

refers to specific end-uses other than packaging and carrying merchandise from retail establishments, e.g., garbage bags, lawn bags, trash-can liners. Imports of the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (HTSUS). Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

#### Rescission of the Administrative Review

In *Intent to Rescind*, 73 FR at 24942, we gave interested parties an opportunity to comment by June 5, 2008. We did not receive any comments. Therefore, consistent with *Intent to Rescind*, we continue to find that Euro Plastics and Zhin Hin (the only remaining companies in this review) had no entries of subject merchandise during the POR. Accordingly, we are rescinding this administrative review in its entirety pursuant to 19 CFR 351.213(d)(3).

This notice serves as a reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 08, 2008.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

#### Alternative Personnel Management System (APMS) at the National Institute of Standards and Technology

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice of Modifications with Request for Comment.

**SUMMARY:** This notice provides for changes to the existing provisions of the National Institute of Standards and Technology's (NIST) Alternative Personnel Management System (APMS) published October 21, 1997 (62 FR 54606), and May 6, 2005 (70 FR 23996) primarily to improve flexibility in rewarding new and mid-level employees and to broaden the ability to make performance distinctions.

**DATES:** This notice is effective on October 1, 2008. Comments will be accepted until close of business on August 14, 2008.

**ADDRESSES:** Send or deliver comments to Robert Kirkner, Chief Human Capital Officer, National Institute of Standards and Technology, Building 101, Room A-531, 100 Bureau Drive Mail Stop 1700, Gaithersburg, MD 20899-1700, FAX: (301) 948-6107 or e-mail comments to [ppschanges@nist.gov](mailto:ppschanges@nist.gov).

**FOR FURTHER INFORMATION CONTACT:** For questions or comments, please contact Robert Kirkner at the National Institute of Standards and Technology, (301) 975-3002; or Pamela Boyland at the U.S. Department of Commerce, (202) 482-1068.

#### SUPPLEMENTARY INFORMATION:

##### Background

In accordance with Public Law 99-574, the NIST Authorization Act for 1987, the Office of Personnel Management (OPM) approved a demonstration project plan, "Alternative Personnel Management System (APMS) at the National Institute of Standards and Technology (NIST)," and published the plan in the **Federal Register** on October 2, 1987 (52 FR 37082). The project plan has been modified twice to clarify certain NIST authorities (54 FR 21331 of May 17, 1989, and 55 FR 39220 of September 25, 1990). The project plan and subsequent amendments were consolidated in the final APMS plan, which became permanent on October 21, 1997, (62 FR 54604). NIST published an amendment on May 6, 2005 (70 FR 23996) which became permanent on June 6, 2005.

The plan provides for modifications to be made as experience is gained, results are analyzed, and conclusions are reached on how the system is working. This notice formally modifies the APMS plan to refine the links between pay and performance. Comments will be considered and any changes deemed necessary will be made.

Dated: July 7, 2008.

**James M. Turner,**  
*Deputy Director.*

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#### I. Executive Summary

The National Institute of Standards and Technology's (NIST) Alternative Personnel Management System (APMS) is designed to (1) Improve hiring and allow NIST to compete more effectively for high-quality researchers through direct hiring, selective use of higher entry salaries, and selective use of recruiting allowances; (2) motivate and retain staff through higher pay potential, pay-for-performance, more responsive personnel systems, and selective use of retention allowances; (3) strengthen the manager's role in personnel management through delegation of personnel authorities; and (4) increase the efficiency of personnel systems through installation of a simpler and more flexible classification system based on pay banding through reduction of guidelines, steps, and paperwork in classification, hiring, and other personnel systems, and through automation.

Since implementing the APMS, according to findings in the Office of Personnel Management's "Summative Evaluation Report National Institute of Standards and Technology Demonstration Project: 1988-1995," NIST is more competitive for talent; NIST retained more top performers than a comparison group; and NIST managers reported significantly more authority to make decisions concerning employee pay. This modification builds on this success by refining the link between pay and performance. In 2005, NIST made the first significant changes to the APMS since its inception. NIST replaced its 100-point rating scale with six performance ratings and provided for automatic bonuses for high performing pay-capped employees. NIST also adjusted its provisions on retention service credit for reduction in force and annual adjustments to basic pay to correspond with the 2005 changes.

This amendment modifies the May 2005 amendment. Specifically, NIST will introduce a seventh level to its six level performance ratings system, broadening flexibility to make performance distinctions. Pay increases will continue to be based upon an annually determined percentage of the mid-point salary for each pay band in the career path and linked directly to

the top four performance ratings. This amendment will allow the percentage of the mid-point salary to vary not only by career path but also by pay bands within a career path, which will expand NIST's ability to reward new, early-career and mid-level employees. This amendment will also modify the provisions on retention service credit for reduction in force to correspond with these changes.

NIST will continually monitor the effectiveness of this amendment.

## II. Basis for APMS Plan Modification

The need to modify the current Pay for Performance System (PPS), which was first implemented in fiscal year 2006, surfaced in the results of the 2007 NIST Employee Surveys, the NIST Research Advisory Committee 2007 Report to the NIST Director, the 2007 OPM Pay-for-Performance Report to NIST, and in discussions of the NIST Leadership Board. Generally, feedback indicated a need to clarify the system and address consequences of the May 2005 changes. One concern raised was that the system disproportionately rewarded employees in higher pay bands to the detriment of new and early-career employees. Another concern was that there was not enough flexibility to make meaningful performance distinctions. A work group of internal NIST stakeholders was tasked with evaluating the feedback and developing responsive modifications. The resulting adjustments are incorporated into this amendment.

The NIST APMS proposed modifications include adding a seventh level to the current six level system, to permit an additional performance distinction. From highest to lowest, the seven performance ratings are: Exceptional Contributor, Superior Contributor, Meritorious Contributor, Significant Contributor, Contributor, Marginal Contributor, and Unsatisfactory.

Performance ratings are determined based on the cumulative ratings and relative weights of the critical elements. Critical elements are rated using benchmark standards and supplemental standards/success measures. The ratings for the critical elements are: exceeds expectations (E), fully successful (S), minimally meets expectations (M), or unsatisfactory (U).

Performance pay increases will continue to be based on the annually determined percentage of the mid-point salary for each pay band in the career path. When the percentage is applied to the mid-point salary in each pay band, the resulting dollar amount is the unit of salary increase or "I" for that pay band and career path. "I" percentages

may differ by pay band and career path. The "I" percentage used for any given career path and band will apply system-wide, except that the Director may authorize a particular operating unit to use a lower "I" percentage for reasons related to solvency.

Actual salary increases based on multiples of "I" are granted to employees in the top four performance levels as follows: Exceptional Contributor: "I"  $\times$  5; Superior Contributor: "I"  $\times$  3; Meritorious Contributor: "I"  $\times$  2; and Significant Contributor: "I." A salary-capped employee with an Exceptional Contributor or Superior Contributor rating must receive a bonus at least equivalent to the salary increase that would have been received if the employee's salary were not capped.

In addition to receiving a performance pay increase, employees with Exceptional Contributor, Superior Contributor, Meritorious Contributor, and Significant Contributor ratings receive the full annual basic pay adjustment (general and locality pay increases) and are eligible for a discretionary bonus. Employees with a Contributor rating do not receive a performance pay increase but do receive the full annual basic pay adjustment and are eligible for a discretionary bonus. Employees rated Marginal Contributor or Unsatisfactory do not receive a performance pay increase, discretionary bonus, or annual basic pay adjustment.

The current provision on additional service credit for reduction-in-force purposes is revised to correspond with these changes. For retention purposes, this modification grants ten additional years of service for a rating of Exceptional Contributor, eight additional years of service for a rating of Superior Contributor, four additional years of service for a rating of Meritorious Contributor, three additional years of service for a rating of Significant Contributor, and one additional year of service for a rating of Contributor.

## III. Changes in the APMS Plan

The APMS at the NIST, published in the *Federal Register* October 21, 1997 (62 FR 54604) and May 6, 2005 (70 FR 23996), is amended as follows:

1. Link Between Performance and Retention: The subsection titled "Link Between Performance and Retention" (70 FR 23998) is replaced with the following:

### *Link Between Performance and Retention*

An employee with a performance rating of Exceptional Contributor is credited with ten additional years of service for retention purposes. An employee with a performance rating of Superior Contributor is credited with eight additional years of service for retention purposes. An employee with a performance rating of Meritorious Contributor is credited with four additional years of service for retention purposes. An employee with a performance rating of Significant Contributor is credited with three additional years of service for retention purposes. An employee with a performance rating of Contributor is credited with one additional year of service for retention purposes. The total credit is based on the employee's three most recent annual performance ratings of record received during the four-year period prior to an established cutoff date, for a potential total credit of thirty years. No reduction-in-force credit converts to this system from any other performance appraisal system.

2. Performance Ratings: The subsection titled "Performance Ratings" (70 FR 23998) is replaced with the following:

### *Performance Ratings*

The NIST APMS performance ratings are Exceptional Contributor, Superior Contributor, Meritorious Contributor, Significant Contributor, Contributor, Marginal Contributor, and Unsatisfactory. Performance ratings are determined based on the cumulative ratings and weights of the critical elements in the performance plan. Performance in each critical element is evaluated using the benchmark standards and any supplemental standards or success measures, and the element is assigned a rating of exceeds expectations (E), fully successful (S), minimally meets expectations (M), or unsatisfactory (U).

The rating of the element is then matched with the weighted value of that critical element to produce a value for the element. For example, if an element is weighted 4 and the element is assigned a rating of exceeds expectations (E), then that element has a value of 4E.

Once this matching is completed and the elements are totaled, performance ratings are assigned using the following table.

| Performance rating       | Critical element ratings   |
|--------------------------|----------------------------|
| Exceptional Contributor. | At least 8E; None below S. |
| Superior Contributor ..  | At least 6E; None below S. |
| Meritorious Contributor. | At least 4E; None below S. |
| Significant Contributor  | At least 3E; Up to 2M.     |
| Contributor .....        | Up to 3M.                  |
| Marginal Contributor     | 4 or more M.               |
| Unsatisfactory .....     | 1 or more U.               |

An employee with unsatisfactory performance in one or more critical elements is considered unsatisfactory overall and is given a performance improvement plan and an opportunity to improve. If the employee's performance remains unsatisfactory at the end of an opportunity to improve, the supervisor initiates appropriate follow-up action, i.e., reassignment, proposed change to a lower pay band, or proposed removal.

3. Performance Pay Decisions: The subsection titled "Performance Pay Decisions" (62 FR 54612) is replaced with the following:

*Performance Pay Decisions*

Annually, the NIST Director determines the amount of a unit of increase, or "I," based on a percentage of the mid-point salary for each pay band of each career path. The percentage may vary by career path and by pay bands within a career path. Performance pay increases are linked directly to performance ratings. An employee with an overall performance rating of Exceptional Contributor receives a performance pay increase equal to five units of increase, or 5 x "I." A Superior Contributor receives a performance pay increase equal to 3 x "I." A Meritorious Contributor receives a performance pay increase equal to 2 x "I." A Significant Contributor receives a performance pay increase equal to "I." The actual dollar amount of a performance pay increase depends upon an employee's career path and pay band. Employees may not receive an increase that causes their salary to exceed the maximum rate for their pay band.

Employees with Contributor, Marginal Contributor, and Unsatisfactory ratings do not receive performance pay increases.

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**DEPARTMENT OF COMMERCE**

**National Institute of Standards and Technology**

**Request for Nominations for Members To Serve on National Institute of Standards and Technology Federal Advisory Committees**

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The National Institute of Standards and Technology (NIST) invites and requests nomination of individuals for appointment to its eight existing Federal Advisory Committees: Technology Innovation Program Advisory Committee, Board of Overseers of the Malcolm Baldrige National Quality Award, Judges Panel of the Malcolm Baldrige National Quality Award, Information Security and Privacy Advisory Board, Manufacturing Extension Partnership Advisory Board, National Construction Safety Team Advisory Committee, Advisory Committee on Earthquake Hazards Reduction, and Visiting Committee on Advanced Technology. NIST will consider nominations received in response to this notice for appointment to the Committees, in addition to nominations already received.

**DATES:** Nominations for all committees will be accepted on an ongoing basis and will be considered as and when vacancies arise.

**ADDRESSES:** See below.

**SUPPLEMENTARY INFORMATION:**

**Technology Innovation Program (TIP) Advisory Board**

*Addresses:* Please submit nominations to Mr. Marc Stanley, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4700, Gaithersburg, MD 20899-4700. Nominations may also be submitted via FAX to 301-869-1150. Additional information regarding the committee, including its charter may be found on its electronic home page at: <http://www.nist.gov/tip>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Marc Stanley, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4700, Gaithersburg, MD 20899-4700; telephone 301-975-2162, fax 301-869-1150; or via e-mail at [marc.stanley@nist.gov](mailto:marc.stanley@nist.gov).

*Committee Information:* The Board will consist of ten members appointed by the Director of NIST, at least seven of whom shall be from United States industry, chosen to reflect the wide

diversity of technical disciplines and industrial sectors represented in TIP projects. No member will be an employee of the Federal Government.

The Board will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act.

**Authority:** 15 U.S.C 278n(k), as amended by the America COMPETES Act (Pub. L. 110-69), Federal Advisory Committee Act: 5 U.S.C. App. 2.

**Board of Overseers of the Malcolm Baldrige National Quality Award**

**ADDRESSES:** Please submit nominations to Harry Hertz, Director, Baldrige National Quality Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899-1020. Nominations may also be submitted via FAX to 301-975-4967. Additional information regarding the Committee, including its charter, current membership list, and executive summary may be found on its electronic home page at: <http://www.baldrige.nist.gov>.

**FOR FURTHER INFORMATION CONTACT:** Harry Hertz, Director, Baldrige National Quality Program and Designated Federal Officer, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899-1020; telephone 301-975-2361; FAX 301-948-4967; or via e-mail at [harry.hertz@nist.gov](mailto:harry.hertz@nist.gov).

*Committee Information:* The Board was established in accordance with 15 U.S.C. 3711a(d)(2)(B), pursuant to the Federal Advisory Committee Act (5 U.S.C. App. 2).

*Objectives and Duties*

1. The Board shall review the work of the private sector contractor(s), which assists the Director of the National Institute of Standards and Technology (NIST) in administering the Award. The Board will make such suggestions for the improvement of the Award process as it deems necessary.

2. The Board shall provide a written annual report on the results of Award activities to the Director of NIST, along with its recommendations for the improvement of the Award process.

3. The Board will function solely as an advisory committee under the Federal Advisory Committee Act.

4. The Board will report to the Director of NIST.

*Membership*

1. The Board will consist of approximately eleven members selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance, and for their