



New England Fishery Management Council

Council Employees:

This handbook has been designed to acquaint you with Council's policies and answer many of your questions. Please keep in mind that this handbook does not contain all the information you will need as an employee. You will receive other information through written notices as well as orally. When the Council changes a policy, it overrides the past policy.

The Council operation is governed by federal requirements. If there is a conflict between a federal provision and this handbook, the federal provisions take precedence.

This handbook is not an employment contract. All Council employees are considered "at will" employees. This means you or the Council may terminate our employment relationship at any time, with or without a reason.

Adopted date: TBD ~~2019~~2020

Last updated 6/23/2016

NEFMC EMPLOYEE HANDBOOK



50 water street • newburyport ma 01950 • phone 978-465-0492 •
www.nefmc.org

Introduction

This Handbook is designed to provide an overview of the employment policies, procedures and benefits for Council employees. The contents of this handbook and the policies and procedures described in it are presented as a matter of information and general guidance only.

The handbook does not create a contract between the Council and any of its employees. No policies in the handbook or any oral interpretation of the policies and procedures create an express or implied contract of employment between the Council and employees regarding length of service, wages, hours, procedures, policies, benefits, or any terms or conditions of employment. This handbook does not alter the employment at-will relationship between the Council and its employees. The Council or employee may terminate the employment relationship at any time.

The Council may change any portion of this Handbook at any time, with or without notice.

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Section 1 Employment

This section is designed to describe the Council's policies regarding its employees. It covers; recruitment, pay policies, work periods, standards of conduct, grievance procedures.

1.1 Employment Procedures

Equal Opportunity

It is the policy of the New England Fishery Management Council (Council) that neither race, religion, color, creed, national origin, sex, sexual orientation, gender identity, age, status as a parent, reprisal, political affiliation, nor physical disability nor on any additional bases protected by applicable Federal, state, or local law, will be considered in the recruitment and employment of new employees of the Council, promotion, demotion, transfer, layoff, termination, or selection of employees of the Council for training and development, establishment of rates of pay including the awarding of salary adjustments and merit salary increment.

Council employees can access EEO Counselors at the Department of Commerce Office of Civil Rights for advice on EEO issues.

Harassment Policy

The Council has a zero-tolerance policy for harassment on the basis of race, religion, color, national origin, sex, age, sexual orientation, disability and reprisal. Any employee who believes he or she has been harassed should report the harassment to a supervisor or manager. The Council's Harassment Policy extends beyond staff and includes members of the Council with regard to all interactions with staff, including the conduct of Council members, staff members, and the public during the course of official Council meetings, advisory body meetings, or committee meetings. The Council will, if necessary, seek advice on harassment issues through the Employee Labor Law Division at the Department of Commerce (DOC ELLD).

Council staff who are victims of harassment should report to an appropriate official. These include:

- Executive Director, Deputy Director, Administrative Officer, or Executive Assistant
- Council Chair or Vice- Chair
- Greater Atlantic Regional Administrator, Assistant Regional Administrator, or NOAA General Counsel

Upon notice of harassment, the Council will begin an inquiry after consultation with DOC ELLD.

Application

Comment [MB1]: Aligns text with Council SOPPs and existing 50 CFR 600.120 and EO 11246

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All employees of the Council serve a probationary period of twelve months from the date of hiring during which they may be dismissed.

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The Council hires the Executive Director. The Executive Director is responsible for hiring the Council staff. All applications for employment, except for the position of Executive Director, should be made to the Executive Director.

The Executive Director will review applications and select the most qualified applicant for the position.

The appointment of the Executive Director is made from a list of qualified candidates prepared by the Executive Committee of the Council and will require a majority vote of all voting Council members present at a regularly scheduled Council meeting.

Definition of Employee

The term employee as used in this document means an individual appointed to a full-time position established by the Council. A full-time position is one that normally requires the employee's presence for forty hours per week.

Exclusion of Temporary Employees

This policy statement does not apply to individuals employed by the Council for the provision of specific services on an intermittent or temporary basis including interns.

Comment [MB2]:

What needs to be clarified is that full time employees (perm and 2-year temps) get full benefits (health insurance and SEP, vacation leave, etc) while interns, temps on the payroll, and contractors do not get those benefits (but do get the statutory sick leave.)

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Comment [MB3]: Correct hyperlink to FLSA

Field Code Changed

Comment [TN4]: We need to revise this to say: "some" Council employees", not all, and then add "Exempt employees will be identified by position." Then we can make changes as necessary or desired.

Fair Labor Standards Act (FLSA)

Council employees are considered federal employees for the purposes of the Fair Labor Standards Act (FLSA).ⁱ However, ~~all~~ some employees of the Council occupy executive, administrative or technical positions that are exempt from coverage and regulations under FLSA. Exempt employees will be identified by position.

~~For purposes of this subsection, exempt employees are further defined as employees occupying positions Grade 7 Step 1 and higher within the Federal wage and classification schedule.[#]~~

Work Periods

Non-Exempt Employee Work Periods

The standard work period for non-exempt employees of the Council is forty hours per week, Monday through Friday (5 work days). The workday consists of eight hours excluding mealtime.

Exempt Employee Work Periods

The standard work period for exempt employees is eighty hours per biweekly pay period.

Core Hours

Unless otherwise approved by the Executive Director, all employees must be in the office between the hours of 9:30 a.m. to 3:00 p.m.ⁱⁱⁱ

Exceptions to the standard work period

The Executive Director may, at his discretion and with the continuing concurrence of the Executive Committee, authorize Council employees to complete the 40-hour workweek in combinations other than the standard five

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workdays of eight hours each. As an example, an employee might be allowed to work 4 (10 hour) days.

The Executive Director may grant “extra” time off for the whole staff. For example he might close the office early on the day before a holiday or offer extra days off during the holiday season. This type of leave is given at the pleasure of the Executive Director and must be taken within the time authorized or will be forfeited.

Working from Home

The Deputy Executive Director will consider employees written request to work from home to the extent that the employee’s work can be performed outside the traditional worksite without diminishing the employee’s performance or the efficiency and effectiveness of office operations. The written request must be submitted to both the supervisor and Deputy Executive Director for their input.

Working from home in a routine, repetitive manner, is authorized through a formal agreement that allows an employee to perform work, during any part of regular, paid hours, at an approved alternative worksite (e.g., home). Any such arrangement will be established first and foremost to facilitate the accomplishment of work.

Eligibility

Participation in the working from home policy is not an employee right. All eligibility decisions will be based on the Council’s operational needs. There are some positions or tasks that may be unsuitable to be performed away from the traditional worksite, for example:

- Positions that require employee to deal with the general public
- Involve installation, maintenance or repair of equipment at the Council office
- Require face-to-face contact with supervisor, colleagues
- Require access to databases maintained by other agencies

The decision as to whether or not a job is suitable for working from home will be made by the employee’s supervisor and must be approved the Deputy Executive Director. Either the Deputy Executive Director or supervisor may deny or modify an employee’s request if they feel the arrangement would not benefit the Council.

Agreement Documentation

In order for this policy to be effective it’s essential that both the employee and the supervisor agree on the work to be performed and the hours the employee will work from home. Therefore both the employee and supervisor must develop an agreement that includes a rationale for working from home, targeted work

The Deputy Executive Director may modify or terminate working from home arrangements at any time.

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products that can be efficiently accomplished at home, dedicated accessibility of the employee via telephone and the internet, dedicated hours of work aligned to or within the office work schedule, and other relevant features.

To ensure integration of the employee working from home with co-workers in the office, the employee may not regularly work more than 8 hours day a week from home.

Work from home agreements are to be signed by the employee and the supervisor and approved by the Deputy Executive Director and are revocable at any time.

Responsibilities of the Parties

The responsibilities of the supervisor and employee are as follows:

Supervisor Responsibilities

1. Identify employees eligible to participate
2. Identify what part of the employees work is suitable for working from home
3. Devise a time accounting method for the proper monitoring and certification of employees' work time
4. Establish the work schedule
5. Develop and amend annual performance goals, as needed, for work performed away from the office
6. Adjust individual working from home arrangements as necessary to meet the needs of the Council or changing circumstances

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Employee Responsibilities

1. Observe agreed-upon hours of work
2. Communicate with supervisor daily when working at home
3. Observe rules for requesting leave when leave is to be taken
4. Supply and pay for additional services needed to work from home (phone, internet, etc.)
5. Use Council equipment in accordance with the Council's policy
6. Ensure the security of Council information and systems under their control
7. Ensure that the alternative work site complies with health and safety requirements, and maintain safety at the alternative work-site

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Leave

Employees working from home must adhere to all established leave procedures. The procedures for requesting leave remains unchanged regardless of work location, i.e., when working from home the employee is still required to request and obtain approval of leave in advance of its use. In the event unscheduled sick leave is needed, a call should be made as soon as possible to the supervisor.

Dependent Care

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Any employee working from home is expected to perform his/her duties and responsibilities at a level of proficiency equal to that performed at the conventional office and must work for the entire time period scheduled. Consequently, it is critical that the alternative work-site be free from distractions and the employee free from obligations which would impair his/her ability to provide the same time and level of attention to the work product as when in the Council office. Therefore, no arrangement for working from home may be authorized which entails the employee providing dependent care to any individual during the agreed-upon work hours.

Occasional Non-Routine Work from Home

There will be instances where employees may work at home instead of at the office, which do not require a signed agreement.

In a non-routine, occasional manner employees may work at home if their assigned duties can be conducted there. Examples of such non-routine occurrences include when employees are at home because they are contagious or are recovering from injury or a medical condition but are otherwise healthy enough to work; due to a medical appointment when their supervisor thinks it would be more efficient for them to work at home, when weather does not allow for safe travel to the office location; or when it is necessary to meet deadlines on written products that can be more efficiently accomplished with fewer distractions than might occur at the Council office. This type of occasional working from home is approved on an as needed basis and may be for more than one day per week.

All requests for occasional, non-routine work from home require the prior approval of the supervisor. To the extent approval may be obtained from either the Deputy Executive Director or the Executive Director.

Updated 5/8/12

1.2 Pay Policies

Employees are paid on a biweekly basis with 26 pay periods in a calendar year.

Overtime (earning & using)

Non-Exempt employees are paid overtime at the rate of time and one half their base hourly rate for each hour worked in excess of forty hours per week. For purposes of determining overtime, forty hours is defined as actual hours worked excluding any annual leave or holidays falling in that week.

Any overtime worked must have the prior approval of the Executive Director

Exempt employees are not authorized for compensatory leave. These personnel may be allowed administrative absence, subject to the work- load demands and at the discretion of their supervisor in recognition of extra time worked but not necessarily on a one-for-one basis. If an exempt employee wishes to take time off because of extra hours worked during a previous biweekly pay period, the employee must request an administrative absence.

Pay Rates

In setting rates of pay the Council operates under the principle of equal pay for equal work. Variations in basic rate of pay are in proportion to substantial differences in the difficulty and responsibility of the work performed.

The Council is also bound by the standards contained in the *Executive Order 11246 - Affirmative Action*, as administered by the U.S. Department of Commerce

Comment [MB5]: Fixed hyperlink to EO 11246

Intermittent/Temporary Employees

Compensation paid to individuals employed by the Council on an intermittent or temporary basis will be at a rate agreed to by the parties, but in no event will the daily rate established be greater than that received by the Executive Director.

Pay Adjustments

There are several different types of pay adjustments:

~~Annual Cost of Living Adjustment (COLA)~~ Salary Increases

~~On January 1st~~ Each year, employees are eligible to receive a salary increase equal to the amount provided in the Federal Pay Schedule. Timing of the salary increase provided in the Federal Pay Schedule is dependent upon Executive Order, but generally occurs with the first payroll in January of each year.

~~This increase is given to all employees on January 1st:~~

Comment [TN6]: Technically, changes to the federal pay schedule are not considered COLA. They are considered pay raises.

Comment [MB7]: This text accurately reflects that the timing of the COLA adjustment may be delayed.

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Performance Increases

Employees are eligible for a performance increase annually. Increases are based on a review of the employee's annual performance evaluation.

Bonus Awards

At any time during the year the Executive Director can authorize cash awards to recognize superior achievement.

Reduction in Salary

An employee's salary can be reduced by the Executive Director for inefficiency in the performance of duty or for better utilization of individual ability. Salary reduction may also be necessary due to non-availability of funds.

Funding Restrictions

The Executive Committee cannot take any action that would result in obligations in excess of the amount available to the Council.

Pay adjustments are subject to the availability of funds

1.3 Authorized Positions

New Position

A brief description of any new position for which funding is requested in the annual budget submission, is furnished to the NMFS Regional personnel office. That office provides an appropriate salary range in which the Council may fill the position.

The Executive Committee approves all new positions. Each position is classified by grade and salary range (or Pay Band) appropriate for the responsibilities.

The starting salary for a full-time position normally is the first step within the classification. No employee can be paid at a base salary exceeding the equivalent of the top step of grade GS-15.

The Executive Committee may, upon the recommendation of the Executive Director, authorize hiring at a level greater than the entry level when it appears that the existing labor market conditions have made the entry level salary non-competitive or when the applicant possesses exceptional skills and qualifications.

Position Description

Position descriptions serve as the official record of the duties and responsibilities assigned to the position and are used for position classification. Any new positions are sent to the Regional Office for review prior to hiring.

The position description is reviewed and signed by the employee's supervisor to certify that the duties are described accurately and reflect the responsibilities officially assigned to the position. Where applicable, the incumbent in a position will review and sign the position description to certify that the duties described accurately reflect those that have been assigned.

The position description describes the duties and responsibilities normally assigned to the position

If the incumbent believes the position description does not accurately reflect the position, the incumbent still must sign the position description and any disagreements will be noted in the appropriate portion of the position description. A position description that the employee

believes is not reflective of actual assigned duties will be forwarded to the Executive Director for resolution or comment before being submitted to the Personnel Department.

Changes to a Position

Whenever a significant change is made in the duties or responsibilities of a position, involving either the assignment of new duties and responsibilities or taking away or modifying of existing duties and responsibilities, an updated

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position description will be prepared no later than 30 calendar days after the duties and responsibilities have been modified.

Each position description and any attached information will be maintained in the employee's personnel file. Each employee will receive a copy of his/her position description.

1.4 Performance Evaluation and Recognition Procedures (PERP)

The PERP provides for periodic appraisal of job performance and seeks to recognize and reward quality performance.

Employees receive an annual performance evaluation and mid-year review of performance. The primary purpose of the performance evaluation is to inform employees of the acceptability of their work, progress on annual work tasks and goals, and discuss opportunities to ~~how they can~~ improve their performance.

The annual performance evaluation is used as the basis for communicating less than fully successful unsatisfactory performance, fully successful performance, or exceptional performance. The annual performance evaluations are an important factor in bonus ~~It also provides for cash~~ awards for superior accomplishment and salary adjustments reflecting performance and work responsibilities.

Comment [MB8]: Aligned performance descriptions to the language used in the Evaluation Form

Evaluations are used to....

- Clarify individual and staff goals and objectives
- Evaluate individual and staff work accomplishments
- Ensure that individuals rated above fully successful ~~proficient~~ have demonstrated performance ~~—~~that exceeds normal expectations
- Recognize and reward high quality performers
- Determine pay adjustments, performance awards, training, ~~rewarding~~, re-assigning duties, ~~promoting~~ promote, retaining and ~~removing~~ remove employees

Performance ratings are considered in determining salary increases, in making promotions or dismissals, and in determining the order of separation due to layoffs and in determining the order of re-employment.

Employees are counseled through the year as needed. Written performance evaluations are prepared after completion of six months and twelve months of service, and annually thereafter.

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The annual appraisal period runs from 1 October to 30 September

Responsibilities...

Joint planning and communication between the employee and supervisor is a critical part of the evaluation process. The following responsibilities are used to encourage dialogue and cooperation:

Employee

Jointly with your supervisor, participate in the development of job elements and performance objectives for each review period.

Know the job elements and the performance expected.

Request progress reviews with your supervisor when you feel performance feedback is necessary.

Accomplish all your work in accordance with the performance objectives.

Submit an accomplishment report to your supervisor at the end of each reporting period. This report should list all the projects, tasks and initiatives you have completed during the reporting period.

Supervisor

Ensure the employee's job elements and performance objectives are clear and accurate.

Communicate, to the employee, performance expectations.

Clearly specify the level of resources or management support the employee may expect in accomplishment of their assigned tasks.

Provide employee with ongoing performance feedback.

Conduct and document performance discussions and progress reviews.

Evaluate employee performance and recommend personnel actions.

Jointly, with the employee, specify job elements and performance expectations for the following reporting period.

Executive Director

Evaluate the overall operation of the (PERP) process.

Ensure responsibilities are carried out properly and effectively.

Ensure that supervisors distinguish between levels of performance and that high quality performers are recognized and rewarded.

Ensure that both individual and organizational accomplishments are reflected in the evaluation.

Ensure the PERP appraisal process is completed on schedule.

1.5 Employment Termination

Separation from Council service occurs when an employee leaves the payroll for reasons listed below.

Resignation

An employee may terminate his services by submitting his resignation to the Council. It is expected that an employee will give at least two weeks' notice prior to his last day of work. Employees exempt from Wage and Hour provisions of the Fair Labor Standards Act are expected to give at least thirty days' notice prior to their last day of work.

Retirement

An employee is eligible for retirement at age 59 ½ or after 25 years of service. ^{iv}

Terminal Illness or Death

An employee can leave the Council due to a terminal illness. To get sick leave payment the employee must submit a statement by a physician who specializes in the specific illness or condition confirming that the illness is terminal. ^v

Reduction in Force

An employee may be separated whenever necessary due to a shortage of funds or work, or due to material changes in the duties of the Council. Employees separated from Council service due to a reduction in force with less than three months' notice will be eligible for severance pay at a rate of seventy-five percent of their pay rate at the time of separation. An employee will receive one week of such severance pay for each full year of service on the Council staff not to exceed ten weeks. In all cases, severance pay is subject to available funds.

Dismissal

Dismissal is involuntary separation for cause.

Leave Payment (also see Section II Unused Sick Leave)

Employees who are separated from Council service will be paid in a lump sum for unused vacation leave.

No payment of accumulated sick leave is made upon separation other than by retirement, terminal illness or death. ~~Employees separated from Council service due to a reduction in force with less than three months' notice will be eligible for severance pay at a rate of seventy-five percent of their pay rate at the time of separation. An employee will receive one week of such severance pay for each full year of service on the Council staff not to exceed ten weeks.~~

1.6 Disciplinary Actions

Policy

Employees can be discharged, suspended, reduced in pay or position or placed on performance probation for just cause.

Written Statements

In cases of such action, the employee will, before the action becomes effective, be furnished with a written statement setting forth the specific acts or omissions that are the reasons for the disciplinary action and the employee's appeal rights. Notwithstanding the above, an employee may be suspended without warning for causes relating to personal conduct detrimental to Council service pending the giving of written reasons in order to avoid undue disruption of work or to protect the safety of persons or property or for other serious reasons.

Appeals

An employee will be permitted 15 days from the date the statement is delivered to provide a written appeal to the Executive Committee. Notice of appeal must be sent by registered mail to the Council Chairman.

The Chairman will schedule an Executive Committee meeting to be held within 30 days of receipt of the appeal, in which the employee may present evidence in his behalf. At the conclusion of the evidence presented by the employee and any evidence presented by or on behalf of the Executive Director, the committee will go into executive session to discuss the merits of the employee's appeal.

At any such executive session an employee will have the right to have a designated personal representative in attendance. The Executive Committee will review the evidence and respond in writing to the employee.

Cause for Dismissal

Causes for dismissal or suspension from employment by the Council fall into two categories.

1. Causes relating to performance of duty
2. Causes relating to personal conduct detrimental to Council service

Performance of duties

Employees who are dismissed or suspended for unsatisfactory performance of duty will receive at least two warnings prior to the action. These warnings will be in writing and copies placed in the personnel file of the employee. The employee will also be informed that he may file a rebuttal statement in his file in response to the written warning.

Examples include:

- Inefficiency or incompetence in the performance of duties
- Negligence in the performance of duties
- Physical or mental incapability for performing duties
- Careless, negligent or improper use of Council property or equipment
- Failure to maintain satisfactory and harmonious working relationships with the public and employees
- Absence without approved leave
- Improper use of leave privileges
- A pattern of failure to report for duty at the assigned time and place
- Insubordination
- Conviction of a felony or misdemeanor
- Misuse of Council funds or property
- Falsification of job information to secure position
- Participation in any action that would in any way seriously disrupt or disturb the normal operations of the Council
- Willful damage or destruction of Council property
- Gross misconduct or conduct and behavior incompatible with the Standards of Conduct established by this policy
- Reporting to work under the influence of alcohol or drugs, or abusing such substances on the job, possession, distribution, manufacture or use of a controlled substance in the workplace

1.7 Standards of Conduct

Council employees are treated as a Federal employee for purposes of criminal conflict of interest statutes applicable to other United States Government Employees. Employees are also subject to ethics regulations issued by the National Oceanic and Atmospheric Administration for all Council employees. Specific statutes and regulations can be found on the Department of Commerce website [Ethics Law and Programs](#).

Field Code Changed

Financial Interest / Gifts

Employees cannot have a direct or indirect financial interest that conflicts with the fair and impartial conduct of his or her Council duties.

Exceptions:

The value of interest in all affected parties is \$5,000 or less; or

The value of interest in each affected company is \$25,000 or less and the matter at issue is a broad policy matter (rather than a matter involving specific parties); or

The interest is held through a broadly diversified mutual fund.

Employees cannot accept anything of monetary value where such acceptance allows even the appearance of a conflict of interest. This restriction is based on the Federal criminal statute against bribery.

Employees are also barred by statute from receiving a supplementation of salary from a source other than the Council or the Federal Government.

Employees cannot pay, offer, promise, solicit, or receive from any person, firm, or corporation a contribution of money or anything of monetary value in consideration of either support of the use of influence in obtaining for any person any appointive office, place, or employment under the Council.

Reporting Suspected Unlawful Activity (Whistleblower)

Council employees are expected to report fraudulent or dishonest conduct they have observed, or have good reason to expect has occurred, to their supervisor or the Executive Director. Examples of such fraudulent or dishonest conduct include embezzlement of Council funds, forgery or alteration of financial documents or electronic files, fraudulent financial reporting, misappropriation of funds, or authorizing or receiving compensation for goods not received or services not performed.

The Executive Director shall investigate and deal with reports of fraudulent or dishonest conduct in a manner that protects the privacy of the employee that provided such reports, to the extent allowable by federal, state, and local laws.

The Council will not retaliate against employees who disclose or threaten to disclose any fraudulent or dishonest activity; policy or practice of the Council that the employee reasonably believes is in violation of the law. ^{vi}

Use of Information

Employees cannot use or allow the use, for other than official purposes, of information obtained through or in connection with their Council employment that has not been made available to the general public.

No employee of the Council will engage in criminal, infamous, dishonest, notoriously immoral or disgraceful conduct prejudicial to the Council. ^{vii}

Use of Council Property

Employees cannot use Council property on other than official business. Council property must be protected and preserved from improper or deleterious operation or use.

Security Investigations

Certain employees may be designated to have access to information subject to security classifications. In such cases access to the information will be governed by Federal standards and employees so designated will receive an appropriate security clearance from the Office of Investigations and Security of the United States Department of Commerce.

Drug Free Workplace

Council employees are subject to the Drug-Free Workplace act of 1988, which states that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in the workplace. Employees must abide by this policy as a condition of employment. The Council's *Policy on a Drug-Free Workplace* is provided to each employee. ^{viii}

1.8 Personnel Files & Privacy Act Records

Privacy Act Records

Comment [MB9]: Updated hyperlink

The Councils are subject to the Administrative Procedures Act, including the Privacy Act.^{ix}

To protect the privacy of individuals, the Council maintains in its office, under appropriate safeguards in accordance with Public Law 93-579 the Privacy Act. Personnel files on employees; experts and consultants under contract, and advisory group members are kept in a secure location. The Government Printing Office has made available a searchable database of [Privacy Act Issuances](#).

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Privacy Act records pertaining to Council Members are maintained in NOAA under security and safeguard conditions required of files subject to PA.

The Executive Director is responsible for maintaining the Council's personnel records. In maintaining these records, he will collect only information that is relevant and necessary for the sound administration of the Council's personnel system and will also see that these records are maintained in accordance with the Privacy Act.

Sources of Information

In securing information from employees and potential employees, the Executive Director will see that the individual is informed of the following:

The authority that authorizes the solicitation of the information;

The purpose for which the information will be used;

The effect on the individual not providing the requested information in whole or in part.

Examination of Records

Employees are permitted to know what records pertaining to him/her are collected, maintained, used or disseminated and may request access to such records.

The Executive Director will respond, within five working days, to any request by an employee concerning whether the Council maintains records pertaining to the employee.

In the event the Council does maintain such records, the employee or an authorized representative will be allowed to examine the employee's records and make copies.

Amendment of Records

An employee can request the records be amended. The employee must submit to the Executive Director a written request detailing the reasons for requesting the

change. The Executive Director will respond to such requests within ten working days. In the event such a request is refused, the individual will be informed of his right to appeal to the Executive Committee. The Committee will review the request to amend personnel records and respond to the request within thirty days of receipt of the request.

Confidential Information in Personnel Files

All information in an employee's personnel file is confidential. Employees' records may be examined:

In the course of any decision reached by the Council with respect to the conduct of the employee;

Under normal and regular activities by the Executive Director;

With the approval of the Executive Committee, by a Council member or another Council employee.

1.9 Employee Grievance Procedure

Procedures

Any applicant for employment or any employee who believes that employment, promotion, training or salary adjustment was denied him or that demotion, transfer, lay-off or termination was forced on him, because of his race, religion, color, creed, national origin, sex, age, political affiliation, or physical disability may appeal the action.

Whenever possible, an employee with a grievance should first discuss the problem with their supervisor and the Executive Director. The Executive Director must respond to the employee's grievance within five working days or advise the employee of the conditions which prevent an answer within five working days and when an answer is to be expected.

Appeal

If the employee is not satisfied with the decision of the Executive Director or fails to receive an answer within the designated period, the employee may request that the Executive Committee consider the matter.

The Council, at the request of either the employee or the Executive Committee, may review decisions of the Executive Committee relating to grievances.

Section 2 Benefits

This section is designed to provide an overview of the benefits currently offered to Council Staff. It is not a guarantee of benefits. The Executive Committee may change the amount of ~~the Council's~~ contributions, specific benefit coverage or providers at any time.

2.1 Time-Off Benefits

Paid Holidays

Employees receive 10 paid holidays. When a scheduled holiday falls on a Saturday or Sunday, the day off is the contiguous Friday or Monday.

- 1) New Year's Day
- 2) Martin Luther King Day
- 3) President's Day
- 4) Memorial Day
- 5) Independence Day
- 6) Labor Day
- 7) Columbus Day
- 8) Veterans Day
- 9) Thanksgiving Day
- 10) Christmas Day

Vacation Leave

Our vacation plan is designed to provide you with the opportunity to rest and get away from the everyday routine. For that reason, the Council believes it is important to take vacation when it is earned, and encourages its employees to do so.

Vacation leave will begin accruing from your date of hire. Vacation leave may not be used until it has been accrued.

Full-time employees earn vacation leave on the following basis:

0-3 years' service	13 days
4 hours per two week pay period	
3-15 years' service	20 days
6 hours per pay period with 10 hours in final pay period of the year	
Over 15 years' service	26 days
8 hours per pay period	

The timing of leave taken is subject to the approval of the Executive Director and workload considerations.

- Annual Leave requests for three days (24 hours) or less must be requested from the Executive Director or Deputy Director in advance of taking leave.
- All Annual Leave requests in excess of 3 days (25 hours or more) must be requested in advance and approved in writing prior to taking leave.

Vacation leave may not be used until it has been accrued. The Executive Director may authorize advancing up to 60 hours of annual leave in unusual circumstances (such as a family emergency), and at the sole discretion of the Executive Director. Annual leave in excess of accrued leave will not normally be authorized for vacations. The employee must request an advance of annual leave time in writing (including justification for the request) and agree to reimburse the Council for any deficit in annual leave time upon separation from the Council.

Vacation leave credit can be accumulated and carried forward to a maximum of 240 hours (30 days). Any unused vacation leave in excess of that amount will be forfeited at the end of the final complete pay period of the calendar year.

Added: July 2019

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Comment [MB10]: TN approved policy language 7 19 2019

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Comment [MB11]: I did add "in advance of taking leave" to clarify that you cannot expect retroactive approval after going AWOL

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~~Vacation leave credit can be accumulated and carried forward to a maximum of 240 hours (30 days). Any unused vacation leave in excess of that amount will be forfeited at the end of the final complete pay period of the calendar year.~~

~~The timing of leave taken is subject to the approval of the Executive Director.~~

Payment for Leave

On separation from the Council, employees receive a lump sum payment for unused annual leave not to exceed 240 hours plus the amount accumulated during the year of separation.

Voluntary Leave Donation

Council employees may donate a portion of their unused annual leave to another employee who has a personal or family medical emergency and has exhausted their available paid leave, or to an employee who is on Paternal Leave. Donation of leave is voluntary and donors remain anonymous.

A medical emergency is defined as a condition of an employee or immediate family member that is likely to result in an extended period of confinement and/or recuperation. Any unused donated leave must be returned to the leave donor(s) when the medical emergency ends.

Requests for donation of leave are submitted to the Executive Director and must include a statement of the medical problem, a report from the attending physician and the projected absence. The Executive Director will make the determination of medical emergency and his decision will be final.

Added: 5/1/13

Sick Leave

Employees earn paid sick leave credit at the rate of 13 days per year (4 hours per pay period).

Temporary employees and contract employees filling full-time Council Staff positions earn paid sick leave at the rate of 1 hour for every 30 hours worked, consistent with MGL 149 Sec 148C (940 CMR 33.00) and Executive Order 13706.

Comment [MB12]: Clarifies that temp employees receive sick time consistent with Mass General Laws, and adoption of EP 13706 for federal contractors. Not all 1099 contract positions are eligible.

Advance of Credits

The Executive Director can advance sick leave credits. However, the advance in sick leave credits can't exceed the number of hours that would be earned in the same calendar year except with the prior formal concurrence of the Executive Committee.

Using Sick Leave

Sick leave can be used for absence due to illness, pregnancy and/or childbirth, injury, temporary disability, exposure to contagious disease, or due to illness of

Section 1 – Employment

a member of the immediate family requiring the employees' personal attendance. For purposes of this Section, "immediate family" means a spouse, child or parent.

In addition, sick leave can be used for appointments with doctors, dentists, or other recognized practitioners, subject to prior approval of the Executive Director. Sick leave may also be used to provide full regular pay during periods when paid less than full pay under workmen's compensation provisions. Leave will be charged in proportion to the difference between workmen's compensation pay and full pay.

To use sick leave the employee must inform his/her immediate supervisor of the fact and the reason in advance, when possible, or otherwise as soon thereafter as practicable. Failure to do so may be cause for denial of pay for the period of absence. Before approving pay for sick leave, the Executive Director may at his discretion require either a doctor's certificate or a written statement, from the employee, describing the reason for the absence.

Unused Sick Leave

Lump sum payments of accumulated sick leave upon separation other than by retirement, terminal illness or death are not authorized.^x The Council has established the following policy for payment of unused sick leave in the event of retirement, terminal illness or death.

Retirement: Upon Retirement a ~~deposit may be made to the employee's retirement fund~~ lump-sum payment will be made via payroll to the employee for accumulated sick leave up to a maximum of 100 days.

Terminal illness or death: In the event of a terminal illness or death the full amount of accumulated sick leave will be paid to the employee or designated survivor. To claim sick leave payment due to a terminal illness the employee must submit a statement by a physician who specializes in the specific illness or condition confirming that the illness is terminal.^{xi}

Comment [MB13]: This has been the Council practice for retirees, since IRS regulations limit the amount of tax deferred compensation in a calendar year. Employees may request that a portion be contributed to their 403b account, but otherwise all sick pay at retirement is fully taxed.

Updated: 11/06/13

Parental Leave (Maternity/Paternity/Adoption)

Council employees are entitled 3 months of job-protected, parental leave for the birth and care of the employee's child, or placement for adoption or foster care of a child with the employee. While on parental leave the employee will continue to receive all group health benefits (medical, dental, life, short and long term disability) and the employee will also continue to accrue leave at the same rate as while working. This policy will run concurrently with Family and Medical Leave Act (FMLA).

Pay During Parental Leave

When taking Parental Leave the employee has the option of:

1. Using accrued paid leave (annual and sick)
2. Taking leave without pay
3. A combination of both

Sick Leave Advance: Employees can also request an advance of sick leave (*Sick Leave Policy*) not to exceed the amount that would be earned in the same calendar year. Approval for advanced leave is subject to the Executive Director's approval.

Voluntary Leave Donation: When all available accrued and advanced leave has been exhausted the employee can also request a Leave Donation. (*Voluntary Leave Donation Policy*)

Insurance Benefits

When a pregnant employee is certified as unable to work by their physician the employee is entitled to receive benefits under the Council's short-term disability insurance plan. Currently the plan covers 6 weeks at 66.67% of base salary after a 14-day waiting period. Accrued paid leave may be used during the 14-day waiting period. However the employee cannot use accrued paid leave to supplement payments made under short-term disability insurance.

Work Schedule

Employees on parental leave can request an adjusted work schedule, including returning to work part-time and/or working from home during the 3-month leave period and for an additional month after. (*Work from Home Policy*.) Employees on parental leave are not eligible for Administrative time-off.

During Month 4: Employees working less than full time during the 4th month cannot take leave without pay and must use accrued leave to make up the difference between part time and full time hours. Donated leave cannot be used during the 4th month.

Employees must be back to normal office schedule by month 5.

Updated 12/1/14

Family and Medical Leave Act (FMLA)

The Council is subject to the requirements of the [Family and Medical Leave Act](#) (FMLA), which outlines both the Council and Employee's responsibilities under this act.^{xii}

Description:

Council employees are entitled to up to 12 weeks of job-protected, unpaid leave during any 12-month period for the following reasons:

- Birth and care of the employee's child, or placement for adoption or foster care of a child with the employee;

- Care of an immediate family member (spouse, child, parent) who has a serious health condition; or

- Care of the employee's own serious health condition.

Employees may take FMLA leave in blocks of time less than the full 12 weeks on an intermittent or reduced leave basis when medically necessary. Taking intermittent leave for the placement, adoption, or foster care of a child is subject to the employer's approval. Intermittent leave taken for the birth and care of a child is also subject to the employer's approval except for pregnancy-related leave that would be leave for a serious health condition.

Responsibilities

When the need for leave is foreseeable, an employee must give the Executive Director at least 30 days' notice, or as much notice as is practicable. When the leave is not foreseeable, the employee must provide such notice as soon as possible.

An employee may elect to use any accrued paid leave (vacation, sick, etc.) for periods of unpaid FMLA leave. The Council may require an employee to use their accrued sick leave during FMLA leave.

The employee will continue to receive all group health benefits (medical, dental, life, ltd) in the same manner during periods of FMLA leave as if the employee had continued to work. The employee will also continue to accrue leave during periods of unpaid FMLA leave. An employee who returns from FMLA will be restored to the same or an equivalent job (defined as one with equivalent pay, benefits, responsibilities, etc.).

The Council may require medical certification of a serious health condition from the employee's health care provider before approving FMLA leave. The Council may also require periodic reports during the period of leave of the employee's status and intent to return to work, as well as "fitness for duty" certification upon return to work in appropriate situations. Such determinations will be made on an individual basis.

Massachusetts Paid Family and Medical Leave

The Council has elected to participate in the Massachusetts Paid Family and Medical Leave (Mass PFMLA) program under MGL 175M (458 CMR 2.0). This State sponsored program establishes a system for paid family leave of up to 12 weeks to care for a family member, and up to 20 weeks for an employee's own illness. Employees contribute to the program premiums through payroll taxes as set forth in the program regulations. The employer and employee payroll taxes which pay for the program begin in 2019. Program Paid Leave Benefits will be available in beginning in 2021.

Description:

Beginning in 2021, Council employees are entitled to up to 12 weeks of job-protected, paid leave during any 12-month period for the following reasons:

- Birth and care of the employee's child, or placement for adoption or foster care of a child with the employee; or,
- Care of an immediate family member (spouse, child, parent, grandparent, or sibling) who has a serious health condition.
- Council employees are entitled to up to 20 weeks of job-protected, paid leave during any 12-month period for the care of the employee's own serious health condition

Employees may take Massachusetts PFMLA leave in blocks of time less than the full number of weeks (12 or 20) on an intermittent or reduced leave basis when medically necessary. Taking intermittent leave for the placement, adoption, or foster care of a child is subject to the employer's approval. Intermittent leave taken for the birth and care of a child is also subject to the employer's approval except for pregnancy-related leave that would be leave for a serious health condition.

Additional Massachusetts Paid Family and Medical Leave program and benefit details, including provisions for active duty service members, are available from the Administrative Officer. The Administrative Officer will coordinate benefits under this program for Council employees.

Leave taken under the Massachusetts Paid Family and Medical Leave (Mass PFMA) will run concurrently with federal Family and Medical Leave Act (FMLA).

Military Leave

Military leave with pay not to exceed twelve working days per calendar year, will be granted for the following purposes:

- Annual active duty for training and related activities.

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Comment [TN14]: Can a member combine this paid FMLA with leave to keep salary constant? Unlike STD?

Comment [MB15]: Mass PFMLA benefits can be additive with STD to achieve full pay. (But you cannot also take vac/sick time from the Council, because Council comp would decrease STD benefits)

If you did not take STD, it might be possible to take Mass PFMLA in conjunction with Council sick/vac to achieve full pay. I need to confirm this.

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Section 1 – Employment

- Unannounced practice alerts when they occur on a normal workday.
- Attendance at service schools for training in lieu of annual active duty.

Any additional time devoted to these purposes will be treated as military leave without pay or the employee may use annual leave.

Military leave without pay will be granted for periods of active duty with the Armed Forces of the United States as a result of involuntary draft or military conscription and for the 90 days immediately following such period of service. Such leave will also be granted for special duty or call up to aid civil authorities in the event of civil disorders or disasters.

To take military leave the employee must submit a copy of the orders to the Executive Director as evidence of the required military duty. For leave without pay the employee must make available to the Executive Director a copy of the orders to report for active duty and advise the Executive Director of the effective date of entry into active duty status and the probable date of return.

The employee is responsible for making an application within 45 days of separation for reinstatement within 90 days from the date of separation from the service. The employee must notify the Executive Director of any change in the expected date of return.

Jury Duty

Employees are entitled to compensation while on jury duty when required to report to serve on a jury or to appear as part of duty or under subpoena before a court, legislative committee, or judicial or quasi-judicial body. The employee must return to work within a reasonable time on the days released from jury duty or other service.

Bereavement Leave

Upon the death of spouse; child; parent; brother; sister; grandparent; grandchild; parent of spouse; or of a relative living in the immediate household, an employee will be entitled to leave with pay for a maximum of three calendar days.

Personal Legal Matters

Subject to the approval of the Executive Director, an employee appearing on his own behalf in litigation involving personal or private matters before a court, legislative committee or judicial or quasi-judicial body, may be granted leave without pay or may take annual leave.

Leave Without Pay

Upon written request, the Executive Director may approve leave without pay, not to exceed three months. Such leave may be renewed for an additional period

not to exceed three months by formal action of the Executive Director and with the express concurrence of the Council Chairman.

Recording Used Leave

All leave used must be recorded on the “Time and Attendance Record” for the period in which the leave was taken. Places to record Vacation and Sick leave are already on the form. Leave should be recorded in increments of no less than ½ hour.

For jury duty leave or bereavement leave, record the hours as worked and add a “comment” to indicate the type of leave used. This same procedure should be used when the Executive Director closes the office for weather or other reasons.

2.2 Retirement Benefits

SEP Plan

All employees, who are at least eighteen years old, are enrolled in the Council's Simplified Employee Pension Plan (SEP) retirement program.

Under this program, the Council contributes an amount equal to fourteen percent (14%) of the basic salary into a SEP account. All contributions into the account belong fully to the employee from time of payment.

Reporting

The contribution is shown on the tax Form W-2.

Enrollment

Employees ~~are required have the option of opening to open a custodial a-SEP account with any authorized-qualified provider, subject to the provisions of Simplified Employee Pension – Individual Retirement Accounts Agreement (IRS Form 5305-SEP). The Council has Form 5305-SEP available for employee's to provide their chosen SEP custodial firm. applications on file for several major brokerage firms.~~

Fees

The ~~provider-SEP account custodian~~ may charge an annual fee for the maintenance of the account. Employees should contact their provider directly for more information.

Distributions

Employees are eligible for retirement from the Council after 25 years of service or age 59½. However the IRS determines when withdrawals from the SEP account can begin, the age is currently set at 59½.

Upon retirement, distributions will be taxed as ordinary income. However if distributions are taken before age 59½ they may also be subject to a 10% early withdrawal penalty. Federal income tax will be withheld at a rate of 20% unless eligible rollover distributions are directly rolled over to another qualified plan or to an individual retirement account (IRA.)

To determine how this SEP plan affects your finances contact a tax professional.

Comment [MB16]: The Council does not maintain SEP-IRA applications, but rather provides the employee's chosen provider with the terms of the SEP-SIMPLE agreement.

(403)(b) Plan

In addition to the SEP program employees can voluntarily defer a portion of salary to a federal tax-deferred 403(b) retirement plan. This plan is a pre-tax salary reduction agreement. The amount contributed is taken out before federal taxes are calculated. Therefore, the employee does not pay federal income tax on the amount put into the 403(b) until funds are withdrawn.

Employees have the option of opening a 403(b) account with any authorized provider qualified custodial firms with which the Council has established 403b Plan Agreements.

To start a 403(b) deferral an employee must first open an account with an authorized provider the qualified custodial firm. Second, they must complete and sign a Salary Reduction Agreement. This form is an agreement between the employee and the Council that authorizes the deduction of a specific contribution from paycheck and directs the deposit of the deduction into the account.

Contact the Administrative Officer to get a copy of this form.

Fees

Some 403(b) providers account custodial firms charge fees for the maintenance of 403(b) accounts. It's recommended that the employee discuss this with their chosen custodial firm provider.

Limitations

When deferring salary into the 403(b) program employees are responsible for making sure they do not exceed any overall combined limits for retirement contributions. It's recommended the employee request their provider prepare a Maximum Exclusion Allowance (MEA) calculation to determine the maximum contribution that can be made to the 403(b) program for a calendar year.

Distribution Restrictions

Distribution guidelines are the same as for the SEP program.

Consult a tax professional to determine your appropriate deferral

Comment [TN17]: While those are the only three currently, they may not be the only 3 in the future.

Comment [MB18]: This limits the firms to Fidelity, USAA, and LPL. These are the only 3 firms with which the Council has signed 403b Plan Agreements in place.

2.3 Insurance Benefits

General

This section provides an overview of the benefits the Council offers and is not a guarantee of benefit. The Council can change the benefit provider, level of coverage or the percentage of Council contribution at any time. ^{xiii} Coverage for Medical and Dental is available to the employee, employee's spouse, domestic partner and dependents.

Domestic Partner Coverage added 8/1/16

Medical Insurance

Council employees are eligible to participate in a group health/medical insurance program. Benefits are effective on the enrollment date, which is generally the 1st day of employment.

The Council offers HMO plan, which is currently with Tufts Health Care. The Council pays 100% of the premium for full-time employees and dependents.

Employees electing any other health coverage will be required to pay the difference between the Council's HMO plan and their plan.

Health Maintenance Organization HMO Plan

The HMO plans focus on preventive healthcare and have very few forms to complete. When you elect the HMO, you will receive care from Tufts providers. The member must select a Primary Care Physician (PCP) who will be associated with a specific hospital. Each time medical care is needed the primary care physician will provide the care or make a referral to specialists (usually within the medical group).

Services provided by an out-of-network doctor will not be paid unless authorized in advance by the PCP and approved by an Authorized Reviewer.

The plan is subject to co-payments and a lifetime maximum. For specific details please refer to the Tufts HMO Member Handbook or online at [Tufts Healthcare](#).

Updated 9/1/14

After enrollment in either health plan, Tufts will send you a Member's Handbook that provides all the details of your coverage.

To see a list of primary care physicians, request a new membership card or to review plan information you can call Tufts at 800-462-0224 or visit them on the web: [Tufts Healthcare](#).

Health Reimbursement Account (HRA)

All Council employees are provided with an individual Health Reimbursement Arrangement (HRA). Benefits Strategies LLC manages this program.

An HRA is an IRS approved, 100% employer-funded health benefit arrangement that reimburses employees for out of pocket medical expenses such as, co-pays and other qualified medical, dental and vision expenses as defined under IRS Section 213 (the same expenses covered under the FSA).

Due to IRS restrictions, domestic partners are not eligible for the tax exemption and therefore cannot use the employees HRA.

Each year the Council determines the amount it will contribute to the employee's HRA. The Council's contribution to the HRA will vary from year to year and may stop completely if the budget is reduced or health care expenses increase.

Employees may carry unused funds forward into future years, subject to any limits adopted by the Council. This HRA will be allowed for use by retirees, no new funds will be added however any funds left in the account can be used until exhausted.

Employees leaving the Council prior to retirement forfeit unused funds in their HRA account.

Since funds can only be used for qualified medical expenses, the amount the Council puts into the employees HRA is not considered taxable income to the employee.

Employees are required to obtain receipts for all expenses reimbursed through the HRA program, especially those payments made with the debit card. Receipts must be saved by the employee for 3 years pursuant to IRA tax guidelines.

Comment [MB19]: We could consider eliminating references to specific firms, and just state:

"The Council engages a Third Party Administrator to support this program. Program details and Summary Plan Descriptions are available from the Administrative Officer."

Comment [MB20]: .

We could never pay this out, since it is tax preference health expense reimbursement

Updated for Domestic Partners 8/1/16

Flexible Insurance Savings Accounts (FSA)

Council employees are eligible to participate in a tax saving benefit that helps employees pay for medical and dependent care expenses. Due to IRS restrictions, domestic partners are not eligible for the tax exemption and therefore cannot use the employees FSA.

Participants elect an amount of money to be deducted from their pay on a pre-tax basis. The money is deposited into an account and available for use over the course of the upcoming plan year.

Types of Spending Accounts

There are two types of spending accounts under the FSA; Health care spending accounts (HCSA) & Dependent care spending accounts (DCSA)

HCSA - Under the HCSA, the money may be used by the participant and qualified dependents for health care expenses, such as co-payments, out-of-pocket dental and vision work, over-the-counter medications, and much more.

DCSA - Under a DCSA, the money may be used for any childcare or adult day care expenses you incur to be able to go to work or look for a job. IRS Publication 503 can be used as a guide for eligible DCSA expenses.

Claims

FSAs operate as reimbursement plans -- with plan participant paying expenses and submitting claim for reimbursement. Members will receive a FSA debit card, which allow expenses to be paid directly from the account rather than waiting.

Employees are required to obtain receipts for all expenses reimbursed through the FSA program, especially those payments made with the debit card. Receipts must be saved by the employee for 3 years pursuant to IRA tax guidelines.

IRS Restrictions & Limitations

The IRS has a “use it or lose it” rule. The money in an FSA can only be used for expenses incurred within the plan year. The Council’s plan has a grace period of two and a half months to allow participants access to the previous year’s balance for purchases made in the early part of the following year. After the end of the grace period you’ll have to forfeit any remaining funds.

The IRS limits how much money can be contributed to a DCSA. The IRS has not set a limit for how much money you can set aside in an HCSA, but the Council will set a maximum.

Updated for Domestic Partners 8/1/16

Additional information can be found at <http://www.benstrat.com>

MA Continuation of Medical Insurance Coverage

Medical coverage is also available *under Massachusetts Continuation of Coverage (MA COC)*. This is a short-term extension of coverage under our group health and dental plans, similar to COBRA coverage.

The MA COC allows employees and their families the opportunity to temporarily continue their medical coverage when it would otherwise end because of a life event known as a qualifying event.

Examples of qualifying events include the following:

- Employment ends for any reason other than gross misconduct or hours are reduced,
- Divorce or legal separation
- Death of the subscriber
- Dependent is no longer eligible to be a dependent under the plan, e.g. ages out
- Subscriber becomes entitled to Medicare benefits

The maximum period of coverage varies depending on the qualifying event ranging from 18 to 36 months.

The employee must pay 100% of the cost of the coverage plus 2% for administrative costs. If the required premium is not paid on time the coverage will be terminated.

This law also requires insurance providers cover dependents until age 26.

To qualify for MA COC the employee must notify the Council within 60 days after the loss of coverage due to:

1. Divorce or legal separation
2. Dependent child losing eligibility for coverage as a dependent.

Coverage under Long Term Disability

For employees who are receiving Long Term Disability Insurance, the Council will pay 50% of the cost of coverage for up to 18 months,

To enroll in COC with Tufts you must complete the election form and return to Administrative Officer.

Updated 4/1/16

Section 1 – Employment

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HIPAA Privacy

The Council acknowledges participants' privacy rights as specified in the Privacy Rule of the Administrative Simplification Provisions of the Health Insurance Portability and Accountability Act of 1996, and has implemented policies and procedures to ensure these privacy rights are protected.

In conducting the operations of the Councils Health Plan, the Council will manage Protected Health Information ("PHI") in a manner that prevents unnecessary or inadvertent access to, use of or disclosure of PHI.

Participants in the Council Health Plan have the right to review their PHI, as well as request restrictions on how and to whom their PHI is communicated.

Added 4/1/16

All employees are covered regardless of what state they live in.

Dental Insurance

Employees are eligible to participate in a dental insurance program with Delta Dental of Massachusetts. The Council pays 100% of the premium for full-time employees and dependents.

Delta Dental' program consists of a network of participating dentists. An employee can use a dentist who is not on the plan. However, the benefits are greater when in-network dentists are used.

Participating Dentist

Some of the advantages of using a dentist from the network are:

- Lower out of pocket costs: participating dentists agree to accept reduced fees for their services. Since co-payments are based on these reduced fees, out-of-pocket costs are lower than with a non-participating dentist.
- No claim forms to file.
- Direct Payment: Delta Dental pays the dentist directly.

You're Responsible for....

Co-payments and deductible

Treatments not covered under your plan

Treatments that exceed your annual maximum

Delta Dental covers the least expensive measure; therefore, for any procedure that exceeds \$300 you should ask your dentist to submit a pre-treatment estimate to Delta Dental

Additional information on choosing a participating dentist can be found at [Delta Dental](#)

Life and AD& D Insurance

The Council provides basic life insurance coverage at no cost to employees. Coverage under this policy is equal to 1x gross salary up to \$150,000.

Along with the basic life insurance, coverage includes accidental death and dismemberment (AD&D). The life insurance also includes dependent life coverage of \$5,000 for spouse and \$2,000 for each dependent.

Under current tax laws, the value of the premiums (as determined by the IRS) for employer paid life insurance in excess of \$50,000 may be considered taxable income.

Updated 11/4/15

Payment of Benefits at Death

Death Benefit payments are made to the employee's designated beneficiary(ies) (or estate if no beneficiary) as listed on the Beneficiary declaration document maintained in the employee's personnel file. It is the employee's responsibility to review and update beneficiary designations as desired. If an employee become terminally ill while covered under the plan, they may elect to receive a portion of the life insurance benefit before death.

Accidental death and dismemberment (AD&D) insurance

This insurance pays benefits for loss of a hand, foot, or sight within 90 days of the accident causing the injury.

Accidents Not Covered for Benefits

AD&D benefits are payable only for injuries that occur while insured under the plan. See the plan description for types of accidents that are not covered.

Coverage During Disability

If an employee becomes disabled before age 60, life insurance coverage will be continued without premium payment.

Coverage During Leaves of Absence

Basic life (and AD&D insurance) continues automatically, at no cost to the employee while on an approved family or medical leave of absence. For any other approved leave of absence, coverage may be continued for up to 12 months from the end of the month in which leave begins, however the employee must pay the full cost of coverage.

Short Term Disability Insurance

The Council provides Short-term disability insurance for all employees. Short Term Disability insurance is a Third Party Sick Pay policy that can be used in place of accumulated Sick Leave. The policy gives the flexibility to conserve leave balances by allowing individuals to claim income reimbursement, for accidents or illness, directly from the insurance provider. There is a 14-day waiting period to claim for benefits. The Council pays 100% of the premium.

The policy pays 2/3 of basic salary up to a maximum of \$1,500 a week for 11 weeks if the employee becomes temporarily disabled, meaning not able to work for a short period of time due to sickness or injury (excluding on-the-job injuries, which are covered by workers compensation insurance. After 11 weeks the employee is eligible to apply for Long Term Disability. ~~With prior approval from the Executive Director, employees may be eligible to use accumulated leave to cover the shortfall in salary while out on Short Term Disability.~~

Employees are automatically enrolled in the program however, to facilitate any future claims employees are strongly encouraged to review plan terms and conditions available from the Administrative Officer~~you take the time to register online with the provider at www.jpffc.com. The process is fast and simple. Registration provides convenient and secure access to submit claims, review benefits, check the status of a claim, and retrieve forms.~~ The Administrative Officer will coordinate claims for benefits under this program.

Long Term Disability

Employees are covered ~~until age 70~~, by a long-term disability insurance policy. The policy pays 60% of salary up to a maximum of \$5,000 per month. Coverage is available 90 days after an illness or injury. The Council pays 100% of the premium.

Specific terms and conditions are in ~~the Jefferson Pilot~~ the Summary Plan and Benefits plan handbook available from the Administrative Officer~~that is mailed to the employee's home.~~

Any payments received from other sources of disability income, such as workmen's compensation or social security will be deducted from payments made under this plan. The benefit payment period under this plan is determined by the employee's age at the time of disability. Payments under the plan continue until the employee is recovered from the disability, ~~fails to provide requested disability status or income information, dies~~ or reaches the end of the benefit period outlined in the policy schedule, age of 70, whichever occurs first.

Limited Pay Periods

Disabilities due to mental illness have a limited pay period of up to 24 months. Payments beyond that period are made only under certain conditions.

Comment [MB21]: This is not correct. Salary continuation during Short-term disability will result in reduced benefits.

Comment [MB22]: Reflects actual Policy language. Older text reflect a prior policy under Jefferson Pilot.

Disabilities Not Covered for Benefits

Employees are not covered for any disabilities caused by or contributed by, or resulting from:

- Pre-existing conditions
- Intentionally self-inflicted injury
- Military service or any act of war
- Active participation in a riot
- Disability during incarceration

Survivor Benefits

A lump sum benefit equal to 3 months of gross disability payment is made upon death if:

1. Disability had continued for 180 or more consecutive days and;
2. Employee was receiving or entitled to receive payments under the plan.

2.4 Statutory Benefits

Social Security/Medicare

The Federal Insurance Contributions Act (FICA) directs employers and employees to contribute a percentage of the employees' wages to Social Security. These funds provide retirement and long term disability benefits. The employees' share of FICA taxes is deducted from the employees' paycheck and is sent with the employer's portion to the appropriate government agency.

Added 4/1/16

2.5 Other Benefits

Professional Development

The Council will pay 100% of the cost of all pre-approved conferences, training, seminars and memberships to professional organizations that are directly related to the employee's current position and are considered by the supervisor to be a valuable addition to the employee's working knowledge or skill set.

Employees are responsible for obtaining their supervisors pre-approval before registering. In order to get pre-approval the employee should provide the supervisor with detailed information about the conference or professional organization. The information provided should include a description of any plans to share the training with other staff. Any papers or presentation prepared by the employee for conferences or seminars must be provided to the Deputy Director in advance of the conference.

Updated 6/2/14

Mobile Phone (Cell Phone or Smartphone) Stipend Policy

Subject to prior approval, a mobile phone stipend may be provided for employees whose duties require that they are either:

Frequently away from the office and need to be accessible on short notice,

In a position where he or she is required to be "on call" outside normal office hours

Infrequent or occasional use of a personal phone to conduct business while outside the office will not normally entitle an employee to this stipend

Requesting a Stipend

Requests should be made directly to the Executive Director via the employee's supervisor. Requests should include documentation of the service plan cost for the phone. The stipend is expected to be no more than \$40/month, but in any case it will not exceed the cost of the service plan.

Updated 12/9/14

Tuition Reimbursement

Employees are eligible for reimbursement for tuition and other necessary expenses associated with attending or enrolling in courses of study offered by institutions of higher education to upgrade and improve relevant skills or professional ability. All requests must be made in writing and contain a

Section 1 – Employment

description of the program, the benefits to be obtained, and an estimate of the program costs.

To be eligible for reimbursement the courses must be pre-approved; be related directly to the employee's current position and considered by the employee's supervisor to be a valuable addition to the employee's working knowledge or skill set.^{xiv}

Payment

One-half of the cost of an approved course will be reimbursed on enrollment. The balance will be reimbursed upon verification of successful completion of the course and receipt of the specified number of credit hours or a certification of completion.

Incomplete course work

Failure to complete a course satisfactorily or withdrawal for reasons other than illness of self or immediate family will result in loss of enrollment costs. Any amount paid to the employee at the beginning of a course will be withheld from salary. Employees, who leave the Council's employ within six months of completion of a course, will have the amount paid by the Council withheld from the final paycheck.

Work hours - attending courses

Whether or not reimbursement of tuition and expenses is authorized, the Executive Director, at his discretion, may permit an employee to attend courses during normal office working hours provided they make up the time lost from the regular work week and complete the normal forty hours per week.

Updated 6/2/14

Worker's Compensation

Council employees are treated as Federal employees for the purposes of the Federal Employees Compensation Act, FECA. Detailed information about coverage and claims can be found on the Department of Labor Employment Standards website: [Division of Federal Employees' Compensation](#).^{xv}

FECA provides compensation benefits to civilian employees of the United States for disability due to personal injury (including occupational disease) sustained while in the performance of duty. Damage to or destruction of medical braces, artificial limbs, and other prosthetic devices incidental to a personal injury is also compensable. The FECA also provides for the payment of benefits to dependents if job-related injury or disease causes the employee's death.

Unemployment

Although the Civil Service Commission has determined that Council employees are not federal employees, the U.S. Department of Labor has held that

employees of the Council do qualify as federal employees for purposes of coverage under federal employment compensation provisions of the Social Security Act.

Eligibility

The determination of eligibility under the program is left with the unemployment insurance offices of the various states. The states accept claims filed by employees and determine their eligibility to receive unemployment benefits under the same provisions of state laws that apply to workers in private industry.

Contact the [*State Unemployment Insurance Agency*](#) as soon as possible after becoming unemployed.

For additional information on Unemployment Compensation go online to: [*About Federal Unemployment*](#) ^{*xvi*}

Section 3 Administrative

This section is designed to provide an overview of some of the Council's basic office operations and the staff who are responsible for them.



3.1 General Office Operations

Emergency Action Plan (EAP)

The Occupational Safety & Health Administration (OSHA), under its standards [29 CFR 1910.38](#) (a), requires that all employers with more than 10 employees have a written Emergency Action Plan (EPA). The plan is for the safety and well-being of the Council's employees. It identifies necessary management and employee actions during fires and other emergencies, with the goal of preventing injuries and property damage.

A copy of the Council's Emergency Action Plan is given to each employee and is an addendum to this Handbook.

Office Evacuation

If the fire alarm sounds all employees must leave the building immediately.

Exit the office using the nearest emergency exit. There is one on each floor.

Don't use the Elevator!

After exiting the building go to the parking lot across the street, 75 Water Street, "Mill" 5. A roll call will be taken to account for all employees.

Closing the Office

Administrative Closings

The Executive Director may, at his discretion, close the office at any time.

If work is delayed or cancelled, you'll be called at home

If the Council office is closed by the Executive Director, employees will not be charged any leave time. If an employee reports to work on a day that the Council office has officially been closed, additional time off in lieu of the canceled workday will not be given.

Adverse Weather Closings

The following policy applies primarily to snow storms, but can also apply to other major emergencies such as hurricanes or other disasters.

The Executive Director determines if the office should be open during adverse weather. To the extent possible the weather in the Newburyport area will serve as the basis for a determination regarding office status on any given adverse weather day.

In the event that a decision is made to delay or cancel work for the day, staff members will be contacted at their place of residence

To account for weather conditions elsewhere in the commuting area, employees have the option not to report to work if they feel the conditions are too dangerous to be on the road.

If an employee elects to remain at home and the Council office is open, they will have to use sick or annual leave hours to cover the time off.

See the Time off Benefits section for instructions on recording time off.

Locking up the Office

The Council offices are on two floors and have four doors that must be locked (two on each floor) every evening.

Locking these doors at the end of each day is the responsibility of the last person on each floor leaving for the day.

The two main doors can be locked with the same key. The two rear doors should be locked from the inside before the last person leaves.

Maintenance or Repair

Our landlord, Hall and Moscow Realty, ~~is responsible for~~ provides repairs and maintenance ~~services at~~ our office space. For maintenance and repair requests, contact the Council's Office Manager. The Office Manager will coordinate maintenance requests with Landlord's Office Staff. call: 978-465-7047 or email [David Hall](#)

Comment [MB23]: The Office Manager should be the single point of contact for staff requests, since the Council gets charged for these services.

All doors must be locked every evening.

3.4 Travel

General

Staff are authorized to travel and are eligible to be reimbursed for travel expenses under the Council's Travel Authorization and Reimbursement Policy, which can be found on the Council's website and is an addendum to this Handbook. This policy provides detailed information on travel requirements. The Council is not bound by the separate per diem limits for meals and lodging in the GSA Travel Regulations. We are however subject to overall limits.

Limitations

All travel must be authorized and approved in advance and a numbered Travel Authorization must be issued. Reimbursements are limited to amounts reasonable necessary. The meals allowance is based on the GSA Per Diem Rates. The mileage allowance is set by ~~NOAA-IRS~~ annually and is on the voucher form. Airline and lodging reservations should be made by the secretarial staff to assure the lowest rates and the costs will be billed directly to the Council.

Comment [MB24]: Pending changes

Vouchers

To claim reimbursement for travel expenses employees must complete a Travel Reimbursement Voucher. An electronic copy of a Travel Voucher will be included with the Travel Authorization. The voucher must be submitted within six weeks of the meeting date it covers. Payment of vouchers is handled promptly and reimbursement checks are generally issued within 5 working days.

Expenses in a 50-mile radius

~~Lodging expenses are not authorized within a 50-mile radius unless official business requires the individual be available before 6 a.m. or after 8 p.m. or with approval of the Deputy Director.~~

Travel Time

Once an employee reports for work, all time spent traveling, as part of the employee's principal activities will be counted as official hours worked. Travel hours are considered a substitution for the employee's other duties.

Travel that keeps an employee away from home overnight is regarded as work time to the extent it cuts across the employee's usual workday hours. If travel results in an employee working more than forty hours in a week, the provisions of Section 1 - Employment: Pay Policies: Overtime apply.

3.5 Records Management

Availability of Records

We maintain documents generally available to the public on our Internet site. Documents for posting include: the SOPPs, fishery management plans and their amendments for the fisheries for which the Council is responsible, drafts of fishery management plan amendments under consideration, analysis of actions the Council has under review, minutes or official records of past meetings of the Council and its committees, materials provided to Council members in preparation for meetings, and other Council documents of interest to the public. For documents too large to maintain on the Web site, not available electronically, or seldom requested, we will provide copies of the documents for viewing at the Council office during regular business hours or may provide the documents through the mail.

Definition of Records

Documents made or received by the Council or in connection with the transaction of Council business are considered “records” covered under Chapter 1500 NMFS of the NOAA Records Management Guidelines. The Council follows NOAA procedures for managing and disposing of official records. Some examples of what may constitute a record include:

- Letters
- Memorandums
- Completed forms
- Statistical and narrative reports
- Graphics
- Photographs
- Audio and video recordings
- Maps
- Architectural, engineering, and other drawings
- Forms
- Photographic prints and negatives
- Motion picture film
- Tape recordings
- Electronic records

Disposition of Records

The goal of an effective disposition program is annually to destroy unneeded records while preserving records having long-term or enduring value because of administrative, legal, scientific, or historical importance.

We have established a [Council Policy on Recordkeeping](#) that complies with the guidelines for record retention that are set forth in the NOAA Disposition Handbook [Chapters 1504-16 and 1504-17](#) Fishery Management and Coordination Files.

The Council consults with NOAA before destroying Council records. Financial records (including time and attendance records) are handled according to the stipulations of [29 CFR 516 \(Time, Attendance and Payroll records\)](#) and [2 CFR 200.333 \(Grant Financial Records\)](#) ~~15 CFR Part 14~~. Records associated with FMPs are sent to the Federal Records Center.

Comment [MB25]: Correct CFR references

All records and documents created or received by Council employees while in active duty status belong to the Federal Government. When employees leave the Council, they cannot take the original or file copies of records with them; to do so violates Federal law.

Administrative Records for FMPs

The Council, NMFS Headquarters, Regions and Science Centers collectively are responsible for maintaining records pertaining to the development of FMPs and amendments.

In the event of litigation, compilation of an administrative record for a court case will be under the directions of the NOAA General Counsel.

The Council's maintains the following administrative records:

Correspondence relating to the FMP

Meeting notices

Meeting Files - including:

- ~~Meeting notices~~ agendas
- minutes
- reports
- studies
- correspondence relating to the FMP
- work plan, if any
- Scoping comments

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Minutes of Council meetings

Council meeting agendas

Council reports/motions

Section 4 – Finance

Fishery Management Regulation File - including:

- Fishery management plans
- Amendments
- Frameworks
- Proposed regulation
- Final regulations

Emails or attachments that incorporate Councils policies, decisions or discussions of formulation and execution of an FMP, amendment or regulation

Discussion papers, if any

National Environmental Policy Act (NEPA) documents

Regulatory analyses

Paperwork Reduction Act (PRA) justification

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Permanent Records

The designation of a file as “permanent” means that the records are appropriate to transfer to the Federal Records Center (FRC) and eventually the National Archives. The Council keeps a list of all files that are transferred to the FRC.

Files can be retrieved at any time by calling (781) 663-0130 or email: waltham.archive@nara.gov.

The following are some of the Council’s “permanent” files maintained by the FRC and may be transferred to the National Archives:

- | • Environmental Impact Statement (EIS) files: including documents relating to EIS’s or environmental assessments.
- | • Annual Report files: input for the DOC Annual Reports and related correspondence. Cut off at end of calendar year when created.
- | • Meeting Files: including agendas, minutes, reports, studies and related correspondence.
- | • Fishery Management Regulation files: including documents relating to the development and publication of regulations pertaining to fisheries management (including Fishery Management Plans).
- | • Proposed and Final rules: including emergency interim rules and notices of hearings and meetings.
- | • Fishery Management Council Operations Files: (SOPP’S) including meeting files, Federal Register notices of meetings, files documenting the clearance and processing of proposed and final rules, along with the final or proposed rules.
- | • Minutes and reports of meetings: including audiotapes of meetings and written text of meetings.

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Records Retirement: To prepare Council records for transfer to the FRC, a form SF-135, Records Transmittal and Receipt ([Electronic Version SF-135](#)), needs to be completed and a disposal date determined. The FRC also requires that our records be placed in a specific type and size box for transfer.

Permanent Records: A box list is required whenever records to be retired are considered permanent. All records must be placed in folders that have been labeled. The box list includes the dates and descriptions of the contents of each folder in each box. The FCR will provide an accession number that is printed on each box.

3.6 Confidential Data

The Council has established procedures to insure the confidentiality of statistics it receives from federal or state authorities as well as data voluntarily submitted to the Council by private persons.

In the case of statistics submitted by a state or federal agency, policy and procedures must be consistent with the laws and regulations of the federal or state agency submitting the statistics.

Data Access

Data from or Federal Agencies

Access to confidential data received from state or federal agencies is limited to staff members who have signed individual *Statement of Non-Disclosure*. The Regional Data Base Administrator (RDBA) determines who can access federal confidential data. The Council's Data Sharing Agreement and individual employee signed Non-Disclosure statements are maintained by the Council's staff member responsible for MIS.

Council Sponsored Data

The Executive Director approves requests for access to confidential data collected under Council sponsorship in accordance with Council policies and procedures.

Contractors

If the Council contracts to have data gathered on its behalf, contractors and their employees are subject to the same civil and criminal penalties as any authorized user. Contractor personnel will be required to sign a statement of nondisclosure.

Comment [MB26]: Clarifies the role of MIS to maintain the DSA and Non disclosure statements. Currently, Lou has all of them because he is responsible for MIS.

3.7 Freedom of Information Requests

The Councils are considered “agencies” under the requirements of the Administrative Procedure Act and are therefore subject to the requirements of the Freedom of Information Act (FOIA).

FOIA requests must be submitted in writing. The envelope and letter should be clearly marked “Freedom of Information Request”. FOIA requests will be time-and-date stamped upon receipt. Each request will be acknowledged within 10 working days and filled as expeditiously as possible. Time limits for processing FOIA requests start upon receipt of the request for information. In unusual circumstances, the 10-day time limit may be extended up to an additional 10 working days.

Coordination of Requests

FOIA requests received by the Council will be coordinated with the Regional Office. The region will coordinate logging the FOIA request and obtain clearance from the NOAA General Counsel concerning initial determination for release or denial of information.

FOIA requests will be controlled and documented by the Region. Councils will receive a copy of the CD-244 from the Regional Office.

Allowable Costs

Any funds the Council recovers for locating and reproducing information released under the FOIA will be forwarded through the NOAA Freedom of Information Officer to the U.S. Treasury. Appropriate charges are outlined on the Department of Commerce website, [Freedom of Information Act & Privacy Act Reference Guide](#)

Initial Denials

The Council will determine which staff members may disclose unclassified information in its possession. However, only the Assistant Administrator has been delegated authority to make initial determinations to deny information requested under FOIA. This authority may not be re-delegated. Regions must keep the Council informed.

3.8 Computer Use

The Council provides access to computing resources (hardware, software, and data) to its employees and contractor staff. These resources are official purpose only.

System Administrator

The Council's computer system's administrator maintains the computer system and is responsible for insuring users follow the policies and procedures outlined in the *Council's Computer Use Policy*.

Anyone authorized to use the Council's computing resources must comply with this policy. A copy of the Computer Use Policy is provided to all staff and is an addendum to this Handbook

NOAA Security Awareness Training

Council staff who access NOAA computer systems or those who have NOAA email addresses are required to complete the NOAA IT Security Awareness course annually and also follow the [NOAA IT Security Policy](#).

Section 4 Finance

Section 4 – Finance

This section is designed to provide an overview of the financial operations of the Council.

OMB Circulars-[A-110](#) and [A-122](#) govern the operation of the Council. Circular A-110 prescribes standards for financial management systems, procurement, property management, financial reporting, cash depositories, and grant closeout procedures.

The Council is required to comply with the provisions of the circulars and terms and conditions of awards. If there is a conflict the federal regulations take precedence.



4.1 Grants Management

Cooperative Agreements

The Council receives funds through cooperative agreements for two basic types of expenditures:

1. Administrative (operation) funds to cover general operating expenses, such as salaries, office space, utilities, travel, etc.,
2. Programmatic (contract) funds primarily designed to fund contracts generated by the Council for development of FMP's (including amendments) or FMP related information.

Administrative Awards

Funding for Council administrative and technical support operations is included in the budgets of NOAA and NMFS through the Department of Commerce. Funding is subject to regular budgetary review procedures. Cooperative agreements provide federal funds as the Secretary determines are necessary to the operations of the Council and consistent with budgetary limitations.

Programmatic Awards

The Council can also request programmatic funding for the development of FMP's. Requests for programmatic funding may be submitted at the same time as the administrative budget or at other times during the year as necessary. The following criteria has been established by NOAA regarding decisions on programmatic funding:

1. Proposed projects must be directly related to the formulation of an FMP, amendment or emergency action including data collection necessary to determine whether a FMP should be developed; necessary to evaluate an existing FMP; or to obtain information for use in a framework to an FMP.
2. Proposed projects must be short-term, preferably one year or less but generally not longer than two years.

Proposed projects must avoid duplication of effort and operate as cost efficiently as possible to maximize benefits for Federal expenditures. The Council may be authorized to contract for information needed on a high priority basis which cannot readily be supplied free of charge by NMFS or other institutions.

4.2 Budget Formulation and Execution

The main source of Council funding is through the Administrative Award. The award period for the Council's Administrative funding is January to December. Single awards may be made covering multiple years. The maximum length of a multi-year award is five (5) years. In addition to the Administrative Award the Council submits other funding applications for specific projects such as Research Steering. These awards generally have different funding periods.

The Council's Administrative budget is prepared in response to a request from NOAA and revisions may be submitted as necessary during the year.

All request for funding applications are submitted electronically at the government's website [Grants.gov](https://www.grants.gov). This website allows organizations to electronically find and apply for competitive grant opportunities from all Federal grant-making agencies. Grants.gov is the single access point for over 900 grant programs offered by the 26 Federal grant-making agencies.

Application

The application is submitted not less than 90 days before the requested start of the award. Amendments may be made to the budget as necessary. All budget applications must include the following:

- Statement of Work including performance milestones
- Detailed budget and a budget narrative and/or justification
- SF-424 – Application for Federal Assistance (original and two signed copies)
- SF-424A & B – Budget information Non-Construction Program. (original and two signed copies)
- CD-511 – Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying.
- Financial Audit Information

Regardless of the funding period, all budgets need to be submitted at least 90 day before the requested start date.

Formulation

Budget allocations are based on both historical and projected needs. Comparisons are made between budgeted and actual expenditures for the previous award period. Whenever appropriate information is related to performance and unit cost data.

Budget data is accumulated and documented according to the Council's chart of accounts. The information is used to project the appropriation necessary for the budget period.

The Executive Committee approves the budget documents, performance milestones and requested funding prior *to* submission.

Execution

After NOAA approves the award, the Grants Office prepares the award documentation. The award documentation is sent to the Council for review and acceptance.

The award documentation includes the award number and access code for payments requested through the Treasury Departments automated payment system. Refer to [*Section on Award Payments*](#) for additional information

The award package also includes the [*NOAA Administrative Standard Award Conditions*](#) as well as any additional "Special Award Conditions" added by the Grants Office.

4.3 Grant Reporting

Performance Reports

The “Special Awards Conditions” prescribe the reports required under the terms of the each award.

Reports identifying performance to date in comparison to approved milestones are submitted semi-annually. A final annual Performance Report is due no later than 90 days after the end of the award period.

The Council’s Technical Liaison, who is identified in the grant award, is responsible for providing the Administrative Officer with the performance progress report.

Performance reports are submitted electronically through NOAA at its website [grantsonline](#). A month before the due date, both the Executive Director and Administrative Officer receive an email notification that the “task” is ready to be performed. This email provides the required authorization to go online and prepare and submit the report.

Instructions for Preparing Performance Reports

The performance report should enable the reader to evaluate project accomplishments in relation to objectives as outlined in the statement of work.

The performance narrative should cover the following:

Introduction – Provide a brief and succinct summary of project work and accomplishments, including problems, during the noted reporting period;

Purpose – Detail the objectives of the project;

Approach – Describe the work that was performed during the reporting period, including how the activity was carried out; and,

Results – What were the actual accomplishments and findings? If significant problems developed which resulted in less than satisfactory results, they should be discussed.

Copies of documents, reports, meeting agendas, presentations or other materials developed using the funds should be included in the progress report submission.

Final Performance Report

The final report is an overview of the whole project and must be submitted no later than 90 days after the end of the project period.

The final report should touch on items 1-4 in the instructions for preparing progress reports and then provide an evaluation of the project.

Evaluation

Describe the extent to which the project goals and objectives were attained.

Were the goals and objectives attained? How? If not, why?

Were modifications made to the goals and objectives? If so, explain.

Dissemination of project results:

Explain, in detail, how the projects results have been, and will be distributed.

Grant Account Reports

The Council is required to submit two types of financial reports that summarize the total expenditures made and status of funds unexpended for each award. The Administrative Officer is responsible for the preparation and submission of all financial reports.

An email notification is sent to both the Executive Director and Administrative Officer, with the authorization necessary to submit a report. The Administrative Officer can then go online and prepare and submit the report. These reports are prepared and submitted electronically through [grants online](#) website.

~~SF-425: Federal Financial Report - Cash Flow reports are due semi-annually on 4/30/20xx and 10/31/20xx. Each report covers a 6 month period ending 3/31 and 9/30 respectively. Federal Cash Transactions (SF 272) is required quarterly and due to the Grants Office by 30 working days after the end of the month.~~

~~If two grant awards are open, SF-425A: Multiple Award Cash Flow SF-425 reports are filed. Financial Status Report (SF 269) is required quarterly and is due to the Grants Officer by 30 working days after the end of the period. A final report is required 90 days following the end of the grant.~~

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4.4 Financial Operations

The Councils are not bound by the federal purchasing requirements and can use whatever source is most advantageous to us. This independent procurement authority includes procurement of office space, equipment supplies and services.

The Council's accounting system conforms to requirements of the Department of Commerce, ~~OMB Circular A-110~~ [Title 2, Part 200—Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards](#) and other applicable requirements.

The Council's fiscal year begins January 1. Fiscal controls are achieved through a document-supported cash accounting system capable of providing modified accrued expenditures as needed.

The Council records provide accurate, current and complete disclosure of awards, authorizations, income, obligations, balances, outlays and assets. Effective control is maintained over all funds, property and other assets to assure they are used only for authorized purposes.

Accounting documents are maintained on computer and provide the necessary audit trail. The Chairman, Executive Director, Deputy Executive Director, or Administrative Officer may sign checks.

Financial reports supporting documents and all other records pertinent to an agreement are maintained until they are audited or approved for disposal under the authorities of the [General Accounting Office](#).

Comment [MB27]: All references to OMB A-110 and A-133 are eliminated, as of 12/31/2014 2 CFR 200 supersedes all other guidance.

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Financial Obligations

An obligation is established as the result of a transaction that restricts funds for future disbursements and which will result in a valid charge against the grant involved. Obligations are supported by documentary evidence of the following: purchase order; a valid contractual agreement; personal services; travel authorizations or other legal liabilities.

As an obligation is incurred, it's identified by type and the amount is charged to the applicable fiscal year and grant award on the basis of the following guidelines:



Award Payments - ASAP

Award payments are made through the U.S. Treasury Department, The [Automated Standard Application for Payments](#) website (ASAP) electronic transfer system. ASAP is an automated system that allows a grant recipient to request funds using the telephone or online. Funds are transferred directly to our bank account. To access the system the Council has a recipient ID# and each award has a specific number.

The timing of the requests for funds from Treasury is made to coincide with our immediate disbursement needs. Both the timing and the amount requested are as close to the disbursement date as is administratively feasible. Ordinarily, requests for funds should not be made more frequently than daily or in amounts of less than \$5,000.

If immediate disbursement cannot be made, funds can be returned to ASAP via an adjusting entry.

Financial Reports

To assure awarded funds are expensed for the intended purpose and to ensure the integrity of the Council's accounting system, the Administrative Officer compiles, analyzes and submits the following detailed financial reports to the Executive Director.

- Detailed spending reports by category including month to date, year to date, award to date and estimated payables for each award

- Cash Flow and Balance Sheets

- Registers from all bank and credit card accounts

- ASAP Generated Award & Drawdown Report

- A summary of the active awards with amounts & brief description

- Detail of all amendments to each award

- A history of funding received over 5 years

- Chart showing spending year to date by category

- Historical % spent month to date over 9 years

Other financial reports are prepared at the request of the Executive Director, Chairman or Executive Committee.

Tax Exempt

The Council is a not-for-profit, federal instrumentality and therefore does not pay State sales tax on purchases. The office secretary in charge of purchasing and the Administrative Officer have copies of the Tax Exemption Certificate. Notify the vendor that the Council is tax exempt before placing an order. Vendors generally require a copy of the Council's tax exemption certificate.

Purchase Orders

Purchase orders (PO) are used when purchasing merchandise or services. Purchase orders are prepared and maintained on the computer by the secretary. A sequential numbering system is used for issuing PO's. The PO is signed by either the Executive Director or in his absence the Administrative Officer. The original is mailed to the vendor and a copy is given to the Administrative Officer who keeps it on file until the merchandise is received and invoiced.

When an invoice is received, the Administrative Officer attaches the purchase order to the payment documentation. Either the Executive Director or the Administrative Officer must approve purchase orders.

~~Petty Cash~~

~~A petty cash fund is used to make immediate disbursements of small amounts. The Council's revolving cash fund is authorized and established at a level of \$100.00. The cash is kept in a secure location. Disbursements require a receipt for each transaction and the signature of individual acknowledging receipt of cash payment. The fund is replenished as needed.~~

Comment [MB28]: Petty Cash is no longer maintained.

Procurement

The procurement system of the Council is the direct responsibility of the Executive Director. The Council makes every effort to utilize minority and women business enterprises for procurements. ~~OMB Circular A-110-2 CFR 200~~ is adhered to in procurement and a clear audit trail for all Council expenditures are maintained.

Draft contracts or solicitations relating to development or monitoring of FMPs are submitted to the Regional Administrator.

Proposed sole source contracts over 100K or where only one bid or proposal is received, must have the prior written approval of the Program Officer and Grants Officer.

Final copies of all contracts awarded are filed with the Grants Officer. The cost and financial management principles outlined in ~~2 CFR 200 OMB Circulars A-122 and A-110~~ apply to all Council procurement actions.

Property

Council property is used only for official business. Employees may use equipment at locations other than the Council office, with prior written approval from the Executive Director.

The purchase of equipment, not previously approved in the award, costing over \$5,000 per item and having a useful life of more than 1 year, must have the approval of the Program Officer and the Grants Officer

Insurance

The Council carries replacement insurance protection for office furnishings and equipment and auto insurance for the Council's vehicle. The insurance also includes an "umbrella" rider to provide additional protection.

Space Management

The Council is not bound by GSA square footage standards when negotiating leasing arrangements for space. Likewise, the Council is not required to observe GSA standards for leasing costs per square foot. ^{xvii}

The Council negotiates leasing agreements for office space that are most advantageous to its operations. Prudence is used in both the amount and cost of office space leased.

Property Safeguards

The Council has established the following procedures to ensure control and protection of Council property:

- Maintain a computerized perpetual inventory of non-expendable items.
- Clearly label all non-expendable items as Council property.
- Secure fragile items such as cameras, sound equipment, etc., in a safe location.
- A visual inventory of non-expendable property is performed annually.
- Property determined to be surplus to the Council needs may be transferred, traded, sold, or discarded.

4.5 Audits

The Department of Commerce (DOC) Office of the Inspector General can conduct an audit of the Council at any time. The Council's must have an independent audit performed no less often than every two years. However, we have elected to have the audit done annually.

The Council contracts with an independent public accountant (IPA) to audit our accounts. The IPA has to follow Generally Accepted Government Auditing Standards (Yellow Book) and must conform to Office of Management and Budget (OMB) Circular A-133 §.235 guidance provided in 2 CFR 200, and the Council's audit report must be uploaded into the Federal Audit Clearinghouse.

The scope of the audit may include; conduct of financial operations, compliance with applicable laws and regulations, economy and efficiency of administrative procedures and achievement of results. If an IPA performs the audit, they should comment on whether efforts have been made by the Council to include small, minority and women-owned businesses as sources of supplies and services.

It is recommended that the Grants Officer be a participant in the exit conference. A copy of the audit is sent to the Program Office, Officer of Inspector General and Federal Audit Clearinghouse.

Additional Information

Staff Operations Manual

Legal Opinions & Rulings

NOAA Formal Legal Opinions on Status of Councils

#2 Under Federal Tort Claims Act (FTCA) [28 USC 26711 the regional fishery management councils come within the definition of "federal agency" and council members and staff come with the definition of "employees of government". FTCA coverage extends to these persons when acting in the course of their council employment.

#8 The Regional Fishery Management Councils are "agencies" as defined in 5 USC § 551(1) and 5 USC § 552(e) for purposes of the Administrative Procedures Act, including the Freedom of Information Act and Privacy Act.

#30 The Regional Fishery Management Councils are subject to the Fair Labor Standards Act (FLSA) [29 USC 201, et seq.] as they fall within the description of "public agency".

#58 The councils are instrumentalities "wholly owned" by the United States for purposes of workmen's compensation [5 USC § 8101(1)(A)].

#70 The councils are Federal agencies whose members, advisors, and employees are prevented from making private use of information they derive from council service which has not been publicly distributed. [18 USC et seq., 5 CFR Part 7351.

#91 The Regional Fishery Management Councils are part of the Department of Commerce and subject to its overall control. In the absence of contrary legislation, they must be represented in court proceedings by the Secretary's lawyer, the Attorney General (Justice Department determination).

The Civil Service Commission on 8/3/76, ruled that, for the purposes of Civil Service and related statutes, members and staff are not federal employees under 5 US 5 2105 on the grounds that they are not supervised by the Secretary.

In a letter dated 11/29/79, the DOL ruled that for the purposes of the Federal Unemployment Tax, an individual who performs employment for a Council and is paid by the Council is performing a Federal service and is receiving Federal wages. The determination covers the EDs and employees of the Council who are paid waged salaries from the Council's funds.

In a letter dated 1/18/2005 from Kathleen Taylor, DOC Office of GC, it was determined that for the purposes of the Family and Medical Leave Act (FMLA), 29 U.S.C 5 2611(4)(a)(iii) applies to the Councils. The Councils are "a public agency, its administrative staff meet the FMLA definition of eligible employees and, hence, the councils are subject to Title I of the FMLA."

Major Federal Employment Laws

Age Discrimination in Employment Act

In 1967, Congress passed the Age Discrimination in Employment Act (ADEA) to prohibit discrimination in employment because of age in such matters as hiring, job retention, compensation, and other terms, conditions, and privileges of employment. The ADEA establishes as a matter of basic civil rights that people should be treated in employment on the basis of their individual ability to perform a job rather than on the basis of stereotypes about age.

Americans with Disabilities Act

This act prohibits discrimination against the disabled and dictates to employers the need to create reasonable accommodations so disabled employees can perform jobs in the workplace.

Family and Medical Leave Act

This act requires covered employers to allow employees up to twelve weeks of unpaid job-protected leave in any 12-month period:

- To care for a child born to or placed for adoption or foster care with an employee

- Because of the serious health conditions of the employee

- Because of the serious health condition of an employee's immediate family member (parent, spouse, or child).

Occupational Safety and Health Administration Ergonomics Program Standard

The purpose of this standard is to reduce the number and severity of musculoskeletal disorders (MSD's). This new rule contains stringent requirements for most non-construction employers with 11 or more employees, to identify and to abate MSD's. At a minimum, employers are required to provide employees with basic information about MSD's and their signs and symptoms and how to report an MSD.

Other Applicable Laws

- Fair Labor Standards Act -FLSA

- Freedom of Information Act – FOIA

- Privacy Act - PA

- Federal Employee Compensation Act - FECA

Staff Operations Manual

Policy Decisions & Memorandum

- 3/1/78 - Executive Committee, clarify policy with respect to Federal statutory pay raises occasioned by inflation. The Council policy is: "Statutory pay raises received by Federal employees will also be automatically granted to Council employees"
- 12/1/87 - Executive Committee revised tuition reimbursement policy.
- 12/1/87 - Executive Committee added one additional paid holiday (Martin Luther King's Birthday)
- 4/7/88 - Executive Committee added Long Term Disability Insurance.
- 9/18/91 - Council Motion to increase Council contribution to health insurance to 100% for employee who elect HMO instead of Major Medical insurance. No change for employees who remains on Major Medical Insurance Plan.
- 1/14/94 - Memo from Executive Director establish Drug Free Workplace
- 1/04/95 - Memo from AO approved by Executive Director, clarify Council Staff Salary Schedule and effective date for annual adjustments.
- 1/19/95 - Executive Committee changed payment for accumulated sick leave upon retirement from: 50% of available sick leave, to: 100% of accumulated sick leave not to exceed 100 paid days.
- 7/26/96 - Executive Committee establish retirement age for employees at 59 ½
- 2/18/97 - Executive Director established new Performance Evaluation and Recognition Procedure (PERP)
- 5/30/01 - Executive Committee added wording "or 25 years of service" to the retirement requirements
- 1/19/07 - Change grade for exempt status from GS9 to GS7, verbal PJH
- 9/02/07 - Executive Committee approved policy on Family Medical Leave (FMLA)
- 6/15/10 - Executive Director approved providing Short Term Disability Insurance for all employees.
- 5/8/12 - Working from Home policy approved PJH
- 5/17/12 - Core hours changed
- 8/15/12 - Cell Phone Usage policy added
- 10/9/12 - Executive Committee authorized increasing contribution to retirement to 14%
- 12/4/12 - Whistleblower Protection added per PJH
- 5/1/13 - Voluntary Leave Donation added per TN

Endnotes

- i NOAA/GC Legal opinion #30
- ~~ii Exempt changed from GS 9 to GS 7 verbal from ED 1/19/07~~
- iii Email 2/9/04 - ED/AO Updated email 5/17/12 CK/Staff
- iv Years of Service added Executive Committee 6/7/2001
- v Terminal Illness added Executive Committee 11/6/2013
- vi Whistleblower Protection added 12/4/12 per Executive Director
- vii NOAA/GC Legal opinion #70
- viii Policy 11/4/94
- ix *NOAA/GC Legal opinion #8*
- x Assistant Administrator Letter 9/13/94
- xi Terminal Illness added Executive Committee 11/6/2013
- xii *DOC/GC Letter 1/18/2005*
- xiii Adopted by Council Motion 9/18/199
- xiv Executive Committee 12/1/1987
- xv NOAA/GC Legal opinion #58
- xvi Department of Labor Ruling #8-80
- xvii *NOAA/GC Legal opinion #58*