to monitor Unit compliance in this area.

ACTION PLAN

No.	Action	Responsible Official	Date
1	Assess barriers and initiate corrective actions that impact achieving 100% accounting and collection of departing employees' AD-139 forms and Exit Interviews, completed on all Units.	Jose Briseno	January 30, 2004
2	Provide ongoing direction and oversight to field regarding Exit Interview data collection, data limitations, analysis, and plan of action in response to issues identified as workplace patterns or trends.	Jose Briseno	Ongoing
3	Complete field implementation of Regional Automated Exit Interview Program: Implementation letter to employees with SOPs, intranet site posted for employee entry of Exit Interview data, automatic e-mail notice of sexual harassment allegations, report templates operational.	Jose Briseno	March 30, 2004
4	Assess information from Exit Interviews to determine issues affecting employee retention.	Jose Briseno	March 30, 2004
5	Complete a comprehensive analysis and provide findings to the field on a semi-annual basis.	Jose Briseno	March 30, 2004
6	Brief RLT on the Exit Interview analysis.	CR Director	RLF Spring Meeting 2004
7	Complete update of directives relating to Exit Interviews and forward to IRM to institute formally.	Jose Briseno	January 30, 2004

7.0 MISCONDUCT INVESTIGATION PROCEDURES

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 9.1:

Region 5 shall maintain an investigation procedure relating to employee misconduct.

Provision 9.2:

In conducting misconduct investigations, Region 5 shall ensure that:

- (a) Investigations are conducted in a timely and effective manner.*
- (b) Staffing for such investigations is sufficient to accomplish its objectives.*
- (c) Investigators are properly trained to conduct such investigations.*
- (d) Individuals who have been determined to have engaged in misconduct are appropriately and effectively disciplined, up to and including termination.*
- (e) Individuals who have engaged in acts of misconduct are effectively deterred from engaging in future misconduct.*
- (f) The intake, processing and outcome of allegations of sexual harassment or retaliation are documented.*

Provision 9.3:

The Regional Director of Human Resources shall be responsible for administering the misconduct investigation procedures.

Recommendations Relevant to This Provision

2003-0010—Misconduct Investigations

Pursuant to Section 9.2

Recommended 6/2/03; accepted 9/5/03

The Region should develop a standard informational letter to be sent out to participants who may be contacted during a misconduct investigation at the beginning of the investigation. The letter:

1. Should explain that a misconduct investigation has been initiated
2. Should explain what a misconduct investigation is
3. Should inform participant that an appointment has been made with an investigator and that they will be advised of the date, time, and location of the interview
4. Should inform the participant of their rights
5. Should inform the participant of their obligation to participate and cooperate in an official administrated investigation
6. Should inform the participants of confidentiality issues

BACKGROUND

The purpose of this provision is to monitor and maintain the effectiveness of the Misconduct Investigation (MI) Program relative to the quality, timeliness, and thoroughness of investigations and to ensure a timely initial response to allegations when they occur. This provision also provides emphasis on accountability relative to incidents of substantiated misconduct throughout the R5.

RECORD KEEPING AND REPORTS

A new MI Access database was created in November 2003, which contains all of the information about this reporting period's investigations. An additional added feature in the database is the ability to track individuals who have been found to have engaged in sexual harassment and/or retaliation as well as their completion of specialized training

ACCOMPLISHMENTS FOR THE PERIOD (JULY – DECEMBER 2003)

- ❖ **Dedication of Full-Time Staff Person to Oversee the Misconduct Investigation Program:** R5 re-appointed the Regional MI Program Manager position in September 2003. The MI Program Manager is responsible for overseeing R5's MI Program and does not perform any other job duties. The designation of a full-time staff person to manage this program greatly enhances R5's ability to effectively use this program to support elimination of sexual harassment and reprisal within the Region.
- ❖ **Misconduct Investigations for the Period:** Table 7-1 below shows all of the Misconduct Investigations initiated during this reporting period and also includes those investigations initiated during the previous reporting period that remained open into this reporting period.

Table 7-1: Comparison of MIs During the Third and Fourth Reporting Periods

Misconduct Investigations		Previous Reporting Period October 2002 – March 2003	Current Reporting Period April 2003 – September 2003
Total Number of MIs		4	12
	Total Number of MIs Involving Sexual Harassment	2	8
Number of Investigative Reports Received by R5		4	5
	Number of Investigative Reports Received by R5 Involving Sexual Harassment	2	2
Management Decision to Effect Disciplinary Action		0	3
	Management Decision to Effect Disciplinary Action Involving Sexual Harassment Cases	0	0

During this reporting period, 12 MIs were initiated, eight of which concerned allegations of sexual harassment. Included in the table above are four MIs carried over from the previous reporting period, three of which were not numerically captured in the last report due to timing. Two of the four MIs concerned allegations of sexual harassment.

There has been a 33% increase in MIs initiated during this reporting period compared to the last reporting period. This rise is most likely attributable to increased leadership emphasis relative to raising awareness of workplace environment issues, prevention of sexual harassment, and the need to report misconduct should it occur. To date, MIs have been conducted on 11 of 18 National Forests in R5: four Forests during the previous reporting period and seven during this period. The Cleveland, Shasta-Trinity, Tahoe and Plumas were the only Forests that had multiple MIs during both

reporting periods. The new full-time PM is tracking and analyzing workplace environment issues that are repeated in order to develop strategies to prevent further issues and facilitate the elimination of root causes.

The investigative reports for the four MIs from the previous reporting period were received during this reporting period and are currently undergoing Management review. For the current reporting period, Management received the investigators' reports on five of the twelve MIs, made decisions on administering disciplinary actions in three of these cases, and is now in the process of analyzing documents before making decisions on whether to administer disciplinary action against the involved employees in the two remaining cases. R5 awaits the results of the seven investigations that continue; these results will be presented in future reports. Analysis of the MIs relative to sexual harassment issues and trends will be forthcoming in the Fifth Semi-Annual Report.

- ❖ **Discipline for Misconduct:** Disciplinary actions were taken as a result of findings in two separate MIs that had originated in previous reporting periods. One MI's findings resulted in the 30-day suspension of a supervisor. The other MI resulted in disciplinary actions for 10 supervisory employees, ranging from three- to 30-day suspensions, as well as Letters of Warning issued to 15 non-supervisory employees. For MIs that were initiated and that have concluded during this reporting period, three disciplinary actions were taken in connection with findings from two MIs. One MI resulted in Letters of Reprimand for one supervisory and one non-supervisory employee. The other MI resulted in a decision not to rehire a temporary employee.
- ❖ **Analysis of Timeliness of the Investigation Process:** R5 has begun to analyze and assess the timeliness of the MI process. To create a baseline for trend analysis, data from the formal MIs for the previous reporting period and the current reporting period were analyzed. The data indicate that the average number of days between a request for an MI and initiation of the MI by the investigator is 22 days. The average number of days between the beginning and the conclusion of an MI is 24 days, and the average number of days between the conclusion of an MI and the delivery of the investigator's Report of Investigation (ROI) to R5 is 12 days. This is the first time data for each phase of the MI process have been recorded; thus, the MI PM continues to assess the timeliness of the process once data for the next reporting period have been collected.

As part of the MI process, two dates were initially recorded: the date the MI was initiated and the date the final ROI was delivered to R5. Based on a recommendation from the MC, during this reporting period the MI Program Manager began recording additional dates for each phase of the investigative process: the date the MI was requested; the date the MI was initiated; the date the MI was concluded; and the date the final ROI was delivered to R5. This information enables the Program Manager to monitor the timeframe for each phase of the investigative process.

- ❖ **Submission of Standard Operating Procedure on Sexual Harassment:** In October 2003, the previous MI Program Manager delivered to the Monitoring Council a draft SOP on handling sexual harassment allegations that contains guidance for conducting preliminary fact-finding inquiries and ensuring consistency in handling allegations

throughout the region. This SOP also contains guidelines for conducting timely misconduct inquiries and MIs. The MC reviewed the draft SOP and has given some recommendations to the Program Manager with the indication that they will provide additional recommendations later. Once all recommendations are received, the SOP will be finalized and sent to the field.

- ❖ **Coordination of Fact-Finding Training for the Region:** The MI Program Manager coordinated the formal Fact-Finding Training for Forest Supervisors, Deputy Forest Supervisors, HR Officers (HROs), the Employee Relations Specialist, and FCROs. These individuals will learn how to conduct an informal fact-finding inquiry during formal training sessions to be held in Sacramento, California, in March 2004. This training will enable the above-named parties to conduct preliminary fact-finding inquiries that are thorough and informative and allows U.S. to determine whether a formal MI is needed. R5 has contacted several training centers to discuss the program's need for advisory, curriculum development, and training services.
- ❖ **Misconduct Inquiries:** Although not required by the provisions of the Settlement Agreement, R5 also has a very active Misconduct Inquiry program for allegations that do not require formal investigation. During this reporting period, 23 misconduct inquiries were initiated, 21 of which contained allegations of sexual harassment. This represents an overall 11.5% increase in misconduct inquiries for this reporting period, compared to the 20 reported in the Third Semi-Annual Report. Analysis of misconduct inquiries with respect to sexual harassment issues, the resulting corrective actions taken, and will be reported in the Fifth Semi-Annual Report.
- ❖ **Training of Investigators:** All investigators used during this reporting period met the requirements for conducting investigations. When the FS began using contract investigators in December 2000, it verified that these investigators were qualified to conduct MIs by issuing a statement of qualifications to the investigative companies. The investigative companies reviewed these qualifications, determined which of their investigators met the qualifications, and, based on the qualifications, selected staff members who could conduct investigations for the FS. The FS subsequently collected biographical sketches from the selected investigators and continues to make this request in order to ensure that the training and background of investigators who conduct MIs on behalf of the FS meet the FS qualifications for conducting investigations of sexual misconduct and retaliation claims.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	4 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
9.0 Misconduct Investigation Procedures Overall Performance Scorecard	G	G	G	Y	Y	Even though some provisions have been or are well on their way to being fulfilled, several provisions require extensive review and revisions before they can be considered on track or well on their way to completion.
9.1 Maintain an MI procedure.	G	G	G	Y	Y	The investigative process is in place. Procedures for evaluating the process are being developed.
9.2a Conduct MIs in a timely and effective manner.	G	G	Y	Y	Y	SOP providing guidance has been drafted Once the SOP is implemented, results can be analyzed.
9.2b Ensure staffing for MIs is sufficient to accomplish objectives.	G	G	G	Y	G	MI PM and investigators are in place. Evaluation of investigators is planned and partially implemented but is not yet fully occurring.
9.2c Ensure investigators are properly trained to conduct MIs.	G	G	G	G	G	All investigators meet the FS requirements for conducting training.
9.2d Ensure appropriate disciplinary actions taken.	G	G	G	Y	Y	Appropriate action has been taken.
9.2e Ensure effective deterrent activities.	G	G	G	R	R	Activities are implemented Evaluation procedures are under development.
9.2f Documentation of intake, processing and outcome of allegations of sexual harassment.	G	G	G	Y	G	Intake and processing of sexual harassment allegations is in place
9.3 Regional Director of HR administers MI procedures.	G	G	G	G	G	R5 is in full compliance with this provision.

Accepted Recommendations	Date Requested	Date Accepted	Relevant Injunctive Relief Provision	Score	Rationale
2003-0010 Develop a standard informational letter to be sent out to participants who may be contacted during an MI at the beginning of the investigation	6/2/03	9/5/03	9.2	Y	The letter was written on September 5, 2003. Negotiation with NFFE must occur prior to implementation.
2003-0018 Provide formal Fact-Finding Training to Forest Supervisors, Deputy Forest Supervisors, HR Specialists, Employee Relations Specialists, and FCROs	6/13/03	8/6/03	9.2	Y	The training plan was completed on September 30, 2003, training will be implemented March 2004.

ACTION PLAN

No.	Action	Responsible Official	Date
1	Improve record keeping for investigations and, more specifically, for the inquiries by conducting follow-up interviews with management to determine the status of the inquiries.	Felicia D. Branch	December 31, 2003
2	Analyze the increased number of sexual harassment inquiries and investigations.	Felicia D. Branch	December 31, 2003
3	Review findings and dispositions of open inquiries and MIs to ensure appropriate disciplinary action has occurred.	Felicia D. Branch	December 31, 2003
4	Review findings and dispositions of specialized training that occurred for substantial allegations of sexual harassment.	Felicia D. Branch	December 31, 2003
5	Reiterate and further implement processes that the field should use when reporting sexual harassment, reprisal, and general misconduct incidents to the Regional Office.	Felicia D. Branch	March 31, 2004
6	Implement the SOP regarding handling allegations of sexual harassment into upcoming training that management will attend to learn how to conduct an internal fact-finding inquiry.	Felicia D. Branch	March 31, 2004
7	Review each investigative report to determine its sufficiency.	Felicia D. Branch	March 31, 2004

8.0 PREVENTION OF SEXUAL HARASSMENT TRAINING

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 10.1:

Region 5 shall provide annual, mandatory training to its employees designed to assist them in recognizing, addressing, and correcting sexual harassment and retaliation.

Provision 10.2:

Region 5 shall provide an annual letter to its employees with respect to the requirements of this Agreement. The first such letter shall be issued within sixty days of the Final Approval Date and shall be posted on Region 5's website. Class Counsel shall be provided with an opportunity to review and comment on the first annual letter thirty days in advance of its issuance. The letter required by this paragraph shall be designed and intended to prevent retaliation against Class Members as a result of this Agreement.

Provision 10.3:

The Region shall provide specialized sexual harassment prevention training to supervisors or employees who are found, through Defendant's administrative process, to have engaged in sexual harassment or retaliation.

Provision 10.4:

Region 5 may, in its discretion, use outside contractors to provide the training required by this section.

Recommendations Relevant to This Provision

2003—0004—Sexual Harassment Training

Pursuant to Section 10.1 and 10.3

Recommended 2/14/03; accepted 4/4/03

1. Regional Forester will include the requirement for specialized training in the prevention of sexual harassment as part of the Regional Forester's direction to all employees regarding the topic.
2. Specialized sexual harassment training should be provided by contractors who specialize in development and presentation of programs on prevention of sexual harassment.
3. Develop a protocol of minimum requirements for the specialized training in the prevention of sexual harassment.
4. Hire a contractor to develop a tracking system to allow follow-up in the event of repeated complaints against an individual who has participated in specialized training, which should
 - a. Be used to establish that individuals who are determined to have engaged in sexual harassment or retaliation have completed the training; and
 - b. Include the date of the training, name of the trainer, whether the training was individual or group, and where training was given.
5. Establish processes for providing annual mandatory training on the prevention of sexual harassment.
6. Mandatory training should be offered at all orientation and employee meetings and new employee meetings beginning no later than April 2003.

2003-0011—POSH training at the Wildland Fire Academy Orientation Sessions

Pursuant to Section 10

Recommended 6/11/03; accepted 8/29/03

Region should provide a brief training to all employees who are attending the Wildland Fire Academy Advanced and Apprentice Courses at McClellan.

BACKGROUND

R5 is committed to creating an environment that is free from behavior that constitutes sexual harassment and retaliation and from the reoccurrence of such behavior. To accomplish this goal, R5 has educated and will continue to educate its workforce through training that ensures the workforce is aware of what is appropriate workplace behavior and communication. The annual training also clarifies the rights, roles, and responsibilities of employees and managers. To determine the effectiveness of the annual training, participants are provided with an optional evaluation form and encouraged to complete it at the end of each training session. The information provided by the participants in the evaluation forms will be used to assess the quality and effectiveness of the annual training.

RECORD KEEPING AND REPORTS

Upon completion of the annual mandatory POSH training sessions, the unit sends copies of the Certification forms and sign-in sheets of the employees who were in attendance to The Federal Women's Program Manager (FWPM). Information is entered into an Excel spreadsheet for the record and maintained by the FWPM. Excel Spreadsheet columns indicate unit, workforce, number of employees trained, percentage trained, and sessions. All hard copy information including certified forms and sign-in sheets are maintained in a binder by the FWPM, and are available for review upon requests.

In specialized One-On-One POSH Training a list of identified participants is provided by the AAD Program Manager to the Regional Civil Rights Officer (RCRO). The RCRO composes a letter that contains training information (i.e., vendor, training date, time, location), maintains a copy of the letter and is forward it to the participants via Forest Supervisors/Staff Directors. Upon completion of training a certification form is signed by the participant and the vendor, and forwarded to the RCRO for record-keeping. Information is entered into an Excel spreadsheet and maintained by the FWPM. Excel spreadsheet columns indicate the trainee, date, location, trainer's name, length of training, and any sustained charge(s). All hard copies are maintained in a binder by the RCRO and FWPM, which is available for review upon request.

ACCOMPLISHMENTS FOR THE PERIOD (JULY – DECEMBER 2003)

- ❖ **Developed Specialized Training Protocol:** R5 developed a tailored One-On-One Specialized POSH training in July 2003 for employees with the following conditions: 1) who have engaged in acts of sexual harassment and/or reprisal/retaliation, or 2) fail to take prompt and appropriate action to address reports or knowledge of sexual harassment (sustained charges) in accordance with USDA FS regulation/policy. The One-On-One Specialized POSH training is intended to further educate employees and managers about the consequences of tolerating such behaviors. The Associate RF, HR and CR staffs, and the MC reviewed the proposal for One-On-One Specialized POSH

training in July 2003. The One-On-One Specialized POSH training plan was completed and has been implemented.

Pilot application of the One-On-One Specialized POSH training began in September 2003. During this reporting period, 20 employees identified from the AAD (10 from last reporting period, 10 from this reporting period) (see Section 12.0) received a One-On-One Specialized POSH training session that lasted approximately two hours. The vendor, Liebert Cassidy Whitmore, was given specific information regarding the nature of the inappropriate behavior exhibited by each employee in order to tailor the One-On-One Specialized POSH training sessions. Training was conducted in various locations to avoid workplace and employee disruption. Upon completion of the One-On-One Specialized POSH training sessions, the participant and the contractor signed a certificate of completion. A response/evaluation form is currently being prepared to measure the effectiveness of the training and to allow training recipients the opportunity to provide feedback on their training experience.

The One-On-One Specialized POSH training has been fully implemented. Since the implementation, an additional four employees were identified in November 2003 for the AAD, and trained on December 15, 2003. The vendor, Anderson-Davis, Inc. was provided with a written summary of the behavior exhibited by each employee in order to tailor the training. The response/evaluation form was developed to measure the effectiveness of the training and to allow the training recipients to opportunity to provide feedback on their training experience.

- ❖ **Sensing Questionnaire:** Between February and June 2003, work environment sensing sessions were conducted and data was completed at Units throughout R5. The purpose of the sensing was to gain information about the organizational climate on each Unit and to identify issues that may contribute to creating a hostile work environment. At these sessions, employees were asked to complete an "R5 Sensing Survey" questionnaire (see Appendix C.1, pages C-1 to C-3). A total of 2,816 questionnaire responses were received.

Data from the survey questionnaires were entered into a database between February and August 2003. During this reporting period, the Pacific Southwest Research Station and the Regional Office CR staff completed an analysis of the survey data. Summary tables, charts, and a brief narrative summary of findings were produced, displaying and comparing information by Unit and for R5 as a whole. The resulting report, entitled *R5 Sensing Sessions: Work Environment and Sexual Harassment Summary Report and Recommendations*, forms the basis of R5's strategy to implement actions based on the findings and results of the sensing questionnaires (see Appendix C.2, pages C-4 to C-6). A copy of the Sensing Survey Report was sent to Forest Supervisors with a request to review forest-specific results and develop and implement action items, as appropriate.

- ❖ **Implemented and Evaluated Annual Mandatory POSH Training for All Units:** Anderson-Davis, Inc., was selected to deliver annual mandatory POSH training for all Units. The training was delivered by six teams, which consisted of one male and one female each. The material used for the training sessions included an introductory videotaped statement from the RF in support of the annual mandatory POSH training.

From April through December 2003, R5 conducted 229 training sessions and trained approximately 7,372 employees, or 92% of the targeted 8,000 employees. Approximately 8% of the workforce was not able to attend the POSH trainings due to circumstances beyond their control (e.g. fires, return to school, or appointments expired before scheduled training on the unit etc.).

- ❖ **Effectiveness of 2003 Training Sessions:** A standard assessment evaluation form was developed to gather and summarize participant information from each training session. The information will be used to determine the effectiveness of the 2003 annual POSH training sessions. Each training participant was given this optional evaluation form and encouraged to complete the information requested. R5 is currently creating a cumulative evaluation/summary form that will be used by FCROs to periodically tabulate and summarize the information captured and to ensure the consistency of information gathered across R5. The Units will forward their summary forms to the FWPM, who will analyze the information and forward recommendations to the CR Director for further action, if needed.
- ❖ **Developed Plan for 2004 Annual Mandatory POSH Training:** The 2004 plan for implementing the annual mandatory POSH training has been drafted. The 2004 training plan focuses on improving timeliness of delivery and providing additional/customized sections to various types of employees to address specific issues.

A customized training module was developed to train FCROs and HROs in how to effectively participate in the annual mandatory POSH training sessions and respond to employee questions specific to FS programs and policies. This all-day training session is scheduled for February 2004. The training will cover all annual mandatory POSH information, including retaliation and reprisal. Supervisory and managerial roles and responsibilities will be discussed, and FCROs and HROs will receive guidance regarding what information should be shared during orientation for new employees.

In order to address issues that are specific to supervisors and managers, a customized training module for managers and supervisors was also developed. In addition to annual mandatory POSH information, the all-day training session will include the following: clarification of supervisory and managerial roles and responsibilities, how to deal with reprisal/retaliation issues, zero tolerance policy, bullying, fact finding, 24-hour reporting requirement, disciplinary actions, and whistleblower/fraud/waste/abuse. This training is tentatively planned for March and April 2004 and will occur at centrally located sites in northern, central, and southern California.

Annual mandatory POSH training for all employees (permanent, temporary, seasonal, students, and volunteers) is slated to begin in April and continue through September 2004, and training sessions for winter hires as well as make-up training sessions are planned for October and November 2004. All employees will receive some form of POSH training within the first 30 days of employment (i.e., during new employee orientation) prior to receiving formal POSH training.

Anderson-Davis, Inc. was the vendor used during previous training sessions. To ensure timely delivery of the training to our summer hires, R5 will increase the number of trainers delivering the sessions.

- ❖ **Established a Tracking System to Track Participants of Specialized Training:** R5 established a tracking system in September 2003 that identifies persons who have been determined to have engaged in sexual harassment and/or retaliation and have completed specialized training. This system allows R5 to identify repeat offenders of sexual harassment and/or retaliation.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	4 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
10.0 Prevention of Sexual Harassment Training Overall Performance Scorecard	G	G	G	G	G	R5 has developed a consistent POSH training. 92% of the targeted 8,000 employees have received training for CY 2003. 23 employees with sustained charges of sexual harassment or related issues were scheduled One-On-One Specialized Training by the end of December 2003
10.1 Provide annual mandatory training to all employees to assist them in recognizing, addressing, and correcting sexual harassment and retaliation.	G	G	G	G	G	The training program is in full compliance with this provision.
10.2 Provide annual letter to employees regarding agreement.	G	G	G	G	G	The submission of the annual letters to the field is on target and the training program is in full compliance with this provision.
10.3 Provide specialized training to employees who were found to have engaged in sexual harassment or retaliation	G	G	G	G	G	The specialized one-on-one training program has been developed and the pilot training has been successfully initiated. Dissemination to the field and full implementation occurred in November 2003.

Accepted Recommendations	Date Requested	Date Accepted	Relevant Injunctive Relief Provision	Score	Rationale
2003-0004 RF will include the requirement for specialized POSH training as part of the RF's direction to all employees regarding the topic	2/14/03	4/4/03	10.1	Ⓞ	The RF has met this recommendation. Employees have been made aware of the requirement for specialized POSH training.
2003-0004 Specialized POSH training should be provided by contractors who specialize in development and presentation of programs on POSH	2/14/03	4/4/03	10.3	Ⓞ	A contractor who specializes in presenting this type of program provides specialized POSH training. R5 will ensure that contractors selected for 2004 training also meet this qualification.
2003-0004 Develop a protocol of minimum requirements for the specialized POSH training	2/14/03	4/4/03	10.3	Ⓞ	R5 is in full compliance with this recommendation.
2003-0004 Develop a tracking system to allow follow-up in the event of repeated complaints against an individual who has participated in specialized training	2/14/03	4/4/03	10.3	Ⓞ	Tracking system has been established.
2003-0004 Region should establish processes for providing the mandatory training and the specialized training in place	2/14/03	4/4/03	10.1, 10.3	Ⓞ	These processes are in place.
2003-0004 Mandatory training should be offered at all orientation and employee meetings and new employee meetings	2/14/03	4/4/03	10.1	Ⓞ	Addressed by an HR function. Direction on New Employee Orientation is already provided in direction issued 12/26/02 and refers to FSH R5 Supp 6109.13-95-2.
2003-0011 Provide a brief training to all employees who are attending the Wildland Fire Academy Advanced and Apprentice Courses at McClellan	6/11/03	8/29/03	10.1	Ⓞ	CR developing information package to be used by the National Academy Coordinator on Sunday evening orientations.

ACTION PLAN

No.	Action	Responsible Official	Date
1	Continue to deploy and evaluate annual POSH training.	Gwen Bryant	Ongoing
2	Review evaluations from the training participants and monitor response to materials used in training to ensure that training materials meet employees' needs.	Gwen Bryant	Ongoing
3	Continue to evaluate the specialized one-on-one POSH training and monitor the vendor(s) information.	Gwen Bryant/Lois Lawson	Ongoing
4	Review summarized evaluation forms from the field and the Regional Office and monitor responses.	Gwen Bryant	Ongoing
5	Monitor completion and implementation of forest action plans developed as a result of the R5 Sensing Survey Results.	Gwen Bryant	June 30, 2004

9.0 THE INFORMAL EQUAL EMPLOYMENT OPPORTUNITY PROCESS

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 11.1:

The Agency shall provide training to all EEO Counselors involved in the Informal EEO Process in Region 5. The training shall cover, among other things, the need for accuracy and timeliness and the proper role of EEO Counselors in the informal process.

Provision 11.2:

To assess the effectiveness of the Informal EEO Process, the Agency shall design and conduct a voluntary survey of participants in the Informal EEO Process in Region 5. The survey shall be provided to each Complainant and Responding Official in the Informal EEO Process at the conclusion of the informal process.

Provision 11.3:

The Agency shall conduct an annual analysis of completed survey forms to determine whether the Informal EEO Process is functioning effectively and appropriately as to Region 5.

Provision 11.4:

The Agency expressly acknowledges that an EEO Counselor may not withdraw any Class Member's Informal EEO complaint without the employee's written permission.

Provision 11.5:

The Agency shall create and maintain a process for tracking complaints in Region 5 by type of discrimination, Responding Officials, and location in order to determine whether any patterns of conduct are discernible.

Provision 11.6:

Region 5 shall maintain an Alternative Dispute Resolution process that will be made available to a Complainant within the first 90 days after an initial informal complaint is filed. Defendant's obligation under this paragraph may be met by offering the Complainant the opportunity to participate in the Early Intervention Process or mediation.

Recommendations Relevant to This Provision

2003-0019—EEO Complaints

Pursuant to Section 11

Recommended 7/8/03; accepted 7/30/03

EEO Counselors will provide written notification to the Forest Supervisor about each informal complaint filed, unless the Complainant specifically requests that the Forest Supervisor not be notified.

BACKGROUND

The FS's Informal EEO Process supports the purpose of the WSA by ensuring that issues regarding sexual harassment, gender harassment, or reprisal are addressed and resolved in

a timely and effective manner. The goal is for any employee or non-employee who files an Informal EEO Complaint to be assured that his or her concerns will be heard and addressed, and that persons committing or contributing to sexual or gender harassment or reprisal will be held accountable for their actions.

The Informal EEO Process is implemented through the ECP. The WO administers the ECP; however, there is a detached unit located in R5 at the Regional Office in Vallejo, California, with three full-time EEO Counselors. It is the responsibility of the Vallejo ECP Center Manager to assist Complainants and managers in addressing and resolving issues and complaints as quickly as possible and to provide excellent customer service. ECP also provides a service for R5 managers by maintaining an accurate database for analysis of complaint activity and trends. This database was recently completely expanded and improved during both FY 2002 and 2003. Based on a court hearing on July 18, 2003, improvements were accelerated during this reporting period.

Since January 2000, the EEOC has required agencies to make ADR available in the Informal Complaint Process, as required under Title 29 of the Code of Federal Regulations (CFR), Part 1614.102 (b)(2). If the Complainant elects ADR, 29 CFR 1614.105 (f) extends the counseling period from 30 days to 90 days. The form of ADR offered by the FS is mediation, which is made available through the EIP; therefore the ADR elections will be also referred to as ADR/EIP.

The WO Onsite CR Liaison and the Vallejo ECP Center Manager evaluate the Informal EEO Process and the implementation of the related WSA provisions on a quarterly basis. The WO generates Complaint Activity Reports, and the WO Onsite CR Liaison analyzes these reports. Effectiveness of the program is evaluated based on the analysis of these reports and review of participant surveys.

RECORD KEEPING AND REPORTS

The ECP Office maintains a variety of record keeping systems to manage and track the programs under Section 11.

To track completion of the required training for EEO Counselors, Standard Form 182 and certificates of completion of training are maintained in individual counselor files.

To track withdrawals, form letters are sent to Complainants who voluntarily request withdrawal. Complainants are required to sign and return the letter which validates the withdrawal. If a signed letter is not returned, a Notice of Right to File a formal complaint is sent. Paper copies of signed withdrawals are maintained in ECP complaint files.

To ensure that each informal Complainant is offered the opportunity to participate in the EIP process, a standard ADR election letter is provided. Complainants must sign the election letter, indicating whether they wish their complaint processed through traditional counseling or the EIP. If no signed election letter is returned, the complaint is processed through the EIP. Copies of election letters are maintained in ECP complaint files.

DATABASES

The ECP utilizes two types of databases to maintain records and generate reports.

An electronic survey system is used to conduct a voluntary survey of participants in the informal complaints process. This survey system is a Lotus Notes Domino application database.

Survey forms are sent to Managers and Complainants via email and respondents can complete the survey form online.

Beginning June 2003, hardcopies of the electronic survey form were sent to Complainants and Managers through the U.S. Mail. Beginning October 2003, telephone surveys were conducted by ECP staff members and recorded. ECP staff members input information from these hardcopies into the electronic survey system.

Permission to view the completed surveys is restricted to the managers of the ECP Centers and the WO onsite liaison and Program Manager for Section 11 of the Settlement Agreement. For purposes of analysis of the survey responses, the electronic survey system automatically sorts survey results by date, Complainants, and Managers. The system records the scores completed by respondents and computes an average of the score for each question.

The Equal Employment Opportunity Complaints Tracking System (EEOCTS) is used to track informal complaint information. EEOCTS is an Oracle application that is compatible with Microsoft Windows. EEOCTS captures, maintains, and reports information associated with each informal complaint, including ADR. It maintains a complete electronic record for each complaint, storing all information collected in the processing of the Complaint, including pertinent dates. The EEOCTS is able to generate customized reports using specific parameters and can provide averages, percentages and totals that allows for greater flexibility and quicker analyses. The ECP also uses the database to track the EEO Informal Complaints referred to the EIP for ADR purposes.

For purposes of completing the tracking, analyses and identification of trends as required by this provision the database generates reports which sort informal complaints by location, Bases, Issues, type of case closure (settlement, withdrawal, or Notice of Right to File) formal, Responding and Resolving Official, and HRO. These reports also calculate the resolution rates for traditional counseling and ADR/EIP cases.

ACCOMPLISHMENTS FOR THE PERIOD (JULY – DECEMBER 2003):

Note: The WO ECP relies on data and information that are generated at the end of each fiscal year rather than data that are generated at the end of the calendar year. Because of the unique processing requirements of EEO complaints, it is practical to report data for the entire fiscal year. For example, some cases that were reported as being open in the previous reporting period have closed during this reporting period. For some cases that were pending an election in the previous reporting period, an EIP election was made during this reporting period. Therefore, this section of the report analyzes complaint data for FY 2003 (October 1, 2002, to September 30, 2003). Developments that occur after September 30, 2003, will be included in this report wherever possible and reported more fully in the Fifth Semi-Annual Report.

- ❖ **Training Courses Completed:** EEO Counselors participated in a variety of training and developmental opportunities throughout this reporting period to ensure that they understood the proper role of EEO Counselors and that they completed accurate and

timely work products. All Counselors continuously updated their knowledge using the "PERSONNET" database to review updated EEO case law and decisions.

All Counselors completed an 8-hour training course conducted by the EEOC in July 2003. This training course meets the mandatory continuing Counselor training that is required by the EEOC. During this training session, a special workshop was conducted on counseling employees with harassment complaints, including harassment based on reprisal. A second special session covered updates in EEO Process Law, including evaluating the timeliness of EEO Counselor contacts and proper notification by the Agency of the time limits for initiating Counselor contact. Discussion sessions covered Counselors' responsibility for meeting timelines as prescribed by EEO guidelines and accuracy in reports prepared by Counselors, with emphasis on capturing the bases and issues. Throughout the training session, the trainer provided site-specific roles and responsibilities of the EEO Counselor as they relate to the overall informal process. Copies of the July 2003 training course manuals were provided to the MC in August 2003. The next refresher training session is scheduled for July 2004.

- ❖ **Conferences and Workshops Attended by Selected Counselors:** In August 2003, a Counselor attended the annual EEOC Excel training conference. Workshops attended during this conference included an overview of the "No Fear Act," which addresses reprisal complaints. In August 2003, a Counselor attended the Federal Dispute Resolution Training Conference. Workshops attended during this conference included an update on EEO laws, Policy, and procedures.

In September 2003, selected Counselors attended the annual Bay Area QUAD EEO Training Conference. Workshops attended during this conference included "Understanding Harassment in the Workplace" and "ADR in the Federal Sector."

- ❖ **New Initiatives to Increase Satisfaction Survey Response Rate:** R5 conducts a voluntary survey of participants in the Informal EEO Process (see Appendix D.1, page D-1) and to conduct an analysis of completed survey forms to determine whether the Informal EEO Process is functioning effectively and appropriately (see Appendix D.2, page D-2). The ECP has completed systems enhancements and other improvements in order to increase the response rate and to ensure more meaningful analysis of the surveys. New initiatives undertaken during this reporting period include the following:

- Since June 2003, surveys have been sent via U.S. Mail and email. Surveys are sent to both the Complainants using the Informal EEO Process and the managers (Responding Officials) who are named in the complaints.
- Since June 2003, EEO Counselors have been verbally encouraging Complainants and Responding Officials to complete the surveys as a standard operating procedure.
- The WO secured a contractor in July 2003 to review the electronic survey system for potential enhancements that would help increase the survey response rate. The contractor completed work that now enables the system to automatically send a

- second mailing after two weeks if no response has been received. This second mailing function began in December 2003.
- In September 2003, the Associate RF issued a letter to all managers strongly encouraging them to respond to the surveys if they were involved in the Informal EEO Process. This letter is available upon request.
 - At the beginning of FY 2004 (October 1, 2003), draft revisions were made to the survey content to improve the quality of data collection. Prior to this date, surveys did not indicate the date the complaint was filed. The contractor is completing enhancements to the survey response system to assist Responding Officials in identifying multiple complaints. A sample survey form is included in Appendix D of this report (see Appendix D, page D-1).
 - In an effort to increase the survey response rate, the Vallejo ECP staff began a pilot project, effective October 15, 2003. Complainants and managers will be contacted by telephone and asked to provide verbal responses to survey questions, which are recorded by ECP staff members. Complainants will also continue to have the option of completing surveys sent via email or U.S. Mail. However, phone calls may be more effective than email and U.S. Mail because many of the NFs are in remote locations. Preliminary indications are that this method will increase the response rate.
 - The analysis of survey responses for FY 2003 indicates that the response rate for Complainants increased from 12.9% to 18% during the reporting period (an increase of 39.5%). The combined response rate for both Complainants and managers for FY 2003 was 14%, which represents a decline from the 14.9% response rate reported for FY 2002. Of the 188 surveys that were mailed, only 26 persons responded: 17 Complainants and nine management officials.
 - An analysis of the survey scores reveals that scores for FY 2003 remained essentially the same as the scores for FY 2002. A significantly increased score for "Complainant's satisfaction with the information provided in the Informal EEO Process" was recorded: the average score increased from 2.94 in FY 2002 to 3.4 in FY 2003 (out of a possible rating of 5).
- ❖ **Ongoing Implementation of Written Withdrawal Procedures:** The Withdrawal Procedure continues to be implemented and improved. The withdrawal letter was revised in July 2003 to include the reasons for withdrawals so that information tracking can be enhanced. Since July 2003, EEO Counselors have been sending a "second" withdrawal letter if written confirmation is not received within 10 calendar days. In cases where no written confirmation is received within five days of the "second" withdrawal letter, the Complainant is issued a Notice of Right to File a formal discrimination complaint. R5 continues to reinforce adherence to the provision that prohibits EEO Counselors from withdrawing any Class Member's EEO complaint without the employee's written permission. In May and November 2003, the ECP provided the MC with copies of withdrawal documentation for any Class Member who decided to withdraw.

- ❖ **Database Improvements to Improve Analysis of the Informal Equal Employment Opportunity Process:** Since FY 1998, the ECP has maintained a database that tracks complaints by the type of discrimination, location, and type of case closure. The database system is continually being improved to provide more information to aid in assessing the effectiveness of the Informal Complaint Program. The database was modified in October 2001 to add the names of Responding Officials and Resolving Officials. The database was further modified in July 2003 to add the names of HROs. Analysis of Informal EEO Complaints has also been expanded to include statistical information about the HRO involved in the informal complaint. R5 used information from the database to create the first report analyzing HRO data for the period July to September 2003 and provided this report to the MC on November 10, 2003, in response to Request #03-0053.

By expanding the quantity and type of data collected, the analysis of data from the Informal Complaints tracking system has been expanded to allow for enhanced evaluation and identification of discernible patterns and trends. Expanded analyses include the following: the average time for traditional counseling and EIP processing; percentage of cases that do not go to requested mediation within 90 days; and length of time to reach a settlement agreement. An analysis of all R5 Informal Complaints for FY 2003 has been completed in order to determine if any patterns of conduct are discernible (see Appendix D.3, page D-3 and Appendix D.4, page D-4). A summary of this analysis is provided below.

1) Analysis by Complaint Type

A comparison of complaints filed by Class Members and those filed by all employees indicates that reprisal is the most frequently alleged basis of discrimination. To address this issue, R5 has drafted a new reprisal policy to address retaliation issues for all employees and for Class Members in particular, in an effort to maintain a positive work environment.

- a) **All Employees Filing Complaints (Class and Non-Class Members):** R5 employees filed a total of 126 Informal Complaints during FY 2003. A total of 67 complaints (53%) that were filed alleged reprisal and involved issues of hostile work environment, non-selection, discipline, reassignment, and training. A total of 24 complaints (19%) that were filed alleged harassment based on sex (male), race, national origin, age, religion, or sexual orientation. Two complaints were filed by one supervisory female that alleged gender harassment. The total of 126 complaints includes 33 complaints filed by Class Members.
- b) **Class Member Complaints (Gender Harassment or Retaliation):** A total of 33 complaints filed during FY 2003 alleged sexual and/or gender harassment or retaliation. Of the 33 complaints, 11 (33%) included allegations of gender harassment, and 23 (70%) included allegations of reprisal involving issues of hostile work environment, non-selection, reassignment, denial of training, duty hours, and/or negative employment reference.
- c) **Class Member Complaints (Sexual Harassment):** Only four of the 33 Class Member complaints (12%) were filed on the issue of sexual harassment. Some

individuals choose to report the harassment to their supervisor, which triggers an MI (see Section 7.0). An alternate vehicle exists for Complainants and managers to report sexual harassment, the 24-hour hotline. Calls to the 24-hour hotline also automatically trigger MIs.

2) Analysis by Quantity

Data indicate an overall declining trend in numbers of complaints, including Class Member complaints, Non-Class Member complaints, and complaints filed per capita. There were 13 fewer total Complainants (an 11% decline) and six fewer female Complainants (an 11% decline) from FY 2002 to FY 2003. There were 10 fewer Class Member Complainants (a 29% decline) from FY 2002 to FY 2003. This is a positive trend for R5.

- a) **All Employees Filing Complaints (Class and Non-Class Members):** The total number of Informal complaints filed is declining: 101 individuals filed the 126 complaints in FY 2003, which is a 10% decline in complaints (down from 140) and a 11.4% decline in individuals complaining (down from 114) from FY 2002. Forty of the 126 total complaints (32%) were filed by Complainants with multiple complaints.
- b) **Female Complaints:** The number of complaints by females is also declining. Fifty-one female employees filed complaints in FY 2003. This is a decline of 11% (down from 57) from FY 2002.
- c) **Class Complaints:** The number of complaints by Class Members is declining at an even more significant rate. In FY 2003, 24 individuals filed a total of 33 complaints. This is a 44.1% decline in complaints (down from 59) and a 29.4% decline in individuals complaining (down from 34) from FY 2002. Sixteen of 33 Class Member complaints (48.5%) were filed by Complainants with multiple complaints.
- d) **Per Capita:** Table 9-1 (on the following page) shows that R5 Complainants filing per capita have declined from 1.3% in FY 2002 to 1.1% in FY 2003 (a decrease of 0.2 percentage point). For female employees, Complainants filing per capita declined from 2% in FY 2002 to 1.7% in FY 2003 (a decrease of 0.3 percentage point). Class Member Complainants filing per capita (as a subgroup of all female R5 employees) declined from 1.2% in FY 2002 to 0.8% in FY 2003 (a decrease of 0.4 percentage point).

Table 9-1: Informal Complainants Filing per Capita

R5	FY 2003	FY 2002
Total Complainants	101	114
Total Employees	8,824	8,568
Per Capita	1.1% (11 per 1000)	1.3% (13 per 1000)
Male Complainants	50	57
Total Male Employees	5,952	5,760
Per Capita	0.8% (8 per 1000)	10% (10 per 1000)
Female Complainants	51	57
Total Female Employees	2,872	2,808
Per Capita	1.7% (17 per 1000)	2% (20 per 1000)
Female Class Member Complainants	24	34
Female Employees	2,872	2,808
Per Capita	0.8% (8 per 1000)	1.2% (12 per 1000)

3) Analysis by Location and Responsible Management Official

- a) **All Employees Filing Complaints (Class and Non-Class Members):** The Regional Office, Vallejo, had the greatest number of complaints. All complaints against Vallejo are not filed by Vallejo employees. For example, Vallejo had four complaints filed by former employees or applicants (more than any other location) and some complaints filed against Vallejo involve employees who do not work in Vallejo, but rather work on Forests. For example, five multiple complaints were filed against Vallejo by two Stanislaus NF employees. The Los Padres NF also had a high number of complaints: there were three Non-Class Member complaints filed by two former employees, and the Forest Supervisor and one District Ranger were the most frequently named Responsible Management Officials.

The Angeles and Cleveland NFs were third and fourth, respectively, in number of total complaints filed. It is noteworthy that eight of nine complaints filed against the Cleveland NF were Class Member complaints. While the Angeles NF had a greater number of complaints than the Cleveland NF, only two complaints filed by one individual were Class Member complaints.

- b) **Class Member Complaints:** Data indicated that the Cleveland and Los Padres NFs had the greatest number of Class Member complaints. On the Cleveland NF, two Responding Officials were named more than once in four different complaints. The Los Padres NF had the greatest number of multiple complaints filed by a few individuals. On the Los Padres NF, the same individuals named the Forest Supervisor and one District Ranger more than once because of multiple complaints. In response to the frequent complaint activity and other related issues on the Los Padres NF, the WO contracted with a consultant who completed fact-finding on this issue in June 2003. A special fact-finding report was issued for the Los Padres NF that outlined actions to address unique issues on that NF. R5 developed an action plan in response to the consultant's recommendations

4) Analysis of Resolution Rates

- a) **Overall Resolution Rates:** Table 9-2 compares the resolution rates for Informal Complaints in R5 and for R5 Women’s Class Members. Informal Complaints are resolved by EEO Counselors with either a settlement agreement or by withdrawal of the complaint; these resolution rates are reported as “traditional counseling” in the table. The “EIP” resolution rate in the table includes the complaints that were resolved through EIP mediation efforts.

Table 9-2: Resolution of Informal Complaints

Group ¹	FY 2003 Resolution Rates			FY 2002 Resolution Rates		
	Traditional Counseling	EIP	Combined Rate	Traditional Counseling	EIP	Combined Rate
R5- ALL	44%	24%	35%	29%	23%	29%
R5 Class	50%	0%	20%	29%	30%	25%

¹ Code 20 global settlements are included in resolution rates; these include cases settled after the Notice of Right to File was issued and, in some cases, after a formal complaint was filed.

- b) **R5 Resolution Rates:** R5’s combined resolution rate increased from 29% in FY 2002 to 35% in FY 2003 (an increase of 20.7%), the result of a combined increase in the traditional counseling resolution rate (an increase of 51.7%) and the EIP resolution rate (an increase of 4.2%).

The FY 2003 traditional counseling resolution rate for Class Member complaints increased from 29% in FY 2002 to 50% in FY 2003 (an increase of 72.4%). No Class Member complaints were resolved via EIP during FY 2003.

An ADR/EIP election was made in 15 Class Member complaints; 12 of the 15 (80%) were multiple complaints. Only one of the five Class Member complaints resolved in traditional counseling (20%) was filed by a multiple filer. It is a significantly greater challenge to come up with viable settlement terms to resolve complaints for individuals with multiple complaints.

- c) **Units with High Resolution Rates:** The Angeles NF resolved a greater percentage of complaints (41%) than other NFs with high rates of complaints. The single complaint on the Modoc NF was withdrawn, resulting in a 100% resolution rate. The Regional Office, Vallejo, resolved 33% of complaints. It is noteworthy that the higher resolution rates for these locations result from a high number of voluntary withdrawals by Complainants. This indicates that EEO Counselors are doing a good job in facilitating an information exchange between Complainants and Managers.
- d) **Complaint-Free Units:** The Lake Tahoe Basin Management Unit was the only complaint-free Unit. However, nine Units had no informal Class Member EEO complaints in 2003: the Eldorado, Inyo, Klamath, Lassen, Mendocino, Modoc, Sequoia, Tahoe, and the Lake Tahoe Basin Units. It is a positive trend for R5 that nine out of 19 Units (47%) had no Class Member complaints filed in FY 2003, compared to six out of 19 Units (32%) in FY 2002.

- e) **Analysis of Time to Resolution for Closed Cases:** Table 9-3 depicts elapsed time to resolution for 12 settlement agreements for cases closed in FY 2003. Of the 12 settlement agreements, six (50%) were closed in less than 90 days. Two cases (33%) were mediated and settled in ADR/EIP in less than 90 days. Two ADR/EIP settlements involved global settlements of pending formal complaints. Four traditional counseling cases (67%) were settled in less than 90 days.

EEO Counselors and the EIP Manager are collaborating and following up on ADR/EIP cases at 30-day intervals to address timeliness of the Informal EEO Process. The Vallejo ECP plans to publish a summary of settlement terms in future reports for R5 managers. Terms will be summarized in broad categories (e.g. training, cash payments, etc.). These reports will be available to the MC upon request.

Table 9-3: Time to Resolution

Resolution Forum	Settled 7-40 days	Settled 41-89 days	Settled 90+ days ¹
ADR/EIP	0	2	4
Traditional Counseling	2	2	2
Total	2	4	6

¹ Cases that settled after 90 days were counted as code 20 informal settlements because the settlement occurred after the Notice of Right to File a formal complaint was issued and in some cases after a formal complaint was filed.

❖ **Increased Viability and Use of an Effective Alternative Dispute Resolution Process:** The FS has consistently made ADR/EIP available. While this provision has been effectively implemented, the FS continues to seek opportunities to increase the visibility and use of ADR/EIP by Complainants as an avenue for face-to-face mediation and resolution:

- Written handouts given to Complainants have been updated to improve understanding of the traditional counseling and EIP processes.
- Talking points have been written to help Counselors explain the differences between traditional counseling and the EIP processes.
- Complainants are advised of their right to elect ADR/EIP at three stages: (1) during the intake interview with the EEO Assistant; (2) at the initial interview with the assigned EEO Counselor; and (3) by letter advising them of the Notice of Rights and Responsibilities.

Prior to May 2003, Complainants were required to elect ADR/EIP in writing; otherwise the complaint would be handled through the traditional EEO Counseling process. The default selection since May 2003 is ADR/EIP.

Tables 9-4 and 9-5 (on the following page) depict which resolution forum (i.e., ADR/EIP or traditional counseling) was elected in closed cases during FY 2002 and FY 2003. As of September 30, 2003, an election had not yet been made in some open cases.

Table 9 -4: Counseling Method Elected in All Closed Cases

Resolution Forum	FY 2003		FY 2002	
	Number of Closed Cases	% of Total Complaints	Number of Closed Cases	% of Total Complaints
ADR/EIP	43	47%	13	10%
Traditional Counseling	49	53%	113	90%
Total	92	100%	126	100%

Table 9-5: Counseling Method Elected in Closed Class Member Cases (Subgroup of total)

Resolution Forum	FY 2003		FY 2002	
	Number of Closed Class Cases	% of Class Complaints	Number of Closed Class Cases	% of Class Complaints
ADR/EIP	15	60%	10	17%
Traditional Counseling	10	40%	49	83%
Total	25	100%	59	100%

Data indicate that there has been a 170% increase in the number of cases processed and closed via ADR/EIP since FY 2002 (from 13 cases in FY 2002 to 43 cases in FY 2003). For class member complaints, there has been a 150% increase (from 10 cases in FY 2002 to 15 cases in FY 2003). The increase in cases processed through ADR/EIP can be attributed to the policy change implemented in May 2003, wherein ADR/EIP is the default selection if a written election for traditional counseling is not received.

- ❖ **Timely Mediation:** R5's EEO Counselors continue to collaborate with the EIP Manager to ensure timely processing of ADR/EIP by following up on the status of ADR/EIP elections on the 30th, 60th, and 85th days of the counseling period and by keeping the Complainant informed of their complaint status. As previously discussed (see Section 9.4.5), the Informal Complaints tracking system has been enhanced to assist the EIP Manager in tracking cases that do not go to mediation within 90 days.
- ❖ **Written Notification to Forest Supervisor of Informal Complaints Filed:** R5 accepted the MC's recommendation to provide written notification to the Forest Supervisor when an informal complaint is filed. Since acceptance of this recommendation in July 2003, Forest Supervisors have been notified of Informal Complaints, except for those instances when the Complainant specifically requests that the Forest Supervisors not be notified. The Vallejo ECP will be monitoring trends to ascertain if this new practice has a positive effect on the resolution rate of informal cases, since the Forest Supervisor is the Resolving Official on each NF.
- ❖ **Action Items Accomplishing Recommendations in First MC Report:** Concerns from the MC regarding the effectiveness of the Informal EEO Process in R5 were received as part of the March 2003 MCR. Some of the concerns involved OGC, USDA, and the WO, which has authority over the informal process. The RF does not have authority over the informal process, but the RF worked with the OCR Director

and the EIP Director to address many of the concerns of the MC. R5 developed an action plan to address these concerns (see the Third Semi-Annual Report, pages 56 and 58).

❖ **Other Accomplishments**

- **Communication:** Since January 2003, letters have been sent to Responding Officials to inform them when a complaint is filed against them. The letters were revised in response to a recommendation from the MC to notify the Forest Supervisor. In October 2003, a revision was made to the letter emphasizing the need to be mindful of reprisal and confidentiality concerns.
- **Confidentiality:** New desk operating procedures for EEO Counselors, particularly in regards to confidentiality issues, have been drafted to address concerns of employees who are reluctant to file Informal EEO Complaints. Copies of the revised database reports and desk procedures are available upon request.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	4 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
11.0 The Informal EEO Process Overall Performance Scorecard	G	G	G	G	G	Significant improvement in the last two years. Revisions to the ADR/EIP election process and greater collaborative efforts between the ECP and EIP staffs, the resolution rate has improved.
11.1 Provide training to all EEO Counselors.	G	G	G	G	G	Training was completed in July 2003
11.2 Design and conduct a voluntary survey of participants in the EEO process.	G	G	G	G	Y	System enhancements were completed in July 2003. Making progress with new efforts to increase response rate
11.3 Conduct an annual analysis of completed survey forms to determine whether the Informal EEO process is functioning effectively and appropriately .	G	G	G	G	G	R5 continues to complete this analysis
11.4 Acknowledge that EEO Counselors may not withdraw any Class Member's informal complaint without the employee's written permission.	G	G	G	G	G	All withdrawals are in writing
11.5 Create and maintain a process for tracking complaints by type of discrimination, Responding Officials, and location to determine patterns of conduct.	G	G	G	G	G	Expanded data for analysis; completed
11.6 Maintain an ADR/EIP process that will be available to a complainant within the first 90 days after an initial complaint is filled.	G	G	G	G	G	100% offered ADR/EIP

Accepted Recommendations	Date Requested	Date Accepted	Relevant Injunctive Relief Provision	Score	Rationale
2003-0019 Forest Supervisors should be provided written notification that an employee filed an Informal EEO complaint on their forests within 5 business days after the EEO Counselor conducts the initial interview with the Complainant	7/8/03	7/30/03	11	G	Implemented immediately

ACTION PLAN

No.	Action	Responsible Official	Date
1	Provide the MC with copies of the EEO Counselor training course manuals for training completed in July 2004.	J. Benavides	Annually, in August
2	The WO consultant will complete survey system enhancements to (1) assist managers in identifying multiple Complainants & (2) add additional questions for Complainants who elected ADR/EIP.	P. Blount	December, 2003
3	Continue to explore other options for increasing survey response rates.	P. Blount, T. Cordova	Ongoing
4	Analyze surveys to improve the Informal EEO Process and monitor participation rate.	P. Blount, T. Cordova	Quarterly
5	Provide copies of all withdrawal confirmation letters on a semi annual basis to the MC.	T. Cordova	Semi Annually
6	Continue to track, report, and analyze data on settlement statistics including a summary of broad settlement term categories. Publish information for managers.	T. Cordova, M. Coley	Semi Annually
7	Continue to track, report, and analyze data on percentage of cases that do not go to requested mediation within the 90-day informal counseling period.	T. Cordova, Marquette Drone, M. Coley	Semi Annually
8	Continue to collaborate with EIP to address timeliness in the informal process.	N. Tousley, T. Cordova, D. Gentry	Ongoing

10.0 MENTORING PROGRAM

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 12.1:

The Agency shall create a task force to examine the Region 5 Mentoring Program. The task force shall recommend to the Council proposals designed to assure that Class Members are provided appropriate mentoring, including assistance with respect to issues relating to sexual harassment.

Recommendations Relevant to This Provision

2003-0001—Section 12, Mentoring Program

Recommended 1/27/03; accepted 3/24/03

1. Hire a consultant with the development and coordination of the Mentoring Program.
2. Establish a Mentoring Program Steering Committee (or Team) to include the Program Manager, Regional Training Officer, Program Facilitator, one line officer, one union representative, one Forest Civil Rights Officer, one representative from each Province, and one member of the Council.

2003-0001—Follow-up

Recommended 8/6/03; accepted 8/19/03

1. Offer the opportunity for 100 pairs to participate in the Mentoring Program each year.
2. Commit to supporting a program that allows employee participation throughout the Region and ensures all interested employees participate.

BACKGROUND

The focus of Provision 12.1 is for R5 to develop and implement a comprehensive Mentoring Program. The objectives of the program are to increase the understanding of the culture and organization of the FS, help employees identify career goals and their potential for achieving those goals, improve interpersonal communications skills, and increase employees' self-confidence. R5 is currently in the process of implementing recommendations provided by the Mentoring Program Task Force that was convened in July 2003.

RECORD KEEPING AND REPORTS

The Training Connection, who supports the Mentoring Program, maintains all records in a secure SQL server database. The Program Manager has access to all data at all times. The following is information maintained in the database: profile information for each applicant; grade and series; location; mentor/mentee pairs; Mentoring Action Plans; and supervisory information. The contractor can provide the Region with various status reports, such as:

- The completion rate of applicants, mentoring action plans, and matching forms;
- List of participants by location, status, grade and series; and
- Time participant accessed system.

Gender information was captured on the application form and statistical information is collected manually. Gender information was not mandatory for participants to supply, but the majority of applicants did supply this information.

ACCOMPLISHMENTS FOR THE PERIOD (JULY – DECEMBER 2003)

- ❖ **Mentoring Program Design Team:** The Mentoring Program Design Team was established early in the reporting period and consisted of employees from each Province, the MC, the NFFE, a line officer, and CR representatives, as well as the Regional Training Officer and Mentoring PM. The Design Team met with a consultant, The Training Connection, in July 2003 to develop guidance for the R5 Mentoring Program. During this meeting, it became apparent that a standard formal Mentoring Program would not address all the MC's concerns about providing mentoring for employees who believe they are experiencing sexual harassment or retaliation. Members of the Design Team and the consultant met again in August 2003 to develop a short-term, informal Situational Mentoring Program to assist employees who believe they are experiencing sexual harassment or retaliation in the workplace. R5 will evaluate this program as it is implemented in order to determine the benefit of the mentoring experience to individuals and to R5.
- ❖ **Program Announcement:** The call letter offering the Mentoring Program (see Appendix E.1, page E-1) and call letter Attachments (Appendices E.2, E.3, and E.4; pages E-2 to E-4) were issued on August 29, 2003, with NFFE concurrence. Employees were encouraged to sign up on-line to be mentors or mentees. The initial reply deadline was September 30, 2003. Response to the announcement was substantial: a total of 72 mentors and 49 mentees signed up.
- ❖ **Mentoring Program Orientation and Training Held:** Based on employee response, two formal classes in mentoring were held. A well-attended orientation was held on October 27, 2003, at the Hyatt Regency Hotel in Sacramento, California. The session was videotaped to share it with employees who signed up for the program but could not attend this session. Participants recommended their own potential matches, and the Design Team assisted in the final matching of mentors and mentees. The initial matching process took place on November 6, 2003, and 39 mentor/mentee matches were made. During the orientation and matching period, the Region was going through a national emergency, with multiple forest fires burning in Southern California. As a result, some employees were not able to attend the orientation or complete their forms in order to be matched. To ensure that those employees were given an opportunity to participate in the program, a second matching exercise was held on November 17, 2003. After the initial matching process, situations arose in which either a mentor or mentee that was matched had to withdraw from the program. Efforts were made to rematch the remaining participant with a replacement partner. In some cases, the agency was successful in re-matching the participant. As of this reporting period, our participant demographics are 29 women/10 men who are mentees and 21 women/18 men serving as mentors.

Two formal training sessions were conducted November 12 – 14, 2003, and December 3 – 5, 2003. At these sessions, mentors and mentees began developing their Mentoring Agreements and Action Plans. The forest fires that occurred the previous month impacted attendance at these sessions. Therefore, an intensive one-day make-up session has been scheduled for January 13, 2004, in Sacramento, California for any mentor or mentee who missed the previous sessions.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	4 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
12.0 Mentoring Program Overall Performance Scorecard	G	G	G	Y	Y	The program has gotten an excellent start and has been well received by the workforce. The on-line evaluation component will make program oversight efficient. It is too early in the program to determine specific program results.
Review Mentoring Program and provide proposal to ensure that Class Members are provided appropriate mentoring, including assistance with respect to issues relating to sexual harassment.	G	G	G	Y	Y	The Task Force reviewed mentoring Program and a proposal for the Mentoring Program was developed.

Accepted Recommendations	Date Requested	Date Accepted	Relevant Injunctive Relief Provision	Score	Rationale
2003-0001 Hire a consultant to assist with the development and coordination of the Mentoring Program	1/27/03	3/24/03	12	G	Consultant was hired.
2003-0001 Establish a Mentoring Program Steering Committee (or Team) to include the PM, Regional Training Officer, Program Facilitator, one line officer, one NFFE representative, one FCRO, one representative from each Province, and one member of the MC	1/27/03	3/24/03	12	G	Steering Committee established and met.
2003-0001 (follow-up) Offer the opportunity for 100 pairs to participate in the Mentoring Program each year	8/6/03	8/19/03	12	G	R5 agreed to support opportunity for up to 100 pairs of mentors/mentees.
2003-0001 (follow-up) Commit to supporting a program that allows employee participation throughout R5 and ensures all interested employees have the opportunity to participate	8/6/03	8/19/03	12	G	Program was advertised throughout R5 and was open to male and female employees.

ACTION PLAN

No.	Action	Responsible Official	Date
1	Check with mentoring pairs on the status of their partnership.	Maxie Hamilton	January 2004
2	Publicize mentoring partnerships.	Maxie Hamilton	February 2004
3	Design (virtual) developmental activity for mentoring pairs.	Maxie Hamilton	April 2004
4	Begin planning for subsequent mentoring classes.	Maxie Hamilton	April 2004

11.0 SCHOLARSHIPS

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 13.1:

Region 5 shall set aside at least \$100,000.00 per year for scholarships; provided, however, that Region 5 shall not be required to set aside more than \$100,000. The parties agree that funds will be set aside for scholarships under this paragraph only from Congressionally appropriated funds legally available for such purpose. Nothing in this paragraph shall be interpreted or construed as a commitment or requirement that Defendant obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law.

Provision 13.2:

The Council shall review Region 5's current scholarship program to assure that women are not denied opportunities as a result of sexual harassment and reprisal, and that scholarships are available to men and women equitably; provided, however, that nothing in this section shall be construed to authorize or require establishing quotas for the distribution of scholarship funds.

Recommendations Relevant to This Provision

2002-0003—Recommendations for Scholarship Program

Pursuant to Section 13

Recommended 5/22/02; accepted 6/26/02

1. Two thirds of the funds be provided for requests that focus on these types of areas
 - a. Development skills that reflected in the settlement agreement
 - b. Cross-Functional training:
 - i. Civil Rights Laws, Regulations and Court Decisions
 - ii. Paralegal Studies
 - iii. Supervisory and Leadership Development
 - iv. Team Dynamics
 - v. Collaboration, Negotiation, Communication
2. Divide funds into three parts
 - a. Group requests for program such as leadership training and development, interest based bargaining, mediation training, conflict resolution, networking, mentoring, etc.
 - b. Individual requests for training that focus on development of interpersonal skills, dispute resolution skills, or issues related to retention of women in the workplace
 - c. General education in the remaining areas outlined in the proposed Scholarship Program section on current Regional priorities as outlined
3. The following statement be included: "Candidates for scholarships will be considered without regard to any non-merit factors such as race, sex, national origin, or physical disability."
4. Adopt a process similar to that used by Capital Improvement Program be implemented with a rotating panel to evaluate the requests each year with the same type of composition as the Capital Improvement Program panels
5. Include a Union representative on the selection panel

6. Finalize the provisions and requirements of the Scholarship Program as quickly as possible and ensure that employees in remote locations receive the information in a timely manner

2003-0017—Scholarship Program

Pursuant to Section 13

Recommended 6/16/03; accepted 7/16/03

1. Make a strong effort to expend the funds within the fiscal year
2. Review previous applications of non-selected applicants who had training scheduled before the end of the fiscal year for additional allocation of funds
3. In the future, call letters should be sent out in April and the response time for applications for scholarships should be eight weeks

BACKGROUND

R5 agreed to set aside \$100,000 annually for three years to assist employees in receiving training that will benefit employees in both their current jobs and future career goals and that will also benefit the USDA FS. The categories for scholarships are as follows: Leadership and Work Environment Skills (Groups), Workplace and Interpersonal Skills (Individual), and Workforce Plan Skills (Individual). The first two categories include skills training for supporting a positive work environment. Scholarship applications are evaluated based on the following:

- How closely the proposed education and training is related to the identified skill need priorities;
- The benefit to the individual (or group) in pursuing career goals within the FS; and
- The potential benefit to the FS.

Scholarship opportunities are advertised throughout R5 and employees' applications are reviewed and rated by a diverse panel of employees. Grants are distributed in late summer for the following fiscal year. On May 21, 2003, the RF's Office agreed to provide funding for the Scholarship Program through FY 2005.

RECORD KEEPING AND REPORTS

The Region has been using Access database software as the tracking tool for the Scholarship Program for the past two years. Demographic information is being tracked with the exception of race and national origin, which is obtained from the Civil Rights staff once awardee selections have been made. At Council's recommendation the Region now tracks the types of time being used by employees to participate in the training. This new data element will be added to the Scholarship database.

The Program Manager tracked completion by requesting documentation from program participants. The documentation received has consisted of transcripts, course certificates, letters, and other standard documents. The Program Manager also issued a survey form requesting feedback from FY02/03 scholarship recipients on the program and the participants' experience.

ACCOMPLISHMENTS FOR THE PERIOD (JULY – DECEMBER 2003)

Note: The Scholarship Program relies on data and information that are generated at the end of each fiscal year rather than data that are generated at the end of the calendar year.

Thus, this section of the report contains the analysis and results of the program for the third and fourth quarters of FY 2003, which cover the period beginning April 1, 2003, and ending September 30, 2003. Developments that occur after September 30, 2003, will be included in this report wherever possible and reported more fully in the Fifth Semi-Annual Report.

- ❖ **Supplemental Allocation:** Historically, there has been a difference between the \$100,000 in funds granted for the Scholarship Program and the lesser amount actually used by employees because of changes in course offerings, job changes, and other conflicts. For this reason, in early July 2003, R5 pursued a strategy to grant additional FY 2003 scholarship funds. After budget coordination, scholarship applicants who had planned classes in late FY 2003 were contacted and funds were redistributed to those who were still able to use the funding within the fiscal year. This supplemental allocation allowed an additional \$15,087 in funding to be offered to 11 employees. Nine of these employees accepted supplemental funds to pursue their scholarship goals, for a total of \$14,216.
- ❖ **Program Completion Status:** As of the end of FY 2003, 51 scholarship recipients from the FY 2002/2003 program completed training. Information on expenditures for the FY 2003 program is currently being collected, and some training is still ongoing. However, as of the end of FY 2003, total expenditures reported for the FY 2002/2003 original and supplemental grants amount to \$180,679.
- ❖ **Response to Program:** The Scholarship Program is having a positive impact on building employee skills and competitiveness, according to surveys of FY 2002/2003 recipients. Scholarship Program surveys were sent to individuals and groups that received initial FY 2002/2003 grants, and subsequent surveys were sent to the individuals receiving supplemental funds (see Appendix F.1, pages F-1 to F-2). Based on survey results, most recipients expressed a high level of satisfaction with the program. One respondent wrote, "I'm very excited about this Scholarship Program – it has allowed me to attend two trainings that would have been too costly for my budget but is very beneficial to my current and future positions. Thank you for supporting my interpretive training."

In general, participants believe the training made possible by the Scholarship Program will help them to be more competitive for positions in the future. All respondents indicated that they would apply again and would recommend the program to their coworkers. Respondents indicated that they experienced no negative repercussions for participating in the Scholarship Program; to the contrary, they reported supervisory support for time to attend training.

Some respondents suggested ways to improve the program, such as earlier funding to align with the academic year. The difficulty is that the academic year often begins before the fiscal year, when the funding first becomes available. Though it is not possible to modify the budget schedule, applicants can use some strategies to alleviate this situation. For example, an employee could apply for a college course in Hydrology beginning in August or September 2005 based on course availability for September 2004 and then modify his or her proposal when more information becomes available on actual course schedules.

Other participants expressed a desire for more feedback about how their scholarship was rated. R5 plans to address this and other issues in a Frequently Asked Questions (FAQ) sheet that will be provided to applicants and posted on the FS Intranet Website.

- ❖ **2004 Scholarship Applications:** In response to the scholarship call letter (see Appendix F.2, pages F-3 to F-4) and call letter attachments (see Appendices F.2, F.3, F.4, and F.5; pages F-5 to F-9), R5 received 155 applications for FY 2004 scholarship funding, which included 134 individual applications and 21 group applications. This figure differs slightly from the initial count provided in the Third Semi-Annual Report because of some confusion concerning employees who submitted multiple proposals. R5 granted 29 scholarships: 24 to individuals and five to groups.

Applicants for individual grants were 73% women and 27% men. Selected individuals were 76% women and 24% men. For individual grants, 78% of the funding went to women and 22% went to men. Information on the gender composition of group scholarships will be available after the training is completed. Ethnic composition of awards was as follows: 76% non-minority, 12% Hispanic, 4% African-American, and 8% Asian/Pacific Islander. Detailed information on race, sex, and national origin of scholarship applicants and recipients is included in Appendix F.6 (see page F-10).

- ❖ **Expenditure of Funds:** R5 awarded \$115,900 in scholarships for FY 2004 to help ensure that at least \$100,000 would actually be spent by recipients. Funding is used to pay for tuition, books, lab fees, travel, and per diem expenses. A separate job code to facilitate expense tracking was not established for FY 2004. However, the Budget and HR staffs are committed to working together to identify expenditures and to ensure monitoring of fund usage.
- ❖ **Women in Fire:** The FY 2004 program was analyzed to determine whether Women in Fire had difficulty receiving scholarships. Based on Regional permanent strength and Women in Fire data (i.e., Firefighter Retirement coverage), the percentage of women firefighters selected for scholarships (1.4%) is higher than for employees as a whole (0.46%). Although the numbers are small (11 applied and four granted), application activity was focused on six NFs. R5 will make special efforts to ensure that publicity on other NFs is used to reach this segment of the workforce.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	4 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
13.0 Scholarships Overall Performance Scorecard	G	G	G	G	G	This area is on track. R5 has granted in excess of \$100,000 per year and women are receiving scholarships proportionate with their representation in the applicant pool.
13.1 Set aside at least \$100,000 per year for scholarships.	G	G	G	G	G	\$100,000 has been set aside and granted to employees each year for FY 2002-2004.
13.2 Review Scholarship Program to ensure that women are not denied opportunities.	G	G	G	G	G	Program is widely publicized. There have been more women applicants and more women awarded than men each year.

Accepted Recommendations	Date Requested	Date Accepted	Relevant Injunctive Relief Provision	Score	Rationale
2002-0003 2/3 of the funds be provided for requests that focus on these types of areas: a. Development skills that reflected in the WSA b. Cross-Functional training	5/22/02	6/26/02	13.1, 13.2	G	MC descriptions of subject matter areas are included in the program.
2002-0003 Divide funds into three parts: a. Group requests for programs b. Individual requests for training c. General education in the remaining areas	5/22/02	6/26/02	13.1, 13.2	G	Funds are divided into three parts.
2002-0003 Include the following statement in call letter: "Candidates for scholarships will be considered without regard to any nonmerit factors such as race, sex, national origin, or physical disability."	5/22/02	6/26/02	13.2	G	Statement is included in the call letter (see Appendix F.2, pages F-3 to F-4).
2002-0003 Adopt a process similar to that used by Capital Improvement Program to implement a rotating panel to evaluate the requests each year	5/22/02	6/26/02	13.1, 13.2	G	Paneling process is similar with rotating raters each year.
2002-0003 Include a Union representative on the selection panel	5/22/02	6/26/02	13.1, 13.2	G	NFFE was invited to participate, but declined.
2002-0003 Finalize the provisions and requirements of the Scholarship Program and ensure that employees in remote locations receive the information in a timely manner	5/22/02	6/26/02	13.2	G	The program has been highly publicized throughout R5. In FY 2004 all NFs participated.

2003-0017 Make a strong effort to expend the funds within the fiscal year	6/16/03	7/16/03	13.1	Ⓞ	Awardees were followed up with to promote maximum usage.
2003-0017 Review previous applications of non-selected applicants who had training scheduled before the end of the FY for additional allocation of funds	6/16/03	7/16/03	13.1	Ⓞ	Supplemental Scholarship grants of over \$15,000 were awarded.
2003-0017 In the future, call letters should be sent out in April and the response time for applications for scholarships should be eight weeks	6/16/03	7/16/03	13.1	Ⓞ	FY 2004 call letter was sent out in April and open for six weeks. For FY 2005, it will be sent out in April and open for eight weeks.

ACTION PLAN

No.	Action	Responsible Official	Date
1	Complete analysis of FY 2003 Coursework and Funding.	Maxie Hamilton	January 2004
2	Develop FAQ sheet on Scholarship, post to Web.	Maxie Hamilton	January 2004
3	Initiate special publicity to Fire community on Forests.	Maxie Hamilton	April 2004

12.0 ADVERSE ACTION DIGEST

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 14.1:

Region 5 shall publish a semi-annual Adverse Action Digest of disciplinary actions of one-day suspension or more taken against employees in Region 5.

Provision 14.2:

The Adverse Action Digest shall summarize adverse actions according to forest or Regional Office, supervisory or non-supervisory position, and gender of the person against whom adverse action was taken, and shall describe the nature of the offense and the disciplinary action taken.

BACKGROUND

The purpose of the AAD is to educate employees on the kinds of disciplinary action that result from unacceptable behavior in the workplace and to reinforce R5's commitment to ensuring individual accountability for misconduct. The AAD summarizes the disciplinary and/or adverse actions issued to R5's permanent and temporary employees. The AAD helps management ensure a more consistent application of the Table of Penalties and aids in discouraging sexual harassment by publicizing consequences for such actions. The MCL, through the HROs, is responsible for the development and publication of the AAD.

The Employee/Labor Relations Supervisor, HR Director, Deputy HR Director, and Associate RF review the AAD before it is sent to all R5 employees and the MC. The AAD is distributed semi-annually to all employees under a cover letter signed by the RF, in accordance with the WSA. The AAD is disseminated to all employees through the mailroom and is resident on the FS Intranet Website. In addition, all AADs issued since 1999 remain on the FS Intranet Website.

RECORD KEEPING AND REPORTS

All disciplinary/adverse actions are logged into an Excel spreadsheet as they are received from the Forests and HROs and assigned a number (i.e., AA-03-01). A reminder is sent to the field Units before the AAD is finalized to ensure that all actions are included for the reporting period.

ACCOMPLISHMENTS FOR THE PERIOD (JULY – DECEMBER 2003)

Note: The AAD relies on data and information that are generated at the end of each fiscal year rather than data that is generated at the end of the calendar year. Thus, this section of the report contains the analysis and results for the third and fourth quarters of FY 2003, which cover the period beginning April 1, 2003, and ending September 30, 2003. Adverse actions that occur after September 30, 2003, will be included in this report wherever possible and reported more fully in the Fifth Semi-Annual Report.

- ❖ **Report Distributed:** The AAD covering the third and fourth quarters of FY 2003 was distributed to the MC and all R5 employees on October 8, 2003. All disciplinary actions, including: letters of reprimand; suspensions; removals; resignations;

alternative disciplines; and terminations, taken against employees in R5 are included in this report.

- ❖ **Report Results:** There were 121 adverse actions during this reporting period. These actions are summarized by Forest, Supervisor/Non-Supervisory position, gender, the type of appointment, ethnicity, and the type of disciplinary actions in a report entitled *Statistics Report for Disciplinary and Adverse Action Digest Submissions, Part 2 FY 2003* (see Appendix G, pages G-1 to G-2). This report was developed to ensure that the AAD could be used as a training tool. The report shows the breakout of the most common types of adverse actions; during training, those actions can be pointed out.

In FY 2002, there were 241 adverse actions. In FY 2003, there were 187 adverse actions, a decrease of 54 adverse actions. There has been a 22% decrease in adverse actions over the last two years.

- ❖ **Report on Sexual Harassment Adverse Actions:** Twenty of the 121 adverse actions involved sexual harassment and resulted in 12 suspensions, three reprimands, and five removals. Ten of the 15 individuals still under FS tenure have attended the Specialized One-On-One POSH training, and four employees still need to receive Specialized One-On-One POSH training during this reporting period. One individual was associated with two adverse actions.
- ❖ **Reprisal Report:** For this reporting period, there were no actions reported based on reprisal. The regional analysis of discrimination complaints shows that “reprisal” is the most common basis of all EEO complaints. R5 has determined that extra emphasis is necessary to address employee concerns related to reprisal. R5 developed a Regional Policy and Procedures intended to provide an objective assessment and timely follow-up to allegations of reprisal, thereby deterring future reprisal actions and holding those found engaging in such activity accountable.
- ❖ **Report Publicized:** R5 agreed to publicize the AAD more widely and to encourage managers to use it for training purposes. Intranet access was publicized via email to all employees in the Forest and Province Offices. On October 8, 2003, a letter signed by the RF was sent to all Forest Supervisors and Directors, directing them to use the AAD during all trainings and orientations with employees and to ensure that the AAD is well publicized on their Forests and Provinces in hard copy form as well as via the FS Intranet.
- ❖ **Specialized Training:** The AAD Manager prepared a list of all employees who received an adverse action as a result of a sustained allegation of sexual harassment to ensure that these individuals receive the Specialized One-On-One POSH training in accordance with the WSA.

The MC pointed out 17 adverse actions from previous AADs issued during FY 2002 and the first part of FY 2003 and recommended that these employees receive Specialized One-On-One POSH training during this reporting period. The AAD Manager reviewed the previous AADs, and a list was prepared and given to the Regional CRO to schedule the employees for the Specialized One-On-One POSH training. Ten of the 17 employees received the specialized training. Six of the 17

employees exhibited conduct prejudicial to the best interest of the FS and had been terminated. One of the 17 employees had retired.

As previously discussed, 20 of the 121 adverse actions that occurred during this reporting period-involved sexual harassment. Ten of the 20 individuals received Specialized One-On-One POSH training, five employees had been terminated, and four employees still need to receive Specialized One-On-One POSH training during this reporting period. One individual was associated with two adverse actions. The names of those individuals were provided to the FWPM, the Regional CRO, and the MC. In summary, 20 employees received Specialized One-On-One POSH training during this reporting period: 10 from the previous AADs and 10 from the current AAD.

The MC received a copy of the list of employees from FY 2002 who needed and were given the Specialized One-On-One POSH training in September 2003. This list is generated from the AAD Manager's Excel spreadsheet for this reporting period.

- ❖ **Measuring Effectiveness:** This is the first reporting period that Forest Supervisors and Directors were directed to refer to the AAD during all training and employee orientations. Prior to this reporting period, the AAD was published but was not necessarily used other than for reference purposes. Therefore, developing a methodology and questionnaire for measuring the effectiveness of the AAD and analyzing ways to use the AAD to ensure the level and frequency of disciplinary actions is premature for this reporting period.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	4 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
14.0 Adverse Action Digest Overall Performance Scorecard	G	G	G	G	G	R5 has complied with and gone beyond the provisions outlined in the WSA.
14.1 R5 shall publish a semi-annual AAD of disciplinary actions of one-day suspension or more taken against employees in R5.	G	G	G	G	G	The AAD is being published as directed.
14.2 Summarize adverse actions by forest or Regional Office, supervisory or non-supervisory position, and gender of the person against whom adverse action was taken, describe the nature of the offense and describe the disciplinary action taken.	G	G	G	G	G	Records are being kept as required.

13.0 WOMEN'S CONFERENCE

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 15.1:

Region 5 shall sponsor an annual Women's Conference, open to female employees of Region 5 regardless of supervisory capacity. Not more than 500 participants according to criteria established by the Council may attend each annual conference. Additionally, the Council may, in its discretion, further limit the number of participants.

Provision 15.2:

The Council shall review and approve the agenda or curriculum for the Women's Conference.

Recommendations Relevant to This Provision

2002-0006—Actions in Regards to Employee Resource Groups

Recommended 11/12/02; accepted 12/4/02

Ensure that Employee Resource Groups are invited to participate in the Women's Issues Conference.

2003-0022—2003 Women's Conference Agenda

Recommended 8/14/03; accepted 8/27/03

Region will adopt the August 6 workshop alternative.

1. Contracted speakers provide only three sessions during the conference
2. Develop a fourth track for the conference on Professional Development

BACKGROUND

An Incident Command Team (Team) composed of individuals from the Regional Office, R5 NFs, and Region 8 was established in January 2003 to plan and execute the 2003 Women's Conference. The theme from the 2002 Conference, "Building a Better Workplace for all," was carried forward for 2003. The overall format and theme for the Conference was developed based on analysis of evaluations from the 2002 Conference and discussions with the MC, Employee Resource Groups (ERGs), and the Team. The Conference's Responsible Official informally conferred frequently with the MC with the goal of meeting the MC's vision and expectations for the Conference and to keep the MC apprised of progress on Conference development.

R5's goal for the 2003 Women's Conference was to provide a high-quality event that was inclusive and offered an agenda with broad support and appeal. The 2003 Conference focused on work and family issues, the intersection between the two, and networking for professional development. The Conference theme emphasized personal responsibility by creating individual courses for careers and personal lives.

RECORD KEEPING AND REPORTS

Records are currently on file for both the 2002 and 2003 Women's Conference. The records highlight the following: lists of attendees, copies of conference evaluations, compact disks of video highlights, agendas, marketing materials, financial information,

workshop information, vendor information, and information on facilities used. In 2003 R5 added a more thorough analysis of attendance satisfaction.

ACCOMPLISHMENTS FOR THE PERIOD (JULY – DECEMBER 2003)

- ❖ **Women's Conference Marketing:** Forest ambassadors served as coordination and communication points and assisted in supporting and marketing the Conference. This approach was highly effective in making the Conference an integrated R5 effort and doubled the number of people who attended the 2003 Conference from the number in 2002.
- ❖ **2003 Women's Conference Summary:** The 2003 Women's Conference was held at the Hyatt Regency Hotel in downtown Sacramento from October 28 – 30, 2003. This venue provided the most convenient and economical access for the greatest number of employees from around R5. The theme from the 2002 Conference, "Building a Better Workplace for All," was carried forward for 2003. There was excellent support for the Conference, based in part on the successes of 2002 and an energetic planning team.

The following four tracks of training were offered at the Conference: Career Development; Communications and Interpersonal Relations; Work/Life Balance; and Continuing Education/Professional Development. Conference attendees had the option of staying with one track for the duration of the Conference or selecting workshops from multiple tracks. Special guest speakers included the Chief of the National Forest System and the USDA Assistant Secretary for CR. The agenda for the Conference also included inspiring speakers, interesting panel discussions, and unique presentations. There were opportunities to build support groups, have personal appointments with a professional career coach, and interact informally with Agency and Department leadership. One of the highlights of the conferences was the Information Expo that occurred on the first day of the Conference. Employees from around R5 contributed display/information-sharing tables to showcase their work, communicate their successes and other information, and network with members of Regional and National leadership. Twenty exhibits were submitted.

Agency and Department leadership were well represented at the Conference by the Associate Chief of the National Forest System, the Deputy Chief for Business Operations, the CR Director, the USDA Assistant Secretary for CR, the USDA Office of the General Council (OGC) Chief Counsel, and the FS FWPM. The RLF met concurrently in the Hyatt Regency Hotel on October 29 and 30, 2003. Most of the leadership from R5 was present at various times throughout the Conference.

- ❖ **Effectiveness and Success of 2003 Conference:** A random sample of 20% of the participants registered to attend the 2003 conference was surveyed. This statistically sound assessment process was developed to evaluate the effectiveness and success of the 2003 Conference and to assist in planning the 2004 Conference. Several questions were asked of this sample population in advance of the Conference, immediately following the Conference, and two weeks after the event. Immediate feedback was extremely positive. These data will be analyzed by December 2003 and results will be included in the Fifth Semi-Annual Report.

- ❖ **Women's Conference 2004 Planning:** The Sheraton Grand Hotel in downtown Sacramento has been reserved for October 19 – 21, 2004, for the 2004 Women's Conference. It is expected that the current Team will continue to provide high-quality transition and assistance to ensure consistency and continuity for the 2004 Conference. A professional conference planner will spearhead the 2004 effort.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	4 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
15.0 Women's Conference Overall Performance Scorecard	G	G	G	G	G	Approximately 400 people attended the October 2003 Women's Conference. Evaluation is occurring now, and results will be submitted in the Fifth Semi-Annual Report. The intent of the WSA is being met, and plans are in place for the 2004 conference.
15.1 Sponsor an Annual Women's Conference, open to female employees of the region, regardless of supervisory capacity.	G	G	G	G	G	Approximately 400 people attended the October 2003 Women's Conference. Evaluation is occurring now, and results will be submitted in the Fifth Semi-Annual Report. Plans for the 2004 Conference are already underway.

Accepted Recommendations	Date Requested	Date Accepted	Relevant Injunctive Relief Provision	Score	Rationale
2002-0006 Ensure that ERGs are invited to participate in the Women's Issues Conference	11/12/02	12/4/02	15	G	All ERGs were invited. Several hosted exhibits at the Information Expo on the first day of the 2003 Conference.
2003-0022 Adopt the August 6 workshop alternative a. Contracted speakers provide only 3 sessions during the conference b. Develop a fourth track for the conference on Professional Development	8/14/03	8/27/03	15	G	A reduction was made in the original number of workshops to make room for a fourth track entitled Professional Development/ Continuing Education. This track was developed and integrated into the Conference Program.

ACTION PLAN

No.	Action	Responsible Official	Date
1	Integrate results of evaluation of effectiveness and success of 2003 Conference into plans for 2004 Conference. Identify common vision of general theme and design for 2004 Conference agenda through discussion with the MC.	Janice Gauthier	January 2004

14.0 ADVANCE ADVERTISEMENT OF WORK DETAILS

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 16.1:

Region 5 shall advertise all details of 90 days or more in Region 5.

Provision 16.2:

Region 5 shall maintain records of all details advertised under this section.

Recommendations Relevant to This Provision

2002-0004—Recommendation for Implementation of AAWD

Pursuant to Section 16 of Settlement Agreement

Recommended 6/4/02; Accepted 6/26/02

1. Begin advertisement of all details of more than 90 days on 7/15/02.
2. Notify all Forest Supervisors, appropriate staff and other managers and employees that requirement will go into effect 7/15/02, and will provide information outlining appropriate record keeping procedure.
3. Appoint a Program Manager responsible for developing processes for record keeping and tracking of advertisement of details, selection processes and results, and information regarding processes used to advertise and fill details over 90 days.
4. Provide semi-annual report on the status of the 90-day detail requirement and the manner in which it is implemented.

BACKGROUND

R5's WSA requires the advertisement of all details lasting more than 89 days and the maintenance of associated records. The purpose of this provision is to increase the number of detail and temporary promotion opportunities available to all employees, including women, and to ensure that women are afforded equal access to these opportunities. Although the primary purpose of most details and temporary promotions is to perform temporary work assignments, they can also provide significant developmental opportunities for employees. Injunctive Relief Provision 16.1 allows R5 employees to apply and be considered for an increased number of extended details (i.e., more than 89 days), which are often the more substantial developmental opportunities.

RECORD KEEPING AND REPORTS

Record keeping was covered by the second sub provision for this section, and was defined in the original implementation memorandum for this section issued July 1, 2002. In addition to normal record keeping requirements under merit promotion procedures (such as processing personnel actions), servicing HR Offices were required to maintain case files for details and temporary promotions that lasted longer than 89 days, and were advertised in the FS Outreach Database. Additionally, this memo required that details be input into the NFC database, whenever possible, to facilitate tracking them through NFC Focus Reports. Details that could not be input into NFC were reported by servicing HR Offices biannually in a required report. We are now requiring this report quarterly.

For monitoring purposes, NFC Focus Reports are pulled quarterly to track details and temporary promotions. Access reports from these NFC reports are also provided to the MC for their independent monitoring. Additionally, the MC requested access to copies

of advertisements for details and applicant pool gender data. We established a team room on July 16, 2003, to archive these advertisements, and to capture applicant pool gender data until the establishment of the AFS in October 2003. The AFS is now capturing this gender data for easier reporting and analysis. Biannual reports are provided to the MC regarding our ongoing monitoring and analysis of this section.

ACCOMPLISHMENTS FOR THE PERIOD

- ❖ **Reduced Unannounced Details and Temporary Promotions:** R5 has implemented a new policy (see Appendix H.2, page H-2) establishing a customer service goal of posting outreach notices in the FS Outreach Notice Database within two working days of receiving a completed advertisement request from a manager (see Appendix H.3, page H-3). R5 has further restricted unannounced details and temporary promotions. Now, announcements are required when successive less-than-90-day details to the same position or unclassified duties involving different incumbents would cumulatively last longer than 89 days, unless an exception is approved.
- ❖ **Improved Records and Reporting:** R5 implemented the AFS to provide an automated applicant-tracking program that captures data and provides reports on the demographics (including gender) of applicant pools for announced vacancies. On October 1, 2003, this replaced the team room for archiving applicant pool gender information. AFS will provide more accessible data and reports for monitoring purposes. Prior to this time R5 had created a "team room" to archive detail and/or temporary promotion announcements and related applicant pool gender data. The team room was accessible to the MC and the PM, and it provided immediate access to key information that would otherwise have been available only in the staffing case files (see Appendix H.1, page H-1).

R5 contracted with a computer programmer to refine and expand the reports that R5 and the MC use to evaluate compliance. Several modified and new reports that enhance the Region's ability to perform needed analyses were produced during this reporting period.

- ❖ **Applicant-Friendly Outreach Notices:** R5 worked with the WO in developing improvements that have significantly streamlined the process of accessing and using the AAWD database. R5 also updated and expanded the information requested on the *Manager's Request to Advertise Detail Opportunity* questionnaire to ensure that more complete information is included in the outreach notices. The MC noted in their first report that accessing the FS Outreach Notice Database was a slow process and the database was not user friendly.
- ❖ **Analysis of Data:** R5 continues its commitment to ensuring that all detail or temporary promotion actions longer than 89 days in duration are advertised. An analysis of the available data for the period June 1 through October 18, 2003, was conducted to assess the number of actions that were longer than 89 days and those that were 89 days or less in duration. Actions were categorized by gender. Applicant pool data was also analyzed by gender, which is new this reporting period. Archiving applicant pool data began April 17, 2003. Records were then analyzed to identify errors in advertising and record keeping. Tables 14-1 and 14-2 provide detailed data on the AAWD.

Table 14-1: Summary of Personnel Actions Lasting 89 Days or Less

Actions for 89 Days or Less	Numbers of Personnel Actions				Total Employees
	Female Employees		Male Employees		
	Total	Percent of Total	Total	Percent of Total	
Temporary Promotions	65	34%	125	66%	190
Extension of Temporary Promotions	3	100%	0	0%	3
Details	26	33%	54	67%	80
Extension of Details	1	100%	0	0%	1
Total	95	35%	179	65%	274

Table 14-2: Summary of Personnel Actions Lasting Longer Than 89 Days

Actions Longer Than 89 Days	Numbers of Personnel Actions				Total Employees
	Female Employees		Male Employees		
	Total	Percent of Total	Total	Percent of Total	
Temporary Promotions	19	40%	28	60%	47
Extension of Temporary Promotions	4	16%	21	84%	25
Details	7	47%	8	53%	15
Extension of Details	4	31%	9	69%	13
Total	34	34%	66	66%	100

The gender demographics for the permanent workforce in R5 are as follows: approximately 36% of permanent employees are female and 64% are male. Region-wide, women are being selected for details and temporary promotions in close proportion to their representation rates in the permanent workforce. No evidence of a “glass ceiling” for women was noted. For GS-13 to GS-15 positions, there were 17 details/temporary promotions/extensions involving men and 18 involving women.

This analysis does not imply that R5 expects absolute proportionality every six-month period. However, women are receiving a roughly proportional share in all grade ranges, as noted in Table 14-3.

Table 14-3: Breakdown of Details/Temporary Promotions/Extensions by Gender and Grade¹

GS Level	Female Employees			Male Employees			Total Details/Temporary Promotions
	# of Details and Temporary Promotions	% of Total Details and Temporary Promotions	% of Total Workforce	# of Details and Temporary Promotions	% of Total Details and Temporary Promotions	% of Total Workforce	
13-15	18	51%	37%	17	49%	63%	35
9-12	49	32%	42%	102	68%	58%	151
2-8	62	34%	34%	119	66%	66%	181

¹Please note that there were seven actions involving Wage System positions, which accounts for the difference in total actions reported in this table than is reported in Tables 16.3-1 and 16.3-2.

In total, women received 34% of the total details and temporary promotions and made up 36% of the permanent workforce. At the GS-13 to GS-15 grade levels, the number of women who received details and temporary promotions was 14% greater than their representation in the workforce; at the GS-09 to GS-12 levels, the number was 10% lower than their representation; and at the GS-02 to GS-08 levels the number of women who received details and temporary promotions was in proportion to their representation in the workforce.

There were 85 announcements of details/temporary promotions for which R5 had archived applicant pool data by gender in the Advance Advertisement of Details Team Room. The gender breakdown of the applicant pools compared to the selectees is depicted in Table 14-4. These data are drawn from all the archived data in the Team Room as of October 30, 2003 and include data for advertised details and temporary promotions that were effective after April 17, 2003.

Table 14-4: Breakdown of Applicant Pools and Selectees by Gender and Grade

GS Level		Women			Men			Total
		Number	% of Total	% of Total Workforce	Number	% of Total	% of Total Workforce	
13 – 15	Applicants	2	33%	37%	4	67%	63%	6
	Selectees	2	50%	37%	2	50%	63%	4
9 – 12	Applicants	27	33%	42%	54	67%	58%	81
	Selectees	16	43%	42%	21	57%	58%	37
2 – 8	Applicants	36	48%	34%	39	52%	66%	75
	Selectees	14	41%	34%	20	59%	66%	34

The percentage of women selected for details/temporary promotions was higher than their representation in the applicant pools for the three grade ranges. Selection rates for women also exceeded their comparative representation in the permanent workforce. The percentage of women who applied for details/temporary promotions in the GS-9 to GS-12 and GS-13 to GS-15 grades was lower than their representation in the permanent workforce, while it exceeded it in the GS-2 to GS-8 grade range.

The following procedural errors occurred during this reporting period: some outreach notices were open for a period of 10 calendar days rather than for the required 10 working days. Two NFs each mistakenly set one unannounced detail at 90 days; and

some outreach notices that were issued did not use the required Detailer Interest Sheet. The servicing HROs were contacted in each of these cases.

During this reporting period, R5 reviewed a random sample of case file documents and identified several problems. One extension of a temporary promotion occurred without the required advertisement or without RF approval. Corrective action is being pursued. Some case file documentation was incomplete, which was discussed with servicing HR offices.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	4th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
16.0 Advance Publicity of Work Details Overall Performance Scorecard	G	G	G	G	G	This policy/process is now well understood in R5 and is being followed.
16.1 Advertise all work details of 90 or more days.	G	G	G	G	G	All servicing HROs are following this policy/process with few errors.
16.2 Maintain records of all details advertised under this section	G	G	G	G	G	Records are being kept as required.

Accepted Recommendations	Date Requested	Date Accepted	Relevant Injunctive Relief Provision	Score	Rationale
2002-0004 Begin advertisement of all details of more than 90 days on 7/15/02	6/4/02	6/26/02	16.1	G	Program was fully implemented on July 15, 2002.
2002-0004 Notify all Forest Supervisors, appropriate staff and other managers and employees that requirement will go into effect 7/15, and will provide information outlining appropriate record keeping procedure	5/22/02	6/26/02	16	G	A memorandum to Line Officers and another to all employees were issued July 1, 2002, explaining policy/process/record keeping.
2002-0004 Appoint a PM responsible for developing processes for record keeping and tracking of advertisement of details, selection processes and results, and information regarding processes used to advertise and fill details over 90 days	5/22/02	6/26/02	16	G	PM in place on July 15, 2002.
2002-0004 Provide semi-annual report on the status of the 90 day detail requirement and the manner in which it is implemented	5/22/02	6/26/02	16.2	G	Reports prepared each biannual period since implementation.

ACTION PLAN

No.	Action	Responsible Official	Date
1	Capture applicant gender pool data in AFS and pull related reports.	Jock Olney	January 11, 2004
2	Establish centralized outreach notice processing/record keeping. <i>(Pending hiring an additional position)</i>	Jock Olney	February 28, 2004
3	Provide MC with improved reports for compliance monitoring.	Jock Olney	Ongoing

15.0 POSITIVE INCENTIVES AND CIVIL RIGHTS PERFORMANCE

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 17.1:

Region 5 shall create a task force to consider ways in which the Region may: (1) provide positive incentives to employees who perform exceptionally in the civil rights components of their duties; and (2) take into consideration the civil rights performance records of employees who seek promotion or advancement. The task force shall recommend to the Council proposals designed to accomplish the forgoing objectives.

BACKGROUND

R5 established a task force to comply with Provision 17.1 in July 2001. This task force included employees from CR, HR, NFFE, and line management. The task force provided a proposal regarding positive incentives and civil rights performance to the RF's Office and the MC in January 2002. These parties and the PM met on May 12, 2003, to discuss tasks relating to this provision, including awards and incentives related to civil rights performance.

Although R5 accomplished Provision 17.1 when it established the task force, the Region is committed to implement further measures to strengthen positive incentives for civil rights performance, and most of the recent work efforts have focused on this area. The strategy has been to develop and deploy the positive incentives and awards program, support it with marketing and publicity, and monitor the results.

RECORD KEEPING AND REPORTS

For the R5 Civil Rights Award, the Regional Office CR staff initiates a memo for RF signature requesting nominations for the annual award. Nominations are tracked by an Excel spreadsheet. For the Civil Rights Positive Incentive Awards, the Regional Office CR staff will semi-annually initiate a memo for RF signature requesting a report of recipients for the award. These will be tracked by spreadsheet or database

ACCOMPLISHMENTS FOR THE PERIOD (JULY – DECEMBER 2003)

❖ **Positive Incentives - Region 5 Civil Rights Award and Civil Rights Positive Incentive Awards.** The Regional Office CR staff developed a draft proposal for an annual R5 Civil Rights Award in September 2003, which featured nominations from each Unit and two Regional awards—supervisory and non-supervisory—to recognize exceptional performance related to civil rights. Another proposal was developed during this reporting period and completed in September 2003 for Civil Rights Positive Incentive Awards, which consisted of a variety of monetary and non-monetary awards that could be presented throughout the year to acknowledge various types of achievements. Both of these proposals featured a peer nomination process, provided for awards commensurate with contributions, and used existing award mechanisms. Both programs would require supervisory documentation of the awards in performance appraisals and monitoring by Unit FCROs.

Development of these proposals included review and comment by HR. Further comment by HR, as well as review by NFFE and the MC, will be considered when

finalizing the programs. The programs are planned to be publicized in a memorandum to all employees.

- ❖ **Civil Rights Review of Regional Forester's Awards:** During the last reporting period, the PMs identified the need for the Regional Office CR staff to review selections for the RF's Multicultural Award and EEO/Affirmative Action Award. In September 2003, the Regional Office CR staff collaborated with HR to ensure that CR reviews selections for these awards prior to approval.
- ❖ **Civil Rights Performance:** Input on accomplishments for FY 2003, including civil rights accomplishments, was solicited from Forest Supervisors and Staff Directors in a memorandum from the RF dated September 11, 2003. The memorandum noted that greater emphasis would be placed on supplemental standards in the year-end performance evaluations and gave direction to specifically address, among other items, hiring gains/losses and diversity, Tribal relations, and community relations. The supplemental standards for Performance Elements #3 and #4 (see Appendix A, pages A-1 to A-3) also address specific civil rights measures.
- ❖ **Analysis and Summary of Regional Forester's Team Civil Rights Performance:** In October 2003, the Regional Office CR staff provided an evaluative summary on civil rights performance to the RF for inclusion in the formal year-end performance reviews of the RF's Team. This practice strengthens accountability for civil rights accomplishments and acknowledges superior performance.

The R5 CR Director provides informal feedback on civil rights performance to the RF's Team throughout the year, as appropriate. Ongoing informal feedback allows for timely actions in any areas needing improvement, prompt acknowledgement of exceptional accomplishments, and consistency in Policy and processes throughout R5.

- ❖ **Civil Rights Performance Links to Promotion:** Regarding Part 2 of this Provision, R5 is in the process of identifying and evaluating several approaches to tying the civil rights records of employees to employee advancement. During this reporting period, a data form for entry into a database system was developed and piloted. During the next reporting period, this pilot data form will be reviewed along with other methods of linking civil rights performance and employee promotions, and a final approach to accomplishing this task will be selected.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	4 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
17.0 Positive Incentives and Civil Rights Performance Overall Performance Scorecard	G	G	G	Y	Y	R5 Taskforce is complete. Taskforce completed. Moving forward with the implementation of the recommendations
17.1 Establish a Task Force to consider ways in which R5 may provide positive incentives to employees who perform exceptionally in the civil rights components of their duties	G	G	G	Y	Y	Task force completed. Incentives/award program drafted is being finalized.
17.2 Task Force to consider ways R5 may consider the civil rights records of employees who seek promotion or advancement	G	G	G	Y	Y	Taskforce completed. HR & CR collaborating to evaluate implementation options.

ACTION PLAN

No.	Action	Responsible Official	Date
1	Finalize CR awards program, develop communication plan, and issue RF letter.	Larry Sandoval	January 31, 2004
2	Collaborate with HR to evaluate means of enhancing consideration of civil rights performance records of employees seeking promotion or advancement.	Larry Sandoval	January 31, 2004
3	Develop implementation plan that considers civil rights performance when employees are seeking promotion.	Larry Sandoval	March 15, 2004

16.0 RECORD-KEEPING AND REPORTS

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 18.1:

Region 5 shall maintain and provide to the Monitoring Council semi-annual reports on the effectiveness of the following programs:

- 1. EIP program***
- 2. Exit Interviews***
- 3. Misconduct investigations***
- 4. Training***
- 5. Informal EEO process***
- 6. Mentoring program***
- 7. Scholarships***
- 8. Positive Incentives and Civil Rights Performance***

BACKGROUND

There are several people responsible for record-keeping and reporting in compliance with provision 18.1 of the WSA. Each PM is responsible for the record keeping of his or her program responsibility and the respective reporting required by the WSA for the semi-annual reports. In addition to the duties of providing the MC with the semi-annual reports, R5 has been cooperative with the MC in response to requests for information.

All requests and recommendations from the MC are logged on Excel spreadsheets upon receipt and categorized by year and number of request and recommendation (i.e. 03-001). The responding staff is annotated and the response due date to the MC. An Excel spreadsheet is also maintained for all pending/outstanding requests and recommendations for a quick at-a-glance review. A grid spreadsheet is kept to track the subject matter of the request and recommendations from the MC. The MCL is responsible for keeping all records received from the PMs and provided upon request and/or recommendation to the Monitoring Council.

A letter advising Settlement Agreement Requests for Information Protocols was sent to Forest Supervisors, FCROs, and HROs on December 2, 2003. The letter was provided to clarify formal and informal protocols for responding to requests for information in complying with the WSA (see Appendix L, page L-1).

During this calendar year (January 1, 2003 through Dec 10, 2003), R5 received 88 requests via the MCL for information from the MC. The subject matter of the requests is shown in Table 16-1 on the following page. Some information requests involved more than one relief provision. As of November 25, 2003, R5 has provided information in response to 78 of these information requests.

During the same period, R5 received 33 recommendations via the MCL from the MC. The subject matter of the requests is shown in Table 16-2 on the following page. Some of these recommendations also involved more than one relief provision. Many of the 33 recommendations have been approved, with minor exceptions. We are tracking our commitments to the MC to ensure implementation.

Table 16-1: Requests for Information from the MC, 2003

Subject of the Request	Number of Requests
EIP	16
Performance Evaluation	7
Exit Interview	11
Misconduct Investigations	14
Training	6
EEO	11
Mentoring program	3
Scholarship program	6
Adverse Action Digest	3
Women's Conference	3
Advance Advertisement Details	4
Other Information	26
Total	110*
* There were 88 information requests; however, some information requests involved more than one relief provision.	

Table 16-2: Recommendations Received from the MC, 2003

Subject Matter	Number of Recommendations
EIP	5
Performance Evaluation	1
Exit Interview	2
Misconduct Investigations	4
Training	11
EEO	4
Mentoring program	3
Scholarship program	2
Adverse Action Digest	3
Women's Conference	2
Advance publicity Details	1
Other	8
Total	46*
* There were 33 recommendations; however, some information requests involved more than one relief provision.	

R5 also developed the WSA Implementation Plan during the last reporting period. This plan continues to be refined and expanded in order to help identify actions, track accomplishments, and assign personal responsibility. The PMs are responsible for updating the WSA implementation plan weekly.

An Oracle database expert has also been hired to assess R5's database needs and provide recommendation and cost estimate.

17.0 INDIVIDUAL RELIEF FOR CLASS COMPLAINTS

SECTION 21

Any Class Member who seeks to allege an individual claim of discrimination relating to sexual harassment or retaliation for EEO activity related to sexual harassment that arose on or after February 1, 1994, and that is not currently pending before, or has not previously been rejected or decided by, the Department, the Equal Employment Opportunity Commission, or any court, or been settled at any stage of any proceeding, may initiate a complaint with respect to such matter by filing a Settlement Agreement Complaint Form ("Complaint Form") with the Complaint Administrator. For purposes of this section, a claim shall not be excluded from processing solely because the Complainant consulted an Agency EEO Counselor/Mediator with respect to the claim at issue, provided that no claim shall be considered if the Complainant received a Notice of Right to File a formal EEO complaint. In the event of a dispute about whether the Complainant received a Notice of Right to File, the initial burden shall be upon the Complainant to declare under penalty of perjury that she did not receive a Notice of Right to File with respect to the claim at issue, whereupon the burden shall be upon the Agency to demonstrate that she did in fact receive such a notice.

BACKGROUND

Section 21 relates to a provision from Part VI of the WSA. This section waived the normal 45-day time limit for filing Informal Complaints for those Class Members who alleged an individual claim on or after February 1, 1994, for one of the following reasons: (1) discrimination relating to sexual and/or gender harassment, or (2) retaliation for EEO activity related to sexual and/or gender harassment. Any Class Member raising such claims was required to file an initial complaint form with a court-appointed Class Administrator by May 3, 2001. In turn, the Class Administrator made an eligibility determination on the Class Member's right to proceed with an informal complaint. Pursuant to Section 21.7 of the WSA, Complainants also had the right to file a formal complaint with USDA if the complaint was not resolved through informal processing. Section 21 also stipulated that the OCR shall process complaints from current or former R5 non-supervisory female employees that related to employment decisions or conditions between February 1, 1994, and February 6, 2001 (final approval date for the WSA), that were not resolved through the informal process. The Vallejo ECP processed 110 informal Class Member complaints filed between April 11 and June 8, 2001. A Notice of Right to File a formal complaint was issued in all 110 cases. Eleven complaints were resolved by settlement agreement after issuance of the Notice of Right to File. The FS and the USDA OCR established a unit to process the formal complaints of discrimination as defined in the WSA. Fifty-five Complainants filed formal complaints. Eight Complainants re-filed their formal complaint after the initial complaint was remanded to counseling. Thus, a total of 63 formal complaints have been processed, although only 55 Complainants actually filed formal complaints. Of the 63 formal complaints processed, two complaints were dismissed because they were identical to pending formal complaints already being processed. These two complaints were referred to the ECP, the regular forum for processing all formal complaints. The complaints are currently open and will continue to be processed and monitored by the OCR since the issues are part of this Class complaint.

ACCOMPLISHMENTS FOR THE PERIOD (JULY – DECEMBER 2003)

Note: The USDA, OCR Employment Complaints Division functions on a fiscal year reporting cycle.

Table 17-1 indicates the current status of the 63 Class Member complaints. Since the last reporting period, an additional seven cases have closed. Three of these additional cases closed by settlement agreement. Of the eight cases that remain open, seven are outside the jurisdiction of the USDA and are pending EEOC hearings. The Region recognizes the urgency of closing these cases and therefore requested that the USDA write a letter to the EEOC requesting that the Administrative Judges expedite these hearings. This letter was sent to the EEOC during this reporting period. R5 is also attempting to expedite processing of the one remaining case, pending final decision at the Department level.

Table 17-1: Status of Class Member Complaints

DESCRIPTION OF STATUS ACTIVITY		Complaints	Responsible Office	% of Total Complaints
TOTAL FORMAL COMPLAINTS		63	N/A	100%
Closed Complaints		55	N/A	84%
	a. Remand for Informal or Additional EEO Counseling	10	FS	16%
	b. Final Agency Decision (No Discrimination)	12	N/A	19%
	c. Final Agency Decision (Discrimination)	2	USDA OCR (FAD-Comp Damages)	3%
	e. Dismissed	17	N/A	27%
	f. Settlement Agreements*	14	FS	22%
<i>*The ordered corrective actions outlined in the settlement agreements and final agency decisions, including entitlement to compensatory damages, are being monitored by the Forest Service WO/Civil Rights Staff to ensure full implementation of compliance.</i>				
Complaints Remaining Open		8		13%
	g. Pending Hearing by the EEOC District Office Administrative Judge	7	OGC, OCR and EEOC	11%
	h. Pending USDA's Final Agency Decision	1	USDA OCR	2%

18.0 INTERNAL APPENDICIES**18-A ACRONYMS**

AAD	Adverse Action Digest
ADR	Alternative Dispute Resolution
AFS	Applicant Flow System
CFR	Code of Federal Regulations
CR	Civil Rights
ECP	Employee Complaints Program
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
EIP	Early Intervention Program
ERG	Employee Resource Groups
FAQ	Frequently Asked Questions
FCRO	Forest Civil Rights Officer
FS	Forest Service
FSH	Forest Service Handbook
FWPM	Federal Women's Program Manager
FY	Fiscal Year
HR	Human Resources
HRO	Human Resources Office/Officer
IRM	Information Resources Management
IRP	Injunctive Relief Provision
MC	Monitoring Council
MCL	Monitoring Council Liaison
MCR	Monitoring Council Report
MI	Misconduct Investigation
MLA	Master Labor Agreement
MOU	Memorandum of Understanding
NF	National Forest
NFC	National Finance Center
NFFE	National Federation of Federal Employees
OCR	Office of Civil Rights (Washington Office)
OGC	Office of the General Council
PM	Program Manager
POSH	Prevention of Sexual Harassment
R5	Region 5
RF	Regional Forester
RLF	Regional Leadership Forum
ROI	Report of Investigation
SOP	Standard Operating Procedure
Team	Incident Command Team
USDA	U.S. Department of Agriculture
WO	Washington Office
WSA	Women's Settlement Agreement

18-B CUMULATIVE ACCOMPLISHMENTS**Early Intervention Program****First Semi-Annual Report (January – June 2002)**

- The EIP Manager held training sessions at the Regional Office in March 2002 and on the San Bernardino NF in April 2002.
- EIP posters and brochures were distributed and mediator contracts were awarded.

Second Semi-Annual Report (July – December 2002)

No accomplishments were reported for the period.

Third Semi-Annual Report (January – June 2003)

- R5 implemented Departmental guidance on mediation, giving managers in R5 clearer, more objective guidance to assist them in making the mediation decisions.

Performance Evaluations**First Semi-Annual Report (January – June 2002)**

- R5 established a Performance Evaluation Task Force that developed language clarifying existing performance evaluation criteria and created new supplemental performance evaluation standards.
- The RF issued a letter implementing the newly created standards for Performance Elements #3 and #4 for supervisory employees.
- At the RLF, attendees created 24 new supplemental standards to assist in clarifying and to attain R5's Performance Goals.
- The RF issued a letter implementing the new supplemental standards.

Second Semi-Annual Report (July – December 2002)

No accomplishments were reported for the period.

Third Semi-Annual Report (January – June 2003)

- The Associate RF issued further clarifications for Performance Elements #3 and #4 (see Appendix A, pages A-1 to A-3) and issued direction to include all non-bargaining employees.

Exit Interviews**First Semi-Annual Report (January – June 2002)**

- The Regional Office CR staff developed the Exit Interview Report Form for consistency of data capturing and assessment.
- The Exit Interview information was captured for both permanent and temporary employees. For Units not having separations or if separating employees did not complete Exit Interviews during the reporting period, the Unit provided a reason for the lack of data.

- Allegations of sexual harassment were recorded at each Unit when they occurred.
- Units identified corrective actions and associated corrective actions.
- Units assessed effectiveness of Exit Interviews and provided recommendations or cited limitations of the current instrument.
- The USDA Exit Interview Form was used at 16 of the total 19 sites (18 Forest Sites and the Regional Office) (84.2%) and the R5 Exit Interview Form was used at three sites (15.8%). Two forest sites used a combination of both USDA and R5 Exit Interview forms.
- Of the 18 Forest Sites and the Regional Office, 84.2% of the Units provided responses and Exit Interview assessments.
- Nine allegations of sexual harassment were reported from two Forests. Site One had five employees complain about witnessing sexual harassment by the same co-worker. The Co-worker (a temporary employee) was terminated. Site two had seven allegations of sexual harassment. These resulted in actions taken against two employees: one received a 10-day suspension, the other received a letter of reprimand.

Second Semi-Annual Report (July – December 2002)

- Units continued to utilize the R5-Exit Interview Reporting Format prepared by the Regional Office CR staff, ensuring the consistency and uniformity of data reporting.
- 17 of 19 Units provided information (89.5%). The R5 Exit Interview Forms were used at 17 of the 19 Units (89.5%). Five Units (26%) continued to use the USDA form. Three Units (15.7%) used a combination of both USDA and R5 Exit Interview Forms.
- Four Units (21%) documented a 100% Exit Interview Form issue and return ratio from departing employees.
- There were six documented allegations of sexual harassment, with two incidents warranting adverse actions. One employee received a 10-day suspension. In the second incident, the alleged harasser was terminated. One Unit reported that a departing employee had raised an issue of sexual harassment in the workplace but that person did not complete or sign an Exit Interview sheet. R5 provided additional information to the field to ensure complete compliance with this requirement.

Third Semi-Annual Report (January – June 2003)

- 54.5% of AD-139 forms were returned by departing employees.
- Of the 262 employees who departed from the FS during this reporting period, 32% submitted an Exit Interview Form.
- The Regional Office CR staff and Unit FCROs issued the “property form” required by the WSA, which requires that employees sign the USDA AD-139, Final Salary Payment Report.

- The AD-139 (Addendum) was modified to include an area in the “Remarks Block” where departing employees validate whether or not they were asked if they wished to have an Exit Interview.
- Three Units had 100% return of the AD-139 from departing employees.
- R5 placed the Exit Interview documents and the policy letter issued 7/2/02 on the CR Website.
- The FCROs addressed obstacles at the local level that impede the success of the Exit Interview Program.
- The Regional Office CR staff continued to analyze field data and improve the information collection process.
- Individual Forest Supervisors issued local letters to subordinate managers and to all Unit employees, outlining the Exit Interview Program and compliance expectations.
- The automated Exit Interview Program was developed and forwarded to HR (Labor Relations) and NFFE for review and approval.
- Five Units reported 11 allegations of perceived discrimination, sexual harassment, or other inappropriate workplace behaviors from Exit Interviews.
- Of the 11 reported issues, two of the reports pertained to sexual harassment behavior exhibited by one individual on the Stanislaus NF. After the first reported behavior, the employee was counseled and provided with Specialized One-On-One POSH training. The second report resulted in an MI with disciplinary action taken against the employee.
 - One resolved issue was a religious objection to a gay and lesbian poster displayed in the workplace that was erroneously reported by the Stanislaus NF as sexual harassment.
 - Two issues of racial discrimination were reported on the Mendocino NF; one was resolved successfully through ADR, the other moved to the Formal EEO Complaint stage.
 - The Six Rivers NF reported two issues that were successfully resolved. One was based on age as a requirement in fire. The second issue was based on a Work Capacity Test applied at the proper level for the position.
 - The Sequoia NF reported one gender discrimination allegation that was reviewed by the FCRO; assignments had been made based on job necessity and gender was not a factor.
 - The Sequoia NF reported a physical contact incident, resulting in a three-day suspension of a supervisor, which was erroneously reported as discrimination.
 - The Plumas NF reported that two contractors were telling off color jokes and making racial slurs. One contractor was counseled; the second contractor received appropriate action by the Unit.

- The Exit Interview data analysis and information captured during this period saw considerable increases in program use.
- R5 assessed and revamped the data collection and the process of measuring and communicating data in the field.
- There were 1,890 separations recorded by 17 of 19 Units. A total of 1,030 (54.5%) AD-139 forms were completed and returned. A total of 524 (27.7%) employees declined Exit Interviews. A total of 613 (32.4%) Exit Interviews were completed.

Misconduct Investigations

First Semi-Annual Report (January – June 2002)

- From October 1, 2001, through July 1, 2002, 13 MIs were completed. The average completion timeframe, from the date the investigation began to R5's receipt of the ROI, was 32 days.
- R5 used contractors from four different contract investigative companies to provide investigative services.
- The contract investigative companies met the contract requirements outlined by the WO Statement of Work and the USDA Personnel Manual, Amendment No. 210.
- Individuals who were determined to have engaged in misconduct were appropriately and effectively disciplined up to and including termination.
- The FS utilized progressive discipline to deter individuals from engaging in future misconduct.
- The intake, processing, and outcome of allegations of sexual harassment or retaliation were documented.

Second Semi-Annual Report (July – December 2002)

- From July 1, 2002, through December 18, 2002, nine formal MIs were completed. The average completion timeframe, from the date the investigation began to R5's receipt of the ROI, was 30 days.
- R5 used contractors from four different contract investigative companies to provide investigative services.
- The contract investigative companies met the contract requirements outlined by the WO Statement of Work and the USDA Personnel Manual, Amendment No. 210.
- Individuals who were determined to have engaged in misconduct were appropriately and effectively disciplined up to and including termination.
- The FS utilized progressive discipline to deter individuals from engaging in future misconduct.

- The intake, processing, and outcome of allegations of sexual harassment or retaliation were documented.

Third Semi-Annual Report (January – June 2003)

- R5 used contractors from four different contract investigative companies to provide investigative services.
- The Agency began to request autobiographical sketches of the individual investigators hired through investigative companies.
- Individuals who were determined to have engaged in misconduct were appropriately and effectively disciplined up to and including termination.
- The FS utilized progressive discipline to deter individuals from engaging in future misconduct.
- The intake, processing, and outcome of allegations of sexual harassment or retaliation were documented.
- R5 issued direction on Reporting and Managing Allegations of Sexual Harassment/Misconduct at the Wildland Firefighter Apprentice Academy.
- R5 issued direction on Reporting and Managing Allegations of Sexual Harassment.
- The RF demonstrated a personal commitment to address sexual harassment allegations by repeatedly reiterating instructions to the RLF to report all allegations of sexual harassment to the RF's Office in addition to the other required CR and HR points of contact.
- R5 drafted an SOP on handling allegations of sexual harassment.
- R5 tightened timeframes for production of final investigative reports.

Training

First Semi-Annual Report (January – June 2002)

- All R5 Units and the Regional Office provided ongoing POSH and Reprisal Training to its temporary and permanent employees.
- Overall, 94% of all R5 supervisors and managers attended the mandatory USDA CR Training provided by the FCROs.

Second Semi-Annual Report (July – December 2002)

- A Forest wide 'Stand-Down' was directed by the RF to deliver POSH training to all employees and to conduct site inspections on all Units and the Regional Office.
- During the RLF meeting, the RF stated that the POSH training for R5 would be contracted out to private vendors for calendar year 2003
- 95% of the POSH training was completed by January 6, 2003.

Third Semi-Annual Report (January – June 2003)

- The field delivery method for POSH training was established.
- Potential vendors for delivery of POSH training were identified. Training requirements were provided to the vendors and scenarios to be utilized for role-play.
- The Regional Office was selected as the pilot to review and evaluate the vendor presentations. During each session employees evaluated the vendors on their program delivery.
- Anderson-davis, Inc. was selected to deliver annual mandatory POSH training.
- Training sessions were presented to Regional Office employees at satellite locations.
- Official certification form and sign in sheets were developed for consistency and uniformity and for reporting and documentation purposes.
- The first of the annual POSH training sessions began in the field. The training was delivered utilizing six teams consisting of one male and one female each.

Informal EEO Process

First Semi-Annual Report (January – June 2002)

- R5 developed and conducted surveys of the Informal EEO Process and analyzed the survey results.
- R5 modified the Informal EEO database to track the names of Responding and Resolving Officials.
- R5 analyzed Informal EEO Complaints to determine if there were discernible patterns of conduct.
- EEO Counselors completed the EEOC Counselor training course in July 2001.

Second Semi-Annual Report (July – December 2002)

- R5 continued conducting surveys of the Informal EEO Process and analyzed the survey results.
- R5 analyzed Informal EEO Complaints to determine if there were discernible patterns of conduct.
- EEO Counselors completed the EEOC Counselor training course in July 2002.
- Six Units had no Informal Complaints during FY 2002: Klamath, Lake Tahoe Basin, Modoc, Sequoia, Six Rivers and Tahoe.

Third Semi-Annual Report (January – June 2003)

- EEO Counselors participated in a variety of developmental opportunities throughout the reporting period.
- All R5 Counselors attended an 8-hour continuing EEO Counselor Training Course designed specifically for EEO Counselors.

- All Counselors updated their knowledge and skills by attending ADR training, an EEO update seminar, and POSH training, all sponsored by the San Francisco Bay Area Federal Executive Board.
- All Counselors attended a 4-hour course on POSH that was contracted by the Regional CR Office.
- All counselors attended a 3-day workshop sponsored by the FS National CR Office. The USDA-OCR, attorneys from the EEOC, and a private contractor provided the training. Training included an update on EEO case law and resolution, expectations for EEO Counselors, and training and discussion on how to develop a Counselor's report that meets the minimum requirement to determine case acceptability.
- All Counselors continued to update their knowledge by researching the "PERSONNET" database to review updated EEO case laws and decisions.
- The survey response rate increased over FY 2002, although a greater response rate would positively impact the statistical significance of the survey results.
- The WO worked with a contractor to review the electronic survey system for enhancements that would ensure receipt of the survey by program participants and enable the system to resend the survey after a stipulated period of time when no response has been received.
- There were no known incidences where an EEO Counselor withdrew any Class Member's EEO complaint without the employee's written permission. R5 continued to reinforce adherence to this provision. Copies of withdrawal confirmation letters for the period from January 2002 through May 2003 were provided to the MC.
- Beginning May 30, 2003, the Employment Complaints Program provided copies of Class Members' written withdrawal documentation with their confirmation in writing to the MC. EEO Counselors continued to send the Complainant a "second" withdrawal letter if written confirmation was not received within 10 calendar days. If written confirmation was not received within five days of the "second" withdrawal letter, the Complainant was be issued a Notice of Right to File a formal discrimination complaint.
- An analysis of Class complaints was completed in order to determine if any patterns of conduct were discernible.
 - No Informal Complaints were filed during the period on the issue of sexual harassment. Reprisal complaints were quite frequent. Ten cases involving gender harassment were filed. Of these 10 cases, five were filed by two individuals. Eight of the 10 cases were filed on one Unit and a review is currently underway on that Unit.
 - The Cleveland and Los Padres NFs and the R5 Regional Office had the greatest number of Class complaints in FY 2002 and the highest number of frequently named Responding Officials. The Los Padres NF continued

to have frequent complaint activity, while the Cleveland Forest and Regional Office showed a decline.

- Fifteen Units had no informal Class Member EEO Complaints, including the Eldorado, Inyo, Klamath, Lake Tahoe Basin, Lassen, Mendocino, Modoc, Plumas, San Bernadino, Sequoia, Shasta Trinity, Sierra, Six Rivers, Stanislaus, and Tahoe Units.
- R5 significantly improved the Informal EEO Process. New initiatives resulted in improved analysis of complaint activity and trends. Through revisions to the ADR election process and greater collaborative efforts between the ECP and EIP staffs, the resolution rate should continue to improve.
- R5 continued to analyze Informal EEO Complaint data in order to identify discernible patterns of conduct and to develop and implement action plans to address issues.
 - In response to the frequent complaint activity and to other related issues on the Los Padres NF, the RF's Office alerted the WO. The WO contracted with a consultant to complete a neutral fact-finding inquiry.
 - At the May RLF, the RF personally directed Forest Supervisors and Directors to make mediation available to all Complainants, except under "unusual circumstances" agreed upon by R5.
- Further analysis was undertaken to identify issues and strategies for increasing resolution rates. R5's leadership continued to emphasize the necessity of entering into mediations with Complainants in order to encourage a higher resolution rate.
- In an effort to increase the use of ADR, R5 issued a letter entitled "Implementation of USDA Policy on Using Alternative Dispute Resolution" directing RLF members to offer ADR to all Complainants; only four conditions exist under which management can decline ADR. In conjunction with the policy, R5 and the California Service Center modified and implemented the ADR selection procedures during the informal complaint process. Complainants are now advised of the following: ADR/mediation will be automatically set up for their complaint unless they decline and select traditional counseling, and management can decline ADR under the four conditions stated in the ADR election letter to the Complainant.
- R5 now offers ADR to all Complainants on the first intake interview of filing an informal complaint.
- R5's EEO Counselors continue to ensure timely processing of ADR by following up on the status of the ADR elections with the EIP Coordinator on the 30th, 60th, and 85th days of the counseling period and by keeping the Complainant apprised of the status of their complaint.
- The joint WO/Regional CR/EIP/HR Project continued to ensure that EIP is offered to all Complainants except in limited circumstances. New written guidance on handling global settlement issues related to Class complaints has been issued by the OCR Director.

- Trend analysis now includes statistical information about the Responding Official.
- New standard operating procedures for EEO Counselors, particularly regarding confidentiality issues, were drafted to address concerns of employees who are reluctant to file Informal EEO Complaints.
- Concerns from the MC regarding the effectiveness of the Informal EEO Process in R5 were received as part of the March 2003 MCR. Although the RF does not have authority over the Informal EEO Process, the RF worked with the OCR Director and the EIP Director to address many of the concerns of the MC.
 - R5 recognized the need to be more aggressive with “Good Faith” efforts to reach resolution. R5 continued to promote an intensive initiative to go to mediation in good faith for all cases in R5 unless they fall under written criteria of the WO memorandum of August 2002 (e.g., criminal activity, violence, or a formal complaint subsumed by a class action).
 - R5 used the WO Chief’s Cadre of Resolving Officials in highly complex or contentious cases involving R5 Complainants.
- R5 began implementing the following in response to the MC concerns:
 - R5 began compiling data that includes the number of settlements relative to the number of complaints filed, the length of time for resolving complaints, and the types of resolutions reached when complaints are settled.
 - R5 reviewed and updated written handouts given to Complainants and ensured that Counselors had talking points to explain the differences between these two resolution forums.
 - The R5 WSA Implementation Plan was modified to incorporate a plan for R5 to analyze the effectiveness of its Informal EEO Process. The MCR dated March 2003 was used as a baseline for developing this plan.
 - R5 reviewed settlement data and began creating a report.
 - EEO Counselors have been detailed to EIP to assist with the cases awaiting mediation. EEO Counselors and EIP specialists have worked together to enhance communications and to assist employees who wish referrals to the EIP process.
 - R5 began sending letters to Responding Officials to inform them when a complaint is filed against them.

Mentoring Program

First Semi-Annual Report (January – June 2002)

- A task force met and developed a Mentoring Program proposal, which was forwarded to WO Headquarters for review and comment.
- A copy of the proposed program was forwarded to the MC in June 2002.

Second Semi-Annual Report (July – December 2002)

No accomplishments were reported for this period.

Third Semi-Annual Report (January – June 2003)

- R5 received a response from the MC in the *MC Recommendation # 03-0001* dated January 27, 2003.
- The MC's recommendation that a consultant be hired to design the program was accepted, and a solicitation for bids was published.
- The final selection of the Mentoring Consultant was made.

Scholarships**First Semi-Annual Report (January – June 2002)**

No accomplishments were reported for the period.

Second Semi-Annual Report (July – December 2002)

- A call letter was released to all R5 employees, soliciting applications for scholarships for FY 2002 and 2003.
- R5 met the provisions of the WSA by awarding scholarships for FY 2002 and 2003, totaling \$200,000.
- R5 received a total of 93 applications and 60% of the applicants were women.
- 52 scholarships were approved and over 50% of the awardees were women.
- Breakdown of scholarships and total dollar amounts by the three program areas were as follows:
 - Leadership and Work Environment Skills Needs – Group Proposals: six scholarships were awarded (\$52,700)
 - Workplace and Interpersonal Skills Needs – Individual Proposals: 17 scholarships were awarded (\$52,383)
 - Workforce Plan Skills Needs – Individual Proposals: 29 scholarships were awarded (\$94,917)
- A letter was prepared for the RF's signature providing an update to R5 on the Scholarship Program.
- Maxie Hamilton, formerly the Region's EIP Manager, was reassigned to the HR Staff to manage the Scholarship Program.

Third Semi-Annual Report (January – June 2003)

- A letter signed by the RF was sent to the RLF to provide an update on the FY 2002/2003 Scholarship Program.
- An article in the Regional Newslog highlighted the Scholarship Program and provided information on the FY 2004 Program (see Appendix I).
- A statement requesting that supervisors and managers discuss the upcoming FY 2004 Scholarship Program during mid-year reviews with their employees was placed in the mid-year performance-rating letter.

- HROs and FCROs were given a pre-notice of the upcoming call letter for the FY 2004 Scholarship Program.
- The Scholarship Program was well publicized. A Poster publicizing the Scholarship Program was sent to all HROs and FCROs. Posters were forwarded to all employees, placed in public areas, and forwarded to District Offices, Stations, and any remote worksites that were open. Posters were also placed in the Regional Office. To ensure that information had been distributed to all employees, an email was sent to the RLF requesting information on the efforts that were made to distribute information to employees.
- A link to the Scholarship Program call letter and application was placed on R5's Intranet homepage, making it more accessible for employees.
- In response to the scholarship call letter, R5 received 155 applications for FY 2004 scholarship funding, which included 134 individual applications and 21 group applications.
- Scholarship Program surveys were sent to individuals and groups that received initial FY 2002/2003 grants, and subsequent surveys were sent to the individuals receiving supplemental funds (see Appendix F.1, pages F-1 to F-2).

Adverse Action Digest

First Semi-Annual Report (January – June 2002)

- A letter regarding the submissions of disciplinary and adverse actions was sent to R5 Forest Supervisors, with copies to all R5 HROs.
- Each Forest Supervisor submitted the name, title, and telephone number of the person responsible for reporting adverse actions on their Forest. In return, they were given the name and email address of the AAD PM and the appropriate HR telephone number.
- The AAD PM communicated via email to all Discipline and AAD submitters. These individuals were provided with Discipline and Adverse Action Submission Instructions on January 24, 2002.
- A summary template form for AAD submissions was created. The instructions for using this form were distributed.

Second Semi-Annual Report (July – December 2002)

- In FY 2002, there were 241 adverse actions.

Third Semi-Annual Report (January – June 2003)

- Adverse Action data continued to be reported.
- The AAD was distributed to the MC and all R5 employees.
- A statistical summary was prepared that included all Adverse Actions by forest, supervisory/non supervisory position, gender, nature of the offense, and action taken.

Women's Conference

First Semi-Annual Report (January – June 2002)

- Plans for the 2002 Conference were in development during this reporting period.

Second Semi-Annual Report (July – December 2002)

- The First Women's Conference took place in October 2002 in Sacramento, California.
- Approximately 200 R5 employees attended the 2002 Women's Conference.
- Conference workshops were well attended and feedback indicated that the workshops were a conference highlight for participants.
- Conference feedback was used to strengthen the 2003 planning efforts, to respond to the needs of R5 employees, and to develop a more diverse menu of choices for future participants.

Third Semi-Annual Report (January – June 2003)

- Plans for the 2003 Conference progressed well and on schedule.
- The RF's Office and the Conference's Responsible Official met with representatives of the ERGs and the Agency Representative from the MC. The ERG representatives were encouraged to provide ideas and surface issues regarding the Conference.
- An invitation was extended to all members of the ERGs to participate in the Conference, as part of a renewed spirit and intent of inclusiveness on the part of the Region.
- An idea to hold a "success and information sharing fair" at the Conference was discussed and accepted and plans to implement this activity were initiated.
- Sleeping and meeting rooms were secured to accommodate several hundred expected conference attendees.
- A communication plan, marketing strategy, and identification and use of forest level "ambassadors" were used to improve awareness, coordination, and communications for the Conference.

AAWD

First Semi-Annual Report (January – June 2002)

No accomplishments were reported for the period.

Second Semi-Annual Report (July – December 2002)

- The AAWD relief provisions were discussed with the MC and their recommendations were accepted. These recommendations included the following: implement the provisions on August 15, 2002; notify all Forest Supervisors, other managers, and all employees of the implementation date and required record keeping; appoint a PM; and provide a semi-annual report.

Third Semi-Annual Report (January – June 2003)

- Servicing HROs advertised vacancies appropriately, with few errors.
- An analysis regarding the gender of the employees selected for details/Temporary Positions in relation to their numbers in the permanent R5 workforce showed that women were selected for details/Temporary Positions above their representation rates in the workforce.

Positive Incentives and Civil Rights Performance**First Semi-Annual Report (January – June 2002)**

- A task force was convened to consider ways in which R5 may provide positive incentives to employees who perform exceptionally in the civil rights components of their duties; and take into consideration the civil rights performance records of employees who seek promotion or advancement.
- Task force recommendations were provided to the MC on April 30, 2002, and were included as an enclosure to the First Semi-Annual Report.
- R5 began work to ensure that the RF's Awards are better timed to coincide with the Chief's and Secretary's award cycles, and that the EEO/Affirmative Action and Multicultural Accomplishment awards properly reflect the civil rights factors R5 wants recognized.
- A required civil rights narrative was incorporated into the selection process for supervisory positions.
- The Regional Leadership Team worked collaboratively to enhance its own supplemental standards, which were put in place. The standards include civil rights expectations that the MC helped develop.

Second Semi-Annual Report (July – December 2002)

No accomplishments were reported for the period.

Third Semi-Annual Report (January – June 2003)

- The RF's Multicultural Accomplishment Award was awarded to Jim Oftedal, PM for the Central California Consortium (CCC). The PM also received an "Unsung Heroes" Award from the USDA (one of six individuals nationwide).
- The CCC received a Chief's Award.
- The R5 CR Director provided informal feedback on civil rights performance to the RF's Team, as appropriate. Ongoing informal feedback allows for timely actions in any areas needing improvement, prompt acknowledgement of exceptional accomplishments, and consistency in policy and processes throughout R5.
- The PM identified the need for the Regional Office CR staff to review selections for the RF's Multicultural Award and EEO/Affirmative Action Award.

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