



United States
Department of
Agriculture

Forest Service
Pacific Southwest
Region

September 2004



5th Semi-Annual Report

Reporting Period: January 1, 2004 to June 30, 2004
(Includes Data from October 1 – December 31, 2003)

USDA FS Region Five's Women's Settlement Agreement

(Donnelly vs. Veneman)

September 1, 2004

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1.0 COVER LETTER

United States
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Forest
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Pacific
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Region

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Date: August 11, 2004

Route To:

Subject: Fifth Semi-Annual Report - January 1, 2004, through June 30, 2004
Women's Settlement Agreement

To: Judith Rosenberg, Monitoring Council Chair

Enclosed is the Fifth Semi-Annual Report of Region 5's progress implementing the relief provisions of the Women's Settlement Agreement (*Donnelly vs. Veneman*).

Included in this report is a summary of actions we have taken to satisfy commitments we made to the Judge during the March 19, 2004, hearing. Specifically, in the report we discuss completion of the backlog of informal EEO complaints where ADR was requested by July 31, 2004; meetings between the Monitoring Council and individual program managers to identify enhancements to the existing data tracking system to improve tracking in terms of timeliness and accuracy; and discussion of the adequacy, accuracy, and timeliness of misconduct investigations.

We continue to make progress in implementing the Settlement Agreement. Our goal to evaluate and assess our program effectiveness and communicate those results to the Monitoring Council remains a priority.

If you have questions regarding this report, please contact Julena Pope, Settlement Agreements Director. We look forward to discussing the Fifth Semi-Annual Report with you later this month.

/s/ Vicki A. Jackson (for)
JACK A. BLACKWELL
Regional Forester



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2.0 ORGANIZATION OF THE REPORT

The purpose of the Women's Settlement Agreement Semi-Annual Report is to provide the Monitoring Council (MC) and other interested parties with a summary of Region Five's (R5's) progress and status in implementing the Injunctive Relief Provisions (IRPs) of the Women's Settlement Agreement (WSA).

The Fifth Semi-Annual Report covers the period beginning January 1, 2004, and ending June 30, 2004. While the semi-annual reporting period still utilizes the calendar year as its basis, the June/December due date of this and future semi-annual reports has been extended by 60 days, to September/February. This extension has, for the first time, allowed sufficient time for data from the entire performance period to be aggregated and reported on without having to make projections and estimate anticipated accomplishments. This change results in the following:

- For several IRPs, data that was not available from the final quarter of the previous reporting period (October 2003 – December 2003), and could therefore not be analyzed or reported on, will be reported on during this reporting period in addition to the data and accomplishments for the current reporting period.
- An attempt has been made to ensure all IRPs will have sufficient data to report on the entire reporting period based on the calendar year.
- Where possible, comparative analyses will be made by performance period, rather than on a fiscal year (FY) basis; however, this transition will take place over the next several reporting periods.

The Fifth Semi-Annual Report is divided into 21 sections accompanied by external appendices. Following Section 1.0, which contains the cover letter, and this section, which describes the report's organization, Section 3.0 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 4.0 has been added to this report to address commitments made to the Judge during a court hearing in March 2004. Section 5.0 provides an overview of Leadership and Executive Support, Staffing of the Settlement Agreement (SA) Office, and Interaction with the MC.

For this Fifth Semi-Annual Report, the section on Recordkeeping and Reports has been removed, as it was determined to be redundant to information already included in the report. Each IRP section contains information on recordkeeping specific to that provision.

Sections 6.0 through 18.0 report on the effectiveness of actions taken by R5 during this reporting period to implement each of the primary provisional areas of the WSA and the relevant MC recommendations. For each area, the provision and the relevant recommendations that are not confidential are outlined, background on R5's approach to addressing the provision are discussed, and the key elements of recordkeeping for the provision are described, including recent enhancements. The balance of the subsections provides the summary of key activities and accomplishments for the reporting period. A performance scorecard and action plan is included for each of the provisional areas.

The scorecard included in this and in previous semi-annual reports is used to track and monitor the status of accomplishments against each of the IRPs in the WSA. A “red light” indicates little to no progress has been made toward goal accomplishment, a “yellow light” indicates partial implementation and progress toward successful completion is occurring, and a “green light” indicates on- or ahead-of- schedule performance toward successful completion. While the scorecard 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 Plan, Approach, Deployment, Evaluation, and Results (PADER[®]) areas. The PADER[®] components remain as developed and trademarked by JJA CONSULTANTS. The current status of each provisional and sub-provisional area is evaluated by comparing the accomplishments against the 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.

Section 21.0 contains internal appendices. An appendix of cumulative accomplishments is included in Section 21A and will continue to be maintained for future reports. Section 21B lists external appendices, including the current WSA Implementation Plan.

This report continues many of the precedents used in the Fourth Semi-Annual Report. The WSA requires R5 to document progress semi-annually in each of the following eight provisional areas: Alternative Dispute Resolution (ADR; formerly Early Intervention Program (EIP)), Exit Interviews, Misconduct Investigation (MI) Procedures, Prevention of Sexual Harassment (POSH) Training, the Informal Equal Employment Opportunity (EEO) Process, Mentoring Program, Scholarships, and Positive Incentives for Civil Rights Performance. R5 is again providing status reports on several additional areas that are also closely monitored, which exceeds the reporting requirements of the WSA. These areas are Performance Evaluations, Adverse Action Digest (AAD), Women's Conference, Advance Advertisement of Work Details (AAWD), and Individual Relief for Class Member Complaints. As discussed earlier, the section on Recordkeeping and Reports has been removed; it was previously reported as one of these additional areas.

This report was again developed collaboratively by a team of Regional Program Managers, the Washington Office (WO) Civil Rights (CR) Director and her staff; selected members of agency leadership, and two consulting firms, JJA CONSULTANTS, Inc. and North State Resources, Inc.

3.0 EXECUTIVE SUMMARY

The Fifth Semi-Annual Women's Settlement Agreement Report, and the accomplishments herein, demonstrate that the deployment actions undertaken in 2003-2004 are yielding positive trends in transforming the environment and culture of the Region to a more positive, employee-friendly workplace. All provisions are on track to achieve targets; however, two provision areas (Alternative Dispute Resolution (ADR) and Performance Evaluations) require additional time and evaluation to further validate early positive trends. Full progress toward deployment is apparent in Positive Incentives and consistency is improving in Exit Interviews. Two noteworthy developments that are strengthening the Region's ability to transform itself into a proactive, prevention-based culture are access to real-time data and sharing of data and information across programs.

- ❖ The ADR complaint resolution rates are up.
- ❖ The ADR office accomplished a significant improvement in the resolution of complaints, eliminating the 38-case backlog that existed as of March 1, 2004. Only three open cases remained at the end of the fifth reporting period. Ongoing process improvements and effective management will allow the Region to stay current in scheduling cases for mediation.
- ❖ The number of misconduct investigations (MIs) involving sexual harassment decreased significantly, from 11 to two, from the fourth to the fifth reporting period.
- ❖ Region 5 (R5) believes that the Prevention of Sexual Harassment (POSH) training programs have resulted in better-informed employees, and our misconduct inquiry process remains robust with increasing activity.
- ❖ An increase in Adverse Action Digest (AAD) activity indicates that the management system and the management team continue to take appropriate disciplinary actions.

All of these factors are believed to be significant contributors to the decrease in MIs and validate the existence of real workplace improvements. The dichotomy here is that reprisal allegations continue to trend up. However, we recognize that reprisal represents the most frequent basis for complaints within all Governmental Agencies. Positive and negative trends will continue to be monitored and improvement actions will be implemented when appropriate.

The Regional leadership team remains committed to maintaining and improving upon the positive trends of the performance period, while implementing aggressive evaluation and improvement actions. We are looking forward to the day when Region 5 becomes the best in class in workforce relations in the Agency.

Selected accomplishments from the Fifth Semi-Annual Report are as follows:

- ❖ **Alternative Dispute Resolution Program (Section 6.0 - Page 26)**
 - The ADR Office now has two full-time permanent positions filled. Additionally, during this reporting period, the ADR staff was realigned into the Settlement Agreement (SA) staff structure (see Section 5.0, Figure 5-1).

- During the previous reporting period, the Region set a goal of scheduling 50% of the mediation backlog by March 1, 2004. The ADR Office met this goal by scheduling 51% of the backlog by March 1, 2004.
- During the current reporting period, on March 19, 2004, the Region committed to scheduling the remaining cases in the existing backlog by July 31, 2004. As of the end of this reporting period, only three cases remain from the March 19, 2004, backlog list to be scheduled for mediation by the Region. In two of those three cases, mediation dates were offered by the Region but the dates were not accepted by the Complainant. In the third case, mediation was scheduled and the parties met. Settlement discussions were halted when erroneous information led to the conclusion that the case had been subsumed in a class complaint. Consequently, the Region will reschedule this case for mediation.
- To help expedite scheduling of mediation, the ADR Program Manager (PM) established a new scheduling technique during this reporting period, which helps expedite the scheduling process by: (1) notifying Complainants, by letter, of a specific date on which a Resolving Official is available for mediation; (2) giving the ADR client and his or her representative specific guidance regarding the process for accepting or declining the mediation date offered; and (3) providing a deadline by which the Complainants must respond.
- The Region agreed to expand Resolving Official training from one to two days in response to an October 2003 recommendation from the Monitoring Council (MC). The expanded training reflects several new components: (1) interest-based problem solving training; (2) theories of discrimination and burdens of proof; (3) a panel discussion to include lessons learned; and (4) settlement rules. The training will be held on October 27, October 28, and November 3, 2004.
- There were 49 new cases brought to ADR during this reporting period. R5 proceeded to mediation/facilitated discussion on 23 cases. Of the cases that went to mediation, 21 (91%) resulted in resolution. Nineteen of the new ADR cases received a notice of right to file (NRF) during this period, while the Region dedicated full resources to the Mediation Scheduling Project; six were withdrawn; and one non-EEO case declined for mediation by management. This data suggests that ADR continued to be a useful tool in resolving disputes during this reporting period.
- The non-EEO portion of the ADR Program remains an expedient alternative to conventional redress avenues such as the EEO complaint process, grievances, etc., and continues to maintain a high rate of successful resolutions. The average number of days from the date mediation/facilitation is requested to the date mediation/facilitation is conducted is 27 days, and the resolution rate among non-EEO cases is 91%.

❖ **Performance Evaluations (Section 7.0 - Page 36)**

- The MC provided input to the Regional Forester (RF) for mid-year appraisals of the Regional Leadership Team (RLT) and the RF discussed Performance Elements 3 and 4 with RLT members at mid-year review.
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- The Region completed an initial review of how the clarifications to the Performance Standards were deployed in the last Performance Evaluation cycle. Of 56 evaluation checklists that were utilized during the Performance Evaluation process, 19 (33%) contained comments related to many of the clarifications in Performance Elements 3 and 4. Comments noted action taken by RLT members, such as sending employees to POSH training and to the annual Women's Conference, and inviting the MC to the unit.
- As part of the Region's continuous evaluation and improvement efforts, the Region will enhance its evaluation tool to improve clarity, improve the consistency of the types of responses, and allow more quantifiable results. The new tool will be developed by December 2004 for the FY 05 performance evaluations.
- The Region will have in place by October 1, 2004, a new database tool that will allow the Region to determine if all employees have had performance discussions at the beginning of the FY, at mid-year, and at year-end. This tool will also allow the Region to quantify the results of the beginning of the FY, mid-year, and year-end performance appraisals. The Region will use the database tool to answer questions such as how many employees received passing or failing ratings for a particular element.
- R5 assigned responsibility for the Performance Evaluation Program to a new PM with direction to review and bring the entire program into compliance with applicable laws, regulations, and agency guidelines, and to insure mandatory performance standards, including those developed under the WSA, are fully implemented for all employees. In order to improve the program, the new PM is refocusing overall program management direction, methods of monitoring regulatory compliance, and responsiveness to MC needs.

❖ **Exit Interviews (Section 8.0 - Page 39)**

- The Automated Exit Interview Database became fully operational and accessible to all R5 employees on June 30, 2004. The database allows all departing employees to complete Exit Interview Questionnaires on-line. In addition, the Exit Interview Database contains a feature that automatically sends an email to appropriate R5 staff when a departing employee indicates in the Questionnaire that he or she has witnessed or experienced sexual, racial, or ethnic harassment or failure to provide a reasonable accommodation.
 - Standard Operating Procedures (SOPs) for the Exit Interview Program were finalized during this reporting period and disseminated on June 30, 2004.
 - To monitor the level of unit program implementation, the *AD-139 Tracking Form* was created and the *Exit Interview Reporting Form* was modified during this reporting period.
 - Total accounting for all separating employees improved during this reporting period. Over 77% of employees separating during this reporting period returned the AD-139 Final Salary and Payment Form, which represents a 5% increase as
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compared to the previous reporting period. Data also show that 51% of separating employees completed an Exit Interview Questionnaire during this reporting period, which represents an 8% increase in the rate of return as compared to the previous reporting period. The majority of separations occur because of the ending of temporary appointments and resignations.

❖ **Misconduct Investigations (Section 9.0 - Page 50)**

- Of 20 misconduct inquiries (preliminary research, situation assessment, and disposition) involving sexual harassment and three involving reprisal from January – June 2004, a total of 14 were closed, including 12 involving sexual harassment and two involving reprisal. In all cases, management took appropriate action ranging from one employee's permanent job offer being rescinded to employees receiving counseling and Letters of Warning. Two of the cases involving sexual harassment were elevated to a formal misconduct investigation, as management believed the conduct alleged was serious enough to warrant further investigation. In some cases, the allegations were unsubstantiated, and others were closed through informal discussions and reconciliation.
- The numbers of MIs involving sexual harassment decreased significantly, from 11 to two, between the current and previous reporting periods. Also, the number of MIs involving reprisal decreased from two to zero between the current and previous reporting periods. There are several possible explanations for the decrease in the number of MIs between reporting periods, including increased use of the misconduct inquiry process to gather information and address issues at early stages. It is R5's judgment that when managers and employees utilize the inquiry process to effectively handle workplace concerns, issues are clarified and resolved in a timely manner, and the need for formal MIs decreases.
- The number of days between the beginning and conclusion of a MI on the Forest/unit continues to decline, from 14 days for the third reporting period and 13 days for the fourth reporting period, to five days during this reporting period. Notification letters are now being sent out to potential MI participants at the beginning of the investigation to further improvements in process timeliness.
- The Fact-Finding Training for the Region took place in Sacramento in April 2004.
- Continued review of biographies and monitoring and evaluation of investigators' reports allowed the MI PM to take corrective action including the dismissal of one investigator from a case and the reassignment of another investigator in another case.
- The Region agreed to draft an SOP for Reporting Allegations of Reprisal in Region 5 during this reporting period.

❖ **Prevention of Sexual Harassment Training (Section 10.0 - Page 61)**

- Annual mandatory POSH training has been delivered to 6,829 (84%) of the Region's workforce of 8,108 as of June 22, 2004.
 - POSH training in calendar year 2004 (CY 04) was conducted in three phases:
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- Forest Civil Right Officers (FCROs) and Human Resource Officers (HROs) trained in a separate session on February 26, 2004, in order to provide feedback on employee and supervisor's course materials.
- From March through June, supervisors/managers attended separate 8-hour training sessions on their roles and responsibilities, identifying barriers, creating open communications about retaliation situations/reprisals, and prevention.
- R5 employees (permanent, temporary seasonal, students, and volunteers) in a non-supervisory role attended 4-hour training sessions during April through June 2004, and additional training sessions are scheduled to take place through the end of CY 04.
- A Lotus Notes database has been designed to maintain names of employees who have attended the POSH general training. This system replaces the Excel spreadsheet, which only captured the unit, workforce number, number of employees trained, percentage trained, and number of sessions. The Lotus Notes database will generate reports that include the date of training, unit, name of employee, and number of employees trained by unit. The certified forms and sign-in sheets will continue to be maintained by the Federal Women's Program Manager (FWPM) and be used to cross reference the employees' signatures with the information in the Lotus Notes database.
- To date, seven employees whom the AAD identified as having engaged in inappropriate behavior of a sexual nature have received the *One-On-One Specialized POSH Training*. Upon completion of the *One-On-One Specialized POSH Training* sessions, a certificate of completion was signed by the participant and the contractor. There have been no reports that any of the seven training recipients have repeated their offenses.
- The Region developed an electronic version of an overview of Civil Rights to be used at the Wildland Fire Apprentice Academy during the informal orientation of new apprentices.

❖ **Informal EEO Process (Section 11.0 - Page 69)**

- Based on this nine-month period (October 2003 – June 2004), both the Los Padres and Angeles National Forests (NFs) are exhibiting downward trends in informal complaints, each with a total of seven informal complaints to date for FY 04 (down from 17 and 16 complaints, respectively, for FY 03) and zero and one sexual / gender harassment complaint, respectively.
 - Seven units remain free of sexual / gender harassment complaints for both FY 03 and FY 04 to date: the Angeles, Klamath, Lassen, Lake Tahoe Basin, Modoc, Sequoia, and Tahoe NFs.
 - During this nine-month period (October 2003 – June 2004), 90 individuals filed complaints, which represent a 1% per capita filing rate as compared to a 1.1% per capita filing rate for the previous reporting period. Seventeen (17) Class Member Complainants filed complaints, which is a 0.5% filing rate for Class Members.
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This group has shown a significant decline in filing complaints (0.8% in FY 03 and 1.2% in FY 02). The decline in Class Member complaints is most likely attributable to the ongoing implementation of the IRPs, including POSH training, Mentoring, Scholarships, etc.

- Of a total of 115 informal EEO complaints processed during this period, 17 (15%) informal EEO complaints alleged sexual and/or gender harassment. Comparing the number of sexual/gender harassment complaints processed for all of FY 03 (17) to the year-to-date volume for FY 04, complaint levels are trending slightly upward for FY 04. In FY 03, 17 of a total of 126 complaints (13%) were sexual/gender harassment complaints.
- Data indicates a continuing increase in the number of cases processed and closed via ADR. ADR cases accounted for 62% of all case closures and 74% of Class Member case closures, compared to 47% of all case closures and 60% of Class Member case closures in FY 03.
- The ADR resolution rate is up seven percentage points. The ADR resolution rate for October 2003 through June 2004 was 31%, an increase over the FY 03 rate of 24%. This increase is due to a recent effort to expedite scheduling of mediations for informal complaints.
- The Angeles, Eldorado, Lassen, Shasta Trinity and Sierra NFs resolved 50% or more of their complaints. It is noteworthy that the higher resolution rates for these locations result from a high number of voluntary withdrawals by Complainants. A review of the process indicates that EEO Counselors are providing effective information for the Complainant to make an informed decision.
- Out of 13 total settlement agreements finalized during this nine-month period, seven (54%) were settled in less than 90 days. This represents an improvement when compared to FY 03, when 50% of a total of 12 settlements were closed in less than 90 days.
- Reprisal is the number one basis of discrimination in all federal EEO complaints. A total of 18 out of 24 (75%) Class Member complaints included allegations of reprisal, compared to 61% of all Complainants alleging reprisal. In response to the upward trends in reprisal allegations, in June 2004, R5 implemented new non-reprisal guidance. This guidance emphasized the Agency's commitment to taking corrective action where warranted. It also encouraged employees alleging reprisal to make use of mediation services through the ADR program.
- All informal complaints of reprisal are reported to the RF and the Associate RF.

❖ **Mentoring Program (Section 12.0 - Page 83)**

- The Region held a one-day makeup training session on January 13, 2004, in Sacramento, California, so that all mentees who were matched with mentors, but who missed the previous training courses, were able to continue in the program. As part of their contract obligation, the Contractor provided a mid-point evaluation for the Formal Mentoring Program on May 27, 2004. Of the 132
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mentoring program participants, 65 participants completed the written survey: 22 mentees, 19 mentors, and 24 supervisors. Based on the feedback received, it appears that the program is effectively providing its mentees with opportunities for networking, constructive feedback, and new approaches for career development.

- The Region implemented the “Just-In-Time” program in June 2004. The training session for “Just-In-Time” Mentors was held in the Regional Office on June 16 and 17, 2004, and the call letter announcing the program was issued on June 23, 2004.

❖ **Scholarships (Section 13.0 - Page 88)**

- A notice dated March 31, 2004, announcing the 2005 Scholarship Program was distributed to Human Resources Officers (HROs) and FCROs for distribution and posting on unit bulletin boards. The PM will provide a scholarship program briefing during the upcoming Woman's Conference in October 2004.
- The call letter announcing the FY 05 Scholarship Program was sent to all employees on March 31, 2004. The Region received a total of 139 applications that included 120 individual applications and 19 group applications. The applicant pool included 90 females and 30 males.
- Based on documents submitted to the PM and from telephone conversations with recipients as of June 30, 2004, \$59,317 of FY 04 scholarship monies has been expended. Many of the recipients are still completing classes for the summer session; therefore, a full review of expenditures will be completed in the late fall.

❖ **Adverse Action Digest (Section 14.0 - Page 94)**

- As of February 9, 2004, responsibility for the AAD was transferred to the new SA staff. The AAD covering the first and second quarters of FY 04 (the period October 1, 2003 – March 31, 2004) was distributed to the MC and all R5 employees on April 1, 2004 (see Appendix G.1).
 - In July 2004, R5 issued a second AAD report that covers the period of April 1 to June 30, 2004, to bring the AAD program into the new reporting period (see Appendix G.2).
 - The AAD continues to be used as a training tool and to be provided to the Sexual Harassment Trainers conducting the mandatory POSH training and the Specialized One-on-One POSH training.
 - The AAD is being used for training purposes, as agreed. Intranet access was publicized via email to all employees in the Forest and Province Offices. Hard copies of the AAD were distributed to all Forests and Provinces and posted on all Bulletin Boards.
 - A letter signed by the RF was sent to all Forest Supervisors and Directors, directing them to use the AAD during all training and orientation 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. The AAD was provided to the
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trainers who conduct Specialized One-on-One POSH training and annual mandatory POSH Training for all employees and managers/supervisors.

- The AAD PM continues to prepare 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. During this reporting period, six employees (three females and three males) attended Specialized One-On-One POSH training.

❖ **Women's Conference (Section 15.0 - Page 98)**

- In May 2004, the Conference Planning Team was organized under an Incident Command system, with 14 employees fulfilling duties related to Logistics, Operations, Procurement, and Supply Unit Leadership. Each Forest and Regional Office identified "forest ambassadors" to assist in promoting the Conference and assisting employees with registration.
- The format and design for the 2004 Conference was developed based on analysis of evaluations from the 2002 and 2003 Conferences and discussions with the MC, the Civil Rights Organization, Employee Resource Groups (ERGs), and the 2003 Conference planning team.
- In May 2004, the Conference Coordinator reviewed evaluations and surveys from the 2003 Women's Conference to ensure that survey findings and employees' comments were incorporated into 2004 Conference planning. Responses to specific requests are included in the 2004 Women's Conference Planning Report (see Appendix H.1).
- The Conference Responsible Official has been conferring with the MC about potential speakers and workshops and met with the MC on May 6 and June 21, 2004, with the goal of meeting the MC's vision and expectations for the 2004 Conference and to keep the MC apprised of progress on Conference development.

❖ **Advance Advertisement of Work Detail, (Section 16.0-Page 102)**

- During this reporting period, R5 contracted with a computer programmer to develop focus reports that incorporated both the National Finance Center (NFC) system database and the Applicant Flow System (AFS) applicant gender pool data. Focus Reports link specific vacancy announcements to the applicant pool gender data, which enhances the Region's ability to perform continued analyses of gender data for advertised positions.
 - During this reporting period, women received 37% and men received 63% of total temporary promotions and details that lasted less than 89 days, both of which are in proportion to their workforce representation.
 - There was a 16 percentage point increase in the number of extensions of temporary promotions lasting 89 days or less received by women during this reporting period in comparison to the fourth reporting period. In addition, there was a 30 percentage point increase in the number of extensions of temporary promotions lasting 89 days or more received by women during this reporting period in comparison to the fourth reporting period.
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❖ Positive Incentives and Civil Rights Performance (Section 17.0 - Page 107)

- In January 2004, the Positive Incentive and R5 Civil Rights Awards Programs were approved by National Federation of Federal Employees (NFFE) and the Regional Partnership Council.
- Region 5's Civil Rights staff implemented the annual R5 Civil Rights Award Program and the R5 Positive Incentive Awards Program in March 2004. A detailed description of the programs, including selection criteria, is included as Appendix I.1.
- In late June 2004, R5 CR met with HR to explore other ways to take into consideration the civil rights performance records of employees seeking promotions or career advancement. The meeting resulted in several options that will be submitted to Office of General Council (OGC) for legal sufficiency review. CR will continue to collaborate with HR relevant to implementation.
- To further promote both awards programs, question and answer brochures for the Positive Incentives and the R5 Civil Rights Awards programs are being developed and will be disseminated to all employees by September 30, 2004.

❖ Federal Women's Program Manager (Section 18.0 - Page 111)

- In October 2003, the FWPM showcased the Federal Women's Program at the Women's Conference Information Expo.
- During this reporting period, the FWPM identified and submitted names of potential workshop presenters, entertainers, and keynote speakers who are diverse to the Women's Conference Coordinator for purposes of planning the October 2004 Conference.
- The FWPM also planned, coordinated, and implemented the annual Women's History Month program for the Regional Office. The program featured a variety of diverse speakers and entrepreneurs. The objective was to foster a greater appreciation of women's issues as they relate to FS employment.
- The FWPM co-Chaired the Women's History Month program for the San Francisco Bay Area Federal Women's Program Managers' Council, Federal Executive Board. This increased the visibility of R5's Federal Women's Program, as well as provided opportunities for networking with FWPMs from other agencies.

THE SCORECARD

This report is to be used by R5, the WO, and the MC as a tool for continuous improvement of the R5 workplace environment and culture in areas related to Sexual and Gender Harassment. To this end, the report contains a series of performance scorecards for each IRP. The scorecard assists with tracking performance and monitoring the status of accomplishments against each of the IRPs in the WSA. The scorecard utilizes a stop-light approach to provide a visual, performance-based report card for executives,

management, and the MC to track performance for each provisional area based on the execution of the key PADER[®] components: Planning, Approach, Deployment, Evaluation, and Results Measurement. A roll-up of the scorecard for each provision is provided in Table 3-1.

Table 3-1: Overall Performance Scorecard for Each Injunctive Relief Provision Area

Injunctive Relief Provision Area	5 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
Alternative Dispute Resolution Program Overall Performance	G	G	G	G	Y	The overall administrative program is adequate. The Region is still working to improve timeliness.
Performance Evaluation Overall Performance	G	G	G	Y	Y	R5 has implemented new elements and standards to hold employees accountable for their actions, but will require additional time to evaluate impact. Existing MOU with NFFE prohibits the Agency from implementation of the provisions with bargaining unit employees covered by the MLA.
Exit Interview Overall Performance	G	G	G	G	G	Program is implemented and participation is increasing.
Misconduct Investigation Procedures Overall Performance	G	G	G	Y	G	The MI PM continues to monitor the timeliness and effectiveness of the overall program. The MI Program is currently fully compliant with tracking and recordkeeping expectations and requirements.
Prevention of Sexual Harassment Training Overall Performance	G	G	G	G	G	R5 has developed and implemented a customized, consistent POSH training and continues to review and enhance program for results.
The Informal Equal Employment Opportunity Process Overall Performance	G	G	G	G	G	Significant improvement over the last two years. Revisions made to ADR election process, greater collaborative efforts between ECP and ADR staff, and resolution rates have improved.
Mentoring Program Overall Performance	G	G	G	G	G	A mid-point evaluation of the Mentoring Program was completed showing good performance. Findings were evaluated and program enhancements are underway.
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 exceeded the provisions outlined in the WSA.
Women's Conference Overall Performance	G	G	G	G	G	Completed 2 nd annual Conference with positive feedback. Plans including requested enhancements underway for 3 rd annual Conference.
Advance Publicity of Work Details Overall Performance	G	G	G	G	G	Policy and process well understood and followed.
Positive Incentives and Civil Rights Performance Overall Performance	G	G	G	G	G	R5 Task force is complete. R5 continues to move forward with implementation of recommendations.

4.0 STATUS OF ACTION ITEMS FROM THE HEARING

On March 19, 2004, the Region met with Class Council and the Administrative Judge to discuss the status of implementation of the Women's Settlement Agreement (WSA). During that meeting, several issues were discussed that were to be aggressively addressed by the Region and reported on in the next semi-annual report for review by the Judge. These items included:

1. Mediation of Informal Equal Employment Opportunity (EEO) Complaints and the Alternative Dispute Resolution (ADR) Backlog
2. Joint Review and Planning for Enhancements to Recordkeeping
3. Tracking and Closure of Misconduct Investigations (MIs) with Focus on Retaliation

The result of the Region's aggressive approach to addressing issues in each area is as follows:

1) Mediation of Informal EEO Complaints and the ADR Backlog:

The Region had a longstanding ADR backlog, which interfered with its ability to conduct mediation of informal EEO complaints within the 90-day informal complaint-processing period. The backlog was comprised of EEO cases for which the client had been awaiting mediation for a period greater than 90 days. At the time the project began, there were 38 cases awaiting mediation: 25 (66%) cases made up the backlog of complaints and 13 (34%) informal EEO cases had been awaiting mediation for less than 30 days. In an effort to eliminate the ADR backlog, process current cases, and conduct quality mediations in a timely manner, the Region began an aggressive Expedited Mediation Scheduling Project (Project). The Project began in mid-March and ended on July 31, 2004. The status of the Project is shown in Table 4-1.

Table 4-1: Status of ADR Expedited Mediation Scheduling Project

Outcomes	Backlog	Informal EEO Cases	Total	%
Mediated	15	9	24	63%
Withdrawn	3	1	4	11%
No Response from Client (Removed)	2	0	2	5%
Complaints Dismissed (Removed)	0	2	2	5%
Subsumed	1	1	2	5%
Management Declined Mediation	1	0	1	3%
Remaining (Multiple Mediation Dates Offered to 2 of 3)	3	0	3	8%
Total	25	13	38	100%

Status of the Informal Complaints: At the conclusion of the Project (July 31, 2004), there were only three cases from the backlog remaining on the ADR client list. The Region offered two clients six and four mediation dates respectively. All of the dates offered occurred prior to July 31, 2004; none of the dates offered were accepted by either Complainant. The third case was scheduled for mediation and the parties actually went to the mediation table. However, settlement discussions were halted when erroneous information led to the conclusion that the case had been subsumed in a class complaint. The case is now being rescheduled for mediation. Fifteen of the cases in the backlog were mediated.

Disposition of the Informal EEO Cases: There were 13 informal EEO cases awaiting mediation at the time the Expedited Mediation Scheduling Project began. Nine of the 13 cases received mediation during the project. One client withdrew the request for mediation after receiving a mediation scheduling notice from the ADR Office. One client was scheduled for mediation and cancelled after a scheduling conflict arose. The ADR Office was not able to reschedule this case for mediation because the case was subsumed in a new class complaint. There were two cases where a mediation date was not offered. The ADR Office was attempting to clarify the issues and identify the alleged responsible management unit so the request for mediation could be properly processed. The ADR Office sought clarification to determine whether the informal complaints were against the Region or another employer. The complaints went formal and were dismissed. Consequently, the Region will notify the Complainant that it declines to mediate.

2) Joint Review and Planning for Enhancements to Recordkeeping:

Meetings With the MC to Clarify Current Recordkeeping and Discuss Opportunities and Plans for Enhancement: During the March 19, 2004, hearing, the Region committed to the Court to have the Regional Program Managers (PMs) meet with the Monitoring Council (MC) within 90 days of the hearing date to discuss recordkeeping and database tracking for the various programs related to the Injunctive Relief Provisions (IRPs). As of the date of this report, the MC has met with PMs responsible for the following programs:

- Misconduct Investigations (MI)
- Alternative Dispute Resolution (ADR)
- Women's Conference
- Scholarships
- Mentoring
- Exit Interviews
- Prevention of Sexual Harassment (POSH)
- Positive Incentives
- Performance Evaluations
- Informal EEO
- Advance Advertisement of Work Details (AAWD)

The Region also reviewed with each PM how data is currently tracked, reported, and retained for their program. This information is included in this semi-annual report in the Recordkeeping subsection for each IRP. The SA Director and the database manager also met with the MC to discuss opportunities to enhance recordkeeping for the IRPs. Currently, each PM tracks data that is required either by agency policy or law.

Planned and Recently Implemented Enhancements to Recordkeeping: The following are examples of recent enhancements to Region 5's (R5's) recordkeeping processes and individual databases supporting the IRPs:

- **Standardized WSA Tracking Database:** The SA staff recently instituted a standard WSA tracking database using Lotus Notes. All SA staff members are now required to utilize this system to track their IRP data, correspondence, and information. The Lotus Notes database is primarily an information tracking and
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storage tool that provides a standardized method of electronic recordkeeping, while allowing for full indexing of text and attachments (excluding scanned documents), and promoting sharing of information across programs. The system allows for a standard database format that will track e-mail, word processing, spreadsheets, hard copy scanned documents, and any other type of document to be filed in a central system. All staff members are now required to utilize this system to track their IRP data, correspondence, and information. As data are entered, the date and author are recorded and a tracking date is entered. The database stores and tracks all event dates, due dates, responses, email, hard copy documents that are scanned, Word, Excel, PowerPoint, and any other documents. Under this tracking system, all work related to a particular IRP will be tracked by date, author, subject, and action. Once data are posted into Lotus, all data (except scanned documents) are searchable. Indexing of the data allows for searching of the contents of attachments like spreadsheets using a Standard Query Language (SQL), which is an industry standard. The new WSA tracking database is online, and a two-hour training on its use was provided to PMs in June 2004. Data from the following provisions and program tasks are being tracked using the new WSA tracking database:

- Section 06 Early Intervention Program
 - Section 07 Performance Evaluation
 - Section 08 Exit Interviews
 - Section 09 Misconduct Investigation Procedures
 - Section 10 POSH Training
 - Section 11 Informal EEO Process
 - Section 12 Mentoring
 - Section 13 Scholarships
 - Section 14 Advance Advertisement of Work Details
 - Section 15 Women's Conference
 - Section 17 Positive Incentives & Civil Rights Performance
 - Section 18 Recordkeeping & Reports
 - Section 19 Federal Women's Program
 - Monitoring Council Information Requests
 - Monitoring Council Recommendations
- POSH Training: A Lotus Notes database was completed in June 2004. On July 6, 2004, additional personnel were hired for data entry for all past POSH training, as well as current ongoing sessions. As of July 12, 2004, there are over 7,805 entries. All data entry for training through June 30, 2004, was completed by August 5, 2004. Reports will be available after data entry is complete. Future POSH training data will be entered as sessions are completed.
 - Exit Interview: The Exit Interview questionnaire responses are maintained in a Lotus Notes database. The database contains responses completed between April 1, 2003, and June 30, 2004. Information from the database can be exported into a spreadsheet format for data analysis. The database includes an automatic notification feature that notifies appropriate officials when an exiting employee
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indicates he or she has witnessed or experienced sexual harassment or other types of discriminatory conduct.

- **Informal EEO:** The Equal Employment Opportunity Complaints Tracking System (EEOCTS) database has been enhanced to assist the ADR manager in the tracking, scheduling, and mediation of cases.
- **SF-52 Tracking Database:** This new database has been operational since June 1, 2004. All actions requiring an SF-52 are being entered into the database. Reports can be generated using any of the data fields contained in the database, which generates up-to-date information on the day of the report. During the month of June 2004, training materials and hands-on and online training was provided to all Operations staff and FHROs. On June 15, 2004, a staffing log report was made available. A regional staffing log report will be posted on the fsweb on a regular basis. The SF-52 Tracking Database is compatible with other databases, such as the exit interview database. This database compatibility is useful to link data across programs; for example reports could be generated that link terminations and separations data by unit to exit interviews completed for each unit.
- **Applicant Flow:** The Applicant Flow System (AFS) has been operational since November 2003. Data for all announcements, applicant pool, RSNO, selection, etc., from October 2002 through the present have been entered and reports have been produced. Some of these data fields are combined with AAWD data in an Access database. The Access database is populated via a Focus text report from the NFC. Reports are automatically produced from this combined data.
- **Continuous Improvement:** The Region continues to identify methods to improve recordkeeping and tracking methods for the WSA.

Data and Information Management Linkage and Monitoring across Program Areas for Results: There are numerous examples of how the Region shares and analyzes data across program areas to identify trends, patterns, and opportunities for collaborative issue resolution. Several examples are provided below:

- *Misconduct Investigations, Adverse Action Digest, and Prevention of Sexual Harassment Training:* Information related to individuals who, as a result of misconduct investigations, have been found to engage in inappropriate behavior of a sexual nature and disciplinary action is administered is shared across a minimum of three program areas, triggering adverse action and specialized POSH training.
 - *Informal EEO Process, Hotline, 24-Hour Reporting, and Misconduct Investigations:* All four of these programs reflect opportunities for individuals to identify and report occurrences of sexual harassment. All PMs work collaboratively to share information both formally and informally. Also, through reports and periodic meetings, these occurrences are brought to the attention of Senior Line Management for review, discussion and appropriate actions.
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3) Tracking and Closure of Misconduct Investigations and Monitoring of Timeliness and Quality of Results:

The MI Program is currently fully compliant with tracking and recordkeeping expectations and requirements. Program tracking and timeliness are discussed below.

General Data Tracking: The MI Access Database, which was created in November 2003, stores information about MIs and inquiries. The database tracks the following information for those individuals who are alleged to have engaged or have been found to engage in sexual harassment and/or retaliation:

1. MI Case Number;
2. Inquiry Number (if applicable);
3. Complainant;
4. Accused;
5. Summary of Case;
6. Forest/Unit;
7. Date of Event;
8. Date Management Became Aware of the Event;
9. Date 24-Hour Notice Received in R5 Regional Office;
10. Date Preliminary Fact-Finding Began;
11. Date Preliminary Fact-Finding Concluded;
12. Date Formal Investigation Requested;
13. Date Formal Investigation Began;
14. Date Formal Investigation Concluded;
15. Date Extension for Investigation Occurred;
16. Investigative Firm;
17. Name of Investigator;
18. Date Report Received in the Regional Office;
19. Date of Proposed Disciplinary Action (if applicable);
20. Date Disciplinary Action Effected (if applicable);
21. Date Case Closed; and
22. Comments (tracks specialized training information).

Records of MIs and inquiries are summarized in a "tracking spreadsheet." The database output and tracking spreadsheet are distributed to the MC on a monthly basis.

Effective Handling of Misconduct Inquiries and Investigations: Of 20 misconduct inquiries (preliminary research, situation assessment and disposition) involving sexual harassment and three involving reprisal from January to June 2004, a total of 14 were closed, including 12 involving sexual harassment and two involving reprisal. The number of misconduct inquiries involving sexual harassment has varied, from eight between January and June 2003, to 32 between July and December 2003, and to 20 between January and June 2004. The spike in inquiries between July and December 2003 was believed to be related to the heightened awareness created in the Region by POSH training delivered to over 90% of the employees during this period. The increase in inquiries was viewed positively by the Region, because concurrently, the number of formal MIs is decreasing. It is R5's judgment that when managers and employees utilize the inquiry process to effectively handle workplace concerns, issues are clarified and

resolved in a timely manner, and the need for formal MIs decreases. In all cases, management took appropriate action ranging from one employee's permanent job offer being rescinded to employees receiving counseling and Letters of Warning. Two of the cases involving sexual harassment were elevated to a formal MI, as management believed the conduct alleged was serious enough to warrant further investigation. In some cases the allegations were unsubstantiated and others were closed through informal discussions and reconciliation.

Table 4-2, below, highlights the number of MIs conducted in R5 for the third, fourth and fifth reporting periods. Note that there have been two MIs over the last 18 months involving reprisal and both were investigated.

Table 4-2: Comparison of MI Program Activity during the Third, Fourth, and Fifth Reporting Periods

Misconduct Investigations	Third Reporting Period January – June 2003	Fourth Reporting Period July – December 2003	Current Reporting Period January – June 2004
Total Number of MIs	4	17	8
Total Number of MIs Involving Sexual Harassment	2	11	2
Total Number of MIs Involving Reprisal	0	2	0
Number of Investigative Reports Received by R5	0	16	5
Number of Investigative Reports Received by R5 Involving Sexual Harassment	0	11	1
Number of Investigative Reports Received by R5 Involving Reprisal	0	2	0
Management Decision to Effect Disciplinary Action	1*	7	2
Management Decision to Effect Disciplinary Action Involving Sexual Harassment Cases	1	5	2
Management Decision to Effect Disciplinary Action Involving Reprisal Cases	0	0	1**
Management Decision to Effect Disciplinary Action Involving General Misconduct	0	2	0

*This case was initiated in the previous reporting period and the disciplinary decision was rendered during the 3rd reporting period.

** One of the two cases where disciplinary action was rendered involved both sexual harassment and reprisal.

Tracking, Monitoring and Improvement in Timeliness: The MI PM monitors and tracks data for each phase of the MI process to assess the quality and timeliness of the investigation process as a whole. Table 4-3, below, describes the average number of days between the beginning and conclusion of a MI conducted by non-FS contracted investigators for the third, fourth, and fifth reporting periods. This data is utilized to identify and resolve bottlenecks in the system and to improve overall processing time. Analysis of the data over three performance periods revealed the following trends and resulted in the following subsequent actions:

- The average number of days between the beginning and the conclusion of investigations has decreased over the three most recent reporting periods.
- The average number of days between a request for an investigator and the initiation of the investigation, as well as the number of days between the

conclusion of the investigation and the submission the investigative report to the Regional Office has increased.

- Analysis showed that the root cause of the increase in two stages of the MI process was due to several factors:
 1. A failure to cooperate by subjects and/or witnesses involved in an investigation.
 2. Poor investigation skills exhibited by an investigator.
 3. Illness suffered by the subject of an investigation.
 4. Fire fighting assignments.
- The MI PM will take the following actions:
 1. Continue to monitor the timeliness of the MI process.
 2. With the support of the Region, enforce existing agency policy that requires cooperation during investigations or warn employees that they may face disciplinary action for non-cooperation in the investigation.
 3. Carefully review requests for extensions and provide them to investigators on a case-by-case basis when exigent circumstances occur, such as fire fighting assignments or the unavailability of witnesses.

Table 4-3: Trend in Timeliness of the Phases of MI Processing

	Third Reporting Period January – June 2003	Fourth Reporting Period July – December 2003	Current Reporting Period January – June 2004
1. Average Number of Days Between Request for an MI and Initiation of MI on Forest/Unit	32	27	31
2. Average Number of Days Between Initiation and Conclusion of MI on Forest/Unit	14	13	5
3. Average Number of Days Between Conclusion of MI and Delivery of ROI to RO	17	25	33

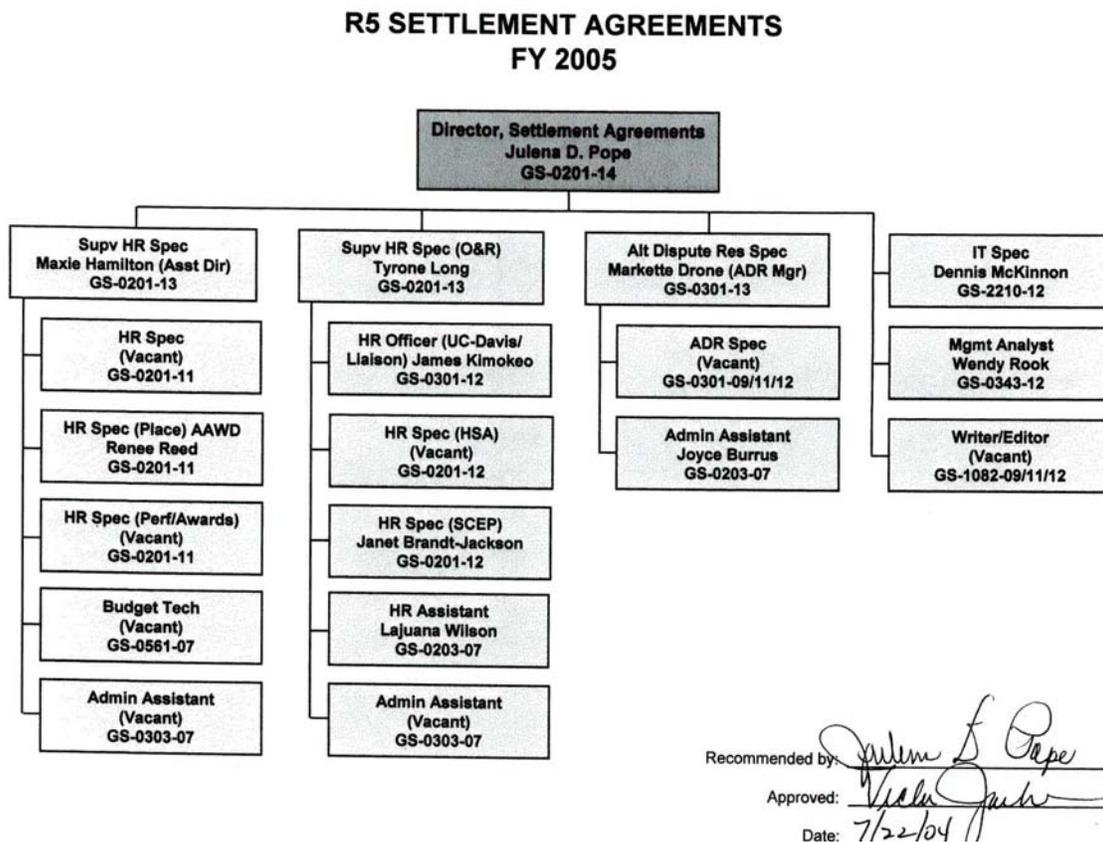
Tracking, Monitoring, and Action Taken to Ensure Quality of Investigations: The MI PM collects biographical sketches from the selected investigators to determine if their training and background sufficiently qualify them to conduct investigations. Based on recent reviews, the MI PM transferred one investigator who did not have training in Title VII from a sexual harassment investigation to another non-sexual harassment investigation and terminated an investigator who exhibited poor investigation skills during an investigation. The MI PM and Regional Office Employee Relations Specialists also audited the nine reports submitted by investigators in FY 04 to ensure minimum requirements set by the WO for sufficient investigative reports were met. R5 identified and will continue to hire those investigators who perform the highest-quality investigations and produce the highest-quality reports. R5 will not re-hire investigators who conduct poor investigations and/or submit reports of poor quality.

5.0 ORGANIZATIONAL STRUCTURE AND STAFFING

STAFFING TRANSITION

Roles and responsibilities for implementing and monitoring Region 5's (R5's) Women's Settlement Agreement (WSA) were outlined at the inception of the WSA. The Chief approved the Settlement Agreement (SA) staff organization on July 3, 2003 (see Figure 5-1). All responsibilities related to the WSA were accomplished by existing staffs from Human Resources (HR) and Civil Rights (CR) organizations within the Region prior to the establishment of this staff.

Figure 5-1: New Organizational Structure for the Settlement Agreement Staff



The Director of the SA staff reported in February 2004. Selection of the SA Liaison Manager occurred in April 2004. Currently the SA office is staffed at 63%. R5's goal is to be fully staffed by October 1, 2004. The new staff greatly enhances R5's ability to implement the SA. The SA staff organization consists of three employees who support the entire SA organization and the following three distinct staffs: five employees and an Assistant Director who exclusively support the WSA; five employees and an Assistant Director who exclusively support the Hispanic Settlement Agreement; and two employees and a Group Leader who support the Alternative Dispute Resolution (ADR)

Program. The SA organization, as well as the Settlement Agreement Liaison, report directly to the Associate 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.

The Office of the Associate RF conducts daily coordination meetings with a core team of management officials responsible for implementing the relief provisions. This management team includes the HR Director, CR Director, SA Director, and SA Liaison Manager. Individual Program Managers (PMs) are included as necessary. The purpose of these 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 and Misconduct Investigation Procedures.

The SA Director is responsible for the implementation of the following relief provisions: Mentoring, Scholarships, Adverse Action Digest (AAD), Advance Advertisement of Work Details (AAWD), ADR, and the Annual Women's Conference. In addition, the Director is responsible for providing leadership, coordination, implementation, and execution of and compliance with the court ordered WSA.

The SA Liaison is responsible for all segments of the coordination, consultation, facilitation, and liaison work with the SA Monitoring Council (MC), Program Directors, Washington Office (WO) Employee Complaints Program (ECP), Forest Supervisors, and Regional Staff Directors on issues concerning all matters of the Injunctive Relief Provisions (IRPs) of the SA.

The CR Director is responsible, through Regional PMs, for the implementation of the following relief provisions: Exit Interviews, Prevention of Sexual Harassment (POSH) Training, and Positive Incentives and Civil Rights Performance. Specific changes in staffing relevant to the implementation of specific IRPs 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 WO-Office of Civil Rights (OCR) Liaison, who reports to the OCR Director, is responsible for implementing the Informal Equal Employment Opportunity (EEO) relief provision for R5.

The WO, OCR Director, WO Litigation Advisor, WO-Office of the General Council (OGC), R5 OGC, R5 RF's Office, and core management team continue to meet monthly by teleconference to discuss WSA progress and issues.

ONGOING INTERACTION WITH THE MONITORING COUNCIL

The RF and Associate RF continue to meet formally with the MC on a quarterly basis to review the status of compliance and pending formal recommendations. While the FS has found these regularly occurring meetings with the MC to be highly productive, additional sessions were required during this reporting period between the MC and SA PMs. Each PM met with the MC to discuss recordkeeping and reporting.

The Associate RF meets weekly with the MC to discuss implementation issues. The RF occasionally meets alone with the MC chair. 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 continues 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 to MC concerns. To that end, informal consultation has been established as a norm for the Staff Directors and the PMs who have specific responsibilities for the IRPs in the WSA. R5 believes that timely and continuous informal consultation is the key to successful implementation of the WSA.

MC members continue to be involved in the Regional Leadership Team (RLT) meetings where agenda topics include WSA relief provisions status. The RLT members include the RF's Team, 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 (FLT) Meetings, and other regional meetings. MC members also participate in functional activities.

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.

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 IRPs. The Region continues to improve the quality and depth of its reports to the MC. During this reporting period, it was agreed that the semi-annual reports will be due 60 days after the last day of the reporting period, which will allow the Region adequate time to collect and analyze data and information for the entire performance period in preparation for its reports. The MC still evaluates these semi-annual reports in their subsequent Ninth Month Report. 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 Director are involved in the development and review of each report. They are responsible for overall Agency oversight of the WSA in R5.

The RF's Office, Director of HR, Director of CR, SA Director, and the OCR Director monitor the progress of the PMs in carrying out implementation plans. This group works

directly with the PMs to develop the Semi-Annual Reports to ensure ongoing and acceptable progress in implementing each IRP.

6.0 EARLY INTERVENTION PROGRAM¹

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 6.1:

Region 5 (R5) shall operate a conflict resolution program, known as the Alternative Dispute Resolution (ADR) Program. Among the purposes of the ADR 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 Equal Employment Opportunity (EEO) complaint;*
- (e) Focusing resolution efforts at the root cause of the conflict;*
- (f) Reducing EEO complaint filings; and*
- (g) Affirming that ADR does not replace the EEO administrative process.*

Provision 6.2:

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

Provision 6.3:

R5 may, consistent with the above stated purposes, make changes in the ADR. At least 21 days prior to making any changes to the ADR, R5 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 (EIP)

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 (MC'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;

¹ "Alternative Dispute Resolution Program"

- 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).

2003-0032—Early Intervention Program

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

The MC recommends that the Region ensure that prior to receiving any cases, R5 Resolving Officials, who represent the Regional Forester (RF) 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
- Case analysis and Department's Resolution Model
- Backlog Project Lessons Learned

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

BACKGROUND

The Alternative Dispute Resolution (ADR) Program was formerly known as the "Early Intervention Program (EIP);" the name of this program was permanently changed by the Department of Agriculture by letter dated April 1, 2004 (see Appendix A.1). All references to "EIP" will now be changed to "ADR." ADR has a significant role in the successful implementation of the Women's Settlement Agreement (WSA), and the ADR Program is directly linked to R5's efforts to resolve disputes involving its employees. The Program is a key component of addressing allegations of discrimination and workplace disputes unrelated to discrimination and is an alternative to other conventional avenues of redress, such as the EEO complaint process. While ADR is not intended to replace the EEO process, it is a valuable tool in resolving employee issues and/or disputes, because it allows employees to be more participative in the process of crafting solutions and provides an avenue to expedite problem solving.

RECORDKEEPING AND REPORTS

The ADR Office maintains hard copy case files and uses an excel spreadsheet for recordkeeping purposes. The excel spreadsheet allows for the tracking of all relevant case information necessary to maintain and evaluate the ADR program. Although the excel spreadsheet is the tracking method currently in use, the ADR Office will be given access to the Equal Employment Opportunity Complaints Tracking System (EEOCTS) database maintained by the Washington Office (WO), which will allow the agency to track R5 ADR and EEO data through a single database. This will link the data tracked between the two programs (ADR and EEO), and will result in more accurate and more complete data capture of the two injunctive relief provisions through an existing USDA relational database.

ACCOMPLISHMENTS FOR OCTOBER – DECEMBER 2003 AND FOR THE REPORTING PERIOD (JANUARY – JUNE 2004)

❖ **Staffing Increase and Program Realignment:** In June 2004, R5 assigned a permanent administrative assistant to the ADR Office. An additional permanent staff member will be added to help administer the program. The ADR Office now has two full-time permanent positions filled. Additionally, during this reporting period, the ADR staff was realigned into the Settlement Agreement (SA) staff structure (see Section 5.0, Figure 5-1). This will enable the Region to ensure that the ADR Program has access to the resources necessary to successfully execute the program and its commitments under the WSA.

❖ **Completed Process Improvements**

- **Elimination of Backlog:** During the previous reporting period, the Region set a goal of scheduling 50% of the mediation backlog by March 1, 2004. The ADR Office met this goal by scheduling 51% of the backlog by March 1, 2004. The backlog was comprised of EEO cases that had been awaiting mediation for a period of more than 90 days.

During the current reporting period, on March 19, 2004, the Region committed to scheduling the remaining cases in the existing backlog by July 31, 2004. As of the end of this reporting period, only three cases remain from the March 19, 2004, backlog list to be scheduled for mediation by the Region. In two of those three cases, mediation dates were offered by the Region but were not accepted by the Complainant. In the third case, mediation was scheduled but was halted based on erroneous information regarding the status of the case.

- **Mediation Scheduling Notices:** To help expedite scheduling of mediation, the ADR Program Manager (PM) established a new scheduling technique during this reporting period. The ADR Office sends letters to its Resolving Officials asking them to identify their dates of availability to participate in mediation (see Appendix A.2 and A.3). Once the ADR Office receives notice of the Resolving Officials availability for the quarter, the ADR staff is able to identify dates when the Region is able to offer mediation. This technique helps expedite the scheduling process by: (1) notifying Complainants, by letter, of a specific date on which a Resolving Official is available for mediation; (2) giving the ADR client and his or her representative specific guidance regarding the process for accepting or declining the mediation date offered; and (3) providing a deadline by which the Complainants must respond. These mediation scheduling letters have been incorporated into the scheduling process used by the ADR staff. Previously, the ADR staff made offers by telephone and this process proved to be laborious in that numerous phone calls back and forth took place before a mediation date could be agreed upon. The current scheduling method is more efficient and enables the staff to spend less time negotiating dates.
 - **Introduction and Interview with ADR Clients:** During this reporting period, ADR staff began making introductory phone calls to clients referred by Employee Complaints Program (ECP) counselors. The purpose of these calls is to notify the client that their referral has been received in the ADR Office and is being
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processed. It also enables the ADR staff to confirm or clarify the issue referred for mediation and to answer any questions the client may have regarding the ADR process. The ADR staff members often use this opportunity to give the client a brief overview of the scheduling process and provide information about the mediation process.

- ❖ **Expanded Training for Resolving Officials:** The Region agreed to expand Resolving Official training from one to two days in response to an October 2003 recommendation from the MC. In February 2004, the ADR PM worked with the vendor who will provide the Resolving Official training for calendar year 2004 (CY 04). The expanded training reflects several new components: (1) interest-based problem solving training; (2) theories of discrimination and burdens of proof; (3) a panel discussion to include lessons learned; and (4) settlement rules. Training dates of October 27, October 28, and November 3, 2004, have been selected. The first day of training will mirror that of the training provided by the Region during CY 03. However, the second day of training will incorporate the new expanded training material.
 - ❖ **Program Publicity and Marketing:** The ADR Office sent a notice to all R5 employees to inform them of the official program name change (see Appendix A.1 and A.4). The ADR Office also sent an informational letter to employees regarding the program, which is included as Appendix A.5. The ADR staff met with the mentors from the Just-In-Time mentoring program to publicize the program and provide an overview of the ADR process.
 - ❖ **Analysis of Dispute Resolution:** Three different types of dispute resolution cases are referred to the ADR Office for mediation: non-EEO cases, informal EEO cases, and formal EEO cases. Only two of these three program areas are included in the WSA. Consequently, the ADR Office will only report on those two areas in this report. Table 6-1 depicts the ADR caseload relative to non-EEO disputes and informal EEO cases referred during this reporting period as well as the two previous reporting periods.
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Table 6-1: ADR Case Activity for the Period January 2003 through June 2004

Status	Third Reporting Period January – June 2003			Fourth Reporting Period July - December 2003			Fifth Reporting Period January – June 2004		
	Non-EEO	Informal EEO	Total	Non-EEO	Informal EEO	Total	Non-EEO	Informal EEO	Total
A. New Cases	31	16	47	44	36	80	22	27	49
B. Continuing Cases with Activity	6	3	9	12	14	26	6	8	14
C. Total Cases with Activity	37	19	56	56	50	106	28	35	63
D. Mediations/ Facilitations Conducted	17	8	25	40	9	49	22	1	23
E. Resolutions through Mediation/ Facilitation	17	4	21	37	6	43	20	1	21
F. Other Resolutions ¹	11	0	11	10	2	12	5	1	6
G. Total Closed with Resolutions	28	4	32	47	8	55	25	2	27
H. Closed with No Resolution ²	0	3	3	3	34	37	1	19	20
I. Cases Remaining Open	9	12	21	6	8	14	2	14	16

¹Includes mediations requests withdrawn.

²Includes cases where the second party declined to mediate and cases where a notice of right to file (NRF) was issued.

❖ **Caseload:** There were 49 new cases brought to ADR during this reporting period. R5 proceeded to mediation/facilitated discussion on 23 cases. Of the cases that went to mediation, 21 (91%) resulted in resolution. Nineteen of the new ADR cases received an NRF during this period, while the Region dedicated full resources to the Mediation Scheduling Project; six were withdrawn; and one non-EEO case declined for mediation by management. This data suggests that ADR continues to be a useful tool in resolving disputes. The following paragraphs summarize the status of dispute resolution by case type.

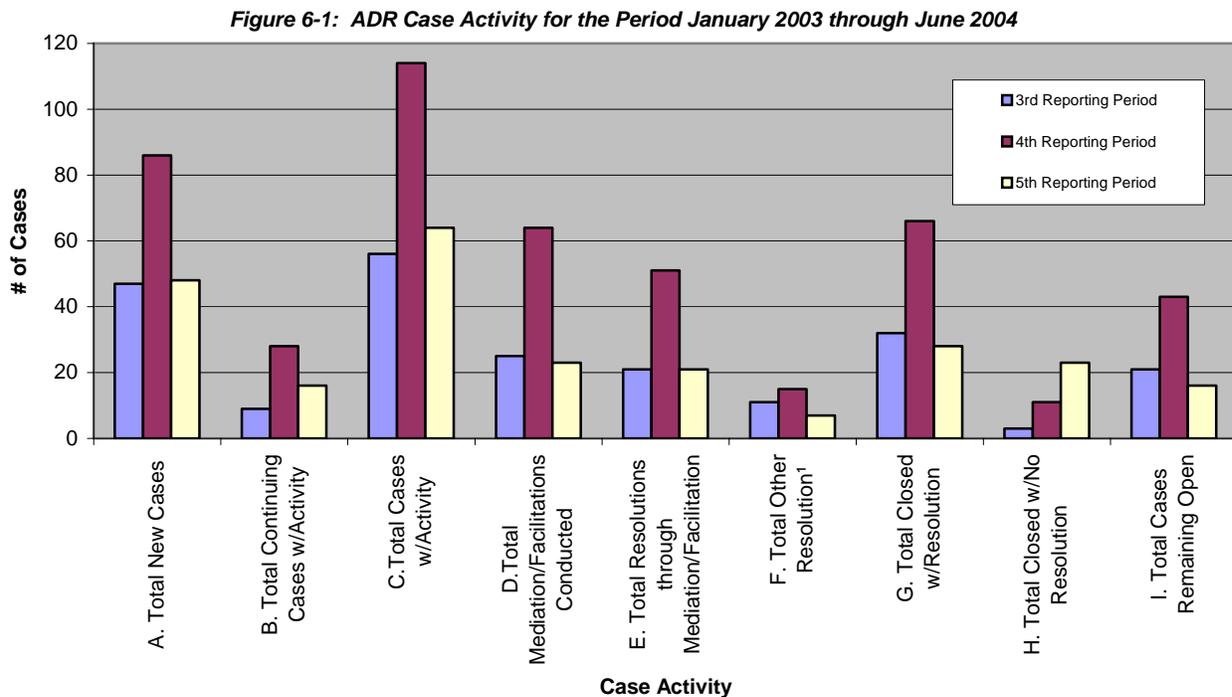
1) Non-EEO Dispute Resolution: The non-EEO portion of the ADR Program remains an expedient alternative to conventional redress avenues and continues to maintain a high rate of successful resolutions. The average number of days from the date mediation/facilitation is requested to the date mediation/facilitation is conducted is 27 days, and the resolution rate among non-EEO cases is 91%. 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.

As the data indicate, many of the interventions occurred outside of the EEO process, which reflects favorably on R5's goals of reducing conflict at the lowest possible level and reducing the number of EEO complaints filed. The frequency

with which the ADR process has been used during this period suggests that employees are aware that there is an alternative to filing EEO complaints.

2) Informal EEO Complaints: Between January 1, 2004, and June 30, 2004, the ECP Office referred 27 informal EEO cases to the ADR Office for mediation. Thirteen of the 27 cases were referred to mediation before the middle of the reporting period and by the end of the reporting period, mediation dates had been offered on eleven of the thirteen informal cases. Mediations were conducted on eight of the cases after the 90th day from initial contact. One informal EEO case was mediated within 90 days of initial contact with an ECP Counselor and one request for mediation was withdrawn during the informal EEO process. In the two cases where a mediation date was not offered, the ADR Office was attempting to clarify the issues and identify the alleged responsible management unit so that the request for mediation could be properly processed. The ADR Office also sought clarification to determine whether the two informal complaints were against the Region or another employer. There were fourteen new informal EEO complaints referred to the ADR Office for mediation after May 10, 2004. Mediation dates are currently being offered for those cases.

Dispute Resolution Data for October – December 2003: Due to deadline restrictions, ADR data included in the fourth semi-annual report reflected data captured on a fiscal-year basis. As a result, data for the period October 1, 2003, through December 31, 2003, was not reported. To simplify data comparison between reporting periods, a chart documenting the ADR case activity for all of the third, fourth, and fifth semi-annual reporting periods (January 1, 2003, through June 30, 2004) is provided in Figure 6-1. The increase in case activity during the fourth reporting period is attributed to the fact that the RF directed the Regional Leadership Team (RLT) members to offer ADR to all Complainants, with only four conditions under which management can decline to participate in mediation. In conjunction with this policy, beginning in June 2003, Complainants were advised that ADR/mediation would be automatically selected for their complaint unless they specifically elected traditional counseling.



- ❖ **Multiple Scheduling Priorities Proved Problematic:** The ADR Office attempted to make scheduling of sexual harassment and reprisal cases a priority. This method proved impractical and conflicted with other scheduling priorities, such as reducing the formal complaint backlog, and with getting informal complaints to the mediation table within the 90-day informal complaint period. Scheduling mediations as the referrals are received is the most practical method.
- ❖ **Scheduling Barriers:** There are some factors that affect the scheduling of mediation that are outside of R5's control. The ADR Office has encountered three barriers that exceed the scope of the Region's control.

The first barrier is the availability of Complainants to participate in mediation and the second barrier is the availability of the Complainants' chosen representative(s) to participate in mediation. In order to conduct mediation, both the Complainant and their representative need to be available on the same date. As of June 30, 2004, 53% of the clients on the ADR client list have chosen the same EEO representative, which has resulted in significant constraints on scheduling mediations with that representative and their clients.

The third barrier is the availability of Resolving Officials who are acceptable to Complainants and their representative. There are a limited number of Resolving Officials; and some Complainants, and one representative in particular, prefer certain Resolving Officials and object to others, which contributes to the third barrier. The particular representative has also expressed a desire to use Resolving Officials from the Chief's Cadre instead of Resolving Officials from R5. Reasons given for objecting to R5 officials include perceptions of a lack of sensitivity; lack of good

faith negotiations; unspecified compromises of confidentiality; and allegations of reprisal. R5 will continue to work with Complainants and their representatives to overcome these barriers with the goal of scheduling and conducting timely mediations.

- ❖ **Grievances/Appeals:** While a large demand does not exist at this time, the ADR Program continues to be available as a tool for resolving grievances, upon request, through the negotiated grievance procedure. One Merit Systems Protection Board appeal was mediated during the period.
- ❖ **Notices to Monitoring Council:** On March 31, 2004, the Region proposed a change in the process for mediating informal complaints. The Region discussed the proposed changes with the MC, which expressed a number of concerns. Based on these MC concerns, the Region cancelled the proposed change by letter dated April 7, 2004 (see Appendix A.6 and A.7).

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	5 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
6.0 Alternative Dispute Resolution Program Overall Performance Scorecard	G	G	G	G	Y	The overall program administration is adequate. The Region is still working to improve timeliness.
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 a preexisting backlog of cases, mediations have not been scheduled expeditiously. However, the mediation backlog was eliminated by July 31, 2004.
6.2 Publicize and implement ADR.	G	G	G	G	G	The program is widely publicized.
6.3 21-day notice to MC of changes to ADR.	G	G	G	G	G	The MC is notified of changes to ADR, as directed.

Accepted Recommendations	Date Requested	Date Accepted	Relevant Injunctive Relief Provision	Score	Rationale
<p>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.</p>	<p>5/30/03</p>	<p>7/16/03</p>	<p>6.1</p>	<p>ⓐ</p>	<p>R5 assigned personnel to the EIP Office immediately and continuously following this recommendation. The agency is adding two additional positions to support the program.</p>
<p>2003-0009 Identify and train additional Resolving Officials so that there are more qualified individuals to represent R5 in mediations.</p>	<p>5/30/03</p>	<p>07/16/03</p>	<p>6.1</p>	<p>ⓐ</p>	<p>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.</p>
<p>2003-007F Ensure that employees received personalized information about the process for mediating their complaint.</p>	<p>8/20/03</p>	<p>10/14/03</p>	<p>6.1</p>	<p>ⓐ</p>	<p>Continues to be a priority.</p>
<p>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 Complaint Resolution.</p>	<p>10/23/03</p>	<p>Partially accepted 11/24/03</p>	<p>6.1</p>	<p>Ⓨ</p>	<p>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.</p>

ACTION PLAN²

No.	Action	Responsible Official	Date
1	Disseminate modified program handbooks, brochures, and posters that reflect the programs' new name and current contact info.	Markette Drone, ADR Manager	September 31, 2004
2	Conduct the expanded 2-day training for Resolving Officials.	Markette Drone, ADR Manager	December 31, 2004
3	Fill another full-time permanent position to support the ADR staff.	Markette Drone, ADR Manager	December 31, 2004
4	Conduct post-mediation "lessons learned" meetings to discuss problematic mediations and evaluate ways to avoid problems in the future.	Markette Drone, ADR Manager	December 31, 2004
5	Conduct mediation of informal complaints before the conclusion of the 90-day informal processing period.	Markette Drone, ADR Manager	December 31, 2004

² For a detailed summary of the status of the action items from the previous (fourth) reporting period, see Appendix A.8.

7.0 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 (R5) 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 (MLA), 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 (IRP) 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 was 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 Monitoring Council (MC) and others as part of the appraisal process. This goal could only be partially achieved because of the Agency's obligation to bargain with the National Federation of Federal Employees (NFFE) before implementing changes in bargaining unit members' performance plans. Bargaining on this issue resulted in a Memorandum of Understanding (MOU) that materially limited full implementation for employees. Employees and managers whose performance is deemed unacceptable are placed on a Performance Improvement Plan.

RECORDKEEPING 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 Human Resources (HR) at the Regional Office. Unit employees' records are maintained at the unit level.

The Region's goal is to have in place by October 1, 2004, a new database tool that will allow the Region to determine if all employees have had performance discussions at the beginning of the fiscal year (FY), at mid-year, and at year-end. This tool will also allow the Region to quantify the results of the beginning of the FY, mid-year, and year-end performance appraisals. The Region will use the database tool to answer questions such as how many employees received passing or failing ratings for a particular element.

ACCOMPLISHMENTS FOR OCTOBER – DECEMBER 2003 AND FOR THE REPORTING PERIOD (JANUARY – JUNE 2004)

- ❖ **Reassignment of Program Management Responsibility:** Between October 2003 and May 2004, the R5 Performance Management Program was not actively managed due to workload and transitions within the Employee and Labor Relations (ELR) office. Responsibility for managing the Performance Evaluation program was permanently assigned to a contracted consultant on May 26, 2004. The Program Manager (PM) was tasked with assessing the overall condition of the program and developing and recommending improvements to insure that Government-wide, Agency, and R5 requirements are met and that the program operates as an effective management tool, including program improvements such as monitoring of individual performance elements for each employee.
 - ❖ **Status of Ongoing Discussions Between Region 5 Management and the NFFE:** R5 Management efforts to extend implementation of the new performance elements and standards beyond the limits previously agreed to in the April 3, 2002, MOU with NFFE were unsuccessful and dialog ended in January 2002. In accordance with the Provision 7.1 of the Women's Settlement Agreement (WSA), the Agency has implemented the performance evaluation clarifications and supplemental performance evaluation standards for all non-bargaining unit employees, supervisors, managers and workleaders, and to the extent possible under the MOU, for bargaining unit employees and leaders, closing this action.
 - ❖ **Mid-Year Performance Reviews of Regional Leadership Team (RLT) Members:** The MC provided input to the Regional Forester (RF) for mid-year appraisals of the RLT. The RF discussed Performance Elements 3 and 4 with RLT members at mid-year review.
 - ❖ **Checklist for Use in Deploying Clarifications in Performance Evaluation Process:** Page 22 of the fourth semi-annual report incorrectly referenced a letter dated September 16, 2003, and a checklist that was sent to all units, staff Directors, and the MC requesting input during annual performance evaluations of RLT members. A checklist was then included as an appendix to the report; however the actual letter was dated September 11, 2003, and the checklist that should have been included is now provided in Appendix B.1. The checklist header was also subsequently revised.
 - ❖ **Evaluation of Use of Clarifications in Performance Evaluation Process:** A total of 56 of the checklists were completed and utilized in the Performance Evaluation process. These checklists were subsequently reviewed by the PM to evaluate the utility and design of the checklist and to identify any opportunities for improvement. Of these, nineteen (33%) contained comments regarding Performance Elements 3 and/or 4. Checklists from the Acting Civil Rights (CR) Director (12) and MC (5) included comments that related to many of the clarifications in Performance Elements 3 and 4. The comments received established that Forests took such actions as inviting the MC to attend meetings, sending employees to Prevention of Sexual Harassment (POSH) training, and sending employees to the Women's Issues Conference. As a part of the Region's continuous development, evaluation, and improvement efforts,
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the Region will deploy an enhanced evaluation tool by December 30, 2004. The new evaluation tool will be designed to enhance the consistency of the types of responses to allow more quantifiable results. The goal of the new design will be to enhance the value of the tool, to enhance the understanding of the user's intent, and to allow better evaluation of the effectiveness and impact of the use of the modified standards and clarifications.

- ❖ **Goals for Improving the Performance Evaluation Program:** During the next reporting period (July – December 2004), the PM will focus on insuring that the FY 04 cycle is closed out and the FY 05 cycle is begun properly and in a timely manner, and that the clarified critical elements and standards are readily available to field offices and validate that they and/or the discussion points in the MOU are being used where appropriate. R5's focus will be continued validation of the use of clarified standards/discussion points and the implementation of program enhancements.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	5 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	Standards have been implemented. Evaluation not yet conducted/effect not yet known.

ACTION PLAN

No.	Action	Responsible Official	Date
1	Review program requirements, policy, and current implementation.	Clifford Shaw	July 28, 2004
2	Develop standard Performance Plan samples with clarified elements covering all positions and load to a web page for easy access by supervisors.	Clifford Shaw	August 5, 2004
3	Instruct supervisors and monitor close-out of FY 04 cycle and opening of FY 05 cycle.	Clifford Shaw	September 30, 2004
4	Improve method of validating use of clarified elements/discussion points.	Clifford Shaw	December 30, 2004

8.0 EXIT INTERVIEWS

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 8.1:

Region 5 (R5) shall ensure that an Exit Interview is offered to all employees leaving a R5 Unit, including the following specific actions:

- (a) R5 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 (CR) 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 Equal Employment Opportunity (EEO) activity, the CR officer who reviews the Exit Interview shall refer the allegations to the appropriate line officer, the Regional CR Director, the Regional Human Resources (HR) Director, and the Washington Office (WO) CR Officer.

Provision 8.4:

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

Provision 8.6:

R5 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 CR Director shall discuss the reports annually with the Regional Leadership Team (RLT).

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 recordkeeping 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 (HRO), Forest Civil Rights Officer (FCRO), 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

The purpose of the Exit Interview is to provide a mechanism to capture thoughts, perceptions, and information relating to overall experiences with the organization, the culture, and the work environment from employees leaving positions. Therefore, an Exit Interview Program has been developed that allows for general and specific feedback. This opportunity for feedback provides a final opportunity to identify if persons have been affected during their tenure by issues related to sexual harassment. In addition, the Exit Interview Program is meant to identify patterns of inaction by those responsible for responding to reports of such conduct.

The Exit Interview Program also provides valuable information on other workplace issues, such as supervisor-staff relations, community support, and job satisfaction. Reviewing feedback from departing employees provides an opportunity to improve the work environments of all employees. Finally, the Exit Interview Program also helps to identify unit best practices that can be promoted throughout the Region.

RECORDKEEPING AND REPORTS

In order to track employee participation in, and unit compliance with, the Exit Interview Program, CR uses a combination of forms and databases. The following forms are used: Exit Interview Questionnaire,³ Final Salary Payment Form (AD-139), AD-139 Tracking Form, and Unit Reporting Form (see Appendices C.1 through C.4). The following databases are used: Exit Interview Database, Unit Reporting Database, and National Finance Center (NFC) Personnel Information Database. In accordance with the Exit Interview Standard Operating Procedures (SOPs), which were finalized during the Fifth Semi-Annual Reporting Period, these forms and databases are used together as follows.

³The Exit Interview Questionnaire Form is a static negotiated document that cannot be altered or modified without agency negotiations with the National Federation of Federal Employees (NFFE).

Each employee who departs a unit receives an exit package that includes, among other things, the AD-139 Final Salary and Payment Form and the Exit Interview Questionnaire. The AD-139 Final Salary and Payment Form contain the “*Remarks Section*” item that requires the departing employee to indicate whether the employee wishes to have an Exit Interview. The AD-139 Final Salary and Payment Form must be returned. If the employee wishes to participate in the Exit Interview process, the employee may do any of the following: (1) Return the completed Exit Interview Questionnaire along with the AD-139 Final Salary and Payment Form; Mail the completed Exit Interview Questionnaire to the FCRO; (3) Complete the Exit Interview Questionnaire online through the automated Exit Interview database; or (4) Request an oral Exit Interview. The FS maintains a cadre of interviewers who conduct oral Exit Interviews at each province and employees may choose to be interviewed by a person from outside his or her Forest or Unit.

The Exit Interview data are maintained in a Lotus Notes database that is accessible to departing employees through an intranet website:

(http://r5data01.fs.fed.us/fsfiles/regional/r5_exit_interview.nsf). The database contains exit interview questionnaires completed since April 1, 2003.

The questionnaires submitted by employees who access the online database are immediately saved into the database. Information from hardcopy questionnaires is entered into the database by FCROs on a weekly basis.

To monitor the level of unit program implementation, the *AD-139 Tracking Form* and the *Exit Interview Reporting Form* were developed. The AD-139 Tracking Form, which is completed on a monthly basis by the administrative staff of each unit, accounts for each departing employee and identifies whether the employee received and returned the AD-139 Final Salary and Payment Form. The AD-139 Tracking Form is completed at the end of each month and forwarded to the FCRO. The FCRO uses the information in the AD-139 Tracking Form and the Exit Interview database to complete the Exit Interview Reporting Form.

The Exit Interview Reporting Form compiles the AD-139 Tracking Form information for each unit in the FCRO's forest. The Exit Interview Reporting Form indicates, on a quarterly basis, the number of employees departing the forest, those that received the AD-139 Final Salary and Payment Form, those that returned the AD-139 Final Salary and Payment Form, those that indicated a desire for an Exit Interview, and the number of employees who actually returned the Exit Interview.

The Region's CR Office provides monthly separations data for each unit FCRO, which is accessible in the CR Exit Interview Team Room. The FCRO is directed to compare results in the Exit Interview Reporting Form with the NFC separations data for the unit for the same month. The separations data provides a standard for measuring the rate of Exit Interview Program compliance and participation for each unit. For example, the number of separations for each unit is compared with the number of AD-139 Final Salary and Payment Forms returned. The Forest Supervisors of units that exhibit a low rate of return may be held accountable in their year-end performance appraisals. In addition, the number of separations for each unit is compared with the number of Exit Interviews

returned. While participation in the program is voluntary, the separations data provides a relative standard baseline of data that allows a trend analysis of program participation.⁴

The forms, databases, and procedures described above help to instill confidence in the validity of the Exit Interview data.

ACCOMPLISHMENTS FOR OCTOBER – DECEMBER 2003 AND FOR THE REPORTING PERIOD (JANUARY – JUNE 2004)

- ❖ **Implementation of the Automated Exit Interview Database:** The Automated Exit Interview Database became fully operational and accessible to all R5 employees on June 30, 2004. The database allows all departing employees to complete Exit Interview Questionnaires on-line, which will reduce paperwork and allow CR and other relevant personnel immediate access to the Exit Interview information. In addition, the Exit Interview Database contains a feature that automatically sends an email to appropriate R5 staff when a departing employee indicates in the Questionnaire that he or she has witnessed or experienced sexual, racial, or ethnic harassment, or failure to provide a reasonable accommodation.
- ❖ **Dissemination and Implementation of Standard Operating Procedures:** SOPs for the Exit Interview Program were finalized during this reporting period and disseminated on June 30, 2004. The procedures contain definitions of “departing employee” and “unit,” in order to address the Monitoring Council’s (MC’s) concerns that the scope of departing employees interviewed remains consistent among the units. The Exit Interview SOP requires Forest Supervisors to provide an Exit Interview to all new employees, including temporary employees. The package contains a letter welcoming employees and reminding them to take time to complete an Exit Interview at the end of the season.
- ❖ **Assessment of the Current Program Directive:** The current Directive on the Exit Interview Program, Forest Service Handbook (FSH) 6109.12, Chapter 29, was reviewed during this reporting period to determine if modifications or enhancements were necessary. Based on the review, the Exit Interview Program Manager (PM) determined that no further modifications to the directive were necessary.
- ❖ **Establishment of Standard Data Tracking Forms:** To monitor the level of unit program implementation, the *AD-139 Tracking Form* was created and the *Exit Interview Reporting Form* was modified during this reporting period (see Recordkeeping and Reports, above).
- ❖ **Employee Participation in, and Unit Compliance with, the Exit Interview Program:** CR analyzed the Separations statistics to study trends in the rates of employee participation and unit compliance with the Exit Interview Program. CR’s goal was to increase participation and compliance rates over the previous reporting period.

⁴There are other types of departures that are not captured by the separations data, such as reassignments and long-term details. Region 5 is currently working to develop external checks for these departures as well.

Separations and Exit Interview Program statistics for the periods April 1, 2003, through September 30, 2003, and October 1, 2003 through March 30, 2004,⁵ are summarized in Table 8-1.

Table 8-1: Separations and Exit Interview Program Participation Data for the Previous and Current Reporting Periods (April 2003 to March 2004)

Separations and Exit Interview Program Component	Total Region 5 Employees (April 1 to September 30, 2003)	Total Region 5 Employees (October 1, 2003 to March 30, 2004)
Total Separations	744	2222
Total AD-139 Forms Returned	536 = 72%	1,711 = 77%
Exit Interviews Completed/ Returned	375 = 43%	1,123 = 51%

- Total accounting for all separating employees improved during this reporting period. Based on the data provided in Table 8-1, over 77% of employees separating during this reporting period returned the AD-139 Final Salary and Payment Form. This represents a 5% increase in returned forms as compared to the previous reporting period, during which 72% of departing employees returned the AD-139 Final Salary and Payment Form.
- Data also show that 51% of separating employees completed an Exit Interview Questionnaire during this reporting period, which represents an 8% increase in the rate of return as compared to the previous reporting period, during which 43% of forms were returned.

❖ **Summary of Total Separations by Gender:** In an effort to further understand separations patterns, CR analyzed separations occurring between April 1, 2003, and May 31, 2004. There were 3,119 total separations during that timeframe. Males accounted for 75.25% of separations; females accounted for 24.75%. The major reasons for the separations, as reflected through NFC "Nature of Action" codes, were, in order of prevalence: End of Temporary Appointment, 65.31%; Resignation, 18.56%; Termination, 9.52%; Retirement, 4.65%; Transfer, 1.73%; and Death, 0.22%. See Appendix C.5 for a more detailed analysis of these data.

As indicated above, the majority of separations occur through the ending of temporary appointments and through resignations. For each type of separation, males and females are represented in similar proportions. The similarity in the reasons for separations among males and females may suggest that there is not a great difference in the reasons the two groups of employees separate.

❖ **Analysis of Questionnaire Responses:**

1) Job Satisfaction: The first substantive section of the Exit Interview Questionnaire contains 11 questions aimed at assessing the employee's satisfaction in several aspects of work, such as the amount and type of information given to the employee,

⁵ Semi-annual periods correspond to the fiscal year (FY) because there is an approximate six-week lag in obtaining separations data from NFC. The lag makes it impracticable to collect and analyze separations data from June 2004 in time to include in this report.

whether the work environment is respectful and team-oriented, whether awards and opportunities for training are given fairly, and whether work and family concerns are given adequate consideration. Of the 1,595 records reviewed, an average of 1,250 (78.37%) departing employees responded to each question and an average of 345 (21.63%) did not respond (see Appendix C.6).

In general, temporary employees expressed higher levels of job satisfaction than permanent employees. The average percentage of temporary employees who either agreed or strongly agreed with the statements in questions 1-11 was 78.75%, compared with 62.4% of permanent employees (see Appendices C.7 and C.8).

Analysis of the Exit Interview questionnaires by gender and employment status revealed consistently that, although job satisfaction, as evidenced in the responses to questions 1-11, was generally high, males viewed their tenure with the FS in a much more positive light than females. This response was consistent in all 11 questions and for permanent and temporary workers. This may be due to several factors, including differences in the types of jobs held by males and females, and the tendency for females to take advantage of opportunities to provide direct feedback. In addition, temporary females may feel less comfortable, in general, in their work environments than males because there tend to be fewer temporary females than males. The Region will review other sources of job satisfaction data and continue to monitor trends to validate these conclusions. In addition, temporary employees generally saw their experience with the FS as more positive than the permanent workforce (see Appendices C.9 and C.10).

The responses to Questions 1-11 provide little insight in terms of how gender-based workplace misconduct may affect retention of employees. As discussed above, the survey results indicate widespread job satisfaction, with only a small number of employees harboring negative feelings about their jobs. For example, an average of only 31 employees (1.95%) either partially or strongly disagreed with each question.

2) Workplace Environment and Employee Behavior: Question 13 provides employees the opportunity to identify and report sexual harassment or other instances of discriminatory conduct experienced or witnessed during the previous year. Of the 1,595 records that were examined for this analysis, a total of 1,219 (76%) responded to Question 13.

Of the 1,595 records reviewed, 20 (1.25%) contained allegations of sexual harassment (see Table 8-2).

Table 8-2: Allegations of Sexual Harassment and Management Responses

	UNIT	ALLEGATION	INQUIRY	RESULTS	ACTIONS TAKEN
1	Inyo NF	Sexual-racial Comments/jokes	Formal Investigation	Employee chose to not discuss	Not resolved due to lack of information from employee
2	Los Padres NF	Viewing inappropriate materials (magazine)	Informal Inquiry	Allegation confirmed	Employee quit prior to issuing discipline letter
3	Modoc NF	Comments sexual - racial nature	Informal Inquiry	Counseled crew reg. issues experienced/observed	Training provided issue resolved
4	Plumas NF	Employee Complained, terminated for SH conduct	No Inquiry	Not applicable	No action required
5	Plumas NF	Sexual Joking	Informal Inquiry	Mgr counseled crew	Sup. Met w/crew, reiterate SH policy / responsibility
6	Plumas NF	Inappropriate sexual conduct and language	Informal Inquiry	Allegation confirmed	Employees 1- terminated 1- resigned
7	Plumas NF	Bullying/Sexual Misconduct	Informal inquiry	Allegation confirmed	Terminated employees (previously reported)
8	San Bernardino	Sex, Race, Ethnicity	Informal Inquiry	Could not confirm, no response from employee	Certified letter sent to employee
9	Sequoia NF	Women not allowed to work together	Informal Inquiry	Allegation not supported	No Finding Unit resolved issue
10	Sequoia NF	Inappropriate touching	Formal Investigation	Complaint confirmed	5-day suspension
11	Sequoia NF	Multiple harassment witnessed	Informal Inquiry	Mgmt had taken prior discipline, Employee un- aware of action	No action required
12	Six Rivers NF	Racial-Gender comments	Informal Inquiry	Allegation supported	3-day Suspension
13	Six Rivers NF	Inappropriate sexual advances	Formal investigation	Complaint not supported	No finding / formal complaint filed
14	Six Rivers NF	Sexual harassment (training hurt employee)	Informal Inquiry	Allegation not supported	No finding
15	Stanislaus NF	Witnessed inappropriate conduct sexual nature	Informal Inquiry	Allegation supported	14-day Suspension and POSH training
16	Tahoe NF	Obscene language	Formal Investigation	Complaint not supported	No finding (previously reported)
17	Tahoe NF	Complaint of Obscene talk and Sexual harassment	Informal Inquiry	Allegation not supported	Employee Resigned Unrelated action
18	Tahoe NF	Repeated Sexual jokes	Informal Inquiry	Allegation not supported	No finding
19	Six Rivers NF	"Old School" mentality	Informal Inquiry	Allegation not supported	No Finding
20	Tahoe NF	Sexual harassment (conduct and comments)	Formal Investigation	Complaint not supported	No Finding

The 20 allegations listed in Table 8-2 can be summarized as follows:

- In eight of the cases, the allegations were confirmed after either an informal inquiry or formal investigation. The incidents were addressed through discipline or counseling.
- In five of the cases, informal inquiries and informal investigations did not result in findings of misconduct.
- In two of the cases, the employee making the allegation could not be reached or would not provide further details, so the inquiries were not completed.
- In two of the cases, it was determined that the allegation had been addressed previously by management, so no further action was necessary.
- In two of the cases, the employees referred to the incidents as sexual harassment, but the alleged facts would not amount to sexual harassment (see numbers 4 and 14).
- In one case, the employee under suspicion resigned prior to the completion of the investigation.

The small number of Exit Interviews containing allegations of sexual harassment and gender-based hostile work environment suggests that the Exit Interview, while helpful in identifying some instances of such misconduct, should supplement other survey instruments in order to provide a clear picture of gender-related workplace misconduct. For example, R5's Sensing Survey Questionnaire, compiled in 2003, shows a higher rate of sexual harassment and hostile work environment than the Exit Interview database. The Sensing Survey Questionnaire surveyed 2,816 R5 employees about sexual harassment either witnessed or experienced in their current position. The survey found that 15% of the survey respondents said that in their current position they had witnessed gender-based hostile work environment, while 10% said they had witnessed sexual harassment. By contrast, the Exit Interview database contains only 20 allegations of sexual harassment or gender-based misconduct, out of 1,595 records reviewed. This represents a rate of 1.2%.⁶

The inability of the Exit Interview Questionnaire to identify the full complement of gender-based workplace misconduct may be attributed to several factors, including concerns about reprisal for identifying workplace issues or apprehension at describing such experiences in a questionnaire that will be entered into a database. Alternatively, temporary employees who wish to return during the next season may hesitate to identify such experiences out of concern that they will not be hired back if they do.

3) Reasons for Leaving (Question 14): Question 14 asks the departing employee to provide his or her reasons for leaving the position. There were 1,089 (68.28%) responses in the database for question #14. The question asks employees to address all significant reasons that contributed to their decision to leave and numerically rank them, with 1 being the most significant reason. This analysis confined the assessment

⁶ The Sensing Survey asks about harassment that has occurred during the employee's tenure; the Exit Interview Questionnaire asks about harassment that has occurred in the previous year. This difference in periods of consideration makes comparison somewhat difficult; however, the large difference in incidents reported is notable.

to the number one reason given by the employee. These data and narrative results are found in Table 8-3, below:-

Table 8-3: Q-14 Reasons for Leaving

	Category	Exit Interviews	%
1	LAY OFF	643	59.04%
2	GOING BACK TO SCHOOL	211	19.38%
3	CAREER CHANGE	67	6.15%
4	PERSONAL	53	4.87%
5	JOB SATISFACTION/WORK RELATIONSHIPS	33	3.03%
6	JOB BENEFITS	24	2.20%
7	RETIREMENT	16	1.47%
8	RELOCATION WITHIN FS	15	1.38%
9	RESIGNED	12	1.10%
10	APPRENTICE SEASONAL POSITION	3	0.28%
11	SAFETY ISSUE	3	0.28%
12	HOSTILE WORK ENVIRONMENT	3	0.28%
13	INJURED AT WORK	2	0.18%
14	LACK OF RESPECT	2	0.18%
15	LACK OF ACCOMMODATION	1	0.09%
16	NON PAY STATUS	1	0.09%
	Grand Total	1089	100.00%

The top two reasons for leaving were “being laid off” and “going back to school.” Fifty-nine percent of the respondents identified lay-offs as the number one reason for leaving. Nineteen percent of respondents identified “going back to school” as their number one reason for leaving. Together, these two categories represent approximately 80% of the number one reasons for leaving. Some of the other reasons for leaving included career change (6.1%), personal (4.9%), job satisfaction/relationships with co-workers (2.8%), and job benefits (2.2%).

None of the respondents cited “sexual harassment” as reasons for leaving. There were three employees who cited hostile work environment as the reason for leaving. The three employees (1 male, 2 females) were describing workplace relationships with co-workers and communication issues; gender based sexual harassment or hostile work environment were not issues involved.

These findings indicate that very few departing employees appear to be leaving their positions because of sexual harassment or hostile work environment issues. Alternatively, employees who have had negative experiences may be reluctant to express sexual harassment or other inappropriate workplace experiences due to concerns of not being re-hired.

4) Responses to Questions 15-17: Please see Appendices C.10 through C.12 for summaries of responses to Questions 15-17.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	5 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
8.0 Exit Interview Overall Performance Scorecard	G	G	G	G	G	Program is implemented and participation is increasing.
8.1 Offer written or oral Exit Interview to all employees leaving an R5 Unit.	G	G	G	G	Y	Exit Interview SOP issued to field. Automated Exit Interview System activated. Program participation 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 Office of Civil Rights Officer.	G	G	G	G	G	Unit FCROs communicate issues in Exit Interviews routinely with the appropriate management officials.
8.4 Conduct a trend analysis for patterns of conduct resulting in attrition.	G	G	G	G	G	The Automated Exit Interview System has greatly improved data access 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	G	G	The PM prepares semi-annual report; evaluates program effectiveness; and includes Exit Interview workforce analyses from data provided by each Unit.

Accepted Recommendations	Date Requested	Date Accepted	Relevant Injunctive Relief Provision	Score	Rationale
2002-0002 Implement the Exit Interview Process and begin recordkeeping no later than July 1, 2002.	5/22/02	6/26/02	8.1	Ⓞ	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	Ⓞ	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 improve the rate of employee participation and unit compliance as compared to the previous reporting period.	Jose Briseno	July 1 through December 31, 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	July 1 through December 31, 2004
3	Assess information from Exit Interviews to determine issues affecting employee retention.	Jose Briseno	Semi-Annually
4	Complete a comprehensive analysis and provide findings to the field on a semi-annual basis.	Jose Briseno	Semi-Annually
5	Brief RLT on the Exit Interview analysis.	CR Director	Annually
6	Ensure that Units are consistently implementing the Exit Interview SOP; in the event that Units are not in full compliance, notify management.	Jose Briseno	Quarterly

9.0 MISCONDUCT INVESTIGATIONS

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 9.1:

Region 5 (R5) shall maintain an investigation procedure relating to employee misconduct.

Provision 9.2:

In conducting misconduct investigations (MIs), R5 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 (HR) 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

Recommendation 03-0018 -- Misconduct Investigations

Pursuant to Section 9.2

Recommended 6/13/03; accepted 8/6/03

Provide formal Fact-Finding Training to Forest Supervisors, Deputy Forest Supervisors, HR Specialist, Employee Relation Specialist, and Forest Civil Rights Officers (FCROs).

Recommendation 03-0033 – Misconduct Investigations

Pursuant to Section 9.2

Recommended 11/7/03; accepted 1/9/04

Develop a Standard Operating Procedure (SOP) for Reporting Allegations of Reprisal in the Region.

BACKGROUND

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

RECORDKEEPING AND REPORTS

The MI Access Database was created in November 2003 to store the Region's data on MIs, including misconduct inquiries. The database stores information about MIs dating from October 2002 to the present, as well as misconduct inquiries dating from January 2003 to the present. Plans are underway to input misconduct inquiries dated October 2002 through December 2002 into the database. The database continues to be used to track information for those individuals who have been found to engage in sexual harassment and/or retaliation and for those individuals who participated in specialized training as a result of findings from MIs. Finally, records of MIs and inquiries continue to be inputted into a "tracking spreadsheet" and the MI database in order to track information in the MI Program and compute the statistics included in the semi-annual reports. The database output and tracking spreadsheet, continue to be distributed to the Monitoring Council (MC) on a monthly basis.

ACCOMPLISHMENTS FOR JANUARY– DECEMBER 2003 AND FOR THE REPORTING PERIOD (JANUARY – JUNE 2004)

- ❖ **Misconduct Inquiries:** The MI Program Manager (PM) continues to record allegations of misconduct, including allegations of sexual harassment and reprisal that do not require a formal MI. Table 9-1 summarizes misconduct inquiries for the third, fourth, and fifth reporting periods. It is R5's judgment that when managers and employees utilize the inquiry process to effectively handle workplace concerns, issues are clarified and resolved in a timely manner, and the need for formal MIs decreases.
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Table 9-1: Comparison of Misconduct Inquiries during the Third, Fourth, and Fifth Reporting Periods

Misconduct Inquiries		Third Reporting Period January – June 2003	Fourth Reporting Period July – December 2003 ⁷	Current Reporting Period January – June 2004
Total Number of Misconduct Inquiries		19	42	42
	Total Number of Misconduct Inquiries Involving Sexual Harassment	8	32	20
	Total Number of Misconduct Inquiries Involving Reprisal	0	0	3
Management Decision to Effect Disciplinary Action		2	7	0 ⁸
	Management Decision to Effect Disciplinary Action Involving Sexual Harassment Cases	2	6	0
	Management Decision to Effect Disciplinary Action Involving Reprisal Cases	0	0	0
	Management Decision to Effect Disciplinary Action Involving General Misconduct	0	1	0

Of the 42 inquiries during this reporting period (January – June 2004), 28 cases were closed. Twelve of the 28 closed cases involved sexual harassment and two involved reprisal. As a result of fact-finding, in one of the 12 closed cases involving sexual harassment, one employee's permanent job offer was rescinded. Two other cases involving sexual harassment were elevated to a formal MI, as management believed the conduct alleged was serious enough to warrant an investigation. Other closed cases involving sexual harassment resulted in employees receiving counseling and Letters of Warning or the allegations were unsubstantiated after the inquiry revealed there were insufficient facts to support the allegations. In the two closed cases involving reprisal, one case closed when the parties met informally, determined there was a miscommunication between the parties, and apologized to each other. The other case involving reprisal was combined with an open MI involving the same parties. Finally, the results of the remainder of the 28 closed cases that did not include allegations of sexual harassment or reprisal include management effected actions ranging from oral or written counseling, Letters of Caution, and the closing of the cases because the results of the inquiry did not support the allegations.

Of the 42 inquiries during the previous reporting period (July 2003 through December 2003⁹), 38 cases closed (including all 32 cases involving sexual harassment). As a result of the inquiries involving sexual harassment, employees received disciplinary action that included three employees being terminated from

⁷ Information for the months of July 2003 through September 2003 was entered for the previous reporting period (April 2003 through September 2003) in the 4th Semi-Annual Report. The current information for April 2003 through September 2003 is correctly entered into this chart.

⁸ For the current reporting period, January 2004 through June 2004, although disciplinary action was not administered during this period, other actions, such as Letters of Warning and Counseling memorandums, were given to employees. Furthermore, four inquiries were elevated to formal MIs.

⁹ Information for the months of July 2003 through September 2003 was entered for the previous reporting period (April 2003 through September 2003) in the 4th Semi-Annual Report. The current information for April 2003 through September 2003 is correctly entered into this chart.

employment, two employees receiving suspensions, and one employee receiving a Letter of Reprimand. Four employees resigned prior to a decision to propose disciplinary action, and six cases were closed and elevated to formal MIs after management determined that alleged conduct was serious enough to warrant an investigation. Other closed cases involving sexual harassment resulted in employees receiving counseling and letters of warning, or the allegations were unsubstantiated after the inquiry revealed there were insufficient facts to support the allegations. Finally, the remainder of the 38 closed cases that did not include allegations of sexual harassment or reprisal resulted in management-effected actions ranging from one Letter of Reprimand to two cases merging into formal MIs. Other cases concluded with oral or written counseling, one employee resignation, Letters of Caution, and the closing of the cases because the results of the inquiry did not support the allegations.

Of the 19 inquiries during the third reporting period (January 2003 through June 2003), 14 cases closed, including six cases involving allegations of sexual harassment. The results of the closed inquiries involving sexual harassment are as follows: one case resulted in the termination of an employee and another employee received a Letter of Reprimand; other cases involving sexual harassment resulted in employees receiving counseling and letters of warning, or the allegations were unsubstantiated after the inquiry revealed there were insufficient facts to support the allegations. Finally, the remainder of the 14 closed cases that did not include allegations of sexual harassment or reprisal resulted in the demotion of one employee and the merging of the cases into two formal MIs. Other allegations were closed because the results of the inquiry did not support the allegations.

Of 20 misconduct inquiries (preliminary research, situation assessment and disposition) involving sexual harassment and three involving reprisal from January – June 2004, a total of 14 were closed, including 12 involving sexual harassment and two involving reprisal. The number of misconduct inquiries has varied from eight between January and June 2003 to 32 between July and December 2003. The spike in inquiries between July and December 2003 was believed to be related to the heightened awareness created in the Region by Prevention of Sexual Harassment (POSH) training delivered to over 90% of R5's employees. This is viewed positively by the Region due to the fact that the number of MIs is decreasing, which represents the next level of elevation for issues.

- ❖ **Misconduct Investigations for the Period:** Table 9-2 shows all of the MIs initiated during this reporting period and includes those investigations initiated during the previous two reporting periods for purposes of analysis.

During this reporting period, eight MIs were initiated, two of which involved allegations of sexual harassment. For the previous reporting period, July through December 2003, 17 MIs were initiated, 11 of which involved allegations of sexual harassment. For the third reporting period, January through June 2003, four MIs were initiated, two involving allegations of sexual harassment.

The number of MIs initiated during the fourth reporting period increased by 75% from the third reporting period. The number of MIs involving sexual harassment increased from two to 11, and the number of MIs involving reprisal increased from

zero to two from the third to the fourth reporting period. The increased number of MIs is attributed to the heightened awareness of the Region's policy on reporting misconduct and this heightened awareness is based on employee's participation in POSH training. R5 implemented the comprehensive POSH training package for the first time in 2003, and POSH training occurred throughout the Region between June 9 and November 5, 2003. Participants learned in part the definition of sexual harassment and the method to report allegations of sexual harassment to the Regional Office. Once participants completed this training, they became attuned to potential acts of sexual harassment, which in turn caused them to report these allegations to their supervisors who reported these incidents to the Regional Office and requested formal MIs to resolve these allegations.

Table 9-2: Comparison of MI Program Activity during the Third, Fourth, and Fifth Reporting Periods¹⁰

Misconduct Investigations		Third Reporting Period January – June 2003	Fourth Reporting Period July – December 2003	Current Reporting Period January – June 2004
Total Number of MIs		4	17	8
	Total Number of MIs Involving Sexual Harassment	2	11	2
	Total Number of MIs Involving Reprisal	0	2	0
Number of Investigative Reports Received by R5		0	16	5
	Number of Investigative Reports Received by R5 Involving Sexual Harassment	0	11	1
	Number of Investigative Reports Received by R5 Involving Reprisal	0	2	0
Management Decision to Effect Disciplinary Action		1 ¹¹	7 ¹²	2
	Management Decision to Effect Disciplinary Action Involving Sexual Harassment Cases	1	5	2 ¹³
	Management Decision to Effect Disciplinary Action Involving Reprisal Cases	0	0	1 ¹⁴
	Management Decision to Effect Disciplinary Action Involving General Misconduct	0	2	0

There was a 47% decrease in the number of MIs initiated during this reporting period, as compared to the previous (fourth) reporting period. The number of MIs involving sexual harassment during this reporting period decreased significantly, from 11 to

¹⁰ Information for the months of July 2003 through September 2003 was entered for the previous reporting period (April 2003 through September 2003) in the 4th Semi-Annual Report. The current information for April 2003 through September 2003 is correctly entered into this chart.

¹¹ This case was initiated in the previous reporting period and the disciplinary decision was rendered during the third reporting period.

¹² Some cases were initiated in the previous reporting period and the disciplinary decision was rendered during the fourth reporting period.

¹³ Both of these cases were initiated during the previous reporting period and the disciplinary decision was rendered during the fifth reporting period.

¹⁴ One of the two cases where disciplinary action was rendered involved both sexual harassment and reprisal.

two, and the number of MIs involving reprisal decreased from two to zero. The decrease in the number of MIs is partially due to the continued resolution of misconduct cases at the inquiry stage. This was a targeted objective for the MI Program and increasing the resolution of misconduct cases at the inquiry stage is a major program accomplishment. Supervisors/managers attended POSH training for managers and supervisors between March and June 2004 to learn specific techniques for preventing and effectively resolving these issues at the forest level. The resolution of cases at the forest level reduced the need to order costly formal MIs during this reporting period. R5 will continue to endeavor to resolve as many allegations of sexual harassment as possible at the inquiry stage.

During this reporting period, MIs took place on four National Forests (NFs), as well as on the Southern California Personnel Operations Division and the Regional Office.¹⁵ The Angeles NF and the San Bernardino NF have been identified as having multiple investigations during this reporting period. For the previous (fourth) reporting period, investigations took place on 11 NFs, as well as on the Regional Office and the Southern Fire and Aviation Management Zone (FAM South Zone); the Plumas NF and the Eldorado NF were identified as having multiple investigations.

A review of the four NFs identified in the previous (fourth) semi-annual report as having multiple MIs (and at least one MI involving sexual harassment) revealed an important trend. As stated above, there was an increase in reporting incidents of sexual harassment after the conclusion of POSH training. This initially resulted in an increased number of formal MIs involving sexual harassment being conducted. This also resulted in a high number of misconduct inquiries. However, once POSH training for managers occurred, the number of formal MIs decreased and the inquiries involving sexual harassment were increasingly resolved without the need for a formal MI. Continued POSH training, as well as continued emphasis of the non-reprisal policy, elevates employee awareness of these issues and should continue so that employees are not fearful of reporting incidents of sexual harassment if they occur.

❖ **Discipline for Misconduct:** Table 9-3 summarizes the disciplinary actions for misconduct during the third, fourth, and current reporting periods.

The two cases in which management effected disciplinary actions during this reporting period were actually initiated during the previous (fourth) reporting period. One of the two cases substantiated claims of sexual harassment and the other case substantiated claims of sexual harassment and reprisal. Also during this reporting period, there were three cases where management was in the process of determining whether to propose disciplinary action, but the employees in question resigned before management could make this determination. None of the three cases involved sexual harassment or reprisal.

For the previous (fourth) reporting period, allegations of sexual harassment were substantiated in four of the cases for which management effected disciplinary action, but a case involving both sexual harassment and reprisal had not been resolved as of the deadline for this report. An employee critical to the resolution of the

¹⁵ An employee permanently assigned to duty on one of the National Forests was detailed to the Regional Office when the MI occurred.

investigation is on extended leave. Any decision to render disciplinary action will occur when the employee returns to work in the fall of 2004.

Table 9-3: Summary of Management Decisions to Effect Discipline for Misconduct During the Third, Fourth, and Fifth Reporting Periods

	Third Reporting Period January – June 2003	Fourth Reporting Period July – December 2003	Current Reporting Period January – June 2004
Total Number of Decisions	1	7	2
Summary of Management Decision(s)	1. A Letter of Caution and a 3-day suspension for conduct that surfaced during, but was unrelated to the investigation.	<ol style="list-style-type: none"> 1. A 14-day suspension for one employee in one separate case. 2. A 14-day suspension for one employee in one separate case. 3. A 5-day suspension and one letter of warning in the same case. 4. Two Letters of Reprimand for two different employees in the same case. 5. One termination of one employee in one case. 6. A 30-day suspension for one manager in one case. 7. Disciplinary action for 10 supervisory employees ranging from 3- to 30-day suspensions, as well as Letters of Warning issued to 15 non-supervisory employees. 	<ol style="list-style-type: none"> 1. One Letter of Reprimand, two Letters of Warning and three Letters of Direction to six separate employees in the same case. 2. Letter of Reprimand and specialized POSH training.
Total Number of Decisions Where Disciplinary Action Was Not Rendered	1	3	8
Summary of Management Decision(s) or Employee Action(s) Where Disciplinary Action Was Not Rendered.	1. Letters were issued to all employees in the work center reiterating the rules/policies relative to claiming reimbursement.	<ol style="list-style-type: none"> 1. Employee released and management did not renew employee's term employment. 2. Management directed employee to seek remedies in other forums. 3. Employees released from temporary employment. 	<ol style="list-style-type: none"> 1. Oral counseling. 2. Employee resigned. 3. Allegations unsubstantiated by results of report. 4. Allegations unsubstantiated by results of report. 5. Allegations were unsubstantiated by results of report. 6. Employee resigned. 7. Employee resigned. 8. Employee resigned. <p>Note: Same employee involved in #6 & #8.</p>

❖ **Analysis of Timeliness of the Investigation Process:** The MI PM continues to record data for each phase of the MI process, as well as analyze and assess the timeliness of the investigation process as a whole. Table 9-4 compares the timeliness of three phases of the MI process for the third, fourth, and current reporting periods.

Table 9-4: Timeliness of the Investigation Process

	Third Reporting Period January – June 2003	Fourth Reporting Period July – December 2003	Current Reporting Period January – June 2004
Average Number of Days Between Request for an MI and Initiation of MI on Forest/Unit	32	27	31
Average Number of Days Between Initiation and Conclusion of MI on Forest/Unit	14	13	5
Average Number of Days Between Conclusion of MI and Delivery of ROI to RO	17	25	33
Average Total of Days Between Request for an MI and Delivery of ROI to RO	63	65	69

While the number of days between the beginning and the conclusion of the investigation has decreased between the three most recent reporting periods, the number of days between the request for an investigator and the initiation of the investigation, as well as the number of days between the conclusion of the investigation and the submission of the investigative report to the Regional Office has increased. As a result, the total number of days has increased. This increase has occurred because of several factors, including the following:

1. Failure to cooperate by subjects and/or witnesses involved in an investigation;
2. Poor investigation skills by investigators;
3. Illness; and
4. Fire fighting duties.

The MI PM will take the following actions:

1. Continue to monitor the timeliness of the process;
2. With the support of the Region, enforce existing agency policy that requires cooperation during investigations or warn employees that they may face disciplinary action for non-cooperation in the investigations;
3. Continue to provide extensions to investigators, on a case-by-case basis, when exigent circumstances, such as fire fighting assignments and the unavailability of witnesses, occur. Although the process may be delayed by this extension, the extension will provide an opportunity for full and required participation in the investigations; and
4. Not re-hire investigators who exhibit poor investigation skills.

❖ **Notification to Employees Participating in a Misconduct Investigation:** The Region began disseminating letters to employees involved in an MI in March 2004. These letters notify employees that they are the subject of or a witness in an investigation; provide the date, place and time of the interview; and notify employees of their rights if the subject or witness is a non-bargaining unit employee.

- ❖ **Submission of the Standard Operating Procedure on Reporting Allegations of Sexual Harassment:** The MI PM and the MC completed the review/revision process for the SOP for Sexual Harassment in May 2004. The MI PM submitted the SOP to Management for review in May 2004. Due to management changes in both CR and HR, the PM anticipates that it will be submitted to the union for negotiations on impact and implemented during the next reporting period.
 - ❖ **Coordination of Fact-Finding Training for the Region:** The Fact-Finding Training for the Region took place in Sacramento in April 2004. Twenty-five Regional employees participated in this course. The majority of participants who returned class evaluation survey forms said that the course was very informative, that they valued the course book that can serve as a valuable reference guide for future inquiries, and that they anticipate incorporating the skills obtained through Fact-Finding Training into their regular job duties. Another course, which will be held in Southern California in early 2005, is currently being planned. In addition, an email will be generated to determine the level of interest in participating in a Fall 2004 Fact-Finding Training at the Regional Office.
 - ❖ **Analysis of Investigators:** The MI PM continues to collect biographical sketches from the selected investigators to determine if their training and background sufficiently qualify them to conduct investigations. This analysis allowed the MI PM to transfer one investigator who did not have training in Title VII from a sexual harassment investigation to another non-sexual harassment investigation. Also, this monitoring and analysis revealed that an investigator did not perform his duties as stated in the Washington Office (WO) requirements, which resulted in his termination from the investigation. During this reporting period, the MI PM, along with the Regional Office Employee Relations Specialists, began to audit the reports submitted by investigators to ensure that the minimum requirements set by the WO for sufficient investigative reports are being met. The nine reports received during fiscal year (FY) 04 were evaluated. The Region will continue to seek and employ the investigators who perform the highest-quality investigations and produce the highest-quality reports. The MI PM will continue to review biographies and monitor investigations to determine which investigators are qualified to conduct formal investigations in the Region. The MI PM is reviewing offers from other contractors to determine if R5 will supplement its pool of current investigators.
 - ❖ **Reports of Reprisal for the Period/Standard Operating Procedures on Reporting Allegations of Reprisal:** Although the MI PM received allegations of reprisal through normal channels of reporting misconduct in the Region, during this reporting period the Region agreed to draft an SOP for Reporting Reprisal in R5. The MI PM was assigned the task of recording and reporting not only reports of reprisal that were reported to Regional management officials, but also recording the number of EEO complaints that alleged reprisal or retaliation. The MI PM received 28 such complaints during this reporting period. The Region continues to meet with the MC to determine the provisions that will be included in the SOP and continues to develop standards that will determine which type of EEO cases involving reprisal will be reviewed to determine if a misconduct inquiry or MI is warranted.
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PERFORMANCE SCORECARD

Injunctive Relief Provision Area	5 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
9.0 Misconduct Investigation Procedures Overall Performance Scorecard	G	G	G	Y	G	The MI PM continues to monitor the quality, timeliness, thoroughness and effectiveness of the overall program.
9.1 Maintain an MI procedure.	G	G	Y	Y	G	Procedures continue to be developed and existing procedures continue to be modified. Once R5 implements the SOP on sexual harassment and reprisal, this provision will be fully deployed.
9.2a Conduct MIs in a timely and effective manner.	G	G	G	Y	Y	Processes have been developed to continue to monitor, evaluate, and analyze the timeliness of investigations.
9.2b Ensure staffing for MIs is sufficient to accomplish objectives.	G	G	G	G	G	Evaluations of investigators have occurred. R5 is in full compliance with this provision.
9.2c Ensure investigators are properly trained to conduct MIs.	G	G	G	G	G	Evaluations of investigators determined that two investigators were not properly trained. R5 is in full compliance with this provision.
9.2d Ensure appropriate disciplinary actions taken.	G	G	G	G	G	A review of MIs and misconduct inquiries has determined that disciplinary action was taken in cases where it was determined that discipline was appropriate. The Region continues to gather information from the forest to review open MIs and misconduct inquiries.
9.2e Ensure effective deterrent activities.	G	G	G	G	Y	Continue to assist Regional Office Employment Relations Specialist in advising forest management to recommend disciplinary action that will deter employees from committing future acts of misconduct.
9.2f Documentation of intake, processing and outcome of allegations of sexual harassment.	G	G	G	G	G	This continues to occur on the MI database as well as the Word Spreadsheet. The MI PM continues to gather information from the Region to determine if processing and outcomes have been completed.
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	ⓐ	The Region submitted their response to the MC on September 5, 2003, negotiations with NFFE were completed in February 2004, and the letter was implemented beginning with MIs that occurred after March 1, 2004.
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	ⓐ	The Region submitted its response to the MC on September 30, 2003 and training took place in April 2004.
2003-0033 Develop an SOP for Reporting Allegations of Reprisal in the Region.	11/07/03	01/09/04	9.2	Ⓨ	The Region accepted recommendations 1,2,3,4,5,8,9,11,12,13,14 and partially agreed to recommendations 6,10,16.

ACTION PLAN

No.	Action	Responsible Official	Date
1	Implement the SOP on Reporting Allegations of Sexual Harassment in Region 5.	Felicia D. Branch	October 31, 2004 (dependent upon union negotiations)
2	Develop the SOP on Reporting Allegations of Reprisal in Region 5.	Felicia D. Branch	December 31, 2004
3	Continue to develop the SOP on Reporting Allegations of Non-Sexual Harassment, Non-Reprisal Misconduct in Region 5.	Felicia D. Branch	December 31, 2004

10.0 PREVENTION OF SEXUAL HARASSMENT TRAINING

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 10.1:

Region 5 (R5) shall provide annual, mandatory training to its employees designed to assist them in recognizing, addressing, and correcting sexual harassment and retaliation.

Provision 10.2:

R5 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 R5'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:

R5 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 (RF) will include the requirement for specialized training in the prevention of sexual harassment as part of the RF'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—Prevention of Sexual Harassment (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/reprisal 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. R5 developed a comprehensive sexual harassment prevention training package that has been consistently implemented and delivered annually since 2003. The training is delivered by a Contractor to ensure consistent delivery across the Region. In order to evaluate the effectiveness and delivery of the training, participants are provided with an optional POSH Course Evaluation form (see Appendix D.1). Each unit compiles and prepares a summary from all the evaluation forms, and afterward a Regional summary analysis is prepared (see Appendix D.2). In preparation for the Calendar Year 2004 (CY 04) POSH training, the 2003 Regional summary analysis was discussed with the Contractor and updates were incorporated into the training program for CY 04.

R5 developed a *One-On-One Specialized POSH Training* program in 2003 to provide a tailored and consistent training for employees who have engaged in acts of sexual harassment (sustained charges) and/or reprisal/retaliation, or for any manager or supervisor failing to take prompt and appropriate action to address reports or knowledge of sexual harassment related issues, in accordance with USDA FS regulation/policy. The *One-On-One Specialized POSH Training* is intended to educate employees and managers about behavior that is unwelcome in the workplace and reinforce their knowledge regarding their roles, responsibilities and rights.

Although not required by the Women's Settlement Agreement (WSA), in February 2004, R5 developed a customized training module to train Forest Civil Rights Officers (FCROs) and Human Resources Officers (HROs) in how to effectively participate in the annual mandatory POSH training sessions and respond to employee questions specific to FS programs and policies. In order to address issues that are specific to supervisors and managers, a customized training module for managers and supervisors was also developed.

During the spring of 2003, a Region-wide review on the subjects of work environment issues and sexual harassment was conducted by a panel from R5 who visited all eighteen forests. The review was a follow-up to the Region-wide stand down of September 2002 and the panel was assembled to conduct an informal climate assessment and information exchange. A survey was disseminated and filled out anonymously by the participants. An analysis and summary of the responses were completed and forward to each unit for review and action. After examining the information pertaining to their forest, each forest

completed a proposed action plan that was submitted to the Regional Office (see Appendix D.3).

RECORDKEEPING AND REPORTS

A Lotus Notes database was designed to maintain names of employees who have attended the POSH general training. This system replaced the Excel spreadsheet, which only captured the unit, workforce number, number of employees trained, percentage trained, and number of sessions.

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).

The Lotus Notes database generates reports that include the date of training, unit, name of employee, and number of employees trained by unit. The certified forms and sign-in sheets continue to be maintained the FWPM and are used to cross reference the employees' signatures with the information in the Lotus Notes database.

To determine the effectiveness of the annual training, participants are provided with a voluntary evaluation form and encouraged to complete it at the end of each training session. The information provided by the participants in the evaluation forms is used to assess the quality and effectiveness of the annual training.

In specialized One-On-One POSH Training, a list of identified participants is provided by the Adverse Action Digest (AAD) Program Manager (PM) to Regional Civil Rights (CR) staff. The Regional CR staff composes a letter that contains training information (i.e., vendor, training date, time, location), maintains a copy of the letter, and forwards 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 Regional CR staff for recordkeeping. 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 Regional CR staff; this binder is available for review upon request. A training response/evaluation form that measures the effectiveness of the training and that allows training recipients the opportunity to provide feedback on their training experience has also been developed.

A Lotus Notes database is being developed to input One-On-One POSH Training; the entry of this information will be limited to the FWPM because of confidentiality.

ACCOMPLISHMENTS FOR OCTOBER – DECEMBER 2003 AND FOR THE REPORTING PERIOD (JANUARY – JUNE 2004)

- ❖ **Implementation of Specialized Training Program:** Region 5 continues to implement the *One-On-One Specialized POSH Training* program. To date, seven employees whom the AAD identified as having engaged in inappropriate behavior of a sexual nature have received the *One-On-One Specialized POSH Training*. The selected vendors, Leibert Cassidy, Whitmore, and Anderson-davis, Inc., were given specific information regarding the nature of the inappropriate behavior exhibited by
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each employee in order to tailor the *One-On-One Specialized POSH Training* sessions.

Upon completion of the *One-On-One Specialized POSH Training* sessions, a certificate of completion was signed by the participant and the contractor. There have been no reports that any of the seven training recipients have repeated their offenses. The response/evaluation form continues to be used to measure the effectiveness of the *One-On-One Specialized POSH Training* and to allow training recipients the opportunity to provide feedback on their experience.

❖ **Implementation of 2004 Annual Mandatory POSH Training for All Units:**

Anderson-davis, Inc., was selected to deliver 2004 annual mandatory POSH training for all Units. The training was delivered by seven 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.

The 2004 POSH training plan focused on improving the timeliness of delivery and providing additional/customized session to various types of employees to address specific issues.

The FCROs were provided with a POSH training schedule calendar for CY 04 to request their own training dates (see Appendix D.4). Upon selection and confirmation of each unit's training dates with the vendor, the calendar was posted on the CR Website.

The 2004 annual mandatory POSH training for all employees (permanent, temporary, seasonal, students, and volunteers) began in April 2004 and continues through September 2004. Training sessions for winter hires as well as make-up training sessions are planned for October and November 2004. All employees should 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.

R5 employees were notified of the mandatory POSH training and to coordinate scheduling with the unit Regional Office / FCRO (see Appendix D.5). A schedule with the dates and locations of the POSH training was posted on the CR Website.

R5's goal is to train 100% of R5 employees (subject to the constraints imposed by a constantly changing workforce). Currently, the Region's workforce totals 8,108 employees as of June 22, 2004. From February through June 2004, R5 conducted 296 training sessions (60 supervisory and 236 non-supervisory) and trained a total of 6,829 (84%) R5 employees.

The training schedule for the rest of the year is aggressive; approximately 20 annual mandatory POSH training sessions are scheduled to take place between July and December 2004. The goal of training more than 92% of R5 employees (the percentage trained during 2003) should be met by December 2004.

❖ **Implementation of FCRO and HRO Customized Training Module:** Although not required by the WSA, on February 26, 2004, R5 conducted the customized all-day training module for FCROs and HROs. Previous to developing the training module, Anderson-davis, Inc. garnered input from FCROs, HROs, and CR staff regarding the

training material for supervisory and non-supervisory manuals. The training covered all annual mandatory POSH information, including retaliation and reprisal. Supervisory and managerial roles and responsibilities were discussed, including how to communicate and clarify R5 relevant policies (i.e., use of alcohol, reprisals, what is the work environment, complaint/resolution processes), and FCROs and HROs received guidance regarding the information to be shared during orientation for new employees. Approximately 16 FCROs, 15 HROs, and six CR staff members attended the training module.

- ❖ **Implementation of Customized Supervisor and Manager Training:** Although not required by the WSA, training for supervisors and managers began in March and continued through June 2004. In addition to annual mandatory POSH information, the all-day training session included the following: clarification of supervisory and managerial roles and responsibilities, how to deal with reprisal/retaliation issues, zero tolerance policy, fact finding, 24-hour reporting requirement, disciplinary actions, and whistleblower/fraud/waste/abuse. To date, 1,969 supervisors and managers have received this training.
 - ❖ **Unit's Sensing Survey Results Based on Data Collected During Spring 2003:** Upon examining the summary of survey responses from the 2003 Region-wide review relating to their forest, fifteen units provided responses from their Forest Leadership Team (FLT) and proposed actions for their unit. These responses included a description of methods proposed to ensure that all new employees, including temporaries, receive orientation that includes coverage of the Policy on the Prevention of Sexual Harassment (Zero Tolerance Policy on Sexual Harassment, Hostile Work Environment, and Reprisal); other areas of concern will be covered during the annual mandatory POSH training. See Appendix D.6 for all unit responses to the Sensing Survey Results.
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PERFORMANCE SCORECARD

Injunctive Relief Provision Area	5 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
10.0 Prevention of Sexual Harassment Training Overall Performance Scorecard	Ⓞ	Ⓞ	Ⓞ	Ⓞ	Ⓞ	R5 has developed a tailored and consistent customized POSH training. Workforce fluctuates bi-weekly – Estimate a high percentile of employees to be trained by the end of December 2004.
10.1 Provide annual mandatory training to all employees to assist them in recognizing, addressing, and correcting sexual harassment and retaliation.	Ⓞ	Ⓞ	Ⓞ	Ⓞ	Ⓞ	The training program is in full compliance with this provision.
10.2 Provide annual letter to employees regarding agreement.	Ⓞ	Ⓞ	Ⓞ	Ⓞ	Ⓞ	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.	Ⓞ	Ⓞ	Ⓞ	Ⓞ	Ⓞ	The training program is in full compliance with this provision.

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 developed information package to be used by the National Academy Coordinator on Sunday evening orientations (see Appendix D.7).

ACTION PLAN

No.	Action	Responsible Official	Date
1	Review evaluations from the training participants and monitor response to materials used in training to ensure that training materials meet employees' needs.	Gwen Bryant	December 31, 2004
2	Review summarized evaluation forms from the field and the Regional Office and monitor responses.	Gwen Bryant	December 31, 2004
3	Continue to deploy and evaluate annual POSH training.	Gwen Bryant	December 31, 2004
4	Continue to evaluate the specialized one-on-one POSH training and monitor the vendor(s) information.	Gwen Bryant/Lois Lawson	December 31, 2004

11.0 THE INFORMAL EQUAL EMPLOYMENT OPPORTUNITY PROCESS**STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS*****Provision 11.1:***

The Agency shall provide training to all Equal Employment Opportunity (EEO) Counselors involved in the Informal EEO Process in Region 5 (R5). 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 R5. 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 R5.

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 R5 by type of discrimination, Responding Officials, and location in order to determine whether any patterns of conduct are discernible.

Provision 11.6:

R5 shall maintain an Alternative Dispute Resolution (ADR) 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.

03-0033 – Reprisal

Pursuant to Section 11

Recommended 11/7/03; Accepted 1/9/04

Allegations of reprisal reported to EEO Counselors as part of the informal EEO process will be reported to the Region within 24 hours with the employees' permission to report their name. An employee may elect to remain anonymous; however the complaint must be reported to the Region within 24 hours, as required with sexual harassment complaints.

BACKGROUND

The FS' Informal EEO Process supports the purpose of the Women's Settlement Agreement (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 Employee Complaints Program (ECP). The ECP is administered by the Washington Office (WO); however, there is a detached unit located in R5's Regional Office in Vallejo, California, that has three full-time EEO Counselors. It is the responsibility of the Vallejo ECP Center staff to assist Complainants and managers in addressing and resolving issues in 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 expanded and improved during fiscal year (FY) 04.

Since January 2000, the Equal Employment Opportunity Commission (EEOC) has required agencies to make ADR¹⁶ available as an alternative to traditional counseling in the Informal EEO 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 ADR Program.

The Informal EEO Process and the implementation of the related WSA provisions are evaluated on a monthly basis by the WO Onsite Civil Rights (CR) Liaison and the Vallejo ECP Center Manager. The WO generates Complaint Activity Reports, and the WO Onsite CR Liaison analyzes these reports. Program effectiveness is evaluated based on the analysis of these reports and review of participant surveys.

RECORDKEEPING AND REPORTS

The ECP maintains a variety of recordkeeping systems to implement Provision 11. The primary electronic database and reporting system utilized under this provision is the Equal Employment Opportunity Complaints Tracking System (EEOCTS). The EEOCTS is an Oracle application that is compatible with Microsoft Windows and that captures, maintains, and reports information associated with each informal complaint, including ADR. It maintains a complete electronic record for each complaint and stores 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 also

¹⁶ In April 2004, the Forest Service changed its ADR Program name from EIP to ADR.

provide averages, percentages and totals, which allows for greater flexibility and quicker analysis. The ECP also uses the EEOCTS database to track the EEO Informal Complaints referred to the ADR Program.

For purposes of completing the tracking, analyses, and identification of trends required by the Injunctive Relief Provisions (IRPs) under Section 11, the EEOCTS database generates reports that sort informal complaints by location, Bases, Issues, type of case closure (settlement, withdrawal, Notice of Right to file (NRF) formal), Responding and Resolving Official, and Human Resources Official (HRO). These reports also calculate the resolution rates for traditional counseling and ADR cases.

EEOCTS has been operational since October 2003. R5 used information from the EEOCTS test database to create the first report analyzing HRO data for the period July 2003 to September 2003. Since FY 1998, the ECP has also maintained the Microsoft Works EEO Case Tracking System that tracks complaints by the type of discrimination, location, and type of case closure. The EEO Case Tracking System has been continually 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.

Hard copy files are maintained to keep accurate records on EEO Counselors. These files contain general correspondence, in addition to a variety of tracking forms and records. To track completion of the required training for EEO Counselors, Standard Form 182's (SF-182's), and certificates of completion of training are maintained in individual counselor files. To track written withdrawals, form letters are sent to Complainants who voluntarily request withdrawal. Complainants are required to sign and return the letter. If a signed letter is not returned, an NRF 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 ADR process, a standard ADR election letter is provided. Complainants must sign the election letter, indicating whether they wish their complaint to be processed through traditional counseling or ADR. If no signed election letter is returned and the Complainant has not made a verbal election for traditional counseling, the complaint is processed through ADR. Copies of election letters are maintained in ECP complaint files.

An electronic survey system is used to conduct a voluntary survey of participants in the Informal EEO 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. Since June 2003, hardcopies of the electronic survey form are sent to Complainants and Managers via U.S. mail. Since October 2003, telephone surveys are conducted by ECP staff members and results are recorded on hard copies. ECP staff members input information from these hardcopies into the electronic survey system. The system is designed to prevent multiple responses by the same individual.

Permission to view the completed surveys is restricted to the managers of the ECP Centers, the WO Onsite CR Liaison, and the Program Manager (PM) for Section 11 of the WSA. For the purpose of analyzing 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.

ACCOMPLISHMENTS FOR OCTOBER – DECEMBER 2003 AND FOR THE REPORTING PERIOD (JANUARY – JUNE 2004)

Note: The WO ECP relies on data and information that are generated on a fiscal year rather than a calendar year basis. In the 4th Semi Annual report, accomplishments were reported for the time period of October 2002 through September 2003. After the 4th Semi Annual report was published, a decision was made to begin semi-annual reporting on a calendar year basis, beginning with the time period of January 2004 through June 2004. Because of the change from a fiscal year to a calendar year reporting cycle, separate data is included for the period of October 2003 through December 2003. Because of the unique processing requirements of EEO complaints, some complaints are reported as open in one time period and closed in a subsequent time period. Because of this “carry over” factor, and to avoid counting some complaints twice, complaints data is also displayed for the nine-month period of October 2003 through June 2004 (see Appendix E.3 and E.4).

- ❖ **Electronic Survey System Enhancements:** The following enhancements to the survey system were made during the reporting period:
 - A message is automatically resent to the respondent if the survey is not completed within two weeks.
 - The contact date and basis/issue were added to the message for the Complainant.
 - The contact date, basis/issue, and Complainant's name were added to the Responding and Resolving Official's email messages.
 - An additional question was added for respondents to provide feedback on the ADR process.
 - The option for providing narrative comments was added to each question.
 - ❖ **Enhancement to the EEOCTS Database:** The EEOCTS database has been enhanced to assist the ADR PM in tracking cases that do not go to mediation within 90 days. EEOCTS currently has fields to track whether ADR was elected, the date elected, and the outcome of the counseling activity. In June 2004, Web-based screens were made available to allow confidential access, via the FS Intranet, for Complainants to check the status of pending informal complaints. Further enhancements to EEOCTS that are in progress include additional web-based screens to allow the ADR staff to input ADR activity, including whether mediation took place and the outcome of ADR. By expanding the quantity and type of data collected, the analysis of data from EEOCTS 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 ADR processing;
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percentage of cases that do not go to requested mediation within 90 days; and length of time to complete a settlement agreement.

- ❖ **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 a 24-hour training course conducted by a contractor in May 2004 focusing on the following topics:

- Developing a counseling plan to facilitate efficient fact finding and effective resolution efforts.
- Reviewing the differences between claims and supporting evidence to reduce fragmentation of allegations.
- Interviewing techniques to overcome barriers such as tension and anger.
- Determining relevant documents to collect and witnesses to interview.
- Drafting settlement agreements and writing counseling reports.

Copies of the course materials for the above course were provided to the Monitoring Council in June 2004. The next EEOC refresher training session for counselors is scheduled for July 2004.

- ❖ **Ongoing Initiatives to Increase Satisfaction Survey Response Rate:** Provision 11 requires R5 to conduct a voluntary survey of participants in the Informal EEO Process (see Appendix E.1) and to conduct an annual analysis of completed survey forms to determine whether the Informal EEO Process is functioning effectively and appropriately (see Appendix E.2). The ECP has completed improvements in order to increase the survey response rate and to ensure more meaningful analysis of the completed surveys. New initiatives undertaken during this reporting period include the following: at the beginning of FY 04 (October 1, 2003), draft revisions were made to the survey content to improve the quality of data collection.

In an effort to increase the survey response rate, the Vallejo ECP staff began a pilot project, effective October 15, 2003. Complainants and managers have been contacted by telephone and asked to provide verbal responses to survey questions, which are recorded by ECP staff members. Complainants are also given the option of receiving surveys via email or US Mail. Implementing these methods of response has contributed to an increase in the response rate. The system is designed to prevent multiple responses by the same individual.

The analysis of the survey response rate for FY 04 indicates that the Complainants response rate increased from 14% in FY 03 to 33% for FY 04 year-to-date (an increase of 19 percentage points).

Surveys continue to be sent to Complainants and Resolving Officials and more recently have been sent to Responding Officials. The brief surveys evaluate three primary areas of satisfaction: Satisfaction with how the EEO Process is Managed in

R5; Satisfaction with the Amount of Information Provided; and Satisfaction with the Service. All of the survey responses received between 2001 and 2004 were reviewed during this reporting period, revealing the following conclusions:

- ❖ The trend in overall satisfaction ratings from 2001 to 2004 has fluctuated slightly (between 3 and 3.3), averaging about 3.2 on a 5 point scale. Satisfaction ratings have shown an upward trend, from 2.85 in 2001 to 3.21 in 2004 (4 represents a "satisfactory rating"). Trends in satisfaction ratings showed a slight drop for all participant groups in 2003, but satisfaction ratings returned to 2002 levels in 2004.
- ❖ The average rating for satisfaction with the process (3.3) was slightly higher than the average rating for satisfaction with the amount of information (3.2). The average rating for satisfaction with the service (3.0) was again slightly lower than the satisfaction with the amount of information provided.
- ❖ The average satisfaction of the Responding Official tended to be lower than that of the Complainant or the Resolving Official; however, the number of data points for Responding Officials was significantly less since surveys began with this group in FY 04.
- ❖ Comments provided by respondents during this period identified the need for better and more timely communication, more qualified mediators, and more opportunities to express concerns, clarify issues, and receive information.

Graphs delineating selected results are provided in Appendix E.2. Survey results will continue to be studied to improve the process.

- ❖ **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 an NRF. 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 November 2003 and May 2004, the ECP provided copies of withdrawal letters to the Monitoring Council (MC).
- ❖ **Analysis of Complaints for Discernible Trends:**

Analyses of all R5 Informal Complaints for October 2003 through June 2004 have been completed in order to determine if any patterns of conduct are discernible (see Appendices E.3 and E.4 for raw data). The analyses focus on: 1) per capita number of complaints filed; 2) the types of complaints being filed; and 3) resolution rates. The current data for this nine-month period will be compared to FY 03 data to determine the trends and predict the expected levels of complaint activity for FY 04. The analysis is also utilized to target areas and opportunities to reduce the level of activity or improve resolution rates. A summary of the analysis for the period is provided below.

1) Analysis of Number of Complainants Filing Per Capita:

Number of Complainants Filing Per Capita Remains About 1%; Decline in Number of Informal Class Member Complainants Filing Per Capita: During this nine-month period (October 2003 – June 2004), 90 individuals filed complaints, which represent a 1% per capita filing rate as compared to a 1.1% per capita filing rate for the previous reporting period. A total of 50 females filed complaints, which represents a 1.7% per capita filing rate. For the previous reporting period, there was also a 1.7% per capita filing rate for females. During this period, seventeen Class Member Complainants (females) filed complaints alleging sexual or gender harassment or reprisal for opposing sexual/gender harassment. This represents a 0.5% filing rate for Class Members. This group has shown a significant decline in individuals filing complaints (0.8% in FY 03 and 1.2 % in FY 02). This decline in complaints from females who meet the class definition is most likely attributable to the ongoing implementation of the IRPs, including Prevention of Sexual Harassment (POSH) training, Mentoring, Scholarships, etc. Table 11-1 shows R5 Complainants filing per capita.

Table 11-1: Informal Complainants Filing per Capita

R5	October 2003 – June 2004
Total Complainants (Individuals)	90
Total Employees	8,573
Per Capita	1% (10 per 1,000)
Female Complainants	50
Total Female Employees	2,849
Per Capita	1.7% (17 per 1,000)
Male Complainants	40
Total Male Employees	5,724
Per Capita	0.6% (6 per 1,000)
Female Class Member Individuals	17
Female Employees	2,849
Per Capita	0.5% (5 per 1,000)

2) Analysis by Type of Complaint:

Action Taken to Address Upward Trend in Reprisal Allegations: An analysis of all informal EEO complaints (class and non-class) filed this period reveals that reprisal continues to be the most frequent basis for informal EEO complaints. While this fact is of concern to the Region, it is also noteworthy that reprisal remains the most frequent basis in all federal discrimination complaints, as reported by the EEOC. For this nine-month period (October 2003 – June 2004), 70 of 115 (61%) informal complaints contained allegations of reprisal. When compared to the total number of reprisal allegations received and complaints processed in the entire twelve-month period of FY 03, these numbers would indicate a slightly upward trend in total reprisal allegations and complaints for FY 04 (with three months remaining in the current FY). In FY 03, there were 67 reprisal allegations out of a total of 126 complaints (53%) processed. In FY 04, a total of 18 out of 24 (75%) Class Member complaints included allegations of

reprisal, compared to 61% of all Complainants alleging reprisal. This high percentage of Class Member retaliation complaints is cause for further study. It is noteworthy that five (5) reprisal complaints were filed this period by Class Members who filed prior complaints under Section 21 of the Agreement.

The following actions are being taken to address reprisal complaints. Since January 2004, EEO Counselors have been advising the Misconduct Investigation (MI) PM of all reprisal allegations, pursuant to MC Recommendation 03-0033. Also, all informal complaints of reprisal are reported to the Regional Forester (RF) and Associate RF. ECP will continue working collaboratively with the R5 CR, HR, ADR PM, Employee Relations Manager, and Associate RF to identify root causes and solution strategies. In response to the trends identified, R5 recently implemented new guidance on non-reprisal. This guidance emphasized the Agency's commitment to taking corrective action where warranted. It also encouraged employees alleging reprisal to make use of mediation services through the ADR program (see Appendix E.5, Reprisal Guidance Letter). The WO CR staff is developing a reprisal training package for employees and managers which will be piloted throughout the FS in FY 05. This training will be available to R5.

Sexual / Gender Harassment Complaint Levels Trending Slightly Higher as Compared to FY 03: Of a total of 115 informal EEO complaints processed this period, 17 (15%) of them alleged sexual and/or gender harassment. Comparing the number of sexual/gender harassment complaints processed for all of FY 03 (17) to the volume year-to-date for FY 04, complaint levels are trending slightly upward for FY 04. In FY 03, 17 of a total of 126 complaints (13%) were sexual / gender harassment complaints. In addition to sharing information on complaints with the MI PM, since February 10, 2004, EEO Counselors have been sharing information on allegations of sexual harassment with the Work Environment and POSH hotline, which is maintained in the CR Office, to allow collaboration on trend analysis, root cause identification, and resolution strategies. Employees also have the option of calling in complaints of sexual harassment to the hotline, rather than the ECP office. Only one complaint of sexual harassment was called into the hotline during this reporting period and it was referred to the MI PM, who initiated an investigation. In addition, a total of 33 inquiries regarding sexual harassment were completed by the MI program, and four MIs were initiated, including the one called into the hotline. (See the Misconduct Investigations section of this report for more details.) These statistics are now being analyzed collectively by the three PMs (MI, Informal EEO, and POSH) to determine additional strategies aimed at workplace improvement. The status of resultant analysis and actions will be reported in the next semi-annual report.

Trends Improving on Los Padres and Angeles; Seven Units Remain Free of Sexual / Gender Harassment Complaints for FY 03 and FY 04 To Date: In FY 03, aside from the Regional Office, the Angeles and the Los Padres NFs had the greatest number of total informal complaints, seventeen and sixteen respectively, the majority of which were reprisal. Based on the current nine-month reporting period, both Forests are exhibiting downward trends, each with

seven informal complaints total, and zero and one sexual / gender harassment complaints, respectively. However the complaint levels on the San Bernadino and Stanislaus NFs are trending higher, with fourteen and ten total informal complaints, respectively. It is noteworthy that one individual filed four complaints on the Stanilaus NF.

While the Modoc NF was the only totally complaint-free unit, so far in the current FY nine units in addition to the Regional Office had no informal EEO complaints related to sexual/gender harassment: the Angeles, Eldorado, Klamath, Lassen, Lake Tahoe Basin, Lassen, Modoc, Sequoia, and Tahoe NFs. Seven units, all of the above except the Eldorado, have remained free of sexual/gender harassment complaints for both FY 03 and FY 04 (to date). The Region will initiate a review of selected units to identify best practices.

The Regional Office, Vallejo, had the greatest number of total complaints (Class Member and non-class) for both FY 03 and FY 04. However, three (3) complaints were filed against Vallejo in FY 04 by employees who worked on Forests. It is noteworthy for this reporting period that only one Class Member complaint (3%) was filed against the Regional Office out of a total of 33 complaints. In FY 03, three (3) out of 33 total complaints (10%) were filed by Class Members, which indicates a downward trend for class complaints against Vallejo for this reporting period.

3) Analysis of Resolution Rates and Case Closures:

Combined (ADR and Traditional Counseling) Complaint Resolution Rate Remains Unchanged at Approximately 34%: Table 11-2 compares the resolution rates for Informal Complaints in R5 and for R5'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 Table 11-2. The ADR resolution rate in Table 11-2 includes the complaints that were resolved through ADR mediation efforts during the informal counseling period.

Table 11-2: Resolution of Informal Complaints

Group ¹	2004 Resolution Rates (Nine Months)		
	Traditional Counseling	ADR	Combined Rate
R5-ALL	18 (37%)	13 (31%)	31(34%)
R5 Class	2 (40%)	1 (7%)	3 (16%)

¹Code 20 settlements are included in resolution rates; these include cases settled after the Notice of Right to file formal was issued and before the formal complaint is filed.

R5's combined resolution rate of 34% is one percentage point lower than the resolution rate for the previous reporting period (35%). However, keep in mind that the previous rate was based on a full fiscal year, the usual reporting period used by EEOC for evaluating resolution trends.

ADR Resolution Rate Up Seven Percentage Points: The ADR resolution rate of 31% increased over the FY 03 rate of 24% (7 percentage points). This increase is

due to a recent effort to expedite scheduling of mediations for informal complaints. The traditional counseling resolution rate of 37% has decreased from the FY 03 rate of 44% (7 percentage points). Again, the current period resolution rate is based on complaints processed over a nine-month reporting period, versus a twelve month period.

Several Units with High Resolution Rates: The Angeles, Eldorado, Lassen, Shasta Trinity, and Sierra NFs resolved 50% or more of their complaints. It is noteworthy that the higher resolution rates for these locations result from a high number of voluntary withdrawals by Complainants. A review of the process indicates that EEO Counselors are providing effective services for the Complainant to make an informed decision.

Class Member Resolution Rates Remain Low: As with the last reporting period, the Class Member combined resolution rate is 18 percentage points lower than that for all complaints. The Class Member traditional counseling resolution rate is higher than both the ADR and combined rate. Only one Class Member complaint settled in ADR. The low ADR resolution rate is due to delays in scheduling mediations. Because of the delays, many cases advanced to the formal stage before the mediation took place. Many of these Class Member complaints had been pending for over 60 days, before the recent effort to expedite scheduling of mediations.

Improvements Noted in Time to Complete Settlement Agreements: Table 11-3 depicts elapsed time to resolution for 13 settlement agreements finalized for cases closed during this nine-month period. Of the 13 settlement agreements, none were closed in less than 40 days. Five ADR cases (56%) were settled in less than 90 days. This can be attributed to the recent effort to expedite mediations. Two traditional counseling cases (50%) were settled in less than 90 days. Out of 13 total settlements, seven (54%) were settled in less than 90 days. This represents an improvement when compared to FY 03, when 50% of a total of 12 settlements were closed in less than 90 days.

Table 11-3: Time to Resolution

Resolution Forum	Settled in 7-40 days	Settled in 41-89 days	Settled in 90+ days ¹
ADR	0	5 ²	4
Traditional Counseling	0	2	2
Total	0	7	6
1	Cases that settled after 90 days were counted as code 20 informal settlements because the settlement occurred after the NRF was issued, but before the formal complaint was filed.		
2	Four of these cases were mediated through the WO ADR Program.		

EEO Counselors and the ADR Manager are collaborating and following up on ADR cases at 30-day intervals to ensure timeliness of the Informal EEO Process. In June 2004, the Vallejo ECP published a summary of settlement terms for R5 managers. These reports are available to the MC upon request.

ADR Usage and Case Closure Rate is Up: The FS continues to seek opportunities to increase the visibility and use of ADR by Complainants as an avenue for face-to-face mediation and resolution. Data indicates a continuing increase in the number of cases processed and closed via ADR. ADR cases accounted for 62% of all case closures and 74% of Class Member case closures, compared to 47% of all case closures and 60% of Class Member case closures in FY 03. The increase in cases processed through ADR can be attributed to the counselors emphasizing the advantages of mediation when discussing the ADR election. Tables 11-4 and 11-5 depict which resolution forum (i.e., ADR or traditional counseling) was elected in closed cases. As of June 30, 2004, an election had not yet been made in some open cases.

Table 11-4: Counseling Method Elected in All Closed Cases

Resolution Forum	2004	
	Number of Closed Cases	% of Total Cases Closed
ADR	57	62%
Traditional Counseling	35	38%
Total	92	100%

Table 11-5: Counseling Method Elected in Closed Class Member Cases (Subgroup of Total)

Resolution Forum	2004	
	Number of Closed Class Cases	% of Class Member Cases Closed
ADR	14	74%
Traditional Counseling	5	26%
Total	19	100%

❖ **Timely Mediation:** R5's EEO Counselors continue to collaborate with the ADR PM to ensure timely processing of ADR by following up on the status of ADR elections on the 30th, 60th, and 85th days of the counseling period and by keeping the Complainant informed of their complaint status. During this period, a special effort was made to schedule mediations within the 90-day informal counseling timeframe in order to clear a backlog of cases. See the ADR section of this report for details.

❖ **Process Enhancements:**

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. In October 2003, a revision was made to the written notification, emphasizing the need to be mindful of reprisal and confidentiality concerns. The Vallejo ECP has been monitoring

trends to ascertain if this notification has a positive effect on the resolution rate of informal cases, since the Forest Supervisor is the Resolving Official on each NF. Based on the foregoing discussion of the resolution rates, it is too soon to tell if this has had any effect.

Improved Confidentiality: New desk operating procedures for EEO Counselors, particularly in regards to confidentiality issues, have been completed to address concerns of employees who are reluctant to file Informal EEO Complaints. Copies of the revised desk procedures are available upon request.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	5 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 made in the last two years. Due to revisions to the ADR election process and greater collaborative efforts between the ECP and ADR staffs, the resolution rate has improved.
11.1 Provide training to all EEO Counselors.	G	G	G	G	G	Training was completed in May 2004.
11.2 Design and conduct a voluntary survey of participants in the EEO process.	G	G	G	G	G	System enhancements were completed in December 2003. R5 is 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 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.

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 five business days after the EEO Counselor conducts the initial interview with the Complainant.	7/8/03	7/30/03	11	Ⓞ	Implemented immediately.
2003-0033 Allegations of reprisal reported to EEO counselors as part of the informal EEO process will be reported to the Region within 24 hours, with the employee's permission to report their name. An employee may elect to remain anonymous; however, the complaint must be reported to the Region within 24 hours, as required with sexual harassment complaints.	11/7/03	1/9/04	11	Ⓞ	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	Continue to interview respondents, completing survey by telephone.	T. Cordova	Monthly, beginning October 2003
3	Continue to explore other options for increasing survey response rates.	P. Blount, T. Cordova	Annually beginning October 2003
4	Continue to collaborate with ADR Program to address timeliness in the informal process.	N. Tousley, T. Cordova, D. Gentry	Monthly, beginning October 2003
5	Collaborate with the MI PM to address sexual/gender harassment and reprisal complaint activity.	T. Cordova	Monthly beginning May 2004
6	Analyze surveys to improve the Informal EEO Process and monitor participation rate.	P. Blount, T. Cordova	Quarterly beginning October 2003
7	Provide copies of all withdrawal confirmation letters to the MC.	T. Cordova	Semi-Annually, June and December
8	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, Markette Drone	Monthly beginning October 2003
9	Provide copies of ADR election letters to the MC.	T. Cordova	Semi-Annually, June and December

12.0 MENTORING PROGRAM

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 12.1:

The Agency shall create a task force to examine the Region 5 (R5) 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 (PM), Regional Training Officer, Program Facilitator, one line officer, one union representative, one Forest Civil Rights Officer (FCRO), 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 participants' understanding of the culture and organization of the FS, help participants identify career goals and their potential for achieving those goals, improve interpersonal communications skills, and increase employees' self-confidence. An orientation kicking off the Formal Mentoring Program was held on October 27, 2003, at the Hyatt Regency Hotel in Sacramento, California. Two formal training sessions were conducted on November 12 – 14, 2003, and December 3 – 5, 2003.

During the initial Mentoring Program Design Team meeting held in July 2003, it was determined that the formal Mentoring Program would not address the Monitoring Council's (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. The program was titled "Just-In-Time."

RECORDKEEPING AND REPORTS

The Training Connection, a vendor that supports the Mentoring Program, maintains all records in a secure Standard Query Language (SQL) server database. The PM has access to all data at all times. The following information is maintained in the database: profile information for each applicant; grade and series; location; mentor/mentee pairs;

Mentoring Action Plans; and supervisory information. The contractor provides 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 when participants access the system.

Gender information is captured on the application form and statistical information, such as the number of completed applications and how many pairs completed their mentoring action plans, is collected manually. Reports are provided on an as needed basis, the main purpose of the database is to track the activity of the program.

ACCOMPLISHMENTS FOR THE REPORTING PERIOD (JANUARY – JUNE 2004)

- ❖ **Formal Training Session:** The Region held a one-day makeup training session on January 13, 2004, in Sacramento, California. By attending this session, all individuals who were matched, but who missed the previous training courses, were able to continue in the program.
- ❖ **Participation in the Formal Mentoring Program:** As stated in the previous report, the Region trained 39 mentoring pairs. During this reporting period, the number of participating mentoring pairs decreased to 33 for the following reasons:
 - Ended due to illness of a mentee (1) and a mentor (1),
 - Ended due to non-participation by the mentor (2),
 - Ended per mutual agreement between the mentor and mentee (1). (After a discussion between the two on the mentee's objectives, both agreed that the mentee could meet those objectives outside of the formal program), and
 - Ended because the mentee left the Agency (1).

Those mentees whose partnerships ended due to lack of participation by the mentor will have priority during the matching process for the next session, which begins in October 2004. A formal closing session will be held in Sacramento, California, in November 2004. The closing session will formally end the 2004 mentoring partnerships.

- ❖ **Status of Ongoing Communication with Participants:** During this reporting period, once a week the Contractor emailed participants as a way to stay connected. Information such as program updates and newsletters were distributed as needed.
 - ❖ **Monitoring the Success of Partnerships:** The Contractor and PM contacted mentoring pairs during periods of program inactivity, such as when a pair failed to complete the mentoring agreement or action plan in a timely manner.
 - ❖ **Completion of the Mid-Point Evaluation of the Formal Mentoring Program:** As part of their contract obligation, the Contractor provided a mid-point evaluation for the Formal Mentoring Program. The mid-point evaluation process consisted of a written survey and a teleconference conducted by the Mentoring Program Contractor and the PM on May 27, 2004. The evaluation had three objectives: 1) assess the progress participants are making toward their mentoring goals; 2) uncover problems
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with the program; and 3) solicit recommendations for improvements or adjustments to the program design. Mentors, mentees, and supervisors were included in the written phase of the evaluation process. Participants in the survey were able to complete the survey questionnaire online, and the questionnaire format included space for providing narrative comments. Of the 132 mentoring program participants (including supervisors), 65 participants completed the written survey: 22 mentees, 19 mentors, and 24 supervisors.

❖ **Overall Conclusions of the Mid-Point Evaluation:** The evaluation report prepared by the Contractor summarized both the numerical and qualitative information received during the evaluation process. A formal summary of the report is included as Appendix F.1, and the report itself is included as Appendix F.2 of this semi-annual report. Overall conclusions of the evaluation are as follows:

- **Overall Strengths of the Program:** Comments regarding the Mentoring Program were positive. Based on the feedback received, it appears that the Program is effectively providing its mentees with opportunities for networking, constructive feedback, and new approaches for career development. The mentees have improved their communication and technical skills and are grateful for all of the support afforded to them. All comments are included in Appendix F.1 and F.2.
- **Mentoring Matches:** When asked about the suitability of the mentoring matches, 88% of all respondents, including supervisors, indicated their match was either “very good” or “good.” (The available ratings were “very poor,” “poor,” “not sure,” “good” and “very good.”) Based on survey results, the matching process has successfully matched mentors and mentees, which has contributed to a more effective Mentoring Program.
- **Program Benefits:** Mentors, mentees, and supervisors have benefited from the program and were very satisfied with both the formal program structure and flexible program components. Mentors credit the Program with giving them a broad perspective of the Agency. The supervisors have also benefited, as they have gained additional exposure within the organization and have reaped the many benefits of a motivated and enthusiastic employee.

In addition to the evaluation results, the Survey report included recommendations and proposed actions. Those accepted action items have been incorporated into the overall Action Plan for the Mentoring Program.

- ❖ **FY 05 Mentoring Class:** The Contractor and PM have developed a timeline for the FY 05 program. The program orientation will be held on October 18, 2004. The announcement for the 2005 program was opened in August and remains open for 45 days.
 - ❖ **Informal “Just-In-Time” Mentoring Program:** The Region implemented the “Just-In-Time” program in June 2004; the call letter announcing the program was issued on June 23, 2004. Although the original target for implementation was early 2004, negotiations with the National Federation of Federal Employees (NFFE) did
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not conclude until May 5, 2004, and the Regional Partnership Council formally signed the plan on May 18, 2004.

- ❖ **“Just-In-Time” Training Held:** The training session for “Just-In-Time” Mentors was held on June 16 and 17, 2004, in the Regional Office. Two mentors were trained (Maxie Hamilton and Leila Devine); also attending as observers were Mary Weiss, Dan Duefrene, John Urrutia, and Renee Reed. Due to the low participation, the Regional Forester (RF) has given direction in a letter dated July 30, 2004, that each Forest provides one person to serve as a mentor for the program.
- ❖ **Monitoring and Survey of the “Just-In-Time” Program:** As in the formal program, a mid-point evaluation will be conducted in December 2004 on the “Just-In-Time” program and findings will be shared in the sixth semi-annual report.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	5 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
12.0 Mentoring Program Overall Performance Scorecard	G	G	G	G	G	A mid-point evaluation on the formal Mentoring Program was completed in May 2004 and findings were shared in August 2004 with Regional leadership and Program participants. PM will make adjustments in the current program and upcoming class.
12.1 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	G	G	The Mentoring Design Team developed the Formal Mentoring Program during the development process a proposal for the “Just-In-Time” informal 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	Ⓞ	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	Ⓞ	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	Ⓞ	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	Ⓞ	Program was advertised throughout R5 and was open to male and female employees.

ACTION PLAN

No.	Action	Responsible Official	Date
1	Provide a copy of mid-point evaluation to the Regional Leadership Team and all participants.	Program Manager	August 2004
2	Conduct quarterly conference call with Mentoring pairs.	Program Manager	October 2004
3	PM/Contractor will perform a quarterly review on the progress of Mentoring Action Plans.	Program Manager	September 2004
4	Implement FY 05 Mentoring class.	Program Manager	October 2004
5	Send memo to the supervisors of FY 05 participants, signed by the RF or Associate RF, emphasizing the importance of their (supervisor) roll in the mentoring program.	Program Manager	October 2004
6	Conduct midpoint evaluation for Just-in-Time program.	Program Manager	December 2004

13.0 SCHOLARSHIPS

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 13.1:

Region 5 (R5) shall set aside at least \$100,000.00 per year for scholarships; provided, however, that R5 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 R5'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 (CR) 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.
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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

On February 6, 2001, R5 agreed to set aside \$100,000 annually for three years to assist employees in receiving training that will benefit them in both their current jobs and future career goals and that will benefit the USDA FS by increasing the needed skills identified in the Regional Workforce Plan. A total of \$100,000 in scholarships was awarded in 2002; \$115,000 was awarded in 2003; and \$116,000 was awarded in 2004.

The Region has agreed to extend the program for one additional year, through the end of fiscal year (FY) 05. 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 factors:

- 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.

RECORDKEEPING AND REPORTS

In the 4th semi-annual report, the Region made a commitment to identify a more effective way to track the funds used in the scholarship program and ensure that program funds are being expended. The scholarship recipients continue to submit a quarterly spreadsheet to document their expenditures and provide receipts and invoices to allow the Program Manager (PM) to verify funds usage. The PM works with the budget staff to generate a monthly report that shows the total funds expended for a given month. The PM and Budget Technician review these report on a monthly basis. At any given time, the Scholarship PM can generate a summary or a detailed budget sheet for an individual and determine how much of their award has been spent, when the funds were spent, and what funds have been spent on, in order to ensure that scholarship dollars are being used. Detailed reports are also created to break down expenses by category, such as by travel, training, supplies, and tuition.

The Region uses an Access database as the tracking tool for the Scholarship Program. The following types of information are tracked using the database: name, location, and

gender of recipients; course(s) requested, course cost, total amount of award, types of time being used to take course, and supervisory information. Demographic information is also tracked, with the exception of race and national origin data that is obtained from the CR staff after selections are made.

The Scholarships PM also uses a tracking system that was developed using Lotus Notes. Information and documentation on Scholarship Program activity are posted in a central database. The PM relies on the database as a resource when preparing the semi-annual report. A variety of information is placed into the central database, including documentation of significant actions and accomplishments; responses to information; and notations on key meetings held. Important hard copy documents are electronically scanned and stored in the database.

ACCOMPLISHMENTS FOR THE REPORTING PERIOD (JANUARY – JUNE 2004)

- ❖ **Common Questions and Answers Placed on Regional Intranet Site:** In January 2004, a link to a Questions and Answer page was placed on the Regional intranet homepage. The questions most commonly asked about the Scholarship Program and responses to these questions were included on this page. A link to the page was placed in the “Quick Pick” section of the Regional intranet homepage.
- ❖ **Enhanced Publicity of the Scholarship Program:** The Scholarship PM contacted the Human Resource (HR) Specialists on April 14, 2004, and asked them to ensure that information on the Scholarship Program was distributed to units. A notice announcing the 2004 Scholarship Program was distributed to Human Resource Officers (HROs) and Forest Civil Right Officers (FCROs) for distribution and posting on unit bulletin boards. The PM will provide a scholarship program briefing during the upcoming Woman's Conference in October 2004. The PM will contact previous scholarship recipients and ask them to present an overview of their experience at the conference.
- ❖ **FY 2005 Scholarship Applications:** The call letter announcing the FY 05 Scholarship Program was sent to all employees on March 31, 2004, with a reply due date of May 28, 2004. The Monitoring Council (MC) recommended an eight-week application period, and the Region accepted. During the final week of the original application period, it was discovered that an incorrect fax number was placed on the scholarship application. This error was corrected immediately and the reply due date was extended by four weeks.

The Region received a total of 139 applications that included 120 individual applications and 19 group applications. The applicant pool included 90 females and 30 males.

- ❖ **Program Completion Status:** Scholarship recipients submitted proof of program completion to the PM, including the certificate of completion, completion letter from the trainer, and college transcripts. When documentation was not available, the PM requested that recipients submit a letter self-certifying that the course was completed. Coordinators verified by email or written correspondence to the PM that group-training sessions were conducted and completed.
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- ❖ **Expenditure of Funds:** Based on documents submitted to the PM and from telephone conversations with recipients; as of June 30, 2004, \$59,317 of FY 04 scholarship monies has been expended. Many of the recipients are still completing classes for the summer session; therefore, a full review of expenditures will be completed in the late fall.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	5 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
13.0 Scholarships Overall Performance Scorecard	Ⓞ	Ⓞ	Ⓞ	Ⓞ	Ⓞ	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.	Ⓞ	Ⓞ	Ⓞ	Ⓞ	Ⓞ	The region has extended the program for one additional year.
13.2 Review Scholarship Program to ensure that women are not denied opportunities.	Ⓞ	Ⓞ	Ⓞ	Ⓞ	Ⓞ	Program is widely publicized. The Region has issued a call letter, distributed flyers throughout the Region, and sent a follow-up reminder to all employees regarding the submission closing date.

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	Ⓞ	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	Ⓞ	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	Ⓞ	Same wording was used in FY 05 call letter.
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	Ⓞ	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	Ⓞ	NFFE was invited to participate.
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	Ⓞ	The program has been highly publicized throughout R5. In FY 04, 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 05 call letter was sent out in April and open for eight weeks.

ACTION PLAN

No.	Action	Responsible Official	Date
1	Information providing guidelines for official time use is placed in the Awardees letter.	Maxie Hamilton	August 2004
2	Review Frequently Asked Questions sheet on Scholarships and update if needed.	Maxie Hamilton	September 2004
3	Conduct conference call with all awardees and supervisors to discuss program and responsibilities.	Maxie Hamilton	September 2004
4	Complete analysis of FY 04 Coursework and Funding.	Maxie Hamilton	November 2004

14.0 ADVERSE ACTION DIGEST

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 14.1:

Region 5 (R5) shall publish a semi-annual Adverse Action Digest (AAD) of disciplinary actions of one-day suspension or more taken against employees in R5.

Provision 14.2:

The AAD 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 have resulted from unacceptable behavior in the workplace and to reinforce R5's commitment to ensuring individual accountability for misconduct. 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 AAD summarizes the disciplinary and/or adverse actions issued to R5's permanent and temporary employees. All disciplinary actions, including letters of reprimand, suspensions, removals, resignations, alternative disciplines, and terminations, taken against employees in R5 are included in this report. Adverse actions continue to be summarized by Forest, by Supervisor/Non-Supervisory position, by gender, by the type of appointment, by ethnicity, and by the type of disciplinary actions in a report entitled *Statistics Report for Disciplinary and Adverse Action Digest Submissions* (see Appendices G.1 and G.2).

The AAD Program Manager (PM), through the Human Resources Officers (HROs), is responsible for the development and publication of the AAD.

RECORDKEEPING AND REPORTS

All disciplinary/adverse actions are logged, assigned a number (i.e., AA-04-01), and put into the AAD as they are received from the Forests' HROs. A final reminder is sent to the field Units before the AAD is finalized to ensure that all actions are included for the reporting period.

The AAD is distributed semi-annually to all employees under a cover letter signed by the Regional Forester (RF), in accordance with the Women's Settlement Agreement (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.

ACCOMPLISHMENTS FOR OCTOBER – DECEMBER 2003 AND FOR THE REPORTING PERIOD (JANUARY – JUNE 2004)

- ❖ **Realignment of AAD Staff Responsibility:** In the past, the Employee Relations Supervisor, Human Resources (HR) Director, Deputy HR Director, and Associate RF reviewed the AAD before it was sent to all R5 employees and the Monitoring Council (MC). As of February 9, 2004, responsibility for the AAD was transferred to the new Settlement Agreement (SA) staff, and the SA Director is responsible for reviewing the AAD before it is sent to all R5 employees. The AAD PM will continue to develop the AAD until the new SA staff member who will be responsible for the AAD and Exit Interview programs is hired.
 - ❖ **AAD Report Distributed:** The AAD covering the first and second quarters of FY 04 (covering the period October 1, 2003 – March 31, 2004) was distributed to the MC and all R5 employees on April 1, 2004 (see Appendix G.1).
 - ❖ **AAD Report Period Changed to Coincide with Semi-Annual Reporting:** To date, AAD data has been submitted and reported on a fiscal year basis. On July 20, 2004, the Region requested and received approval from the National Federation of Federal Employees (NFFE) to change the AAD reporting from a fiscal year to a semi-annual basis. In July 2004, R5 issued a second AAD that covered the period of April 1 – June 30, 2004 to bring the AAD program into the new reporting period (see Appendix G.2). All subsequent AADs will be provided on a semi-annual basis, beginning with the December 30, 2004 report, which will cover the period of July - December 2004.
 - ❖ **AAD Intranet Report Style Changed:** During this reporting period there were complaints from two employees about difficulty reading the columnar style used in the AAD posted on the intranet. The AAD PM discussed these complaints and proposed changes to the AAD style with the Washington Office (WO) and NFFE, both of whom approved the change from columnar style to block style. The most recent AAD (see Appendix G.2) reflects the new style.
 - ❖ **AAD Used during POSH Training:** The AAD continues to be used as a training tool and to be provided to the Sexual Harassment Trainers conducting the mandatory Prevention of Sexual Harassment (POSH) training and the Specialized One-on-One POSH training. The AAD PM continually reviews and analyzes the data from the AAD, and Appendices G.1 and G.2 summarizes the inappropriate activities and list the most common types of adverse actions based on the analysis for this reporting period. Those activities and resulting adverse actions, as well as the inappropriate sexually harassing comments continue to be pointed out during the annual mandatory and Specialized One-on-One POSH training sessions.
 - ❖ **Summary and Analysis of AAD Data for the Period:** Table 14-1 includes AAD data for the last two fiscal years as compared to the fiscal year (FY) 04 to date, as well as data for the current reporting period.
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Table 14-1: Comparison of Adverse Actions by Reporting Period

	FY 02	FY 03	FY 04 (10/1/03 – 6/30/04)	01/01/04 – 6/30/04 Current Reporting Period
Total Adverse Actions	241	187	136	68
Sexual Harassment	8	23	17	12

As shown in Table 14-1, the number of adverse actions related to sexual harassment in FY 03 was approximately three times the number in FY 02, from eight to 23, while the overall number of adverse actions in the Region decreased significantly. At the end of the 3rd quarter of FY 04 (June 30, 2004) the number of adverse actions related to sexual harassment was trending toward the same level as FY 03. There were a total of 17 adverse actions related to sexual harassment in 2004, 12 of which occurred during the current reporting period (January - June 2004). R5 is confident that the increase in adverse actions related to sexual harassment is a testimony to the “zero tolerance” approach adopted by the Region in 2002, which was extensively deployed, communicated, and reinforced in 2003 and 2004. For this reporting period there were no substantiated allegations of reprisal; therefore, there were no adverse actions taken.

- ❖ **Discipline for Sexual Harassment Adverse Actions:** Sixteen adverse actions that involved inappropriate behavior that could be construed as sexual harassment occurred between October 1, 2003, and June 30, 2004. See Appendix G.1 and G.2 for a description of the specific actions. The disciplinary action that resulted is depicted in Table 14.2.

Table 14.2: Discipline for Adverse Actions Involving Sexual Harassment during October 2003 – June 2004

Total Adverse Actions Involving Sexual Harassment	Suspensions	Reprimands	Removals
16	3	4	9

- ❖ **Report Publicized:** The AAD is being used for training purposes, as agreed. Intranet access was publicized via email to all employees in the Forest and Province Offices. Hard copies of the AAD were distributed to all Forests and Provinces and posted on all Bulletin Boards. 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 PM continues to prepare 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. During this reporting period, six employees (three females and three males) attended Specialized One-On-One POSH training.

- ❖ **Use of the Adverse Action Digest during Training and Employee Orientation:** This is the second reporting period since Forest Supervisors and Directors were directed to refer to the AAD during all training and employee orientations. The AAD was provided to the trainers who conduct Specialized One-on-One POSH training and annual mandatory POSH Training for all employees and managers/supervisors.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	5 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
14.0 Adverse Action Digest Overall Performance Scorecard	Ⓞ	Ⓞ	Ⓞ	Ⓞ	Ⓞ	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.	Ⓞ	Ⓞ	Ⓞ	Ⓞ	Ⓞ	The AAD continues to be 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.	Ⓞ	Ⓞ	Ⓞ	Ⓞ	Ⓞ	Records continue to be kept as required.

15.0 WOMEN'S CONFERENCE

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 15.1:

Region 5 (R5) shall sponsor an annual Women's Conference, open to female employees of R5 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 (ERGs)

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

Ensure that ERGs 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

The Region committed to sponsoring an annual Women's Conference beginning in 2002. The purpose of the Conference is to empower FS women to enhance their personal lives and improve their professional performance by bringing people together to learn, network, relax, and grow. The first Women's Conference was held in October 2002, and 216 employees from throughout R5 attended the Conference. Building on the success of the 2002 event, the second Women's Conference was held in October 2003 and approximately 328 employees attended, including approximately 50 Regional Leadership Team (RLT) members who held their main annual RLT meeting concurrently with the Conference and also participated in group activities with Conference attendees.

RECORDKEEPING AND REPORTS

Records are currently on file for the 2002, 2003, and upcoming 2004 Women's Conferences. The following records are kept: 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, an employee, as part of her graduate studies work, developed a three-phase survey of 15% of Conference participants, which allowed R5 to more thoroughly analyze attendance satisfaction. The survey records will be added to the Conference files. The results of the survey provided information on motivational factors in attending

the Conference, whether or not expectations were met, and what components of the Conference could be improved or enhanced in 2004.

Information for the 2004 Conference is being tracked in a Lotus 6 database that is organized by category: General Correspondence, Planning, Forest Ambassadors, Speakers, Monitoring Council Suggestions, Workshops, Research, and Meetings.

ACCOMPLISHMENTS FOR OCTOBER – DECEMBER 2003 AND FOR THE REPORTING PERIOD (JANUARY – JUNE 2004)

- ❖ **Conference Planning Organization:** In May 2004, the Conference Planning Team was organized under an Incident Command System, with 14 employees fulfilling duties including Logistics, Operations, Procurement, and Supply Unit Leader. Each forest and the Regional Office identified “forest ambassadors” to assist in promoting the Conference and assisting employees with registration.
 - ❖ **Setting Conference Planning Goals:** R5’s goal for the 2004 Women’s Conference is to help empower FS women to enhance their personal lives and improve their professional performance by bringing people together to learn, network, relax, and grow. The Conference Planning goal is to provide an inclusive, high-quality event with an agenda that offers a diverse array of speakers and workshops.
 - ❖ **Integrating Input from Previous Conferences and Building on Successes:** The format and design for the 2004 Conference was developed based on analysis of evaluations from the 2002 and 2003 Conferences and discussions with the Monitoring Council (MC), Civil Rights (CR), and the 2003 Conference planning team. In May 2004, the Conference Coordinator reviewed evaluations and surveys from the 2003 Women’s Conference to ensure that survey findings and employees’ comments were incorporated into 2004 Conference planning. Responses to specific requests are included in the 2004 Women’s Conference Planning Report (see Appendix H.1).
 - ❖ **Working with the Monitoring Council:** The Conference Coordinator has been conferring with the MC about potential speakers and workshops and met with the MC on May 6 and June 21, 2004, with the goal of meeting the MC’s vision and expectations for the 2004 Conference and to keep the MC apprised of progress on Conference development.
 - ❖ **Status of Event Planning as of June 2004:** A detailed planning report for the 2004 Women’s Conference is included as Appendix H.1. Below is a summary of the status of conference planning as of June 2004.
 - **Meeting Facilities and Accommodations:** The Procurement Unit Leader has reserved meeting facilities at the Sheraton Grand Hotel and the Convention Center, and a block of 300 sleeping rooms has been reserved at the Sheraton Grand Hotel. Based on an analysis of Conference attendance over the past two years, the Conference Planning Team feels that these quantities of sleeping rooms and meeting space are adequate.
 - **Event Publicity:** All regional employees have been invited to the Conference via a “Save the Date” e-mail informing them of the date, time,
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location, and basic conference details. A website was created to provide similar information: www.fs.fed.us/r5/womens-conference.

- **Conference Registration:** The 2004 conference registration process has been simplified and is now more user-friendly in response to feedback received from 2003 participants. Employees will be able to register for the Conference, choose workshops, or change their schedule through an online registration contractor at any time of the day or night, from any computer with an Internet connection.
 - **Speaker/Presenter Diversity:** In response to concerns raised by the Class Representative about the lack of diversity of speakers at the 2003 conference, the Conference Coordinator, in conjunction with CR staff, is making every practical effort to ensure that Conference speakers and workshop presenters are a diverse group.
 - **Workshops & Breakout Sessions:** There will be four tracks of workshops at this year's Conference: (1) Life/Career Skills, (2) Interpersonal Communication, (3) Healthy Body/Healthy Mind, and (4) Education/Professional Development. A "Call for Papers" was sent to all Regional employees in May 2004 to request submission of papers and/or presentation topics for the Track 4 workshop series.
 - **Keynote and Plenary Speakers:** Robin Gerber, author of "Leadership the Eleanor Roosevelt Way: Timeless Strategies from the First Lady of Courage," will be the keynote speaker for the 2004 Conference. In addition, Gloria Brown, new forest supervisor on the Los Padres National Forest, will be one of three plenary luncheon speakers.
 - **Evening Socials and Networking Opportunities:** The second evening of the Conference will, for the second year in a row, feature the Information Expo and a concurrent social hour. All employees have been invited to host a booth and/or exhibit at the Expo to share their work or special projects.
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PERFORMANCE SCORECARD

Injunctive Relief Provision Area	5 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
15.0 Women's Conference Overall Performance Scorecard	G	G	G	G	G	Feedback relating to the 2003 Conference was reviewed and evaluated in this report. Changes have been implemented for the 2004 conference based this feedback and evaluation. 2004 Planning is proceeding on schedule.
15.1 Sponsor an Annual Women's Conference, open to female employees of the region, regardless of supervisory capacity.	G	G	G	G	G	Feedback relating to the 2003 Conference was reviewed and evaluated in this report. Changes have been implemented for the 2004 conference based this feedback and evaluation. 2004 Planning is proceeding on schedule.

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	Continue planning for and host the 2004 Conference.	Stephanie Gomes	October 2004
2	Collect and compile feedback received after 2004 Conference.	Stephanie Gomes	December 2004

16.0 ADVANCE ADVERTISEMENT OF WORK DETAILS**STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS*****Provision 16.1:******R5 shall advertise all details of 90 days or more in R5.******Provision 16.2:******R5 shall maintain records of all details advertised under this section.*****Recommendations Relevant to This Provision****2002-0004—Recommendation for Implementation of Advance Advertisement of Work Detail (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 recordkeeping procedure.
3. Appoint a Program Manager (PM) responsible for developing processes for recordkeeping 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

The R5's Women's Settlement Agreement (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 (IRP) 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.

Based on a policy memorandum issued on November 12, 2003, for all advertised details and temporary promotions (except those announced through merit promotion, which has different requirements), managers are required to submit a Standard Form 52 (SF-52), Request for Personnel Action and a complete "Manager's Request to Advertise Detail Opportunity," or equivalent document, to the appropriate Human Resources (HR) staff. The HR staff is responsible for posting the outreach notices in the FS Outreach Notice database, usually within two working days of receiving the complete SF-52 package. It is no longer permissible to fill unannounced successive details/temporary promotions to the same position/unclassified duties, when these successive details/temporary promotions cumulatively exceed 89 days. Exceptions to advertising successive extensions of details/temporary promotions that cumulatively exceed 89 days must be approved by the

Associate Regional Forester (RF). These new policies have been implemented so that the AAWD Program more fully meets the intent of the WSA when details and temporary promotions in excess of 89 days are announced. Managers are encouraged, but not required, to advertise details/temporary promotions that are 89 days or less.

RECORDKEEPING AND REPORTS

The HR Staff inputs temporary promotions and details from an approved SF-52, Request for Personnel Action, into the National Finance Center (NFC) system for processing. A focus report is generated from NFC and sent to the AAWD PM who subsequently loads the file into the Access database, which generates a report on details and temporary promotions for a specific period. The Monitoring Council (MC) is provided with ongoing NFC reports for compliance monitoring of details and temporary promotions. The NFC system does not report information on the position to which the employee is being detailed; therefore, the HR Staff has been required to provide this information for tracking purposes. Recordkeeping has been improved with the implementation of the SF-52 Tracker System on June 1, 2004. The SF-52 Tracker System is now being used to track all personnel actions, including details and temporary promotions. The SF-52 Tracker System has the capacity to generate reports that provide complete information on details, including the title, series, grade, and location of the detail position as well as the position of record.

The HR Staff is required to keep case files on all details lasting more than 30 days, as well as for those requiring outreach notices and advertisements. The file includes an approved SF-52, Request for Personnel Action, Manager's Request to Advertise Detail Opportunity, Outreach Notice (details more than 89 days), and Position Description or outline of responsibilities for unclassified duties. The AAWD team room was established on July 16, 2003, for the HR Staff to archive vacancy announcements and outreach notices for details and temporary promotions lasting longer than 89 days. The AAWD PM and MC have access to the team room to track details and temporary promotions to ensure compliance with the WSA.

ACCOMPLISHMENTS FOR OCTOBER – DECEMBER 2003 AND FOR THE REPORTING PERIOD (JANUARY – JUNE 2004)

- ❖ **Improved Records and Reporting:** During this reporting period, R5 contracted with a computer programmer to enhance reports we provide the MC that incorporated both the NFC system database and the Applicant Flow System (AFS) applicant gender pool data. Focus Reports link specific vacancy announcements to the applicant pool gender data, which enhances the Region's ability to perform continued analyses of gender data for advertised positions.
 - ❖ **Analysis of Data for the Period and Assessment of Trends across Periods:** R5 continues its commitment to ensuring that all details/temporary promotion actions longer than 89 days in duration are advertised. An analysis of the data for the period January 1, 2004, through June 30, 2004, was conducted to assess the number of actions that were longer than 89 days and those that were 89 days or less in duration. A breakdown of data on details and temporary promotions is included in Tables 16-1
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and 16-2. Table 16-3 is a breakdown of General Schedule (GS) details and temporary promotions by gender and grade.

Table 16-1: Summary of Personnel Actions Lasting 89 Days or Less

Actions for 89 Days or Less	Numbers of Personnel Actions									
	Female Employees				Male Employees				Total Employees	
	Fourth Reporting Period (7/1/03 – 12/31/03)		Fifth Reporting Period (1/1/04 – 6/30/04)		Fourth Reporting Period (7/1/03 – 12/31/03)		Fifth Reporting Period (1/1/04 – 6/30/04)		Fourth Reporting Period (7/1/03 – 12/31/03)	Fifth Reporting Period (1/1/04 – 6/30/04)
	Total	Percent of Total	Total	Percent of Total	Total	Percent of Total	Total	Percent of Total		
Temporary Promotions	64	38%	72	37%	106	62%	124	63%	170	196
Extension of Temporary Promotions	1	17%	2	33%	5	83%	4	67%	6	6
Details	23	40%	26	40%	34	60%	39	60%	57	65
Extension of Details	0	0	0	0	0	0	1	100%	0	1
Total	88	38%	100	37%	145	62%	168	63%	233	268

Table 16-2: Summary of Personnel Actions Lasting Longer Than 89 Days

Actions Longer than 89 Days	Numbers of Personnel Actions									
	Female Employees				Male Employees				Total Employees	
	Fourth Reporting Period (7/1/03 – 12/31/03)		Fifth Reporting Period (1/1/04 – 6/30/04)		Fourth Reporting Period (7/1/03 – 12/31/03)		Fifth Reporting Period (1/1/04 – 6/30/04)		Fourth Reporting Period (7/1/03 – 12/31/03)	Fifth Reporting Period (1/1/04 – 6/30/04)
	Total	Percent of Total	Total	Percent of Total	Total	Percent of Total	Total	Percent of Total		
Temporary Promotions	14	47%	20	43%	16	53%	27	57%	30	47
Extension of Temporary Promotions	2	18%	10	48%	9	82%	11	52%	11	21
Details	6	55%	4	36%	5	45%	7	64%	11	11
Extension of Details	0	0	0	0	0	0	0	0	0	0
Total	22	42%	34	43%	30	58%	45	57%	52	79

During the current (fifth) and previous (fourth) reporting periods, the permanent workforce in R5 was 36% female and 64% male. During this reporting period, women received 37% and men received 63% of total temporary promotions and details that lasted less than 89 days, both of which are in proportion to their workforce representation. During the fourth reporting period, women received 38% and men received 62% of the total temporary promotions and details, which are in proportion to their workforce representation. However, there was a 16 percentage point increase in the number of extensions of temporary promotions lasting 89 days or less received by

women during this reporting period in comparison to the fourth reporting period. In addition, there was a 30 percentage point increase in the number of extensions of temporary promotions lasting 89 days or more received by women during this reporting period in comparison to the fourth reporting period.

The applicant pool gender data will be reported on expressed interest for details and temporary promotions next reporting period, after completion of the data base to incorporate the NFC system and the AFS. This will be accomplished to ensure fairness in granting details and temporary promotions greater than 89 days to both genders.

Table 16-3: Breakdown of Details/Temporary Promotions/Extensions by Gender and GS Grade Levels

GS Level	Female Employees				Male Employees				Total Details/Temporary Promotions	
	# of Details and Temporary Promotions		% of Total Details and Temporary Promotions		# of Details and Temporary Promotions		% of Total Details and Temporary Promotions		Fourth Reporting Period (7/1/03 – 12/31/03)	Fifth Reporting Period (1/1/04 – 6/30/04)
	Fourth Reporting Period (7/1/03 – 12/31/03)	Fifth Reporting Period (1/1/04 – 6/30/04)	Fourth Reporting Period (7/1/03 – 12/31/03)	Fifth Reporting Period (1/1/04 – 6/30/04)	Fourth Reporting Period (7/1/03 – 12/31/03)	Fifth Reporting Period (1/1/04 – 6/30/04)	Fourth Reporting Period (7/1/03 – 12/31/03)	Fifth Reporting Period (1/1/04 – 6/30/04)		
13-15	20	11	57%	32%	15	23	43%	68%	35	34
9-12	45	70	36%	43%	80	91	64%	57%	125	161
2-8	46	52	37%	35%	78	96	63%	65%	124	148
Total	111	133	39%	39%	173	210	61%	61%	284	343

¹Please note that there were four actions involving Wage System positions, which accounts for the difference in total actions reported in this table than are reported in Tables 16-1 and 16-2.

During this reporting period, women received 39% of total details/temporary promotions for GS-2 to GS-15 grade levels, and men received 61%, which is proportional to their workforce representation. Women received 32% of the total details and temporary promotions for GS-13 through GS-15 grade levels this reporting period, in comparison to 57% during the fourth reporting period. This reflects a 25% decrease in the number of details and temporary promotions women received at these grade levels; however, the percentage is in proportion to their workforce representation. Overall, the percentage of details and temporary promotions for both genders remain steady and there is not a change reflected between the two reporting periods. The Region's goal is to continue to establish and maintain equal access to details and temporary promotions for both genders, in close proportion to their workforce representation.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	5th 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 continue to be 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 recordkeeping 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/recordkeeping.
2002-0004 Appoint a PM responsible for developing processes for recordkeeping 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.	Renee Reed	November 1, 2004
2	Establish centralized outreach notice processing/recordkeeping.	Renee Reed	November 1, 2004

17.0 POSITIVE INCENTIVES AND CIVIL RIGHTS PERFORMANCE

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 17.1:

Region 5 (R5) 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 Civil Rights (CR), Human Resources (HR), the National Federation of Federal Employees (NFFE), and line management. The task force provided a proposal regarding positive incentives and civil rights performance to the Regional Forester's (RF's) Office and the Monitoring Council (MC) in January 2002. These parties and the Program Manager (PM) met on May 12, 2003, to discuss tasks relating to this provision, including awards and incentives related to civil rights performance.

R5 is committed to strengthening positive incentives for civil rights performance. The current strategy is to support and strengthen this program by promoting the R5 CR Award and the CR Positive Incentive Awards programs in the field, publicizing the two Awards programs, and monitoring the results of Awards nominations and the selection processes. Awards programs are used to their fullest extent to reward positive performance in civil rights.

RECORDKEEPING AND REPORTS

During the fifth semi-annual reporting period (January – June 2004), R5 CR finalized the Lotus Notes database that tracks nominations and selections for both the R5 CR and CR Positive Incentive Awards programs. For the R5 CR Awards Program, which operates on a revolving basis, a letter with the RF's signature was sent to each unit to request nominations and to introduce the Lotus Notes database. Included in the Lotus Notes database is a comment section so that employees can continually provide program feedback.

Positive Incentives and R5 CR awards and performance will be evaluated by collecting employee information through the Lotus Notes awards database and by comparing these data to employee information generated from the National Finance Center (NFC). Award recipients will be analyzed by grade, race, gender, and appointment type to ensure that the selection processes are fair and that awards are fairly distributed. Summary reports will be generated from the database and provided to the CR Director and Forest Civil Rights Officers (FCROs) upon request. R5 CR is working to enhance the database by using an auto-email feature that simultaneously forwards the nomination to the supervisor for approval. A section of the database is restricted to FCROs. The restricted fields are the award amount, whether or not the award was approved, and the name of the employee's supervisor. There is also a comment section that allows FCROs to provide

continuous feedback on the program and the process. Currently, the Positive Incentives and R5 CR database is not linked to other databases. R5 CR is exploring enhancements for the next reporting period in order to make related information more centralized and easy to retrieve.

ACCOMPLISHMENTS FOR OCTOBER – DECEMBER 2003 AND FOR THE REPORTING PERIOD (JANUARY – JUNE 2004)

❖ **Gained Program Approval from NFFE and Regional Partnership Council:** In January 2004, the Positive Incentive and R5 CR Awards Programs were approved by NFFE and the Regional Partnership Council. The Regional Partnership Council consists of the Regional HR Director, Regional Labor Relations Specialist, and Union stewards from various units.

❖ **Implemented the R5 Civil Rights Award Program:** Region 5's CR staff implemented the annual R5 CR Award Program in March 2004. The R5 CR Award Program is administered at the unit level. Nominations criteria for the R5 CR Award are separated into the following two categories to acknowledge various employee achievements in civil rights: supervisory and non-supervisory. Each year, one recipient (either a person or a group) will be identified in each category to recognize exceptional job performance related to civil rights. In addition to the monetary award (a \$2,000 limit), recipients will be recognized for their achievements during Unit meetings and during their annual performance evaluation. A letter is being finalized that requests employees to submit nominations by September 15, 2004.

The R5 CR Award Program features a peer nomination process and requires final award approval by supervisors. Supervisors also are required to reference the awards during employee performance evaluations. Unit FCROs will continually monitor award nominations and recipients using the Lotus Notes database.

❖ **Implemented the Positive Incentive Awards Program:** Region 5's CR staff implemented the annual R5 Positive Incentive Awards Program in March 2004. The Positive Incentive Awards recognize accomplishments in civil rights and are administered at the unit level. Nominations for the Positive Incentive Awards program are open on a continuous basis to all R5 employees (except for the Senior Citizens Service Employment Program) and are offered in two categories (monetary and non-monetary). The monetary award is limited to \$500, and the non-monetary award may include items such as jackets, belts, thermos bottles, coolers, plaques, etc. Like the R5 CR Award Program, the Positive Incentive Awards Program features a peer nomination process and requires final award approval by supervisors. Supervisors also are required to reference the awards during employee performance evaluations. Unit FCROs will continually monitor award nominations and recipients using the Lotus Notes database. A detailed description of the program, including selection criteria, is included as Appendix I.1, R5 Positive Incentives and R5 CR Awards.

❖ **Civil Rights Review of Regional Forester's Awards:** Recipients of the CR Award or Positive Incentive Awards who have demonstrated significant, or region-wide, contributions are also eligible for consideration for the RF's Multicultural Award and

EEO/Affirmative Action Award. Thus, an employee or group receiving a CR award also has an opportunity to be recognized at a higher level. The CR staff collaborates with the HR staff to ensure that CR reviews the selections for these awards prior to approval. One or more RF's Multicultural Accomplishment Awards are presented annually to R5 employees or teams for exceptional contribution to the achievement of a multicultural organization that works effectively. The RF's EEO/Affirmative Action Award is an annual award presented to a R5 employee for significant contribution in the areas of equal employment opportunity and affirmative action. The selection criteria for both awards include the following considerations: significance of contribution, innovation, broad application of program/concept, personal commitment, and service to FS publics.

- ❖ **Civil Rights Performance:** Input on accomplishments for fiscal year (FY) 03, including civil rights accomplishments, was solicited from Forest Supervisors and Staff Directors in a memorandum from the RF dated June 30, 2004. The memorandum specifically requested information regarding all nominations for CR or Positive Incentive Awards since the programs' inception (March 16, 2004). These data should be received from all units by July 30, 2004. Upon receipt of the data, a summary on civil rights performance will be completed and disseminated by regional CR to units for use in the formal year-end performance evaluations. This practice strengthens accountability for CR accomplishments and acknowledges superior performance.
 - ❖ **Linking CR Performance to Career Advancement:** Through letters from the RF, R5 CR continues to impress upon supervisors the importance of noting employee CR accomplishments in the performance appraisals. This information is vital to identifying individuals who perform exceptionally in civil rights accomplishments. In late June 2004, R5 CR met with HR to explore other ways to take into consideration the civil rights performance records of employees seeking promotions or career advancement. The meeting resulted in several options that will be submitted to the Office of General Council (OGC) for legal sufficiency review. CR will continue to collaborate with HR relevant to implementation.
 - ❖ **Communication Plan:** R5 CR has established a communication plan that includes a third Regional letter to be sent to employees prior to August 15, 2004, on the timelines and the nomination process for the R5 CR Award. To further promote both awards programs, question and answer brochures for the Positive Incentives and the R5 CR Awards programs are being developed and will be disseminated to all employees by September 15, 2004. R5 CR will submit a write-up on both awards programs for the November 2004 R5 Newslog to reiterate the objective of the programs and encourage employee and supervisor participation.
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PERFORMANCE SCORECARD

Injunctive Relief Provision Area	5 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	G	G	R5 Taskforce is complete. R5 continues to move forward with the implementation of 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	G	G	Task force completed. Incentives/award program established.
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. CR is requesting units to record awards information at time of employees' performance appraisals.

ACTION PLAN

No.	Action	Responsible Official	Date
1	Finalize the R5 Civil Rights Award and Positive Incentives brochures for distribution to promote Positive Incentives and R5 CR Award Programs.	Larry Sandoval	September 15, 2004
2	R5 CR send letter encouraging supervisors to note employees' civil rights award accomplishments during performance appraisal period.	Larry Sandoval	September 2004
3	Collaborate with HR and Settlement Agreement staff to identify programmatic and technical ways of linking performance to promotions and career advancement.	Larry Sandoval	September through December 2004
4	Publish a write-up of awards programs for the R5 Newslog.	Larry Sandoval	October 2004

18.0 FEDERAL WOMEN'S PROGRAM

STATEMENT OF PROVISION AND RELEVANT RECOMMENDATIONS

Provision 19.1:

Region 5 (R5) shall establish a full-time Federal Women's Program Manager (FWPM) position.

Provision 19.2:

The FWPM may be assigned additional duties as deemed appropriate in the discretion of Defendant; provided, however, that the Federal Women's Program duties shall be predominant.

BACKGROUND

The Region filled a full-time FWPM position in 1990, and this position continues to be filled on a full-time basis. The FWPM develops a yearly Program of Work and provides oversight, guidance, direction, enforcement and assistance to enhance opportunities for women, minorities, and people with disabilities. The FWPM works collaboratively with the Regional Civil Rights (CR) staff and Forest Civil Rights Officers (FCROs) to identify barriers, issues, and concerns that affect all women, minorities, and people with disabilities; manage the Region's prevention of sexual harassment program; complete a quarterly statistical profile of women in the workforce; coordinate special observances for women, minorities, and people with disabilities; conduct functional assistance trips; track incoming Prevention of Sexual Harassment (POSH) and Workforce Environment hotline inquiries; and establish professional liaisons/networking opportunities with other organizations that represent women, minorities, and people with disabilities.

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- ❖ **Information Expo Booth - 2003 Women's Conference:** In October 2003, the FWPM showcased the Federal Women's Program at the Women's Conference Information Expo. The FWPM provided an overview, updated information, women and diversity facts, handouts, displays, and informal networking, and the Washington Office (WO) and Department FWPM were on hand to answer questions pertaining to their organizational levels.
 - ❖ **Collaborated with Women's Conference Coordinator:** During this reporting period, the FWPM identified and submitted names of potential workshop presenters, entertainers, and keynote speakers who are diverse to the Women's Conference Coordinator for purposes of planning the October 2004 Conference.
 - ❖ **Completed the Annual Region 5 Women's History Month Program:** During this reporting period, the FWPM planned, coordinated, and implemented the annual Women's History Month program for the Regional Office. The program featured a variety of diverse speakers and entrepreneurs. The objective was to foster a greater appreciation of women's issues as they relate to FS employment.
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- ❖ **Co-Chaired the San Francisco Bay Women's History Month Program:** The FWPM Co-Chaired the Women's History Month program for the San Francisco Bay Area Federal Women's Program Managers' Council, Federal Executive Board. This increased the visibility of R5's Federal Women's Program, as well as provided opportunities for networking with FWPMs from other agencies.

PERFORMANCE SCORECARD

Injunctive Relief Provision Area	5 th Semi-Annual Reporting Period					Rationale
	Plan	Approach	Deployment	Evaluation	Results	
19.0 Federal Women's Program Manager Overall Performance Scorecard	G	G	G	G	G	Under P.L. 92-261 required agencies to designate a FWPM. This position has ensured that FS programs and services are inclusive of all women.
19.1 R5 shall establish a full-time FWPM position.	G	G	G	G	G	The Region has had a full-time FWPM position filled since 1990 and the position continues to be filled.
19.2 The FWPM may be assigned additional duties as deemed appropriate in the discretion of Defendant; provided, however, that the Federal Women's Program duties shall be predominant.	G	G	G	G	G	The FWPM duties are mainly performed from a yearly Program of Work, and the FWPM is often inundated with requests from other sources but not limited to MC, SA, and FOIA.

ACTION PLAN

No.	Action	Responsible Official	Date
1	Sponsor a booth at the 2004 Women's Conference to provide an overview and update of women in the Region.	Gwen Bryant	October 20, 2004
2	FWPM Activities calendar posted on CR Website.	Gwen Bryant	October 25, 2004
3	Conduct FAT on the Southern Province. Obtain information mainly on women in fire (e.g., training opportunities needed to qualify for fire assignments; interview employees, determine if the findings are valid, etc.).	Gwen Bryant	November 19, 2004
4	Conduct analyses on FAT; identify any trends, barriers, and develop an action plan to correct the situations.	Gwen Bryant	December 31, 2004
5	Provide statistical profile data on women in the Region and post on the CR Website.	Gwen Bryant	Ongoing

19.0 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 Equal Employment Opportunity (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 (EEOC), 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 Women's Settlement Agreement (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 Office of Civil Rights (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 Employee Complaints Program (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 OCR ECP, the

regular forum for processing all formal complaints. Since the last reporting period, the complaints were closed with a USDA Final Agency Decision finding no discrimination and an EEOC final decision of no discrimination.

ACCOMPLISHMENTS FOR OCTOBER – DECEMBER 2003 AND FOR THE REPORTING PERIOD (JANUARY – JUNE 2004)

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

Table 19-1 indicates the current status of the 63 Class Member complaints. Since the last reporting period, an additional four cases have closed. The four closures included two settlement agreements and two Final Agency decisions finding no discrimination. All four cases that remain open 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 the previous reporting period. The EEOC denied this request.

Table 19-1: Status of Class Member Formal Complaints

Activity		Number	Responsible Organization
Open Complaints		4	
	Pending Hearing by the EEOC District Office Administrative Judge	4	OGC, OCR and EEOC
	Pending USDA's Final Agency Decision	0	
Closed Complaints		59	
	Remand for Informal or Additional EEO Counseling	10	
	Final Agency Decision (No Discrimination)	14	
	Final Agency Decision (Discrimination)	2	FS
	Dismissed	17	
	Settlement Agreements	16	FS
TOTAL FORMAL COMPLAINTS		63	

20.0 ACRONYMS

AAD	Adverse Action Digest
AAWD	Advanced Advertisement of Work Details
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
EEOCTS	Equal Employment Opportunity Complaints Tracking System (EEOCTS)
EIP	Early Intervention Program
ELR	Employee and Labor Relations
ERG	Employee Resource Groups
FAQ	Frequently Asked Questions
FAT	Functional Assistance Team
FCRO	Forest Civil Rights Officer
FHRO	Forest Human Resources Officer
FLT	Forest Leadership Team
FS	Forest Service
FSH	Forest Service Handbook
FWPM	Federal Women's Program Manager
FY	Fiscal Year
GS	General Schedule
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
NRF	Notice of Right to File
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
RLT	Regional Leadership Team
ROI	Report of Investigation
SA	Settlement Agreement
SOP	Standard Operating Procedure
SQL	Standard Query Language

Team	Incident Command Team
USDA	U.S. Department of Agriculture
WEC	Workforce Environment Council
WO	Washington Office
WSA	Women's Settlement Agreement

21.0 INTERNAL APPENDICES

21A 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.

Fourth Semi-Annual Report (July – December 2003)

- R5 selected a permanent manager for the EIP on September 7, 2003. The PM 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, that 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.
 - 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 03, 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.
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- 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 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.

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 RLT meeting, 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 and issued direction to include all non-bargaining employees.

Fourth Semi-Annual Report (July – December 2003)

- The RF issued a letter requesting input from all units, staff directors, and the MC on RLT performance on 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 RLT.
- 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 RLT members.

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.
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- 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.
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- 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 July 2, 2002, 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.
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- 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.

Fourth Semi-Annual Report (July – December 2003)

- 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 03.
- There was a 4% increase in the use of the program during this reporting period.
- The RF issued a letter to Forest Leadership and 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 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 FSH 6109.12, Chapter 29
- Regional Office CR staff reviewed the automated Exit Interview Program with 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 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

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.
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- 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.
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- 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 RLT 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.

Fourth Semi-Annual Report (July – December 2003)

- R5 appointed a fulltime Regional MI PM 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, HROs, the Employee Relations specialists, and FCROs was developed this reporting period, with training scheduled in March 2004.

POSH 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 RLT 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.
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- 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 that consisted of one male and one female each.

Fourth Semi-Annual Report (July – December 2003)

- Annual mandatory POSH training was delivered to 92% of the Region's 7,372 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 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.

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.
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- 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 02, 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 ECP 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,
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- 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 02 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 RLT meeting, 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 RLT 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
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- 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
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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.

Fourth Semi-Annual Report (July – December 2003)

- 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 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

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.

Fourth Semi-Annual Report (July – December 2003)

- The call letter offering the Mentoring Program was issued on August 29, 2003, with NFFE concurrence.
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- 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.

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 02 and 03.
- R5 met the provisions of the WSA by awarding scholarships for FY 02 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 RLT to provide an update on the FY 02/03 Scholarship Program.
 - An article in the Regional Newslog highlighted the Scholarship Program and provided information on the FY 04 Program.
 - A statement requesting that supervisors and managers discuss the upcoming FY 04 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 04 Scholarship Program.
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- 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 RLT 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 04 scholarship funding, which included 134 individual applications and 21 group applications.
- Scholarship Program surveys were sent to individuals and groups that received initial FY 02/03 grants, and subsequent surveys were sent to the individuals receiving supplemental funds.

Fourth Semi-Annual Report (July – December 2003)

- R5 granted additional FY 03 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 04 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

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 02, there were 241 adverse actions.
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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.

Fourth Semi-Annual Report (July – December 2003)

- The AAD covering the third and fourth quarters of FY 03 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 FS Intranet.

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.
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- 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.

Fourth Semi-Annual Report (July – December 2003)

- The 2003 Women's Conference was held at the Hyatt Regency Hotel in downtown Sacramento on October 28 – 30, 2003. Training tracks included 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 OGC Chief Counsel. The RLT met concurrently in the Hyatt Regency Hotel on October 29 and 30, 2003. Many members of the RLT attended sessions throughout 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 recordkeeping; 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.

Fourth Semi-Annual Report (July – December 2003)

- 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.
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- R5 implemented a new policy 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 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

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 to 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 RLT 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. The PM also received an "Unsung Heroes" Award from the USDA (one of six individuals nationwide).
 - The Central California Consortium 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
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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.

Fourth Semi-Annual Report (July – December 2003)

- The Regional Office CR staff developed a draft proposal for an annual R5 CR 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 CR 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 CR 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.

FEDERAL WOMEN'S PROGRAM

Fourth Semi-Annual Report (July – December 2003)

- The FWPM monitored the status of the Child Care Centers in R5 and submitted quarterly reports to the FS Child Care Coordinator.
 - The FWPM is the Chair of the EEO Officers Council for the San Francisco-Bay Area, Federal Executive Board.
 - The FWPM is a member of the Board of Directors of the San Francisco-Bay Area Federal Women's Program Manager's Council, Federal Executive Board.
 - The FWPM Co-Chaired the Women's History Month Program for the San Francisco-Bay Area Federal workforce.
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