Preserving the Integrity of the Federal Merit Systems:

Understanding and Addressing Perceptions of Favoritism

A Report to the President and the Congress
of the United States by the
U.S. Merit Systems Protection Board

December 2013

U.S. MERIT SYSTEMS PROTECTION BOARD
1615 M Street, NW
Washington, DC 20419-0001

The President
President of the Senate
Speaker of the House of Representatives

Dear Sirs:

In accordance with the requirements of 5 U.S.C. § 1204(a)(3), it is my honor to submit this U.S. Merit Systems Protection Board (MSPB) report, *Preserving the Integrity of the Federal Merit Systems: Understanding and Addressing Perceptions of Favoritism*. To sustain a competent, effectively managed Federal workforce that serves the public interest, civil service statute has established merit systems and governing principles for those systems—the merit system principles and prohibited personnel practices. In addition to selection and advancement "solely on the basis of relative ability," those principles require that Federal employees be "protected from arbitrary action [and] personal favoritism." Favoritism occurs when an official grants an advantage to an employee or applicant based on non-merit factors such as personal feelings or relationships.

Much progress has been made in achieving the vision outlined in the merit system principles. Previous MSPB studies document a marked decrease in the proportion of employees who believe that they have experienced discrimination on bases such as sex and ethnicity or race. Nevertheless, many Federal employees continue to perceive that personnel decisions are often influenced by favoritism. For example, 28 percent of Federal employees believe that their supervisor demonstrates favoritism by treating some employees better than others. Our analysis reveals that such beliefs—regardless of their basis in fact—are damaging to morale, leadership credibility, and productivity.

This report discusses factors that can contribute to perceptions of favoritism and outlines how Federal agencies can take, and communicate, merit-based personnel decisions. In particular, this report emphasizes to Federal officials the need to distinguish their personal preferences from job-related criteria, and to distinguish personal rapport with an employee or applicant from proven ability to develop effective working relationships. The report also emphasizes to Federal employees the value of understanding the factors that agencies may properly consider when making personnel decisions, and seeking developmental feedback to help them compete for advancement and recognition on their individual merits.

I believe you will find this report useful as you consider issues affecting the Federal workforce and Federal agency performance.

Respectfully,

Susan Tsui Grundmann

Enclosure

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Executive Summary

Overview

The Merit System Principles (MSPs) promote an effective Federal workforce free of Prohibited Personnel Practices (PPPs). Summarized under nine aspirational goals, the MSPs serve as the foundation of Federal employment policy and practice, workplace fairness, and the Federal Government's ability to effectively accomplish its goals. As codified at 5 U.S.C. § 2301(b)(1), the first merit system principle demands that Federal employees be recruited "from all segments of society" and selected and advanced "solely on the basis of relative ability, knowledge, and skills, after fair and open competition." Further, under 5 U.S.C. § 2301(b)(8)(A), Federal employees are to be protected against "personal favoritism."

The Merit System Principles guide Federal supervisors to base their workforce decisions (e.g., hiring, promoting, giving awards, and distributing assignments) on objective criteria, such as assessments of ability or performance, rather than personal feelings and/or relationships, lest they be viewed as practicing personal favoritism. In brief, "personal favoritism" occurs when a supervisor or selecting official grants an advantage to one employee or applicant but not another similarly situated employee or applicant based on friendship or other affinity rather than a legitimate merit-based reason. Favoritism is distinct from discrimination on legally protected bases and is frequently more difficult to clearly identify when it is occurring given the absence of visible cues on which the preference is made. However, like discrimination, favoritism is contrary to the ideals of the Federal merit systems.

This report summarizes the findings of MSPB's research into employee perspectives regarding the extent to which they believe that favoritism occurs within the Federal merit systems and its potential effects. The results of our surveys and in-depth discussions with groups of employees indicate that the majority of Federal employees believe that discrimination based on the legally protected classes of race/ethnicity, sex and age has decreased over the past 15 years. However, many employees remain unconvinced that they are treated fairly in all aspects of their careers. In particular, a significant percentage of Federal employees believe that personal favoritism undermines merit-based decision making.

Eliminating perceptions of favoritism has proven extremely challenging. Supervisors and employees often have conflicting opinions as to the influence of favoritism on the supervisor's decisions, which may result from their differing perspectives or due to differential access to varying types and amounts of information about their supervisors' decisions.

Therefore, the purpose of this report is to reduce the likelihood that favoritism is occurring (or believed to be occurring) by providing recommendations for strengthening supervisory and managerial practices while also identifying steps that employees can take to improve their understanding of the merit systems and their ability to advance within them.

Findings

The workplace is a complex social environment. Multiple parties view situations from different perspectives and interpret actions based on their own experiences and expectations. Supervision is a demanding role that requires a careful balancing of responsibilities to ensure the effective and efficient management of employees while accomplishing the organization's mission. As part of their critical role, supervisors must allocate work responsibilities and limited resources according to necessarily subjective evaluations. In an ideal world, the supervisor's actions are truly merit-based, and this is readily apparent to all observers, including employees and human resources management (HRM) staff.

Unfortunately, the typical work environment features ambiguity that precludes full confidence in supervisors making merit-based decisions. For example, supervisors may be unable to exercise adequate transparency so others feel confident in the propriety of these decisions. On other occasions, supervisors may intend to abide by the MSPs, but lack the knowledge, experience or tools to make merit-based decisions or may be inadvertently influenced by nonmerit factors due to a lack of awareness. And finally, not all supervisors fully embrace the merit system principles and seek to circumvent them by intentionally favoring some employees based on factors unrelated to merit.

According to MSPB survey results, about one in four Federal employees believe that their supervisor practices favoritism and over half suspect that other supervisors in their organization practice favoritism. Three out of ten HRM employees agreed that favoritism occurs in the organizations that they service.

Although virtually every interaction between a supervisor and employee can involve perceptions of favoritism, employees were most likely to report witnessing favoritism through social interactions (27 percent agreed their supervisor demonstrated favoritism through social interactions). Almost as frequent were perceptions of favoritism regarding traditional benefits that supervisors may bestow upon employees: desirable work assignments (26 percent), awards (23 percent), performance appraisal ratings (21 percent), promotions (21 percent), and acting supervisor opportunities (21 percent).

Employees may also suspect favoritism when they are not selected for promotions within their organizations, particularly if they do not receive feedback when they were not selected. Honest feedback from the selecting official can serve two vital purposes: 1) to help employees improve their readiness for future opportunities and 2) to provide transparency to decrease perceptions of favoritism.

Likely causes of perceived favoritism include:

1. Intentional favoritism, where the supervisor intends to make decisions based on personal connections rather than merit;

2. Unintentional favoritism, where the supervisor's decisions have been influenced by interpersonal relationships without the supervisor's conscious awareness or a lack of knowledge or tools to help the supervisor make merit-based decisions; and

3. A misperception by employees, such as when professional relationships exist that do not conflict with the merit systems, or when a mentor or supervisor provides more opportunities to those who demonstrate the ability and motivation to take on new roles.

Regardless of the underlying reasons, perceptions of workplace favoritism can have harmful consequences for employees and the organization, to include—

- Decreased employee satisfaction and engagement;
- Decreased capability to recruit and retain highly qualified employees;
- Increased conflict between employees and between employees and management; and
- Decreased agency performance.

Recommendations

To achieve the goals of fair and effective management of the Federal workforce, organizations must establish clear expectations for supervisors, ranging from first-line supervisors to top executives. Supervisors must be aware of employees' perceptions and exercise sound judgment when making a variety of decisions such as selections, work assignments, training, performance management, and providing workplace flexibilities. In addition, selecting officials greatly influence hiring actions through a myriad of determinations regarding the recruitment and hiring process. Those with the responsibility for making these decisions must recognize the potential cumulative effect of their actions—not only on their direct reports and those not selected for vacancies—but also those at a greater distance who hear of decisions made by supervisors within their organizations.

In order to foster the respect of their employees and maintain the integrity of the Federal merit systems—both of which have substantial impact on outcomes for individuals and organizations—supervisors need to hold themselves accountable (and be held accountable by their agency leadership) for making the best possible decisions. This can be accomplished through the following strategies.

Agency leaders should:

- Communicate strong support of the MSPs and avoidance of the PPPs.
- Select supervisors based on their ability and willingness to manage employees fairly and effectively.
- Provide supervisors with the necessary training so they understand—not only the content of the merit system principles and the prohibited personnel practices—but also practical examples of actions that might be perceived as favoritism.
- Hold supervisors accountable for violating the prohibited personnel practices.
- Provide employees with information regarding the merit system principles and prohibited personnel practices and their relevance to decisions made within the organization.

Supervisors should:

- Honor the spirit and intent of the merit system principles and strive to avoid any actions that might cause employees to suspect a violation of a prohibited personnel practice.

- Make appropriate use of management flexibilities and seek the advice of HRM experts when needed.
- Make decisions (e.g., regarding selections for promotions, career-enhancing work assignments, training opportunities, and awards) that are objective and based on work-related criteria, rather than relying upon more subjective feelings.
- Assess the needs of the work group in terms of competencies and actively strive to fill these gaps through selection and/or training.
- Document decisions carefully and exercise transparency, whenever possible, such as by providing feedback to employees.
- Rotate acting supervisor responsibilities among those who are qualified and interested as this is a key developmental opportunity.
- Treat all employees with respect.
- Facilitate two-way discussions with all employees.
- Maintain awareness of employees' abilities, goals and interests and distribute opportunities in a manner that considers both employee and organizational needs.
- Exercise supervisory duties with care, such as by providing ongoing feedback to employees regarding their performance.

Human resources management staff should:

- Appropriately advise supervisors to support the merit system principles and avoid prohibited personnel practices.
- Work with supervisors to identify job-related criteria and incorporate these into all of the steps of the recruitment, selection and performance management processes.
- Take appropriate action when they witness violations of the merit system principles and prohibited personnel practices.

Employees should:

- Seek honest feedback and strive to improve in preparation for future opportunities.
- Understand that there may be alternative explanations for decisions that may appear to involve personal favoritism.
- Consider options (e.g., discussing with the supervisor how to achieve a more favorable outcome in the future, seeking employment elsewhere or filing a complaint with the Office of Special Counsel) when they suspect personal favoritism is occurring to determine what would be the best course of action.

Given responsibilities for test security and confidentiality, supervisors cannot always exercise the level of transparency that applicants and employees might want regarding certain human resources management processes, such as selections, performance appraisals, and disciplinary actions. However, organizations owe it to themselves, their employees, and the public to strive to achieve the highest levels of fairness, efficiency and effectiveness. By working together to eradicate actual and perceived favoritism, agency leaders, supervisors, HRM staff and employees can foster a Federal workplace that successfully embodies the ideals of the merit system principles.

Introduction

Background

Merit System Principles and Prohibited Personnel Practices

The U.S. Merit Systems Protection Board (MSPB) serves to protect the Merit System Principles (MSPs) and to promote an effective Federal workforce free of Prohibited Personnel Practices (PPPs). To support this mission, MSPB conducts studies to assess how fairly and effectively Federal agencies are managing their employees and to make recommendations for improvements. By examining trends over time, MSPB can promote an understanding of gains that have been achieved over time, as well as areas needing further attention.

To understand the context for this study, it is useful to keep in mind that the Federal civil service started as a patronage system in which people were granted jobs largely due to political loyalty, rather than qualifications. To remedy the problems created by this process,[1] Congress passed the Pendleton Civil Service Reform Act in 1883, establishing the principle that appointment to the civil service should be on the basis of merit rather than political affiliation or other nonmerit reasons. Nearly a century later, as part of the Civil Service Reform Act of 1978, Congress codified the MSPs and PPPs in 5 U.S.C. § 2301[2] and 5 U.S.C. § 2302[3] to clarify expectations for a merit-based Federal civil service. While the MSPs provide aspirational goals for managing Federal employees, they alone cannot serve as the basis for a legal action by an employee or agency.[4] Concurrently, PPPs were developed to work in concert with the MSPs and spell out specific actions that agencies may not take.

The MSPs and PPPs state clearly what should be considered (e.g., "relative ability, knowledge, and skills") and what should not be considered (e.g., "political affiliation, race, color, religion, national origin, sex, marital status, age," and disability) when making decisions that impact prospective and current Federal employees. They also indicate that basing these decisions on "personal favoritism" or nepotism (favoring

[1] The "spoils system" likely resulted in a higher percentage of less qualified people occupying Federal positions, turmoil associated with turnover during changes of Administration, as well as distractions caused by individuals lobbying for Federal employment. However, the assassination of President Garfield by a frustrated job seeker who expected a Federal job in return for campaigning on behalf of the President became the precipitating event for this significant change to the Federal personnel system. Although the initial coverage in the competitive service was limited, this authority expanded greatly over time. For more information, see *Biography of an Ideal: A History of the Federal Civil Service*, U.S. Office of Personnel Management, from http://archive.opm.gov/biographyofanideal/ as of September 12, 2013.

[2] For the text of the Merit System Principles, see Appendix A.

[3] For the text of the Prohibited Personnel Practices, see Appendix B.

[4] H.R. Rep. No. 95-1717, at 128 (1978), reprinted in 1978 U.S.C.C.A.N. 2860, 2861.

relatives)[5] is not proper (even in the absence of discrimination on the legally protected bases mentioned above). Although the regulations on nepotism[6] specify the types of familial relationships that are prohibited between supervisors and employees, the MSP regarding favoritism requires more interpretation of the circumstances, and consequently, greater potential for differing opinions.

Favoritism occurs when supervisors or managers base decisions regarding current or prospective employees on personal feelings and/or relationships and not on objective criteria, such as assessments of ability, knowledge, and skills. Since the MSPs do not define the term favoritism, we base our definition on the corollary prohibited personnel practice in 5 U.S.C. § 2302(b)(6), which forbids the granting of "any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition for any position) for the purpose of improving or injuring the prospects of any particular person for employment."

In other words, a selecting official or a supervisor is prohibited from granting a benefit to one employee or applicant but not another similarly situated employee or applicant for reasons other than a legitimate merit-based reason. Examples of favoritism might include:

- If a selecting official asked human resources management (HRM) staff to find a way to hire a person (such as a friend or political ally) into a position for which the person was unqualified or clearly less qualified than other applicants;
- If a supervisor granted a career ladder promotion to a favorite employee but denied it to a similar employee who performed at the same level;
- If a supervisor took disciplinary action against one employee but not a similarly situated employee (who had a similar history and demonstrated identical performance or conduct).

Further, in the process of providing an unauthorized preference to one applicant or employee, other PPPs may also be committed. For example, if a supervisor sought to favor an applicant or employee based on shared political affiliation (or to disadvantage an individual based on dissimilar political views), the supervisor would be wrongfully considering information unrelated to work-related factors by discriminating for or against an employee based political affiliation[7] or on conduct unrelated to work performance[8] or by taking "action against any employee or applicant for employment as a reprisal for the refusal of any person to

[5] As discussed in 5 U.S.C. § 2302(b)(7) and 5 U.S.C. § 3110, serving in a supervisory capacity with an individual who is related by blood, marriage or other familial relationship, which allows relatives to grant each other employment-related advantages, has clearly been defined as counter to the Federal merit systems. The definition of nepotism does not include other types of relationships that would also likely represent a conflict of interest, such as unmarried partners in an intimate relationship (e.g., unmarried couples or those engaged in extramarital affairs). However, remedy for unfair treatment caused by these circumstances could be pursued under 5 U.S.C. § 2302(b)(6).

[6] 5 U.S.C. § 2302(b)(7) and 5 U.S.C. § 3110.

[7] 5 U.S.C. § 2302(b)(1)(e).

[8] 5 U.S.C. § 2302(b)(10).

engage in such political activity."[9] In order to favor a certain employee, the supervisor might commit PPPs by deceiving or obstructing the right to compete for employment[10] to keep otherwise qualified candidates from being (fully) considered or by encouraging an applicant to withdraw from competition with the intent of improving the chances for the preferred applicant.[11]

Method

For the purposes of this study, we have defined the context of favoritism broadly to include any actions by the supervisor which may impact employees, such as in selection for promotions, work assignments, telework, flexible work schedules, reassignments, geographic relocations, training or developmental opportunities, pay, performance appraisal ratings, awards, discipline, and retention efforts, as well as more informal interactions. This enables us to capture perspectives regarding a comprehensive scope of behaviors that may be viewed as providing differential treatment.

The findings and recommendations in this report are based on:

- A literature review of topics related to fairness (particularly favoritism and nepotism), justice (e.g., procedural, distributive), decision-making, leadership, etc.
- A review of the relevant legislative history (e.g., the Civil Service Reform Act of 1978, the merit system principles and the prohibited personnel practices, and more recent efforts to improve supervisory and managerial training).
- A review of selected cases involving allegations of favoritism and related prohibited personnel practices.
- Results from the 2011 Federal Merit Systems Survey,[12] a Governmentwide survey which included questions regarding when, how and why Federal employees perceive that some applicants or employees receive an unfair advantage, their opinions regarding their supervisor's effectiveness and what supervisors should do to improve their adherence to the merit system principles. A subset of questions was directed at supervisors to obtain their perspectives.[13]
- Results from the 2011 Fair and Open Competition Survey,[14] administered to HRM employees because of their role in advising managers regarding personnel decisions.

[9] 5 U.S.C. § 2302(b)(3).

[10] 5 U.S.C. § 2302(b)(4).

[11] 5 U.S.C. § 2302(b)(5).

[12] Appendices C, D and E include an overview of the Federal Merit Systems Survey methodology, the text of the email invitation accompanying the Federal Merit Systems Survey, and a copy of the Federal Merit Systems Survey.

[13] Supervisors were defined in the Federal Merit Systems Survey as "the person who is responsible for an employee's performance appraisal and approval of his/her leave."

[14] The methodology of the Fair and Open Competition Survey will be described in more detail in an upcoming report.

- Results from the 2007 Career Advancement Survey,[15] a Governmentwide survey which was focused on issues related to fairness.
- Results from the Merit Principles Survey[16] which MSPB periodically administers to Federal Government employees to assess their perceptions of the Federal merit systems, monitor trends over time, as well as to provide insights into current topics of research. Some questions are repeated over multiple years to enable the assessment of trends in opinions over time.
- Input from Federal supervisors and employees during formal group discussions. To obtain representative perspectives, we selected participants based on geographic location, agency, ethnicity/race, sex, occupation and grade.[17]
- Input from conference attendees who participated in informal group discussions during presentations of research findings.
- Interviews and interrogatories with a variety of employee affinity groups.[18]

Purpose

The goals of this study are to:

1. Better define favoritism based on the laws that govern the Federal civil service and provide insights from various perspectives into what is perceived to be favoritism. Understanding of what actions may be perceived as favoritism can help establish a baseline of shared terminology;
2. Assess the prevalence of and contributors to perceptions of favoritism within the Federal workforce. Perceptions of favoritism can permeate the workplace through a variety of supervisory actions. Although it is unlikely that any organization can eradicate skepticism regarding the fairness of all decisions, supervisors should strive to decrease these negative perceptions whenever possible;
3. Provide recommendations for agencies (through managers, supervisors, and human resources employees) to reduce the potential for employee perceptions of favoritism. Even if supervisors are confident that their actions do not constitute a PPP, they must understand the risks when employees believe that they are not being treated fairly. Additionally, management decisions may elicit varying degrees of scrutiny by observers. Decisions to allocate highly valued and scarce resources are much more likely to receive close examination than lower-stakes decisions. Further, decisions that are

[15] These survey results are discussed in the MSPB reports *Fair and Equitable Treatment: Progress Made and Challenges Remaining,* 2009 and *Women in the Federal Government: Ambitions and Achievements,* 2011.

[16] The results from this survey were most recently discussed in *Managing Public Employees in the Public Interest: Employee Perspectives on Merit Principles in Federal Workplaces*, 2013.

[17] These discussion groups also provided input for prior studies *(e.g., Fair and Equitable Treatment: Progress Made and Challenges Remaining,* 2009 and *Women in the Federal Government: Ambitions and Achievements,* 2011) related to fair treatment on the basis of ethnicity, race, and sex.

[18] We received input from the employee affinity groups Blacks in Government, the Federal Asian Pacific American Council, Federally Employed Women, National IMAGE, and the Society of American Indian Government Employees.

made with transparency and in line with generally accepted decision criteria typically evoke less consternation than those made in secret or based upon unknown or controversial criteria;

4. Help applicants and employees understand when actions may (or may not) indicate the presence of biased treatment. Given the ambiguity inherent in many human resources management decisions, coupled with the common lack of transparency, a serious challenge exists for employees to be able to accurately assess whether or not a decision is fairly based on the supervisor's objective evaluation of merit or reflects clouded judgment rooted in personal biases. This determination remains difficult since supervisors and employees often possess different information based on their own unique perspectives; and

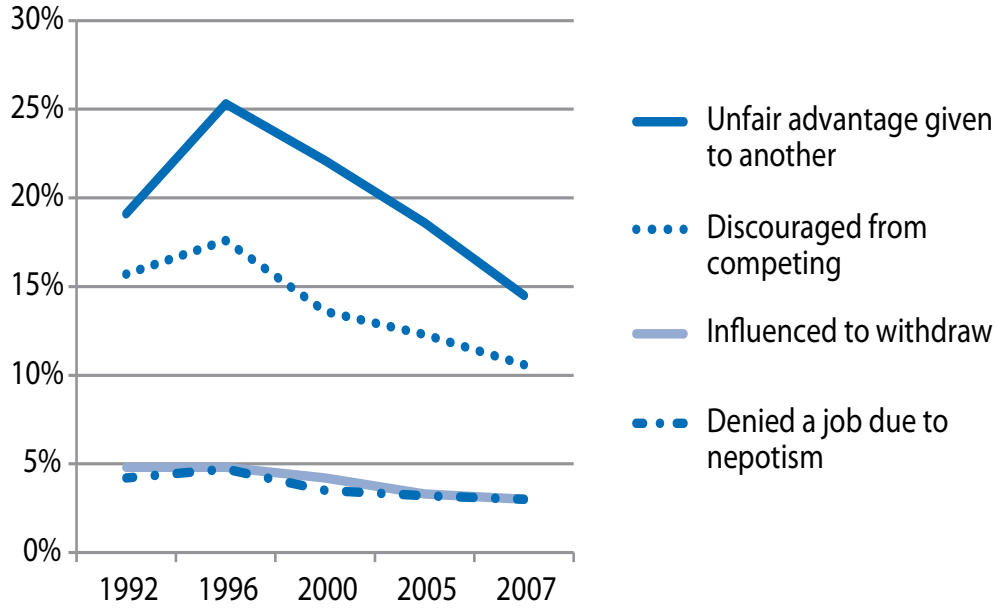
5. Examine the consequences of perceptions of favoritism for individual and organizational outcomes, including employee engagement, performance, and turnover intentions, to highlight the substantial benefits that can be achieved by improving management practices. Although favoritism is frequently dismissed as a matter of employee dissatisfaction, the consequences of these perceptions can be substantial. Accordingly, it is in the best interest of agencies to understand and address employees' concerns about favoritism.

Federal Employee Perceptions of Favoritism and Nepotism

How Prevalent are Perceptions of Favoritism and Nepotism?

As noted in earlier MSPB reports,[19] results from our surveys of Federal employees over the past twenty years suggest that perceptions of discrimination on legally protected bases, such as ethnicity, race, and sex, have decreased. Likewise, as shown in **Figure 1**, perceptions of the frequency of prohibited personnel practices relating to unfair competition have substantially declined.[20] These results indicate that in 2007 about 1 in 7 employees reported personally experiencing unfair competition within the past two years, with about 1 in 10 saying they were discouraged from competing[21] so some employees still suspect that managers make selection decisions based upon their personal feelings or alliances rather than a more objective evaluation of qualifications.

Figure 1. Employee Perceptions of Having Personally Experienced Unfair Competition within the Past Two Years, Merit Principles Survey, Fiscal Years 1992-2007



[19] U.S. Merit Systems Protection Board, *Fair and Equitable Treatment: Progress Made and Challenges Remaining*, 2009 and *Prohibited Personnel Practices: Employee Perceptions*, 2011.

[20] *Ibid.*

[21] As discussed in the 2011 MSPB report *Prohibited Personnel Practices: Employee Perceptions*, the wording of these items was changed in the 2010 Merit Principles Survey, which prevents direct comparison of these items. Therefore, to improve interpretability, the data presented here was collected with the consistently worded items from 1992 to 2007.

Similarly, responses to MSPB's Career Advancement Survey, which was administered in 2007, indicate that employees frequently attribute their nonselection to factors such as someone else being preselected[22] (84 percent), not being a friend or relative of the selecting official (43 percent), or that the selecting official didn't like them (29 percent) compared to the merit based reason that another candidate was better qualified (63 percent).[23] This perception of unearned benefits being endowed upon applicants by virtue of family or social ties fuels the wide-spread belief that promotions aren't driven as much by competence (39 percent) or hard work (36 percent), but rather by "who they know" (72 percent).[24]

These findings were further buttressed by results from the 2010 Merit Principles Survey, which revealed that on measures of adherence to the merit principles, employees were most likely to agree (66 percent) that their organization "prevents prohibited discrimination," but fewer express (28 percent agreeing) that it "does not engage in favoritism."[25]

For the rest of the report, we present data primarily obtained through the Federal Merit Systems Survey. These results are occasionally supplemented with additional information from the perspective of human resources management employees as gathered through the Fair and Open Competition Survey.

As shown in **Figure 2**, just over 25 percent of Federal employees believe their supervisors show favoritism, but about half suspect other supervisors in their organization do so. This doubling in suspicion of favoritism may simply result from combining across a large number of supervisors so that one high profile case can taint the entire pool of supervisors. An alternative explanation could be that employees, by virtue of their distance from the situation, have less information on which to base their opinions regarding favoritism in the broader organization. As a result, they are more skeptical about the fairness of selection procedures and other management decisions outside their work unit compared to their closer experience with their own supervisor. And while employees may be most directly impacted by favoritism exercised by their immediate supervisor, biased treatment by other supervisors in their organization can influence their feelings about their agency. Additionally, given that responses vary across agencies, it appears that some agencies have achieved more success than others in reducing suspicion of favoritism in their organizations.[26]

[22] The term "preselected" implies that the competition is not "fair and open" because the selecting official has decided who to select in advance and regardless of the qualifications of other applicants.

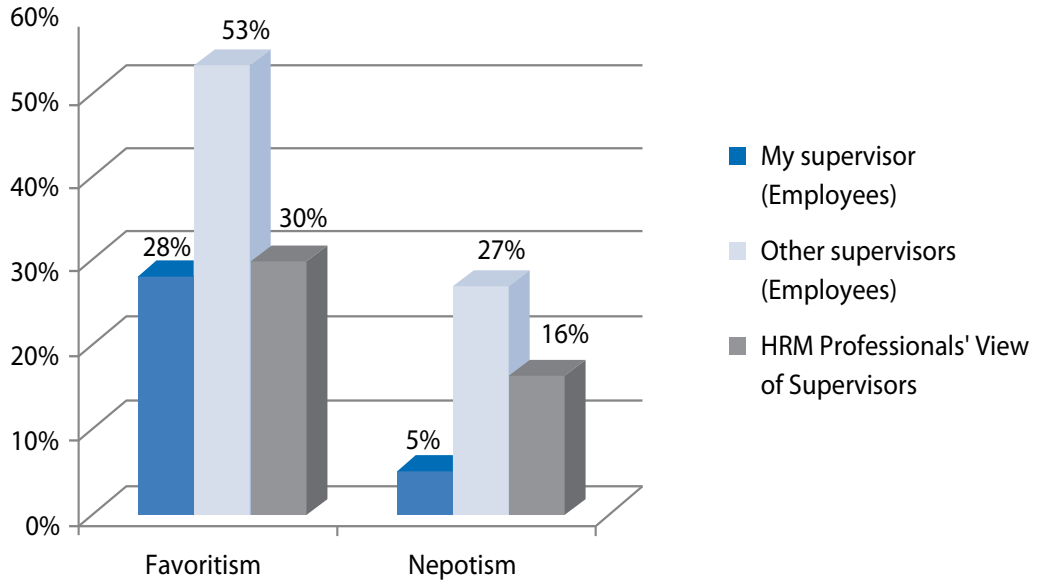
[23] U.S. Merit Systems Protection Board, 2007 Career Advancement Survey. The question was completed only by respondents who had applied for a job in the past 3 years and did not receive a job offer.

[24] As reported in the U.S. Merit Systems Protection Board, *Fair and Equitable Treatment: Progress Made and Challenges Remaining,* 2009, p. 57.

[25] U.S. Merit Systems Protection Board, *Managing Public Employees in the Public Interest: Employee Perspectives on Merit Principles in Federal Workplaces,* 2012, p. 79.

[26] Perceptions of the employee's *own* supervisor showing favoritism ranged from 17 percent to 37 percent among Departments and large independent agencies, while the perception of *other* supervisors (a broader category) showing favoritism ranged from 32 percent to 66 percent.

Figure 2. Percentage of Federal Employees and Human Resources Management Employees Who Believe that Supervisors Engage in Favoritism or Nepotism



Regarding nepotism, **Figure 2** illustrates that a significantly smaller percentage of employees believe that relatives of agency officials are provided with prohibited advantages. This can likely be attributed to the clear nature of the regulations[27] that explicitly define what relationships are prohibited between those in the supervisory chain. In addition, due to the typical breadth of social networks compared to familial ties, there exists a greater likelihood of having friends or acquaintances who are seeking jobs, compared to relatives.

Similarly, Federal employees report that having relatives or other connections within the agency can provide unfair advantages. Nearly 30 percent of employees indicate that supervisors in their agency have practiced favoritism toward agency officials' relatives, which suggests family ties may provide a benefit, even if indirectly conveyed. Just over 40 percent indicate that applicants who have connections also receive unfair advantages.

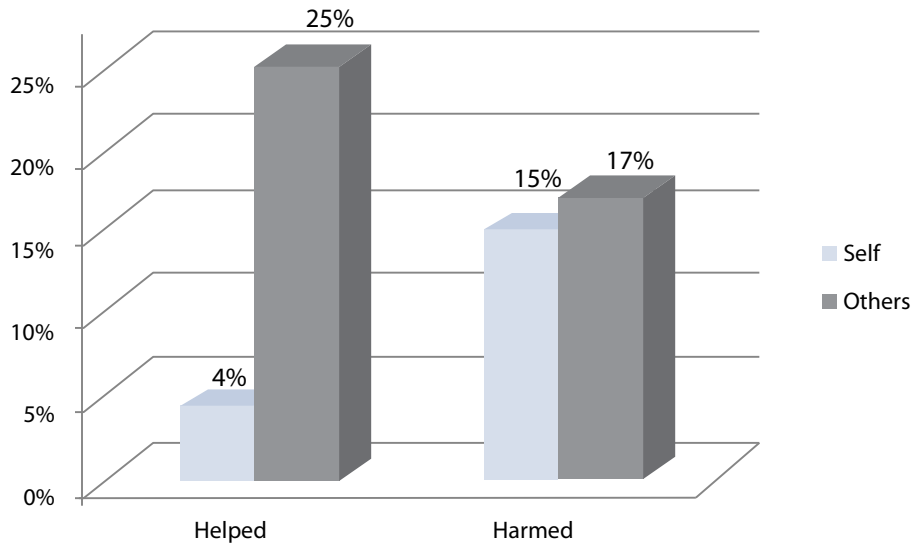
Given their involvement in personnel actions across the organization, HRM employees typically have a broader view across their agency's practices compared to employees in individual line organizations. **Figure 2** demonstrates that their estimations of favoritism and nepotism proved substantially lower than employees' assessments across the organization. Nevertheless, with 30 percent of HRM employees agreeing that favoritism occurs and 16 percent reporting nepotism, it seems apparent that there is room for improvement in these areas. When HRM employees report that wrongdoing has occurred in spite of their presumed efforts to uphold the merit system principles, there needs to be a closer examination of how and why this is happening.

[27] 5 U.S.C. § 2302(b)(7) and 5 U.S.C. § 3110.

How Do Employees Perceive That They Are Affected by Favoritism?

When employees believe they have witnessed favoritism by their supervisor or others within their organization, they automatically calculate the potential personal impact. Most fundamentally, they assess whether the action might potentially help them or harm them. As displayed in **Figure 3**, employees were much more likely to believe that others had benefited from favoritism than to believe that they personally benefited from favoritism. This result is consistent with research showing that people tend to attribute success to internal factors (e.g., one's skill and effort) and tend to attribute failures as due to external factors (e.g., bad luck and others' unfair decisions).[28] Another factor that may be contributing to this difference is information; employees are usually well aware of their own accomplishments and qualifications, but may have limited knowledge or a flawed understanding of how they compare to others.

Figure 3. Employee Perceptions of Impact of Favoritism by the Supervisor



Employees may also be harmed by a supervisor who either takes punitive action based on negative personal feelings or who harms them less directly by favoring others. For example, in the case of limited resources or opportunities, a supervisor who unfairly allocates desirable outcomes to favored employees decreases the available benefits for others.

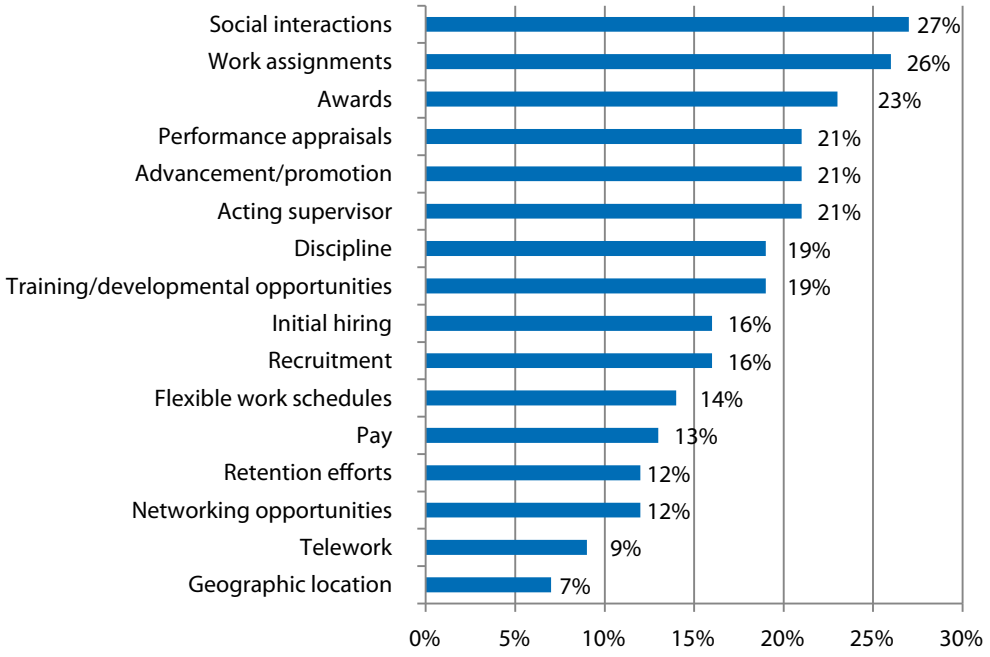
What Supervisory Actions Do Employees Perceive as Evidencing Favoritism?

As shown in **Figure 4**, Federal employees report that favoritism affects a wide variety of actions within the workplace: from formal actions that should be made in a structured manner and carefully documented, such as selection decisions (e.g., initial hiring and advancement/promotion), performance recognition,

[28] For example, see A.H. Mezulis, L.Y. Abramson, J.S. Hyde and B.L. Hankin, "Is There a Universal Positivity Bias in Attributions? A Meta-Analytic Review of Individual, Developmental and Cultural Differences in the Self-Serving Attributional Bias," *Psychological Bulletin*, 130(5), 2004.

and discipline, to activities that are less structured, such as social interactions, and providing work assignments and training opportunities. Given that social interactions and distribution of work assignments are often made informally, it is not surprising that these topped the list in terms of perceptions of favoritism. Yet even formal, high-stakes actions, such as distributing awards, performance appraisal ratings, promotions, and career-enhancing opportunities, were viewed skeptically as about 1 in 5 employees saw these as areas where their supervisors had unfairly allocated resources. In the following pages, we present possible reasons for these results and discuss implications for the organization and ways that supervisors might improve how they make or communicate decisions.

Figure 4. Percentage of Employees Who Agreed "My Supervisor Has Demonstrated Favoritism" Through the Following Actions



Supervisors should be aware that employees pay attention to the entire range of actions that supervisors take during the day, from formal decisions to informal interactions, and may attribute even slight differences to demonstrations of favoritism. Such scrutiny should not lead supervisors to avoid interaction and substantive discussions with employees nor to shirk their responsibilities to make decisions based on merit and exercise transparency so employees understand the rationale behind these decisions. Nevertheless, supervisors must be mindful that employees are attentive to their supervisor's actions, including those that may seem insignificant to the supervisor, and make inferences—which may be correct or incorrect—about the supervisor's motivations and integrity.

Social Interactions. As shown in **Figure 4**, about a quarter of Federal employees believe that their supervisor has demonstrated favoritism in interactions with employees, spending more time with some employees or demonstrating friendlier behavior to some. Supervisors may not realize that their conversations in the

office may be viewed as evidence of favoritism. This finding underscores one of the many values of talking with all employees, and not just the ones with whom the supervisor has a natural affinity, whether due to similarities in terms of interests, personality, or other factors. While supervisors need not avoid talking with their employees (and in fact have much to gain from maintaining two-way conversations with all employees), they should be aware of the signals that they send by having a friendlier relationship with some employees and not others.

Not only does this create an appearance of differential treatment, it may contribute to actual differences as the "in group" has more opportunities to obtain information about the organization or the work, as well as more time to impress upon the supervisor their accomplishments. Further, developing an interpersonal relationship may predispose the supervisor to having a more positive attitude regarding certain employees, which may carry over to ratings of the employee's performance if the supervisor is not cautious about the possibility of a positive "halo effect."[29] It is a natural human tendency for people to feel an affinity for those with whom they share personal characteristics or interests,[30] and supervisors, by virtue of the responsibilities of their position, must guard against the inclination to act on these feelings.

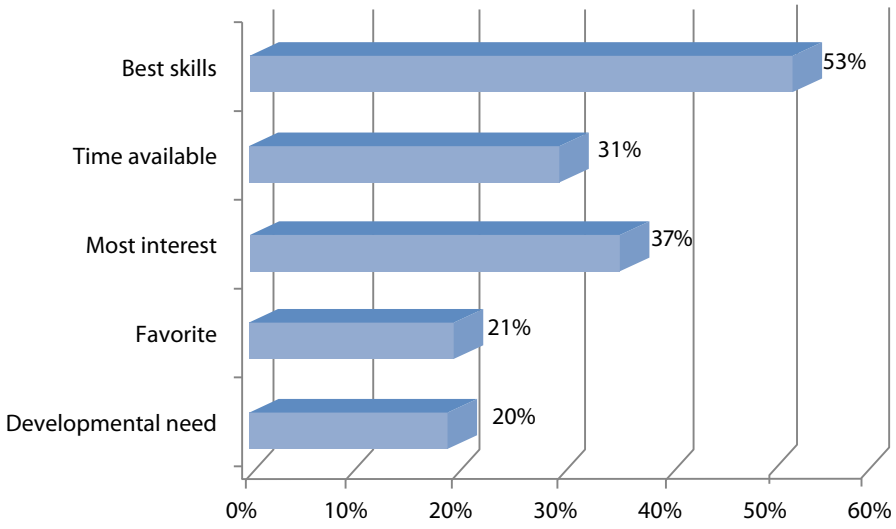
Career Enhancing Opportunities. Although 26 percent of employees cited work assignments and 21 percent mentioned acting supervisor opportunities as sources of favoritism, responses to another set of questions revealed a more comprehensive view of the potential drivers behind these managerial decisions.

As shown in **Figure 5**, some survey respondents felt that favoritism played a role in determining who was selected for a career-enhancing project, but this was overshadowed by factors such as having the best skills, time available, and the most interest. Factors driving selection for acting supervisor assignments followed the same general pattern, with skills being the most important factor.

[29] For example, see R.L. Cardy & G.H. Dobbins, (1986), Affect and Appraisal Accuracy: Liking as an Integral Dimension in Evaluating Performance, *Journal of Applied Psychology,* 4, 672-678.

[30] For example, see J.P. Strauss, M.R. Barrick, and M.L. Connerly, (2001), An Investigation of Personality Similarity Effects (Relational and Perceived) on Peer and Supervisor Ratings and the Role of Familiarity and Liking, *Journal of Occupational and Organizational Psychology,* 74(5), p. 637-657 or J. Lefkowitz, (2000), The Role of Interpersonal Affective Regard in Supervisory Performance Ratings: A Literature Review and Proposed Causal Model, *Journal of Occupational and Organizational Psychology,* 73(1), p. 67-85.

Figure 5. Percentage of Employees Who Agreed These Factors Drive Selection for Career-Enhancing Projects



Even though merit based factors were more frequently thought to drive selection for a career-enhancing project, supervisors should keep in mind that 1 in 5 employees thought favoritism also played a role. Some work assignments are inherently more career-enhancing or more enjoyable than others. If certain employees appear to repeatedly receive desirable assignments while other employees are consistently burdened with less appealing assignments or a greater volume of work, perceptions of favoritism can result. Although supervisors may believe that they are allocating opportunities based on talent, aptitude and interest, they should understand that employees may view matters differently. Even when they have well-founded reasons for their assignment of opportunities, supervisors need to articulate the reasons to employees rather than assume employees understand their rationale.

Supervisors and employees may both benefit from regular, ongoing conversations about current and future roles and assignments. At a minimum, these should be conducted periodically as part of the performance management process, but more frequent discussions may improve—

- Supervisory decision making, by helping supervisors be aware of employees' abilities, interests and goals, which may shift over time depending on their personal circumstances as employees may want to change either the content or challenge level of their work as their careers evolve.

- Retention of employees, by reducing the likelihood that they will feel overlooked and seek developmental opportunities elsewhere; and

- Transparency, by communicating to employees what opportunities may be available and what is required to earn them.

In addition to desirable or high-profile work assignments, our research identified two areas warranting particular attention to ensure equity: the designation of acting supervisor and access to training. In earlier research, we found that employees viewed serving as acting supervisor to be very career-enhancing, yet this opportunity wasn't necessarily afforded to all who were interested.[31] Serving as acting supervisor provides the employee with a chance to demonstrate that the employee can perform effectively in this role, which can provide an extremely compelling case for later selection into a supervisory role. Supervisors might consider the value of rotating acting supervisor responsibilities instead of falling into the habit of selecting the same person to fill in during their absences. While having a single designated acting supervisor provides the comfort level of having an experienced person fulfill these responsibilities, it denies the opportunity for others to have this developmental experience, as well as the chance to demonstrate their capabilities. The tendency to provide one employee (or a very limited number of employees) with greater opportunities can easily evolve into a situation where these favored employees have a substantial advantage when a promotion opportunity becomes available. When this occurs, other employees often question whether or not the competition has truly been "fair and open" or if the selectee has actually been "preselected."

Likewise, differential access to training and development opportunities can result in some employees feeling held back while others are helped to become better prepared to compete for future promotions. Supervisors need to ensure that they assess all employees' strengths and areas for development relative to their unique job requirements and to the current and future needs of the agency. About 20 percent of employees reported favoritism in the area of training, which points to a need to better identify individual and organizational training and development needs and meet them with sufficient training budgets, while communicating with employees to help them understand how priorities are established in the event of limited training resources.

Performance Appraisal Ratings and Awards. Opportunities for employees to demonstrate their value are often closely linked to performance appraisal ratings and corresponding awards so it is understandable that employees are attentive to the potential for favoritism in these areas. Performance ratings and awards send a clear message about what accomplishments—and which employees—are most valued. Supervisors may be seen as having "favorites" who can do no wrong, and receive top ratings and awards regardless of effort while others feel that their accomplishments are routinely overlooked. That situation can undermine organizational performance not only by demotivating under-rewarded excellent performers, but also by communicating that employees should emulate the behavior demonstrated by the favored lower performers. Clearly, agencies would be better served by aligning pay and rewards with outstanding performance to encourage employees to put forth their best efforts.[32]

Further, a finite pool of resources funds awards, which means that competition will exist. Given that the merit system principles create an expectation that appropriate awards will be provided for excellent performance, employees naturally compare their contributions and rewards against others, although it is difficult for them to have truly objective opinions or accurate information about their relative standing.

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[31] U.S. Merit Systems Protection Board, *Fair and Equitable Treatment: A Progress Report on Minority Employment,* 1996, p. 34, U.S. Merit Systems Protection Board, *Fair and Equitable Treatment: Progress Made and Challenges Remaining,* 2009, p. 44, U.S. Merit Systems Protection Board, *Women in the Federal Government: Ambitions and Achievements,* 2011, p. 94.

[32] For more information on effective supervisory practices, please see the U.S. Merit Systems Protection Board reports: *A Call to Action: Improving First-Level Supervision of Federal Employees,* 2010; *Managing for Engagement — Communication, Connection, and Courage,* 2009; and *Designing an Effective Pay for Performance Compensation System,* 2006.

Recruitment, Hiring and Advancement. **Figure 4** reveals that slightly more employees perceive fairness with recruitment and initial hiring, compared to internal advancement. This difference may reflect the often more rigorous screening that is done at the point of entry into an agency, as well as the fact that employees are more likely to know more (or think they know more) about the qualifications of other internal candidates with whom they competed. Given the criticality of fair and effective hiring and advancement to the quality of the Federal workforce and employees' satisfaction with their Federal careers, the next sections delve into these processes in more detail. By shedding light on these processes and the perceptions of where it breaks down, this report seeks to identify strategies for improving Federal hiring and to bridge the potential gap between perceptions of fairness held by supervisors, employees, and human resources management employees.

What Factors Influence Promotion Decisions (And Are they Fair)?

Comparing Perceptions of Appropriate and Actual Selection Criteria

In a merit-based system, the criteria for selection and the process used to select an employee for promotion should be job-related, valid and reliable, carefully developed and implemented, well-defined and transparent. These characteristics will contribute to a selection process that is legally defensible and reaffirm the confidence of those who were not selected. Without this confidence, even the most sound selection procedures will likely be subjected to scrutiny and skepticism.

Our survey results shown in **Figure 6** provide employees' views on the propriety of a variety of possible influences on promotion decisions. Employees report widespread support for criteria such as quality of experience and technical competence, recognized potential, education and training, dedication, performance in the selection process and length of experience. Professional relationships earned a cautionary range of acceptance from 14 to 47 percent, with more comfort regarding the use of references and contacts. Factors viewed appropriate by fewer than 5 percent are clearly considered unacceptable (e.g., physical attractiveness and personal relationship with the selecting officials). Below we discuss for selected factors what may be underlying these survey results, and what the results suggest for whether and how agencies use those factors to make selection decisions.

Figure 6. Factors Employees View as Appropriate Influences on Promotion Decisions

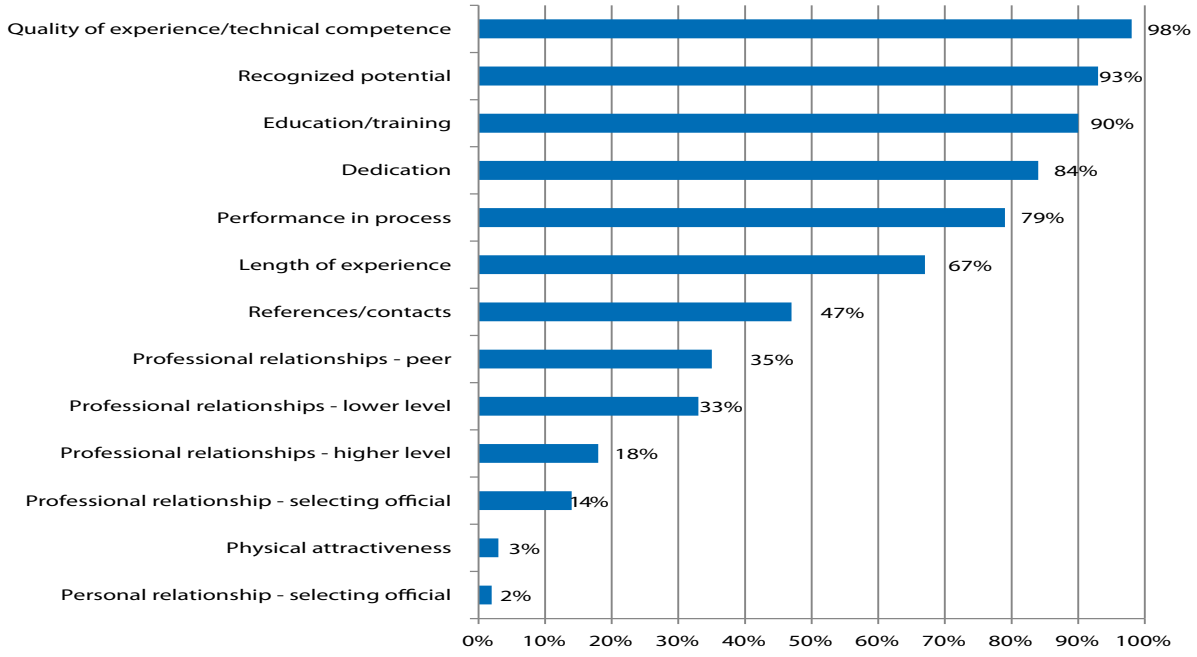


Table 1 compares employees' views on (1) what *is* considered in selection decisions and (2) what *should be* considered by selecting officials. Notably, there is often a sizable gap between factors that employees believe are considered in promotion decisions and those that should be, suggesting that some employees believe selecting officials neglect some appropriate criteria and instead use inappropriate criteria. Specifically, more employees believe that factors towards the top of **Table 1** (e.g., quality of experience/technical competence, recognized potential, education/training, and dedication) are appropriate to be factored into promotion decisions than actually are considered. In contrast, employees reported that factors, such as personal and professional relationships with the selecting official and professional relationships with higher level officials, were much more likely to influence promotion decisions than was viewed as acceptable.

Table 1. Factors Employees View as Influencing Promotion Decisions, Their Propriety, and the Difference

	Considered?	Appropriate?	Difference
Quality of experience/technical competence	58%	98%	-40%
Recognized potential	51%	93%	-42%
Education/training	50%	90%	-40%
Dedication	45%	84%	-39%
Performance in process	50%	79%	-29%
Length of experience	45%	67%	-22%
References/contacts	44%	47%	-3%
Professional relationships - peer	34%	35%	-1%
Professional relationships - lower level	18%	33%	-15%
Professional relationships - higher level	49%	18%	31%
Professional relationship - selecting official	47%	14%	33%
Physical attractiveness	15%	3%	12%
Personal relationship - selecting official	40%	2%	38%

Traditionally Measured Factors. Factors such as quality of experience/technical competence, education/training, and length of experience that the majority of employees said they viewed as appropriate have traditionally been evaluated as part of the selection process because they have been viewed as measurable predictors of job performance. However, in spite of the high agreement about the importance of quality of experience, there may be less agreement around how to validly and reliably measure it. The training and experience rating method frequently serves as an imperfect proxy for more direct measurement of competencies (due to the expense of full-fledged job simulations for assessment purposes and the problems introduced by using written tests to assess competencies). Structured interviews with questions and rating criteria that are closely linked to the knowledge, skills, and abilities required to be successful in the job can serve as effective assessment tools, but also require a substantial investment of time and energy to develop them.

Education and training and length of experience received wide acceptance as they are likely viewed as fairly objective measures of an employee's ability to perform on the job. Yet both need to be considered with the caution that merely having spent time in a class or even on the job does not necessarily substitute for having obtained job-essential knowledge or skills. Quantity of education, training or service do not necessarily

equate to quality. The education and training needs to be specific to the vacancy and the employee must have successfully learned the material and be able to apply it on the job.

Subjective Evaluations of Potential and Dedication. Recognized potential and dedication to the organization/mission were also mentioned by over 80 percent of respondents as appropriate to consider in the promotion process. Yet it seems unlikely that there would be consensus about how to measure these concepts. These qualities require more subjective evaluation and are often assessed through references and other contacts who are familiar with the applicant's past performance and likely future performance. While people tend to believe that they "know it when they see it," evaluations of potential and dedication often vary due to the generally subjective nature of the assessment. Although evaluating potential may be similar to evaluating job performance, it requires allowing for growth over time while assessing the performance of someone who has not yet had the opportunity to perform the job. Therefore, it would still require a thorough job analysis and careful evaluation of the ability to perform in the future.

Another challenge with assessing dedication and determining how much of a role it should play in a selection decision relates to the difficulty in distinguishing between loyalty to the service of the country, the agency, or those to whom they report. While dedication to each of these might produce desirable outcomes, when commitment rests largely with people rather than the mission, there may be concerns about maintaining these personal relationships that overshadow other mission-related outcomes, including public service motivation.

Therefore, when assessing difficult-to-measure concepts such as potential and dedication, agencies need to be very careful. Although these assessments can be tied to measurable, job-related competencies or behaviors, they also require a substantial degree of subjective evaluation.

Performance in the Selection Process. Interestingly, although a candidate's performance in the selection process was viewed as appropriate by nearly 80 percent of respondents, it ranked fifth in popularity. This may suggest reservations that employees maintain regarding the current selection processes, which may need to be strengthened to gain credibility with employees. Employees voiced even less confidence in reference checks, which have demonstrated some value as a predictor of future performance but lag behind many other commonly used assessment practices.[33] Particularly with reference checks where the prospective supervisor contacts former supervisors or others, employees may fear that references would provide artificially inflated evaluations regarding those they favor (or provide undeserved low ratings of employees who were not in favor) or that the current supervisor may not be forthcoming if trying to offload a poor performer (or perhaps hold on to a stellar performer).

Professional Relationships. The large discrepancy between the perceived influence on promotion decisions compared to the appropriate influence of professional relationships with the selecting official or other higher level managers or a personal relationship with the selecting official suggests that these factors

[33] For example, see U.S. Merit Systems Protection Board, *Reference Checking in Federal Hiring: Making the Call*, 2005; F.L. Schmidt and J.E. Hunter, "The Validity and Utility of Selection Methods in Personnel Psychology: Practical and Theoretical Implications of 85 Years of Research Findings," *Psychological Bulletin,* 124(2), pp. 262-274; or P.J. Taylor, K. Pajo, G. Cheung, and P. Stringfield, Dimensionality and Validity of a Structured Telephone Reference Check Procedure, *Personnel Psychology*, 57, pp. 745-772.

are viewed by employees with great suspicion. The mere presence of a pre-existing relationship creates vulnerability in the selection process.

Results from past research are relevant to the discussion of whether or not professional relationships or personal contacts should be considered. In fact, employees demonstrate somewhat contradictory opinions regarding the proper role of professional relationships on career advancement. While prior research clearly indicates that most Federal employees (85 percent) view relationships with a supportive supervisor or mentor as having a positive impact on their career advancement,[34] employees often report less comfort with the impact of professional relationships on promotion decisions.

As shown earlier in **Figure 6**, there was a modest level of support for considering professional relationships with peers and lower level employees, presumably given the value of building and maintaining effective working relationships. However, employees expressed skepticism regarding the propriety of considering professional or personal relationships with higher level officials or the selecting official although they felt these were fairly common occurrences. This could suggest that relationships with peers and subordinates are viewed as measures of interpersonal skills, while relationships with higher ranking officials could reflect an employee's attempts to gain favor based on factors other than merit. In relation to professional relationships with higher level officials/the selection official, as well as personal relationships with the selecting official, there were large gaps between what employees believe is and should be factored into selection decisions, with employees believing these relationships carry more weight than they should.

Cautions Regarding Selection Criteria

Although there may be debates about how to evaluate some of these factors that may influence promotion decisions, quality of work experience, recognized potential, education/training, dedication, performance in the selection process, and length of work experience were viewed as acceptable by the majority of Federal employees, in contrast to personal relationship with the selecting official or physical attractiveness. However, there were mixed views among Federal employees regarding the propriety of various professional relationships as a factor influencing promotion decisions. This lack of consensus makes these areas ripe for differing perceptions of whether or not these professional relationships can be fairly leveraged when seeking opportunities as an employee or for supervisors who seek to make appropriate decisions when distributing resources, such as promotions or developmental opportunities.

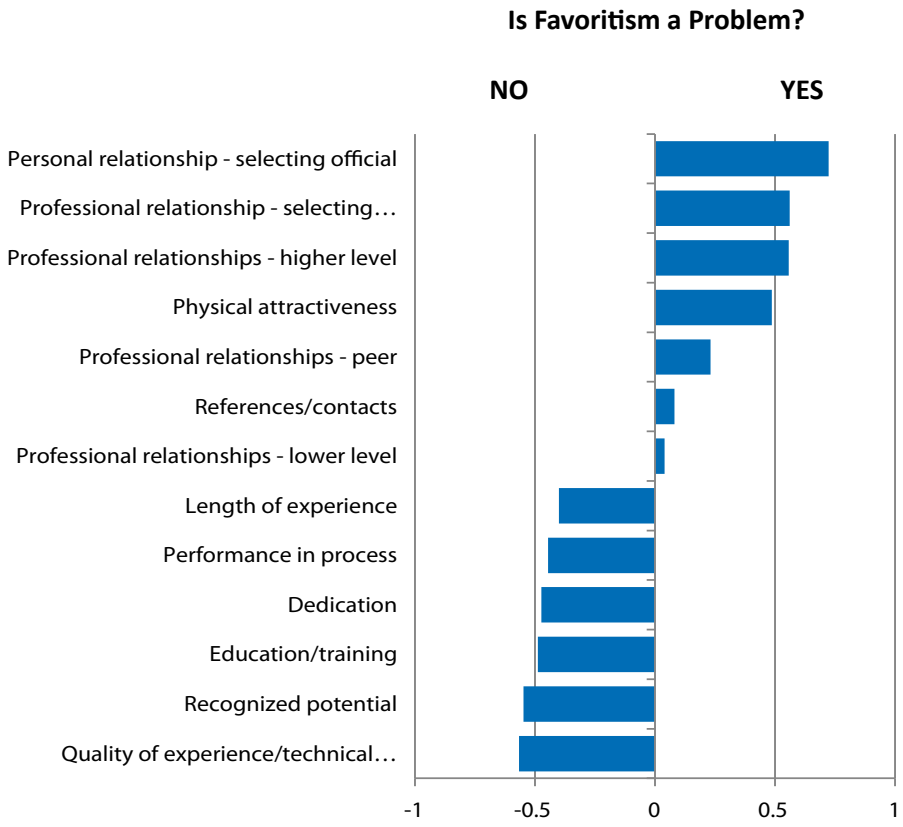
Figure 7 shows interpersonal factors to be strongly positively correlated with perceptions of favoritism.[35] Not surprisingly, employees who respond that favoritism is a problem in their organization are also more likely to believe that personal and professional relationships with the selecting official (or a higher level official) influence selection for a promotion. Similarly, employees who view the candidate's physical

[34] U.S. Merit Systems Protection Board, *Fair and Equitable Treatment: Progress Made and Challenges Remaining*, 2009, p. 48.

[35] A correlation (r) indicates whether or not two measures are related, to what degree and whether they trend in the same or opposite directions. Correlations of 0.5 or more (regardless of whether in a positive or negative direction) are considered large, 0.3 moderate, and 0.1 small. Positive correlations indicate the measures move in the same direction, while negative correlations mean they diverge. Therefore, as a group, employees who thought favoritism was a problem in their organization were more likely to think personal and professional relationships and physical attractiveness weighed on the decision. In contrast, when employees viewed favoritism not to be a problem, they felt factors such as quality of experience, recognized potential, education/training, performance in the selection process, and tenure influenced the promotion decision.

attractiveness as playing a role in the selection decision are also more likely to view favoritism as a problem. Conversely, given the widespread support for the top six factors influencing promotion decisions (as shown in **Figure 6**), it is understandable that these are negatively correlated with perceptions of favoritism as shown in **Figure 7**.[36]

Figure 7. Correlations between Perceived Role of Factor in Promotions and Perception of Favoritism as a Problem



A comparison between the opinions of supervisors and employees reveals that these two groups are generally in agreement about the factors that should (and should not) be considered when awarding promotions. Interestingly, the only factors with even a slight difference of opinion between supervisors and employees relate to length of experience and references. Employees are slightly more likely than supervisors to give weight to tenure, while slightly more supervisors than employees tend to value references.

To better understand how supervisors make their selection decisions, we specifically asked them to rate the importance of the candidate's skills and personality. Although 95 percent rated skills that are a "good fit

[36] In this context, factors that are negatively correlated with favoritism would be positively associated with the opposite of favoritism—treating employees fairly.

with the work unit" as important, two-thirds thought personality fit with the work unit is important, while one-third said personality fit with them is critical. In contrast, when talking more generically about what supervisors should do, supervisors (and employees) were less likely to agree that selections should be made based on personality fit with the work unit (only 12% of groups of supervisors or employees) or selecting based on having an enjoyable working relationship over qualifications (only 3% of supervisors agreed and 4% of employees).

Selecting officials need to carefully consider the propriety of "fit." Objectively assessing skills against team needs can provide vital information about an applicant's potential contributions to the team, but selecting based on personality match can result in a lack of team diversity. Selecting officials need to be aware that trying to select a homogeneous staff may be a misguided effort resulting in a team without complementary strengths. To overcome this tendency towards perpetuating the status quo, they should focus on job-essential skills, rather than matching the personality of the team or the selecting official.

Supervisors should also be cautious about relying upon their general impressions of candidates rather than specifically comparing the qualifications of each candidate against the critical work-related criteria. Twenty-three percent of supervisors indicate that they rely upon their overall impressions or "gut instincts" when selecting employees. Unfortunately, such global assessments or reliance on subjective impressions can be highly susceptible to unconscious biases, even among those who pride themselves upon treating everyone fairly.[37] Further, 22 percent of supervisors believe that they are better able to select the best qualified applicants by their judgments than by relying upon the current hiring process. Therefore, agencies need not only design and implement valid selection tools and effective selection procedures, but all selecting officials must also be convinced of the benefits of using them properly. HRM staff often plays a role in developing selection tools, while agency leadership must set the expectation that supervisors will do their best to use these tools effectively, which includes using them to treat applicants fairly and achieve merit-based outcomes.

To reduce the perception or reality of favoritism, supervisors must emphasize good hiring practices that are based on merit. They must also take care with selection criteria and assessments to make sure that they are adhering to the merit systems. To achieve this, they must work with HRM staff to:

1. Conduct a job analysis to ensure the selection criteria are job-related and measurable;

2. Carefully select valid and reliable assessment (measurement) tools and to use the information collected to make a legally defensible decision;[38] and

3. Exercise transparency to inform applicants what will be measured and how, and if possible, share feedback to help the applicant to understand the selection decision and how to improve for future competitions.

[37] For example, see A.G. Greenwald, T.A. Poehlman, E. Uhlmann and M.R. Benaji, (2009), Understanding and Using the Implicit Association Test: III. Meta-analysis of predictive validity, *Journal of Personality and Social Psychology*, 97, 17-41 or A.J. Lee (2005), Unconscious Bias Theory in Employment Discrimination Litigation, *Harvard Civil Rights-Civil Liberties Law Review,* 40, 481-503.

[38] For example, see the U.S. Office of Personnel Management's *Assessment Decision Guide* at http://apps.opm.gov/adt/Content.aspx?page=TOC

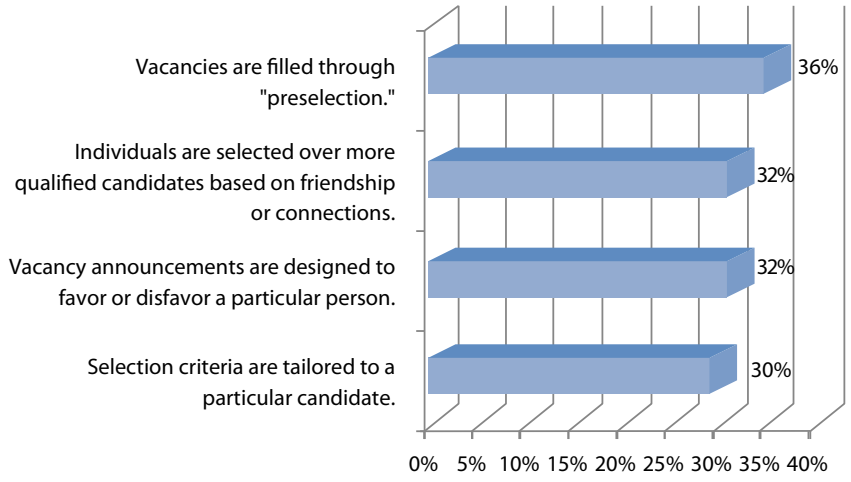
Possible Manifestations of Favoritism in the Selection Process

As discussed earlier, while the merit system principles establish expectations for fair and open competition and avoiding favoritism, the prohibited personnel practices spell out certain actions that Federal employees are specifically directed not to take. In many situations, there is ambiguity as to whether decisions are merit based or not. Below we outline certain practices that are either PPPs or inconsistent with merit system principles of fair and open competition and selection based on merit. We discuss the prevalence of these practices according to Federal employees and Federal HRM employees. These varied perspectives provide valuable insight into their perceptions of how frequently these activities occur in their organizations. However, it is important to note that survey responses are not definitive evidence that a PPP or improper action has occurred.

Perspective from Federal Employees

As shown in **Figure 8**, a sizable minority of Federal employees believe that selection practices that are inconsistent with fair and open competition and selection based on ability occur "always" or "most of the time." Specifically, 32 percent of employees believe friendship or connections trump qualifications and 36 percent of employees think selecting officials frequently practice "preselection," which is defined as knowing in advance who they are going to select and following through regardless of the qualifications of other applicants.

Figure 8. Employee Perceptions That Event Occurs "Always" or "Most of the Time"

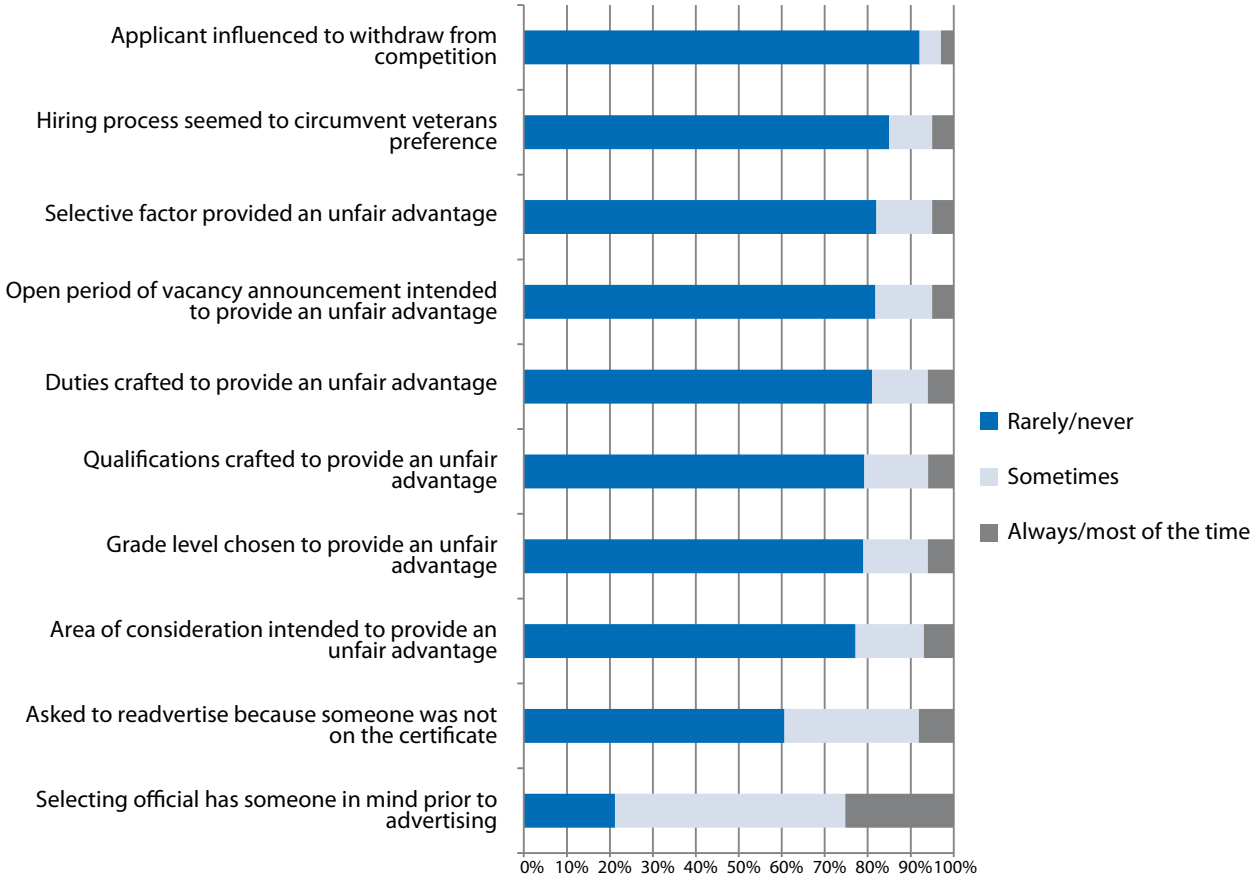


Perspective from Human Resources Management Employees

When asked about the potential threats to fair and open competition for Federal jobs, HRM employees most frequently selected "managers who base hiring on favoritism" with 41 percent agreeing that this occurs to a great extent. They viewed favoritism as a greater threat to fair and open competition than challenges such as "hiring managers don't understand the requirements for fair and open competition," "amount of time it takes to hire someone," and "difficulty in managing a high volume of applicants."[39]

The survey of HRM employees asked them to indicate how often they believed agency officials took particular actions that are prohibited or otherwise inconsistent with fair and open competition.[40] As shown in **Figure 9**, the frequency of behaviors seems to correspond with the associated risk. For example, according to HRM employees, influencing an applicant to withdraw from competition (clearly defined as a prohibited personnel practice) occurs very infrequently, at least to their knowledge. Similarly, from the HRM perspective, selecting officials were unlikely to obviously attempt to circumvent veterans' hiring preference.

Figure 9. HRM Perspective on Frequency of Actions



[39] U.S. Merit Systems Protection Board, Fair and Open Competition Survey, 2011. For more information on these results, see the upcoming MSPB report regarding Fair and Open Competition.

[40] *Ibid.*

Compared to the actions that were more clearly linked with actions likely to be PPPs, more HRM employees believe that aspects of the selection process are sometimes manipulated to improperly advantage certain applicants. Such manipulation included specifying job requirements or recruitment approaches (e.g., the selective factor or other qualifications, grade level, description of duties, area of consideration, and the open period of the vacancy announcement) or as re-advertising a position because a particular person was not on the certificate. These actions constitute a gray area for HRM because these decisions are appropriately left largely to the selecting official's discretion, and can be used to screen out less qualified applicants. These decisions can be made for legitimate as well as illegitimate reasons. HRM staff may have limited ability to distinguish a reasoned exercise of managerial judgment from abuse of the merit system, if agency officials articulate rational reasons for their requests.

Over the past twenty years, Federal human resources employees have experienced dramatic changes in the roles they are expected to play. Prior to reinvention initiatives in the 1990's which included abolishing the Federal Personnel Manual (FPM) to provide more flexibility to agencies in establishing personnel policy to manage their workforces,[41] human resources staff primarily served what might be best described as a policing role. Human resources staff consulted the FPM (and/or agency-specific policy manuals known as Departmental Personnel Manuals or DPMs) to determine what actions the managers could take. Therefore, options were somewhat limited to those that had been specified by the authors of the FPM or DPM or those that HRM staff felt comfortable offering as interpretations of the existing policy.

However, over time, the role of human resources has evolved to emphasize exploring options and providing customer service to help managers accomplish their goals within a wide range of options. Success in the HR role shifted from following the letter of the law to accommodating managers' requests. Although there was certainly value gained in allowing for innovation and flexibilities, some HRM staff experienced a new challenge in turning down managers' requests that they felt threatened the merit system principles without the structured guidance that previously provided them with more support.

Survey data indicate that HRM concerns remain about maintaining a sometimes delicate balance between pleasing the customer and supporting the spirit and intent of the merit system principles. For example, nearly 20 percent of human resources employees indicated that their supervisors would consider it to be bad customer service if they reported that one of their customers had committed a prohibited personnel practice.[42] Only 74 percent of HR employees reported that their supervisor would support them if they refused to help a customer commit a PPP leaving others who were unsure (13 percent) or disagreed (14 percent).[43] HRM employees can be dissuaded from performing one of their key roles if they fear that disagreeing with the supervisor will have negative repercussions for them, even if they believe they are trying to help the manager avoid committing a PPP. Without confidence in support from their managers, HR staff may be intimidated into not giving appropriate advice and not elevating an issue when a supervisor intends to proceed against their advice. Further, after they believe a PPP has occurred, they may refrain from reporting it, even though they are in the best position to know what truly occurred.

[41] As part of the National Partnership for Reinventing Government, one of the recommendations sought to "Eliminate Excessive Red Tape and Automate Functions and Information," (http://govinfo.library.unt.edu/npr/library/reports/hrm12.html as accessed on February 26, 2013).

[42] U.S. Merit Systems Protection Board, Fair and Open Competition Survey, 2011.

[43] *Ibid.*

Although managers are ultimately responsible for their actions, they do not operate in a vacuum. Human resources employees (or those who are performing this role in line organizations) play a critical role in ensuring that managers use flexibilities appropriately to make wise, merit-based staffing decisions. HR employees should understand and accept responsibility for appropriately advising supervisors, or they risk being held accountable. Even when serving in this advisory role results in conflict, such as when the supervisor wants to achieve an outcome that threatens the integrity of the merit systems, human resources employees have a responsibility to educate managers regarding not only what is possible, but also what has credibility with outside observers.

In summary, it is prudent for managers and supervisors to forge partnerships with HR, to make decisions that are consistent with the MSPs and avoid the PPPs. Such partnerships will help ensure the underlying intent of such actions are grounded in merit, and operate in accord with the Federal merit system principles.

Selected Cases Involving Issues Related to Favoritism

Supervisors and selecting officials make decisions on a daily basis that are evaluated against the merit system principles and the prohibited personnel practices. Understanding the implications of these decisions offers an opportunity to carefully consider various courses of action before embarking upon a potentially risky course of action that may be interpreted as a violation of the MSPs and perhaps as evidencing the commission of one or more PPPs.

Whether an act constitutes a prohibited personnel practice generally hinges upon the intent. Absent wrongful intent, an action may be permissible, while with intent to subvert the merit system principles, it is a prohibited personnel practice. For example, it may be appropriate to re-advertise a position when there aren't sufficient qualified applicants, but doing so to get a specific name on the certificate creates both the appearance and reality of impropriety. However, simply having someone in mind prior to advertising is not a prohibited personnel practice, as long as the selecting official doesn't bias the selection process in favor of the prospective selectee and honestly considers all applicants prior to making a selection.

Management decisions may fall anywhere on a spectrum of suspicion regarding having committed a prohibited personnel practice. At one extreme are blatant prohibited personnel practices, where the evidence shows that an official clearly intended to take a personnel action despite knowledge that it was not permitted. At the opposite end of the spectrum are the cases where the supervisor made a merit-based decision and this is readily apparent to all observers.

A review of cases can help agency leaders, supervisors, and HRM employees learn from others' experiences and suggest better future courses of action. For example, in *Special Counsel v. Lee and Beatrez*, 114 M.S.P.R. 393 (2010), many opportunities existed for human resources management staff to advise the supervisors regarding the propriety of numerous decisions during a selection process. The Office of Special Counsel viewed these failures as violations of 5 U.S.C. § 2302(b)(6) since they involved unauthorized hiring preferences and consequently, filed a complaint with MSPB.

In this case, the evidence indicated that the selecting official intended to select a current employee for a promotion regardless of the availability of other qualified applicants. For example, after the employee failed to qualify under the merit promotion announcement, the selecting official requested that human

resources management reissue the delegated examining unit announcement (and limit it to the GS-11 level), for the stated reason that there weren't enough well-qualified applicants.[44] To persuade HR to re-advertise the position, the selecting official received help from Lee, an HR Specialist working as an advisor in the line organization. However, the selecting official also communicated to HR that the intent was to select a particular employee. At this point, the staffing action was transferred to Beatrez who found that the target employee did not qualify at the GS-11 level. Then Lee advised re-advertising the position under merit promotion as a GS-9/11. The selecting official agreed to this, along with narrowing the area of consideration geographically and to current and former Federal employees, while limiting the vacancy open period to the minimum required. After re-advertising the vacancy and restricting who could be considered, the intended employee was selected.

Agencies may revise vacancy announcements and re-advertise positions when adequate pools of qualified applicants cannot be found. However, in this case, evidence of underlying intent to circumvent the merit system belied claims of a shortage of acceptable candidates. Narrowing the geographic area of consideration and open period for the vacancy announcement further undermined the argument that the agency's actions were meant to augment the applicant pool, suggesting instead that the intent was to recruit and select a particular employee.

The Merit Systems Protection Board ordered the employing agency to suspend Lee for forty-five days without pay and Beatrez for ten days without pay, due to her lesser involvement. However, Beatrez's suspension was later overturned on appeal as the United States Court of Appeals ruled that her explanations for her actions were credible.[45] This highlights one of the greatest challenges for supervisors, HRM staff and employees. Whether management decisions are proper or improper often hinge on the intent behind them. In this case, the manager revealed the underlying intent to manipulate the hiring process to hire a specific person and thereby commit a PPP. The first HR specialist willingly aided and abetted this act, and suggested strategies that were inconsistent with the stated problem of an inadequate pool of qualified applicants. In comparison, the second HR specialist was able to justify her actions.

Given their critical role in upholding the merit system principles, human resources management specialists (or those who are performing this role in line organizations) should understand and accept responsibility for appropriately advising supervisors, even when this results in conflict, such as when the supervisor wants to achieve an outcome that may involve the commission of a PPP. In these instances, the HR representatives can and should be held accountable if they do not fulfill their responsibilities. For example, in *Special Counsel v. Ross*, 34 M.S.P.R. 197 (1987), Ross was the Personnel Officer and Catledge reported to her as a Personnel Management Specialist. At the request of the director of the facility, they worked to hire a particular applicant, first by tailoring the position description to fit the applicant's qualifications and then by discouraging or otherwise removing the more qualified applicants from consideration. The Board ordered the employing agency to reduce Ross by one grade and Catledge by two grades for a minimum of one year.

[44] Agencies may advertise vacancies through merit promotion, which is only open to current or former permanent Federal competitive service employees or veterans under certain conditions, and/or delegated examining, which is also open to applicants from outside the Federal competitive service.

[45] *Beatrez v. Merit Systems Protection Board,* 413 F. Appx. 298 (Fed. Cir. 2011).

In another case, *Special Counsel v. Brown*, 61 M.S.P.R. 559 (1994), the Office of Special Counsel requested disciplinary action against Brown, who was responsible for human resources management in the region, and Nelson, who was his supervisor, for their involvement in a hiring action that the Board found involved a violation of 5 U.S.C. § 2302(b)(5), to "influence a person to withdraw from competition for the purpose of improving or injuring the prospects of any other person for employment," including misleading a candidate about his right to priority consideration as a displaced employee, as well as violations of 5 U.S.C. § 2302(b)(6), regarding granting unauthorized hiring preferences. Nelson and Brown conducted a panel interview with the priority candidate and rated him as failing the interview and selected two nonpriority candidates. The Office of Personnel Management (OPM) noted that these selections violated the displaced employee regulations and ordered corrective action, which Brown and Nelson did not take in a timely manner. Further, Nelson violated 5 U.S.C. § 2302(b)(6) and provided Brown with an unauthorized preference by improperly reclassifying a GM-201-14 position to a GM-301-14 position to improve Brown's chances for selection. An HR specialist notified Nelson verbally and in writing that this action was not permissible. As a result of these actions and refusal to correct the problems identified by OPM, the Board ordered the employing agency to suspend Nelson for 90 days without pay and for Brown to pay a $1,000 fine in lieu of a 60-day suspension, given his retirement.

In *Special Counsel v. Byrd and Rubinstein*, 59 M.S.P.R. 561 (1993), aff'd, 39 F.3d 1196, the Board described this case as "one of the clearest possible examples of abuse of the merit system." They concluded that Byrd, an Area District Director and Rubinstein, a regional branch chief responsible for personnel matters, conspired to violate 5 U.S.C. § 2302(b)(6) by giving an applicant unauthorized preference because she had ties to the White House and Congress. In order to hire the desired applicant from outside the agency, they misused a temporary hiring authority, narrowly restricted the public notice by geography, grade level, and time the vacancy announcement was open, selected the target employee without interviewing any of the other applicants to assess their qualifications, and questionably invalidated a veteran's application. As a consequence, the Board ordered Byrd to pay a fine of $1,000 (since he had retired) and for the employing agency to suspend Rubinstein for 60 days without pay.

Special Counsel v. DeFord, 28 M.S.P.R., 98 (1985), is similar to the cases described above as it involved a violation of 5 U.S.C. § 2302(b)(6) by giving one employee an advantage through retroactively promoting her. However, a key difference from the previously mentioned cases is that the underlying intent was to advantage her in the event of a proposed reduction in force (which never occurred) by placing her in a grade where her chances for retention were better. Additionally, DeFord, the supervisor, attempted to absolve himself of guilt by claiming that Julian, his subordinate who was the Personnel Officer, had failed to inform him that the promotion was improper, despite testimony from other witnesses to whom Julian indicated he had been ordered to process the promotion action by DeFord. The Board found DeFord responsible for violating 5 U.S.C. § 2302(b)(6) and ordered that he pay a fine of $750 since he had recently retired.

In each these cases, supervisors sought to ignore the merit system principles, Federal regulations, and/or OPM guidance, in order to select outside of the Federal merit system procedures. Unfortunately, some of the HR staff who were involved failed to properly play their appropriate advisory role to keep their agencies, their management, and themselves out of legal trouble.

Selecting officials and supervisors must exercise careful judgment when dealing with individuals with whom they have a personal or close professional relationship. It is not necessarily a prohibited practice to hire, promote, or reward such individuals. Indeed, it may be quite proper do so, when merited by the individual's skills or accomplishments. Nevertheless, such decisions are likely to be scrutinized for preferential treatment Case law reinforces all these points, illustrating the need to both make personnel decisions, and evaluate their legality and propriety, on a case-by-case basis.[46]

The shared thread among each of these cases involves the flexibility with which supervisors and HR staff can rightfully (or wrongfully) work to achieve a desired outcome. When used properly, these flexibilities can serve to help management choose well-qualified employees in accord with the merit system principles. However, when these flexibilities are manipulated in order to hire a specific person based on personal relationships rather than job-related qualifications, there can be many who suffer the consequences—the agency, human resources management staff, the supervisors, subordinates and/or colleagues of the selectee, as well as the applicants who were not selected.

Various reforms to human resources management practices over the past 25 years have provided selecting officials with greater flexibility, which may have made it easier to select the desired candidate. Perhaps most notably, the change from the "rule of three" to "category rating" under delegated examining has provided selecting officials with more freedom to select from a potentially broader pool of applicants.[47] Yet, by shifting from HR to the supervisors the responsibility for sifting through application materials and for deciding which (if any) candidates to interview, there may be less documentation to explain to candidates why they did not make the final cut. The changes in HRM practices to give agencies more flexibility are not inherently susceptible to PPPs. However, they highlight the need for changing accompanying procedures to facilitate accountability for decisions that are made using this greater discretion.

[46] For example, in *Special Counsel v. Nichols*, 36 M.S.P.R. 445 (1988), the Office of Special Counsel (OSC) sought disciplinary action against the defendant (Nichols), alleging that Nichols had violated 5 U.SC. § 2302(b)(6) by orchestrating the selection and subsequent promotion of a friend. The Board held that there was insufficient evidence to support OSC's charge, noting that (1) the hiring of a friend is not necessarily a PPP; and (2) the record included considerable evidence of legitimate reasons, rather than improper intent, for the decisions that culminated in the friend's hiring.

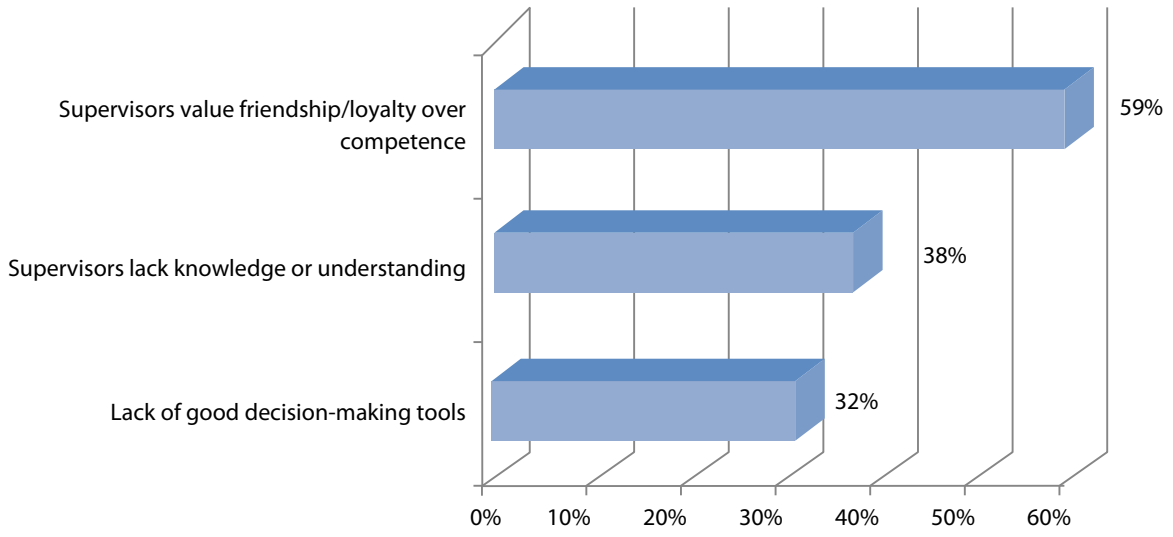
[47] For background, see U.S. Merit Systems Protection Board, *The Rule of Three in Federal Hiring: Boon or Bane?,* 1995.

Potential Explanations for Perceptions of Favoritism

It is clear that supervisors and employees still grapple with how to handle the interpersonal element that is inherent in the workplace. Supervisors observe employee performance based on regular interactions. These observations guide their future decisions regarding whom to provide career-enhancing opportunities and perhaps to promote. For selecting officials, personal connections may serve as valuable sources of candidates, but they cannot substitute for open competition. Likewise, recommendations of applicants from references or personal past experience with an applicant may serve as an appropriate source of insight, but should not replace rigorous assessment.

Through survey questions, we sought to identify more precisely why employees believe that favoritism occurs. As shown in **Figure 10**, our survey results suggest that employees are more likely to attribute favoritism to a conscious choice to favor certain applicants or employees based on nonmerit reasons (e.g., friendship and connections) rather than inadequate knowledge or a lack of decision-making tools. These findings suggest a greater challenge to change behavior that supervisors know is not in accord with the merit system principles, rather than simply providing needed support.

Figure 10. Employee Perceptions of Why Favoritism Occurs



Results of MSPB surveys suggest that employees have somewhat mixed opinions regarding the potential influence of professional relationships on career advancement.[48] Although some employees may disagree with supervisors giving weight to work relationships when making personnel decisions, a fuller discussion of the issue reveals that professional relationships may serve legitimate roles in the Federal merit systems. Therefore, it is essential to distinguish between the reality of professional relationships serving as the context for accomplishing work and developing employees, as opposed to allowing personal preferences and prejudices to trump merit-based human resources management decisions. This becomes particularly relevant when identifying strategies for decreasing perceptions of favoritism. Although education can help managers who are lacking needed knowledge or tools, situations involving willful disregard of the MSPs typically require different approaches to remedy the problem.

Intentional Favoritism: The Influence of Relationships over Merit

According to results from the Federal Merit Systems Survey, about half of Federal employees believe that favoritism influences selection decisions made by supervisors in their organizations. The majority believe this is intentional, motivated by the supervisor's intent to value friendship or loyalty over competence.

Why would a supervisor intentionally give more weight to personal factors than to job-related characteristics? This situation may occur when there is an existing personal relationship or comfort level between the supervisor and the employee. This may result from rapport that has evolved in the office where the supervisor likes the employee and as a result, may make decisions that provide the employee with advantages. Sometimes, the supervisor simply feels more comfortable with those who share (or profess to share) the supervisor's opinions or those who approach work in a similar way due to personal characteristics, such as work ethic or thinking styles. Supervisors may also consciously reward employees who share common interests and affiliations in an attempt to promote their shared goals.

Similarly, supervisors may favor certain employees who reflect their personal preferences. Although they may not fall into the legally prohibited categories that would define discrimination,[49] supervisors may simply prefer working with certain types of people. For example, supervisors may feel more comfortable with those who are like them in terms of culture, class, background, and experiences. However, they should realize that as supervisors, they possess substantial influence over employees' careers. Therefore, they must hold themselves to a higher standard to ensure that everyone is treated fairly and that personal comfort is not substituted for an objective evaluation of performance.

On other occasions, the supervisor may approach relationships in a more transactional manner and the supervisor may use positional power to "trade favors" with other supervisors or with employees. For example, one Federal organization recently uncovered multiple violations of the prohibition on nepotism as the selecting officials attempted to skirt the rules by hiring the relatives of other managers in exchange

[48] For example, results from the Federal Merit System Survey which are presented in this report and the Career Advancement Survey which was discussed in the 2009 MSPB report *Fair and Equitable Treatment: Progress Made and Challenges Remaining*.

[49] 5 U.S.C. § 2301(b)(1) and 5 U.S.C. § 2301(b)(2), relating to race, color, religion, sex, national origin, age or disability.

for those managers hiring their relatives.[50] In other cases, the supervisor may implement a *quid pro quo*[51] arrangement in which the supervisor gives preferential treatment to employees who actively advance or at least tolerate the supervisor's inappropriate goals or objectives.

These scenarios present hazards to the work environment. Giving preferences to employees based on affinity or other nonmerit reasons undermines trust in the supervisor and in the reward structure that implies good performance will produce better personal outcomes. Even when employees are not personally affected, when they see other employees being unfairly advantaged, this undermines their faith in the Federal merit systems and negatively influences how they interpret future situations that may be ambiguous. Likewise, rewarding employees based on non-work related roles similarly jeopardizes the understanding between supervisors and employees that they are evaluated based on their work performance, rather than who they are (or whom they know). Although supervisors may find it easier to work with employees who consistently support their opinions and never challenge them to rethink their position, this can stifle the discussion that might otherwise produce better solutions.

Unfortunately, it can be very challenging to convince supervisors to change behavior that they know is wrong. Therefore, organizations cannot rely solely on education regarding standards, such as the merit system principles and training on better decision-making, although these are also necessary. They must take additional steps to warn decision-makers that there are consequences for abuse and careless use of authority and hold them accountable.

A more proactive strategy would involve building an assessment of integrity into supervisory, managerial, and executive selection systems to increase the likelihood that those who are selected for leadership roles will take their ethical responsibilities seriously and strive to act in accord with the merit system principles. Although integrity can be challenging to assess since those who lack integrity often prove to be skillful at deception, it is possible to evaluate an applicant's integrity and potentially related competencies such as workforce management and public service motivation.[52] OPM has noted the criticality of these characteristics by including them in their leadership competency model, which is applicable to supervisors[53] and senior executives.[54]

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[50] U.S. Department of Justice, Office of the Inspector General, Report Regarding Investigation of Improper Hiring Practices in the Justice Management Division, July 2012.

[51] The Merriam-Webster online dictionary (http://www.merriam-webster.com/dictionary) defines q*uid pro quo* is a legal term from Latin that translates as "something for something." It is often used within the context of sexual harassment as described in 29 C.F.R. § 1604.11 (a)(1)-(2).

[52] For example, see R.B. Kaiser and R. Hogan, How To (And How Not To) Assess the Integrity of Managers, *Consulting Psychology Journal: Practice and Research,* 62(4), 216-234.

[53] For OPM's *Supervisory Qualification Guide*, see http://www.opm.gov/qualifications/standards/Specialty-stds/gs-supv.asp, printed November 23, 2012.

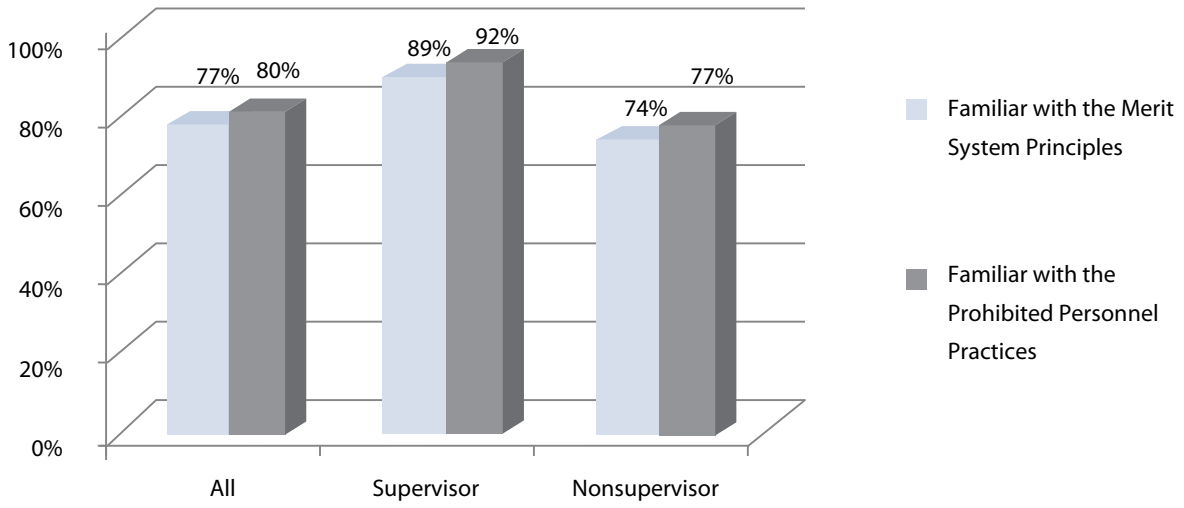
[54] U.S. Office of Personnel Management, *Guide to Senior Executive Service Qualifications*, September 2012, pp. 32-34.

Unintentional Favoritism

Substantial percentages of Federal employees attributed favoritism to unintentional causes, such as a lack of knowledge or tools. If this perception is correct, supervisors would likely make better decisions if provided with additional support.

To provide further information from the perspective of supervisors and employees regarding expectations for the Federal merit systems, we directly queried employees regarding their knowledge of the MSPs and PPPs. As shown in **Figure 11**, the vast majority of supervisors claim familiarity with the merit system principles (89 percent) and the prohibited personnel practices (92 percent). HRM employees report somewhat less confidence in supervisors' familiarity with the PPPs as only about three-fourths report that supervisors in their agency have a good understanding of the PPPs.[55] Given their advisory role, HRM employees provide supervisors with more detailed information regarding how the MSPs and PPPs affect their daily decision making, which requires more tailored guidance than the broad proscriptions contained in the MSPs and PPPs. Supervisors may also need to understand that employees may perceive wrongdoing in the absence of evidence to the contrary and should strive to make their actions more transparent, whenever possible.

Figure 11. Employee Self-Assessment of Familiarity with the Merit System Principles and the Prohibited Personnel Practices



[55] U.S. Merit Systems Protection Board, Fair and Open Competition Survey, 2011. More information on these results will be presented in an upcoming MSPB report.

New supervisors are required to be trained for their new roles and receive refresher training at least once every three years,[56] but this may not be sufficient. Although it has not been signed into law, Congress has proposed legislation to expand this requirement to include "a program to provide training to supervisors on the prohibited personnel practices under section 2302."[57] To help fill this gap, OPM has provided additional guidance to agencies regarding supervisory training that may spur more attention to the critical lessons that are necessary to effective, merit-based supervision.[58]

Employees reported somewhat lower familiarity than supervisors, so greater information on the merit system principles and prohibited personnel practices, and practical applications to the current hiring procedures and other human resources management practices, may help them understand what is and is not allowed under the Federal civil service regulations.[59] This knowledge may serve to clarify whether or not the actions they observe are permissible, and provide guidance to help them better understand what they need to do to succeed in their careers. Therefore, agencies should provide more information on the practical applications of the MSPs and PPPs (i.e., what they require and permit), to help employees understand how human resources management practices align with the MSPs.

Professional Relationships That Do Not Conflict with the Merit System Principles

While the concept of favoritism centers upon the illegitimate influence of relationships on management decisions, we should not overlook the appropriate role that professional relationships may play in the work environment. As we discussed in a prior report,[60] 85 percent of Federal employees identified "A supportive supervisor to encourage my development and advancement" and a "Senior person/mentor (other than my supervisor) looking out for my interests" as the top two factors with the most positive impact on their career advancement. The fifth most popular response, which was expressed by 78 percent of the respondents, involved "Contacts who knew the selecting official and recommended me." As a result, three of the top five reported influences on career advancement involved professional relationships between employees and another party who provided individualized attention and assistance.

It is critical for supervisors and employees to understand the influence and importance of work relationships. Supervisors exercise nearly absolute control over many of the positive and negative experiences that their employees have in the workplace. The supervisor typically has authority for hiring and promoting, assigning work, distributing training and developmental opportunities, conducting performance appraisals, allocating awards, and managing behavior through disciplinary action, when required. The supervisor

[56] 5 C.F.R. § 412.202(b).

[57] H.R. 1492: and S. 790: Federal Supervisor Training Act of 2011, 112th Congress, 2011-2012. Text as of April 12, 2011. For the text of H.R. 1492 (112th): Federal Supervisor Training Act, see http://www.govtrack.us/congress/bills/112/hr1492/text, as of November 23, 2012.

[58] For the memorandum to Human Resources Directors regarding OPM's supervisory training guidance and framework, see http://www.chcoc.gov/transmittals/TransmittalDetails.aspx?TransmittalID=5185, as of December 28, 2012.

[59] Free training and resources on the merit system principles and prohibited personnel practices are available from sources such as the U.S. Merit Systems Protection Board at http://www.mspb.gov/meritsystemsprinciples.htm and http://www.mspb.gov/ppp/ppp.htm. The Office of Personnel Management also offers free online training regarding the MSPs and PPPs through HR University at http://www.hru.gov/.

[60] U.S. Merit Systems Protection Board, *Fair and Equitable Treatment: Progress Made and Challenges Remaining*, 2009, p. 47-50.

also makes daily micro-decisions that can help or hinder the career advancement of staff. For example, a supervisor can shine the spotlight on superior performance of subordinates or take the credit personally; advocate for an employee to take leadership roles or let these opportunities pass by, and encourage an employee to take new risks with coaching support or leave the employee alone.

Ideally, an employee will have a supportive supervisor, as well as other senior staff who are willing to mentor the employee. Mentors can greatly expand an employee's network and provide advice on areas in which the supervisor lacks expertise. A mentor may also have less of a vested interest in retaining the employee and consequently may provide the employee with advice that better serves the employee's long-term goals.

By observing first hand an employee's strengths (and weaknesses), the supervisor and/or mentor will gain substantial information about an employee's capabilities. This knowledge gives the supervisor or mentor greater confidence when deciding whether to advance the employee or advocate for the employee's placement in another organization. Similarly, contacts who recommend an employee to the selecting official can serve valuable roles by providing insight into the qualifications of an employee or applicant, and sharing this information does not violate the PPP given that it is job-related.

It is important to realize that professional relationships need not be viewed automatically with suspicion. In fact, developing and maintaining professional relationships can greatly increase the odds of success for employees as they progress through their careers. This success can involve the development of job-critical skills and can aid in the identification of qualified applicants without compromising the integrity of the Federal merit systems.

However, supervisors should be aware of possible cynicism regarding the fairness of their decisions, particularly when dealing with applicants who are known to them through personal or professional networks or when distributing limited resources among employees. In these instances, they should exercise caution during the evaluation process to ensure that all candidates are being fairly considered in the selection process. Greater transparency before and after the selection may serve to reduce suspicion that the process was merely a cover for a preselection.

Assessing Adherence to the Merit System Principles and Taking Appropriate Action

Reviewing these scenarios together, it becomes apparent that different perspectives on a supervisor's actions can lead to different explanations: intentional favoritism; unintentional favoritism; based on merit, but with suspicions of favoritism, particularly when there is an existing professional or personal connection; or simply be viewed as merit-based. It is critical, therefore, for supervisors and the observers to strive for a shared perspective that conforms to the high expectations of the merit system principles. Although this may be difficult, it can be achieved through increased transparency, shared decision criteria, and a commitment to make decisions based on merit.

Supervisors' Role

As summarized in **Table 2**, there are multiple perspectives on favoritism and multiple scenarios as to whether favoritism is intentionally or unintentionally occurring. To avoid perceptions of favoritism, supervisors need to:

1. Make decisions that are best for the organization—not just for the supervisor which could lead the supervisor to intentionally commit favoritism;
2. Develop and maintain the expertise to make appropriate management decisions and seek guidance when uncertain to avoid unintentionally committing favoritism;
3. Be as transparent as possible (without violating confidentiality) when making merit-based decisions to ensure that others will perceive these decisions as being free of favoritism; and
4. Strive to demonstrate the desirable behaviors and avoid the behaviors associated with perceptions of favoritism, as discussed in the following section.

These actions should reduce supervisors' susceptibility to suspicions of favoritism (whether accurate or not) and help them gain employees' confidence. Combined with the needed tools and assistance from human resources management employees, supervisors will also become better able to perform their critical role effectively.

Table 2. Multiple Perspectives on Favoritism: Is Favoritism Occurring?

	Yes-Intentional	Yes-Unintentional	No
Supervisor	Willful Violation	Ignorance	Merit-Based
Possible Responses	• Accountability • Education-MSPs/PPPs	• Education-Biases, Supervisory behavior • HR Guidance	• Transparency
Human Resources Management	Willful Violation	Gray Area	No problems
Possible Responses	• Selection and Accountability of Supervisors • Provide Education—MSPs/PPPs	• Provide Education—MSPs/PPPs/Biases, Supervisory behavior • HR Guidance	• No action needed
Employee	Recognizes Favoritism	Suspects Favoritism	Other person is more qualified
Possible Responses	• Discussion with supervisor or HRM • Change supervisors or organizations • Contact the Office of Special Counsel	• Discussion with supervisor or HRM • Network • Self-Development • Education-MSPs/PPPs	• Discussion with supervisor or HRM • Self-Development

In an ideal world, with the requisite information and tools and guidance from HR, supervisors would be well-equipped to act in accord with the merit system principles. Unfortunately, in reality, not all supervisors place the merit system principles above their personal goals. Therefore, in the cases where supervisors seek to commit a prohibited personnel practice, there are additional strategies that human resources management employees and agency employees should consider to protect the Federal merit systems and their individual rights.

Human Resources Management's Role

HR staff can provide critical expertise to guide managers through difficult decisions. By working together throughout the process, they can facilitate legally defensible decisions, whether regarding selections, performance management, or any less weighty decisions that impact employees' careers and work lives. For example, during the recruitment and selection process, they can help the selecting official identify the essential selection criteria through a careful job analysis, classify the job according to the proper grade, draft a description of the job's primary duties, prepare the vacancy announcement, and provide advice regarding the appropriate open period for the vacancy announcement, as well as the area of consideration. HR staff can also advise managers on the availability and proper use of staffing flexibilities and how to comply with the letter and spirit of public policy, such as providing veterans' preference, and alert managers regarding how to avoid potential biases.

In situations where HRM employees believe that their advice is being disregarded and they are being pressured to commit a PPP, they may have no options other than to elevate the issue to their managers, and hope they are supported. HRM employees can also serve a valuable role in educating supervisors and employees regarding the MSPs and PPPs. More proactively, HRM employees can advocate for the selection of supervisors who truly support the MSPs. Once the organizational culture thoroughly supports the MSPs, it becomes much easier to sustain high expectations as articulated by the MSPs.

Federal Employees' Role

When Federal employees encounter favoritism in the Federal workplace, they have several options that present varying degrees of challenge. The first step may be to seek more information from the supervisor or selecting official or HRM to better understand how the decision was made and how they might get a more favorable outcome in the future. Depending upon the transferability of their skills, they may apply for a job elsewhere in their organization or in another agency, thereby avoiding the problem by removing themselves from a bad situation. Or, if they feel strongly about righting wrongs or fighting for their job, they can file a grievance within their agency or a complaint with the Office of Special Counsel.[61]

Employees may face situations that are sufficiently ambiguous to make them uncertain of whether the supervisor has actually engaged in favoritism and whether their case is strong enough to obtain redress through a formal complaint or grievance. That uncertainty is understandable: given the criticality of intent, a supervisor who appears to have unintentionally committed favoritism may be excused or lightly reprimanded and provided with remedial education on proper management decisions. In these cases,

[61] See Appendix F for a summary of how employees can seek redress when they perceive that they have been harmed by favoritism as a result of a prohibited personnel practice.

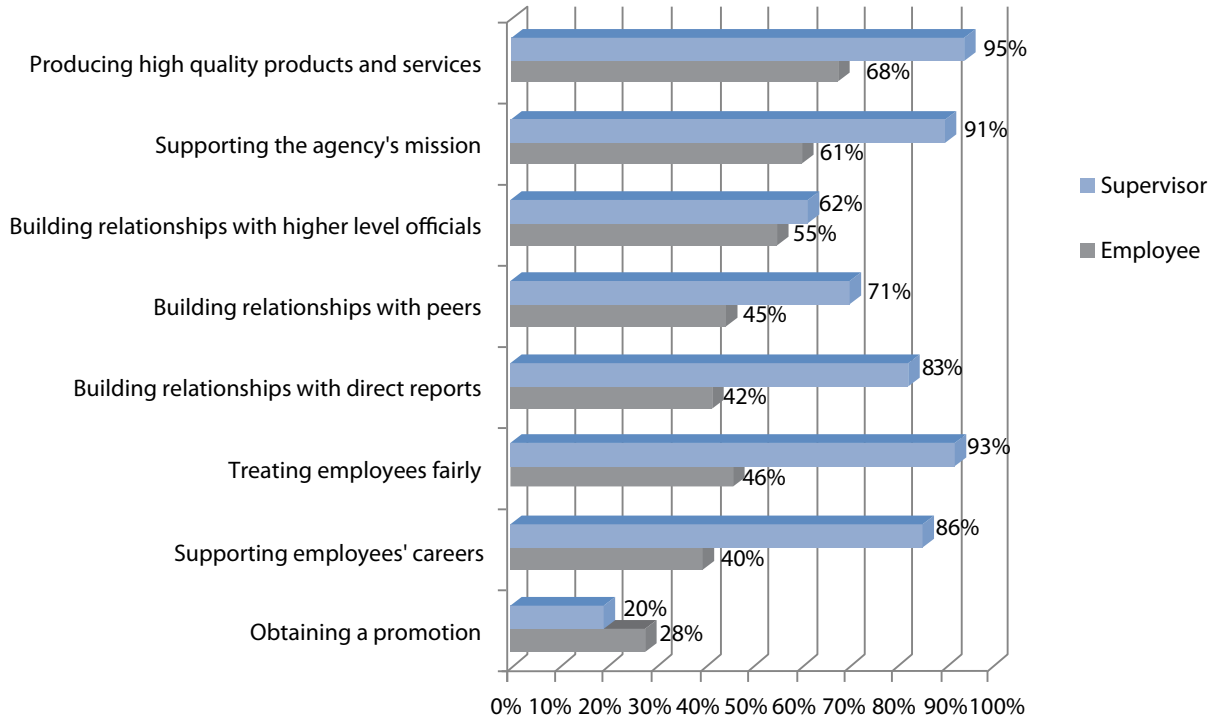
employees might focus on networking or improving their qualifications to better their chances during the next opportunity. And under the optimal conditions, employees recognize that the person selected was truly better qualified, so the most appropriate solution is to pursue additional self-development or a better match to the selection criteria.

The Critical Role of Supervisors in the Federal Merit Systems

Supervisors' Responsibilities to Mission and Staff

Effective supervision requires excellence in both mission-related and staff-related responsibilities. Strategic, value-based management of people is integral to long-term mission accomplishment. However, when we asked employees about perceptions of their supervisors' priorities compared to supervisors' stated priorities, our survey results (shown in **Figure 12**) suggest Federal supervisors may have achieved far greater success in communicating their commitment to outcome-related goals, such as producing high quality products and services, instead of functions that are critical to building an engaged workforce, such as by making employees feel valued and respected.

Figure 12. Employee and Supervisor Perceptions of Supervisors' Priorities



While there are sizable gaps on all priorities, with the supervisors reporting more high priorities, looking at the discrepancies between the perceived priorities can be even more revealing. **Figure 12** reveals that substantially more supervisors viewed some items as very important priorities compared to employees' perceptions of their supervisors' priorities. Unfortunately, the largest differences appear in the areas that often affect employees' engagement and their trust of their supervisors. The magnitude of differences in opinions is sizable: treating employees fairly (47 percent gap), supporting employees' careers (46 percent

gap), and building relationships with direct reports (41 percent gap). This suggests that supervisors have a lot of work to do if they intend to convince employees that they truly value these behaviors, which are critical to employees trusting their supervisors to make fair decisions and to value and support their employees.

This discrepancy between what supervisors and employees view as supervisory priorities may be due to the different perspectives. Although supervisors may believe they are emphasizing the mission and people-related aspects of work to a comparable amount, employees may be more sensitive to some behaviors than others. As a result, supervisors need to anticipate how employees will interpret their actions and behave accordingly.

Supervisory Behaviors and Perceptions of Favoritism

To excel as a supervisor, one must be aware of how others view and evaluate even the most seemingly insignificant behaviors because these add up in the eyes of employees as evidence of fairness and unfairness. Additionally, research has demonstrated that it is human nature to primarily "see" evidence confirming what you believe and discount other evidence that doesn't fit your existing beliefs.[62] This has relevance beyond the supervisors needing to guard against viewing employees in accord with their expectations rather than seeing actual performance (whether positive or negative). It also applies to employees who may suspect a supervisor to harbor preferences for certain employees (or against others) and then tend to see subsequent behavior as favoring (or disfavoring) these employees, whether the supervisor is actually showing favoritism or not.

For supervisors who aspire to be viewed as fair to all of their employees and not practicing favoritism, there are certain behaviors that they should demonstrate and others that they should avoid. While these supervisory behaviors are likely to remain open to subjective interpretation, supervisors should keep in mind that the behaviors shown towards the top of **Table 3**[63] are negatively correlated with perceptions of favoritism (suggesting that supervisors who practice these behaviors are less likely to be viewed as demonstrating favoritism) and those at the bottom are positively correlated, meaning that supervisors who are viewed as taking these actions tend to be seen as practicing favoritism.[64]

[62] This tendency to screen out information that conflicts with one's beliefs and focus on input that corresponds with one's beliefs has been called "congeniality bias" or "confirmation bias." See, for example, W. Hart, D. Albarracin, A.H. Eagly, I. Brechan, M.J. Lindberg, and L. Merrill, 2009, "Feeling validated versus being correct: A meta-analysis of selective exposure to information," *Psychological Bulletin,* 135(4), 555-588.

[63] The actual correlations are show in the table in Appendix G.

[64] A correlation (r) expresses the degree of relationship between two sets of numbers and ranges between 0 and |1| with a correlation of 0.5 considered to be large, 0.3 moderate, and 0.1 small. Therefore, as a group, employees who thought their supervisor treated everyone in their work unit with the same amount of respect were unlikely to view their supervisor as demonstrating favoritism since this item was strongly negatively correlated with perceptions of favoritism ($r = -.8$). In contrast, supervisors who were viewed as providing better treatment to employees who were a "personality fit" or ingratiated themselves with the supervisor were viewed as highly likely to practice favoritism, given the strong positive correlation of $r = .8$.

Table 3. Recommendations for the Supervisor's Behavior Based on Correlations with Perceptions of the Supervisor's Favoritism

Item	Recommendation
My supervisor treats everyone in my work unit with the same amount of respect.	Do
My supervisor uses fair standards for praise for everyone in the office.	
My supervisor uses fair standards for criticism for everyone in the office.	
My supervisor values input from all employees.	
(My supervisor and) I have developed a good working relationship.	
My supervisor provides appropriate rewards for excellent performance in my work unit.	
My supervisor provides me with constructive and timely feedback on my job performance.	
(My supervisor provides) the information that I need to perform my job well.	
My supervisor avoids communicating with some employees.	Don't
My supervisor demonstrates favoritism by spending more time talking with favorite employees about work-related topics.	
My supervisor demonstrates favoritism by spending more time talking with favorite employees about non-work-related topics.	
My supervisor provides better treatment to employees who ingratiate themselves to the supervisor.	
My supervisor provides better treatment to employees who are a "personality fit" with the supervisor.	

Employees expect all supervisors to fairly perform the basic functions of their role, such as by using fair standards for both praise and criticism, providing appropriate rewards, and constructive and timely performance feedback. However, as shown in **Table 3**, the interpersonal aspect of the supervisor-employee relationship is perhaps even more important to being viewed as treating employees fairly. Employees closely associate universal respect and valuing of everyone's input with supervisors who do not demonstrate favoritism. In contrast, supervisors who provide better treatment to certain employees based on "personality fit" and ingratiation attempts and spend more time talking about work-related or personal matters with select employees, are viewed with much more suspicion.

As a result, supervisors who perform the basic supervisory responsibilities well, but do not establish and maintain a respectful relationship with all employees, will not be able to achieve the highest levels of effectiveness in managing their employees. Perhaps more than supervisors realize, employees develop opinions regarding who are the "favorite" employees based on such simple factors as to whom the supervisors spend time talking. Interestingly, whether the conversation is work-related or not seems less relevant than the fact that the supervisor invests time and energy in the relationship.

Time the supervisor spends with an employee can readily translate into a number of practical benefits for the employees. When discussions are work-related, the employee may receive additional information about critical events and priorities in the organization, more feedback and direction on assignments, and additional opportunities to inform the supervisor about progress. This creates a situation where the employee has a competitive advantage to actually perform better on the job and ensure that the supervisor is aware of the employee's accomplishments.

When the supervisor and employee discuss matters that are not work-related (e.g., hobbies, vacations, and popular culture), these create a bonding opportunity that may predispose the supervisor to feel more connected to employees with whom the supervisor shares interests and could potentially create a barrier with those who do not share the same interests or views. Although supervisors need not avoid talking with employees to discourage the perception of "playing favorites," they should be mindful of appearances if some employees receive substantially more time and attention than others.

The majority of Federal employees are skeptical regarding actions by the supervisor that could be construed as building personal relationships with some employees, but not all. For example, only 15 percent of employees viewed it as acceptable to socialize at work with some employees more than others, while 25 percent of employees thought it acceptable to socialize with some employees more than others outside of work. Clearly, supervisors should be wary of the impression it will make on employees if they are seen as having a close relationship with some employees and not others. A supervisor may believe that he is treating employees fairly—based on merit and not friendship—and may actually be doing so, but the existence of personal ties can generate suspicions, which are difficult to overcome.

Supervisory behaviors that involve a high level of discretion, in terms of evaluating performance and allocating rewards and corrective action, attract scrutiny from employees. These areas may also evidence some tension resulting from differences of opinions regarding how employees should be treated based on their performance. As shown in **Table 4**, slightly over half of survey respondents agreed that employees should be treated differently on the basis of performance, in terms of outcomes such as receiving better assignments and greater autonomy (55 percent), although 18 percent disagreed (and the rest were neutral). The majority of employees and supervisors felt it inappropriate to "go easier" on a high performing employee who made a mistake.[65] Opinions were more divided regarding provision of opportunities relating to training and development, networking and mentoring.

Table 4. Employees Opinions Regarding Appropriate Supervisory Behaviors

A supervisor should...	Agree	Disagree
…give better assignments to employees who perform well.	57%	18%
…grant greater autonomy to employees who perform well.	55%	19%
…give more training and developmental opportunities to employees who perform well.	43%	28%
…provide more networking opportunities to employees who perform well.	43%	25%
…spend more time mentoring employees who perform well.	26%	41%
…"go easier" on a high-performing employee who makes a mistake.	8%	71%

[65] While employees tended to disagree that management should "go easier" on a high-performer who makes a mistake during the course of normal work, for more serious mistakes (i.e., justifying formal discipline), agencies must consider the employee's past performance and disciplinary record before reaching a decision to implement an appealable adverse action. If a deciding official fails to consider the potential relevance of these factors, the Board may modify the agency's penalty determination. For more information, see *Douglas v. Veterans Administration*, 5 M.S.P.R. 280, 305-06 (1981) regarding factors to consider when reaching a penalty.

These results suggest that supervisors may find it difficult to make decisions regarding when it will be viewed as acceptable to treat employees differently. While most Federal employees advocate holding people accountable to the same standards, they have divided opinions regarding providing certain benefits to those who are viewed as top performers. Explanations for this may include concerns about how these contributions are evaluated or perhaps a higher value placed on equity in outcomes among Federal employees. It's worth noting that supervisors and employees are generally comparable in their responses.

In contrast with the MSPs' expectation that agencies reward excellence, these data suggest some discomfort with better treatment for employees who perform well. Supervisors should keep in mind that equitable, merit-based treatment of employees should not be confused with uniform treatment. The merit system principles explicitly expect Federal agencies and managers to make distinctions among applicants and employees. For example, the merit system principles specifically state that "selection and advancement should be on the basis of relative ability, knowledge and skills" and "appropriate rewards and incentives should be provided for excellence in performance." Yet, these responses suggest that Federal employees and supervisors remain cautious about distinguishing among employees based on their performance.

Perhaps as a consequence of this conflict in expectations and practices, survey results from the 2010 Merit Principles Survey[66] reveal only about half of Federal employees believe that their organization treats employees fairly or that excellent performance is recognized or rewarded.[67] Additionally, fewer than 40 percent of Federal employees agree that the organization selects the best-qualified candidates when filling jobs and just under a quarter of employees agreed that their organization deals effectively with poor performers.[68]

These results suggest room for improvement in applying the merit system principles to the management of the Federal workforce. One aspect of merit-based management that appears particularly challenging is making and acting on distinctions in performance, which will be covered in the next section.

Performance Feedback. Another challenge in differentiating among employees based on performance relates to the discomfort that many selecting officials and supervisors feel when providing performance-specific feedback, whether in response to performance in a selection process or on the job. Unfortunately, employees tend to fill in these gaps with suspicions of preferential treatment providing an advantage to others rather than accurately assessing their own shortcomings. This may be due in part to the attribution error, whereby employees seek to blame others or external events for their failures.[69] These misunderstandings can also be due to the discomfort that supervisors may feel which leads some of them to provide incomplete or

[66] For a description of the methodology of the 2010 Merit Principles Survey, please see the U.S. Merit Systems Protection Board, *Managing Federal Employees in the Public Interest: Employee Perspectives on Merit Principles in Federal Workplaces*, January 2013, pp. 49-51.

[67] *Ibid.*

[68] *Ibid.*

[69] For example, see B. Weiner, (1985), An Attributional Theory of Achievement Motivation and Emotion, *Psychological Review,* 92(4), 548-573; A.H. Mezulis, L.Y. Abramson, J.S. Hyde, and B.L. Hankin, (2004), Is There a Universal Positivity Bias in Attributions? A Meta-Analytic Review of Individual, Developmental, and Cultural Differences in the Self-Serving Attributional Bias, *Psychological Bulletin,* 130(5), 711-747; and J.A. Basgall and C.R. Snyder, (1988), Excuses in Waiting: External Locus of Control and Reactions to Success-Failure Feedback, *Journal of Personality and Social Psychology,* 54(4), 656-662.

misleading feedback that further confuses the disappointed applicants or employees. Instead of telling the employee what the supervisor perceives to be the truth (and what was calculated into the actual decision process), the supervisor may soften the feedback to avoid hurt feelings, though this short-term gain only postpones longer-term pain. By tactfully providing accurate developmental feedback, suggestions about how to improve, and expressing confidence in the employee, the supervisor could discourage self-serving rationalizations and enable employees to improve in areas that need remediation.[70]

It isn't surprising, therefore, given that one of the most challenging and stress-inducing responsibilities for a supervisor is to provide employees with accurate feedback that can be used to improve performance. Past MSPB studies have demonstrated that Federal supervisors have substantial room for improvement in this area and a couple of recent MSPB reports have provided specific guidance on how to address these deficits.[71]

As shown in **Figure 13**, Federal performance management systems, as implemented, may be contributing to employees' perceptions that they are not being granted the merit-based rewards warranted by their performance. In other words, although Federal employees tend to report that their performance is above average[72] (a belief that is often reinforced by skewed performance ratings[73]), when they compare themselves to their peers, the majority of the employees believe that their supervisor is treating them comparably to others.[74] This perception of similar treatment may be true, given the limited financial resources in most Federal Government agencies which impede the ability to significantly differentiate between levels of performance. As a result, employees may believe that they are not being rewarded in accord with their performance and that they are getting the same rewards as everyone else, regardless of performance. In the absence of transparency about how resources are allocated to employees and why, employees may not truly know how they compare in terms of either performance or rewards and may simply assume the worst case scenario: that they are performing better, but receiving no distinction in terms of rewards. They may then harbor doubts as to whether their performance management system operates in accord with the merit system principles that promise rewards that are commensurate with performance.

[70] For example, see T.S. Duval and P.J. Silvia, (2002), Self-Awareness, Probability of Improvement, and the Self-Serving Bias, *Journal of Personality and Social Psychology,* 82(1), 49-61.

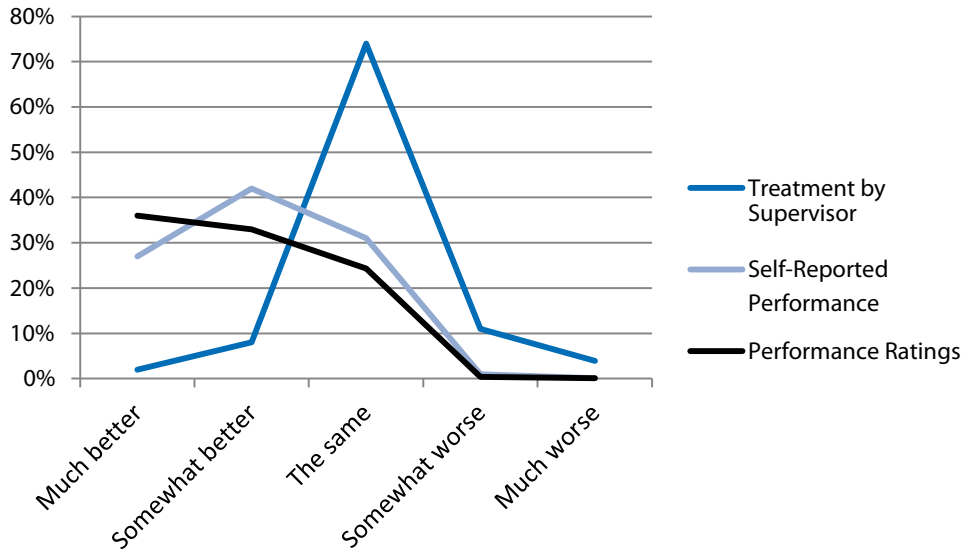
[71] U.S. Merit Systems Protection Board, *Managing for Engagement – Communication, Connection and Courage*, 2009 and U.S. Merit Systems Protection Board, *A Call to Action: Improving First-Level Supervision of Federal Employees*, 2010.

[72] According to the Federal Merit Systems Survey, 69 percent of employees report that their performance is better than average.

[73] Analyses of the FY 2011 Central Personnel Data File for full-time permanent employees of performance appraisal ratings which utilize a 5-point scale, revealed that 69 percent of employees were rated above "fully successful" in the "outstanding" or "exceed" categories, or similar nomenclature.

[74] According to the Federal Merit Systems Survey, 74 percent of employees feel they are treated the same as other employees at their performance level.

Figure 13: Employee Perceptions of Treatment by Supervisor Compared to Self-Reported Performance and Overall Distribution of Federal Employee Performance Ratings



These patterns may also be driven by a proclivity for managers to use performance management appraisals in ways other than to objectively evaluate performance against a set standard.[75] For example, supervisors may fail to distinguish between levels of performance and provide uniformly high ratings to all employees when they want to pursue a "harmony goal" because they assume this will make most employees happy and not demotivate the poor performers (i.e., those with lower performance ratings.[76] A hazard of this strategy is that the true top performers may resent sharing a rating (and resulting benefits) with those who have not performed at the same level.

Selection Feedback. Similarly, a failure to provide credible feedback can undermine perceptions of merit and equity in the allocation of career-enhancing opportunities. For example, when employees apply for internal vacancies (promotions or lateral transfers) and are not selected,[77] providing feedback to these employees can help to: 1) to identify areas for development that could potentially improve the employee's prospects for future advancement opportunities and 2) to provide transparency in the selection process, which can facilitate perceptions of fairness—as long as the selecting official's decision was based on a valid assessment of job-related criteria

[75] X.M. Wang, K.F.E. Wong, and J.Y.Y. Kwong, (2010), The Roles of Rater Goals and Ratee Performance Levels in the Distortion of Performance Ratings, *Journal of Applied Psychology,* 95(3), pp. 546-561.

[76] K.F.E. Wong and J.Y.Y. Kwong, (2007), Effects of Rater Goal on Rating Patterns: Evidence from an Experimental Field Study, *Journal of Applied Psychology,* 92, 577-585.

[77] Results from the 2011 Federal Merit Systems Survey indicated that approximately one out of three employees applied, but was not selected for an internal vacancy, within the past two years. Therefore, this scenario is a fairly common occurrence that deserves further consideration.

When not selected for a vacancy that they applied for in their agency within the past two years, slightly over half of the employees (58 percent) reported that they requested feedback, but only 19 percent of these employees said they received helpful feedback. Although some selecting officials fear negative repercussions from an open and honest discussion about what the employee lacked in an employment competition, it could actually be riskier not to share this information as this represents a missed opportunity and the increased likelihood that employees grow frustrated with the lack of advancement opportunities and a lack of information to guide them to success in the future.

Further, when employees lack accurate information regarding the bases for selection decisions, they may attribute the decision to personal biases that are not job-related. Our results show that employees who were not selected for a job were more likely to view their supervisor as having demonstrated favoritism and that favoritism is a problem in their organization. Similarly, although only one out of five employees who requested feedback reported receiving helpful feedback explaining why they were not selected for the job, these employees were more likely to be engaged and less likely to suspect their supervisors or others in the organization of practicing favoritism.

As discussed extensively in the 2009 MSPB report *Managing for Engagement – Communication, Connection and Courage*,[78] providing feedback is a critical, though often overlooked role of the supervisor. And while feedback on performance in the current job is important, selecting officials can take a more proactive role by providing internal applicants with feedback regarding how well they match the roles that they aspire to and how they can improve their competitiveness for future vacancies—not only helping the employee with assessing developmental needs, but also assisting the organization in the cultivation of talent for future openings. More broadly, providing helpful feedback to all job applicants can greatly enhance the perceived fairness of a selection process, and provide a greater return on investment for applicants who are not selected, but may receive helpful guidance about how to continue their self-development.

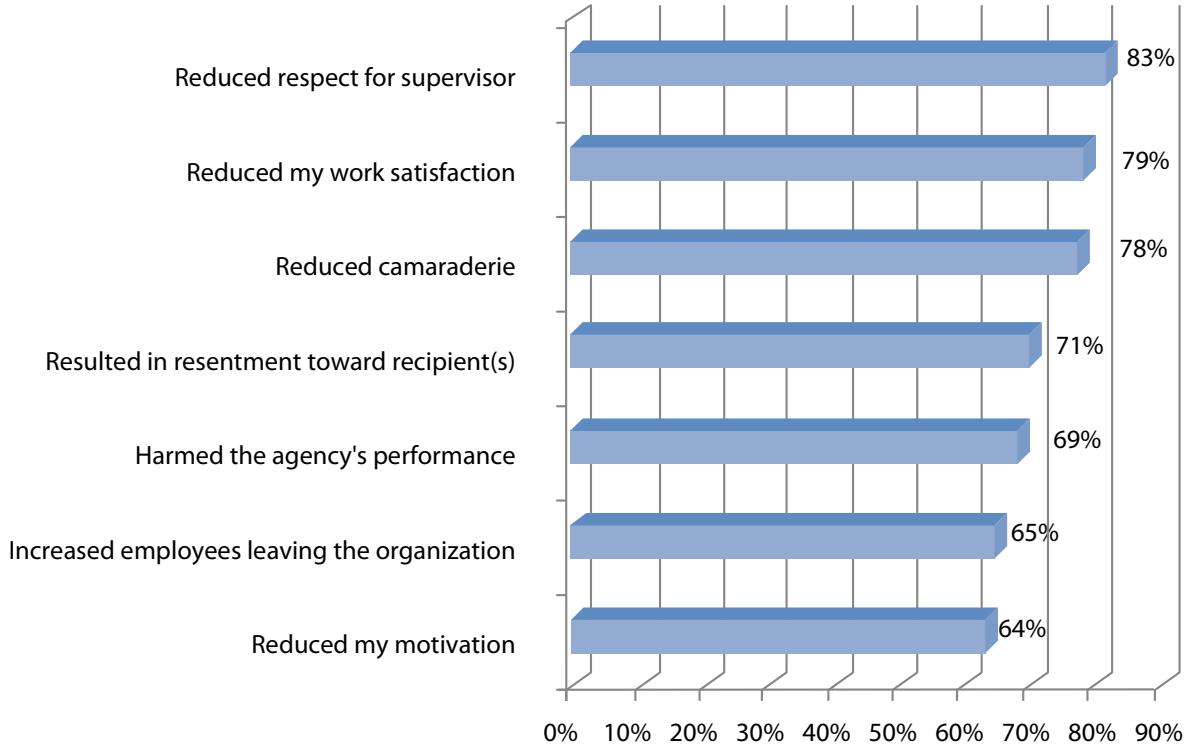
[78] U.S. Merit Systems Protection Board, *Managing for Engagement – Communication, Connection and Courage*, 2009, pp. 25-27.

Consequences of Employee Perceptions of Favoritism

It may be tempting for managers to dismiss employee concerns about favoritism as complaints from uninformed or unhappy employees. Indeed, accusations of unfair treatment may reflect a lack of employee understanding regarding the process and merits behind promotion and awards decisions. They may also reflect resentment among employees who have not received—because they have not earned—the pay, recognition, or positions that they desire. Yet agencies must also recognize that employee concerns about favoritism are widespread and that such perceptions, regardless of the validity of the causes, can have a wide range of harmful effects.

Nearly half of employees responded affirmatively to a question regarding whether favoritism is a problem in their organizations so there is value in exploring in more detail the outcomes that employees report from the presence of favoritism in the agency. As shown in **Figure 14**, most employees who believed their supervisor demonstrated favoritism also perceived a variety of negative consequences, the most common being a reduction in respect for the supervisor. We discuss these consequences in greater detail below.

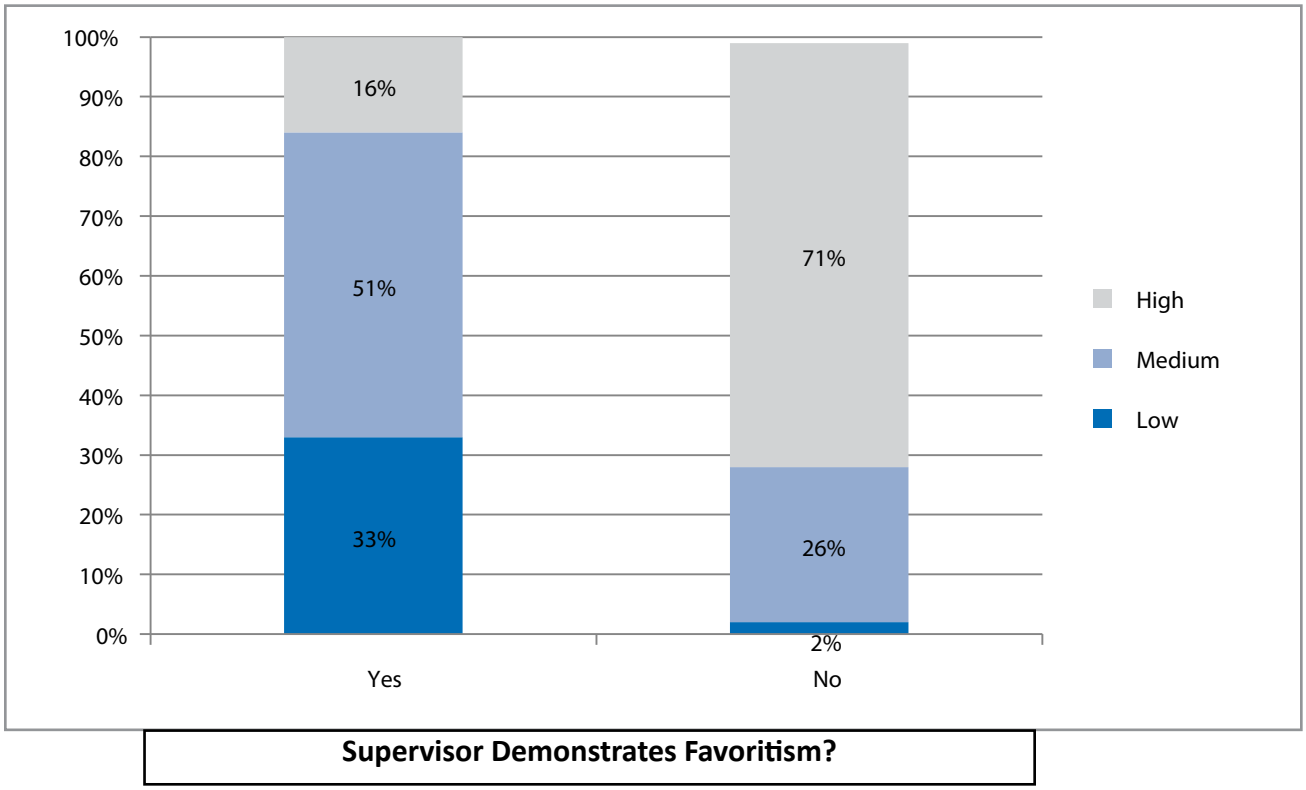
Figure 14: Employee Perceptions of the Impact of Favoritism



Employee Satisfaction and Engagement

As might be expected, employees who perceive their supervisors as demonstrating favoritism are much less likely to report being engaged. **Figure 15** shows that of employees who perceived their supervisors as demonstrating favoritism only 16 percent were highly engaged. Of employees who said their supervisors did not demonstrate favoritism, over 70 percent were highly engaged.

Figure 15. Distribution of Levels of Employee Engagement by Employees' Opinion Regarding Whether Supervisor Demonstrates Favoritism



Analysis of items from the employee engagement scale[79] reveals that perceptions the supervisor demonstrates favoritism are much more likely to be correlated with negative opinions on items such as:

- Overall, I am satisfied with my supervisor.
- I am treated with respect at work.
- My opinions count at work.

In contrast, other items are not strongly correlated with perceptions of favoritism by the supervisor:

- The work I do is meaningful to me.

[79] Correlations between the item "My supervisor demonstrates favoritism by treating some employees better than others" and each item from MSPB's Employee Engagement scale are shown in Appendix H.

- My agency is successful in accomplishing its mission.
- I have the resources to do my job well.

This suggests that the employees' views of the work and agency are relatively unaffected by perceptions of favoritism, while attitudes towards the supervisor and the decisions closely controlled by the supervisor are more susceptible. However, as suggested by the implications of some of these items, the potential damage can easily go beyond the employee's affective response and into the realm of results, which can have a cumulative effect of degrading individual (and organizational) performance.

Agency Performance

Damage to the agency's performance can occur through a variety of mechanisms. First, by virtue of the negative association between favoritism and employee engagement, we can infer that the discretionary effort will also be undermined.[80] Employees who believed that their supervisor engages in favoritism were considerably less likely to agree that they were inspired to do their best work.[81] Second, by definition, favoritism provides unlawful advantages to favored employees, which violates employee trust in a merit-based process and results in selecting on a basis other than merit, so the agency suffers from not having the most capable person performing the work. Finally, this negative impact is compounded when selecting supervisors because having a less capable supervisor can also impede the effective performance of a broader group of employees who report to the supervisor.

Interpersonal Relationships

The harmful effects of perceptions of favoritism extend to teamwork and cooperation. Most notably, survey results indicate that employees lose respect for supervisors who are perceived to practice favoritism. Additionally, an employee who believes that a new coworker or supervisor gained a position through connections rather than competence is less likely to work cooperatively with that individual or to view the supervisor's authority as legitimate.

The practice of favoritism can also sabotage interpersonal dynamics within the organization. When employees are confident that they will be evaluated and rewarded based on their merits, they are more likely to trust their supervisors and their peers. High trust cultures foster a pleasant work environment where people help each other perform at their highest levels.

In contrast, when the supervisor creates a situation where rewards are doled out based on non-work related bases, such as personal relationships, ingratiation, or quid pro quo, then the work environment can become counterproductive. Those who are correctly (or incorrectly) viewed as favorites may face a penalty from their peers, who seek to undermine their future success. Further, while employees may be fearful of broaching the issue of favoritism because of the supervisor's greater authority and power, they often report losing respect for a supervisor who practices favoritism.

[80] For more information on the relationship of employee engagement to discretionary effort, see the 2008 MSPB report, *The Power of Federal Employee Engagement,* p. 2.

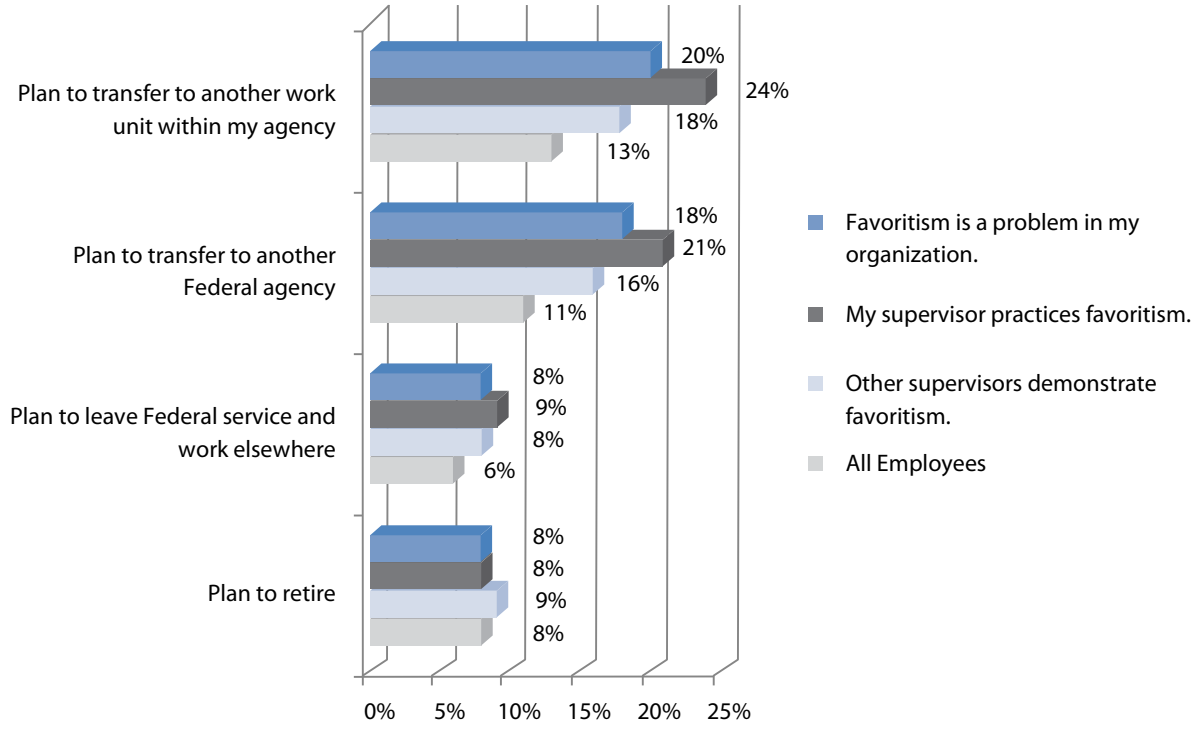
[81] U.S. Merit Systems Protection Board, 2011 Federal Merit Systems Survey. Of those who agreed they are inspired to do their best work, only 16 percent believed their supervisor practiced favoritism compared to 67 percent who did not.

Recruitment and Retention

Employees who believe that their organization engages in favoritism are much less likely to recommend their agency as a place to work.[82] This skepticism regarding fairness could undermine agency recruitment and retention initiatives. Although rewarding work and recognition are important to recruitment and retention,[83] fairness matters, too. Even when employees are not formally enlisted as recruiters or "agency ambassadors," their opinions can be quite influential. Further, the deterrent effect of negative recommendations is likely to be greater on accomplished, highly-qualified applicants who are sought by, and can choose among, competing employers.

Many factors that influence an organization's ability to attract high quality applicants also influence employees' interest in staying with their employer. One such factor is perceived fairness. As shown in **Figure 16**, results from the Federal Merit Systems Survey showed that employees who believed that favoritism is a problem in their organization were more likely to report intentions to leave their work unit or their agency, particularly when they attributed the favoritism to their immediate supervisor.

Figure 16. Separation Intentions by Perceptions of Favoritism



[82] Of employees who felt that favoritism was a problem in their organization, only about half would recommend their agency as a place to work. Of those who responded that they did not think favoritism was a problem in their organization, approximately 90 percent would recommend their agency.

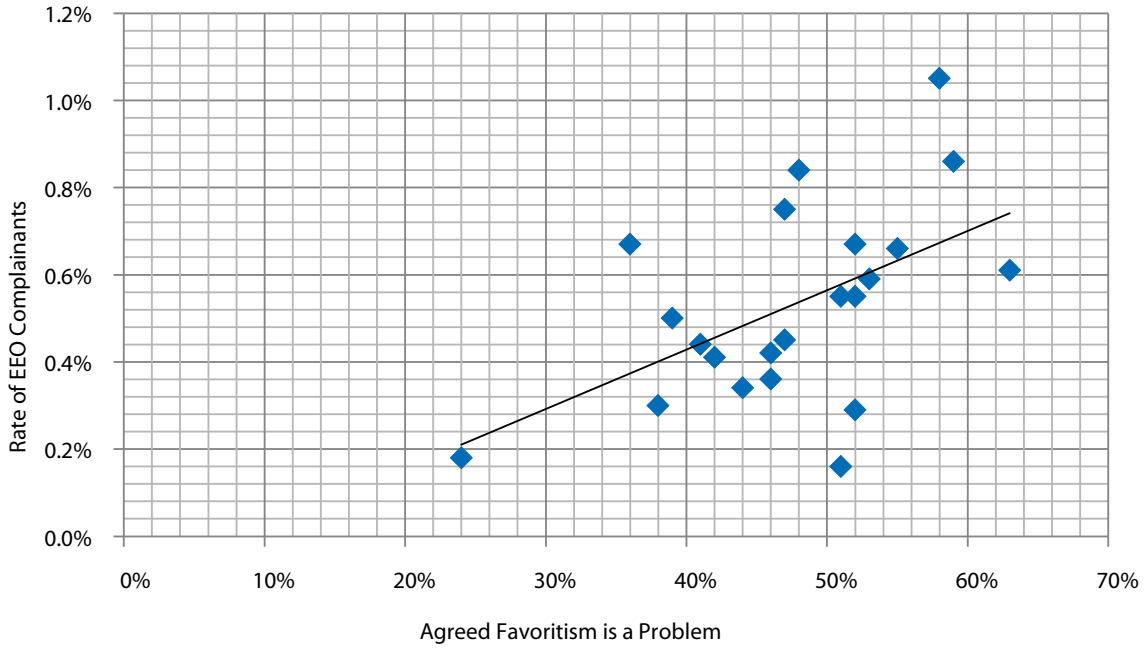
[83] For more information on factors employees view as important to seeking or continuing employment with their organizations, see U.S. Merit Systems Protection Board, *Federal Employee Engagement: The Motivating Potential of Job Characteristics and Rewards*, 2012, p. 21.

Turnover is not always bad; an agency can gain when a disengaged or dissatisfied employee moves on. However, Federal agencies and Federal managers would face serious challenges if all the employees who indicated an intention to leave were to suddenly act on that intention. The damage would be magnified if those who left were the highest-performing employees. This danger is quite real, given Federal employees' concerns about the Federal Government's ability to retain its best employees and the likelihood that competing employers will be eager to hire high-performing employees should they choose to seek employment elsewhere.

Utilization of the Equal Employment Opportunity (EEO) Process

Data further indicate that perceptions of favoritism may result in increased conflict and cost as measured through utilization of the equal employment opportunity (EEO) process. **Figure 17** shows that there is a positive relationship,[84] at the agency level, between the proportion of employees who perceive favoritism to be a problem and the proportion of employees who file EEO complaints.[85] In other words, in agencies where favoritism is more widely viewed as a problem, there also tends to be a higher percentage of employees who file EEO complaints.

Figure 17. Correlation between Perceptions that Favoritism is a Problem and Agency Rate of EEO Complainants



[84] Correlations provide an indication of the strength of the relationship between two paired sets of numbers. A line that is drawn between the center of points created by graphing each pair of data points is called a regression line and reflects the direction of the relationship. This graph demonstrates a strong positive relationship between perceptions of favoritism and agency rate of EEO complainants meaning that these two measures are likely to be of similar magnitude in an agency, whether high, low or medium.

[85] Data on agency rate of EEO complainants was derived from the U.S. Equal Employment Opportunity Commission, FY 2011 Annual Report on the Federal Workforce.

EEO complaint and other grievance and appeal processes serve a valuable purpose: they provide a means to surface problems in the workplace, rectify wrongs, and hold agencies and managers accountable for their employment practices and decisions. However, complaints, grievances, and appeals also have direct and indirect costs. The direct costs include the time and resources needed to investigate and resolve a complaint; the indirect costs include the deterrent effect that complaints may have on open and honest communication between supervisors and employees and on a supervisor's willingness to make difficult merit-based human resources management decisions.

Summary

Employee perceptions of favoritism within the work environment can undermine employee morale, productivity, teamwork, recruitment and retention, and increase conflict. Given these negative consequences of actual or perceived favoritism, agencies would be well-served by ensuring all supervisors act in accord with the merit system principles and that all employees are confident in this practice.

Conclusions and Recommendations

As envisioned by the authors of the guiding principles for the Federal merit systems, the Federal Government strives to hold itself accountable for the fair treatment of Federal employees while efficiently and effectively generating mission critical products and services for the public. In this report, we seek to strengthen the Federal merit systems by clarifying what favoritism is, what leads to the circumstances under which it is perceived to occur, and summarize recommendations for improving the merit-based management of the Federal Workforce.

Why Agencies Should Be Concerned about Perceptions of Favoritism

Making decisions based on merit is critical to upholding the values of the merit system principles and avoiding prohibited personnel practices. Although the PPPs define unacceptable behavior in organizations, intent drives the determination of whether or not a PPP occurred, and it's not always easy to assess the true intent (particularly given the motivation to hide this when the intent actually is to commit a PPP).

Although PPPs are generally defined by intent, even questionable behaviors undermine the MSPs. While the motive behind a personnel action drives whether or not that action is a PPP, it is often the manner in which officials achieve their goals that sets off alarms regarding the underlying intent, which might otherwise be concealed. For example, skipping through the usual hiring steps, repeating some steps or modifying steps could simply indicate managers exercising flexibilities for well-founded reasons or it could serve as circumstantial evidence to support a theory of intent for committing a PPP. Nevertheless, even behaviors that do not meet the threshold clearly defined for PPPs, but that leave the supervisor (or by association, the agency and the Federal Government) open to perceptions of wrong-doing, should be avoided.

Actual or perceived favoritism can have a dramatic impact on the agency's bottom line, and must therefore be taken seriously. Fair, merit-based human resources management practices—and minimizing the reality and appearance of favoritism in the workplace—must be maintained and supervisors need to operate in as transparent a manner as possible in order to sustain an effective and efficient Federal workforce. In addition to the negative impact on employee satisfaction and engagement, perceptions of favoritism can also degrade agency performance through a variety of mechanisms, such as decreased employee effort and the employment of less capable employees, especially when in leadership positions. Favoritism can also impair teamwork and increase the likelihood that employees will voluntarily separate.

Prevalence of Perceptions of Favoritism in the Federal Workplace

About half of employees view favoritism to be a problem in their organization. Twenty-eight percent of Federal employees agreed with the statement "My supervisor demonstrates favoritism by treating some employees better than others." Fifty-three percent of Federal employees viewed other supervisors (excluding their own) as practicing favoritism. It's not surprising, therefore, that nearly half of employees said favoritism is a problem in their organization.

Perceptions of favoritism have several possible causes, including:

1. Intentional favoritism. A supervisor providing an advantage to an applicant or employee based on a personal connection rather than merit;
2. Unintentional favoritism. A supervisor takes an ill-advised action or makes a flawed decision because of a lack of understanding or information, a lack of guidance or tools to support better decisions, or both; and
3. Misinterpretation or misinformation. Employees or other observers may perceive favoritism even when a decision is truly merit-based, for reasons such as a lack of transparency or the presence of a legitimate professional relationships that leads to suspicion that a supervisor was influenced by nonmerit factors.

Role of Supervisors

The MSPs dictate commitment to the mission and the people of the organization. Under an ideal scenario, supervisors understand the criticality of balancing mission-related needs with managing their employees. Fairly and effectively managing employees involves attention to all aspects of the merit system principles, with the bottom line being a commitment to basing decisions upon merit. This encompasses all human resources management decisions, including ones cited in the merit system principles (e.g., recruitment, selection, pay, rewards, training, retention and separation), as well as additional areas where supervisors have discretion (e.g., granting telework or flexible work schedules).

Many employees believe that supervisors care more about the mission than the workforce. Based on survey results, it appears that supervisors have effectively impressed upon employees their emphasis on mission-related goals. However, supervisors also need to attend to the fact that their work is completed through their employees. Survey results suggested that employees do not feel that their supervisors are as committed to employees as to the mission. In contrast, supervisors felt that they were equally committed to the people side of the equation as to the mission-related outcomes.

Supervisors must hold themselves to a higher standard for fair treatment of employees. Supervisors and selecting officials make decisions on a daily basis that impact the morale and performance of their employees, which subsequently impact their ability to accomplish organizational goals. In order to help agencies effectively accomplish their missions, we have identified a number of strategies that can be taken to decrease the appearance and/or reality of favoritism to avoid tainting the Federal merit systems.

Formal supervisory decisions must be based on merit. Distributing limited resources (whether selecting among employees for a job or any career enhancing experiences that can facilitate advancement) creates a situation where employees may be predisposed to view selecting officials or supervisors as favoring some employees and not others. Therefore, when it's time to choose among applicants or employees, supervisors should ensure that they focus primarily on the knowledge, skills, and abilities required for the job, perhaps relative to the skills mix of the current work group. However, selecting officials should exercise caution regarding selecting based on comfort level with particular candidates, especially when the selecting official has prior knowledge of the applicant based on a personal connection.

Employees suspect that relationships often outweigh more objective criteria in selections. Employees believe that selecting officials don't give enough weight to some factors and give disproportionate weight to other factors in selection decisions. For example, employees view quality of experience, recognized potential, and education/training to be appropriate rating criteria. Yet, they suspect selecting officials give undue weight to personal and professional relationships. These perceptions that favoritism trumps merit may be partly due to the fact that they are not privy to rating mechanisms, performance of candidates, and deliberations. Although there is general agreement that appropriate factors (e.g., quality of experience) are usually taken into account and that inappropriate factors, such as physical attractiveness are rarely considered, some employees express concern that interpersonal factors may receive inappropriate weight, either consciously or unconsciously.

Recommendations

Facilitate merit-based management of the Federal workforce through education and effort. Management of the Federal workforce is guided by the merit system principles. To achieve the vision of the MSPs, including avoidance of favoritism, agency leadership—from the first line supervisors to top level executives—must base their decisions on a careful determination of merit, regardless of extraneous factors such as personal relationships. However, the actual basis on which decisions are made is often open to interpretation—given the multiple perspectives on workforce management decisions. Understanding what constitutes favoritism and when it is perceived to occur can help agency executives, managers, supervisors, human resources employees, and employees take steps to prevent and avoid it, supporting a merit-based and effective Federal workforce.

Key Recommendations for Agencies and Supervisors

To support the MSPs and discourage PPPs, agencies must:

- Select supervisors who are committed to supporting the MSPs.
- Provide in-depth training to all supervisors at the time of hire and on a regularly recurring basis.
- Hold supervisors accountable for adhering to the merit system principles and avoiding the appearance and reality of prohibited personnel practices.
- To bolster selecting officials' confidence in the results from these assessments, agencies should strive to achieve three goals in the assessment process:

    1. Identify key competencies through job analysis;
    2. Develop and implement valid and reliable assessments for critical competencies; and
    3. Ensure transparency by communicating to applicants what will be measured (selection criteria) and how they will measure it (assessment methods).

Key Recommendations for Human Resources Management Staff

HRM employees play a critical role in helping agencies and managers prevent and address favoritism. To that end, they should—

- Provide expert advice on merit-based workforce management, including best practices for recruiting, hiring (including promoting), evaluating performance, determining awards, distributing work assignments and training and development opportunities, and administering discipline.

Key Recommendations for Employees

Employees should take the following steps to manage their performance and careers:

- Seek honest feedback and strive to improve in preparation for future opportunities.
- Learn more about the merit system principles and the prohibited personnel practices.
- Recognize that professional relationships have an appropriate and essential role in the workplace, as they (1) afford opportunities for supervisors or mentors to help the employees develop skills and seek competence; and (2) provide a network for employees to market their talents and learn of career opportunities.

Appendix A: Merit System Principles

This appendix lists the Federal merit system principles enumerated at Section 2301(b) of Title 5, United States Code.

(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

(3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.

(4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.

(5) The Federal work force should be used efficiently and effectively.

(6) Employees should be retained on the basis of adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

(7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

(8) Employees should be—
(A) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and
(B) prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.

(9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—
(A) a violation of any law, rule, or regulation, or
(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Appendix B: Prohibited Personnel Practices

This appendix summarizes the prohibited personnel practices enumerated in Section 2302(b) of Title 5, United States Code (U.S.C.).

A Federal employee with authority over personnel actions may not:

(1) Discriminate against an employee or applicant based on race, color, religion, sex, national origin, age, disability, marital status, or political affiliation;

(2) Solicit or consider any recommendation that is not job-related and based on personal knowledge of the employee or applicant;

(3) Coerce the political activity of any person;

(4) Deceive or obstruct any person from competing for employment;

(5) Influence anyone to withdraw from competition;

(6) Give an unauthorized preference or advantage to an employee or applicant;

(7) Give employment advantages to relatives (i.e., nepotism);

(8) Retaliate against employees or applicants for whistleblowing;

(9) Retaliate against employees or applicants for filing an appeal, complaint, or grievance;

(10) Discriminate based on personal conduct which is not job-related;

(11) Violate veterans' preference requirements;

(12) Violate merit principles as stated in Section 2301(b) of title 5, United States Code; or

(13) Implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement: ''These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection.

Appendix C: Federal Merit Systems Survey Methodology

The Federal Merit Systems Survey (FMSS) was distributed to approximately 53,000 permanent full-time Federal employees from the following departments and independent agencies:

Departments	Independent Agencies
Department of the Air Force	Environmental Protection Agency
Department of the Army	Federal Deposit Insurance Corporation
Department of the Navy	General Services Administration
Department of Defense	National Aeronautics and Space Administration
Department of Agriculture	Office of Personnel Management
Department of Commerce	Social Security Administration
Department of Justice	
Department of Labor	
Department of Energy	
Department of Education	
Department of Health and Human Services	
Department of Homeland Security	
Department of Housing and Urban Development	
Department of the Interior	
Department of State	
Department of Transportation	
Department of the Treasury	
Department of Veterans Affairs	

Employees were selected to participate in the survey through stratified random sampling of records in OPM's Central Personnel Data File (CPDF) as of September 2009. However, a lack of funding prevented administration of the survey at that time. In the summer of 2011, we compared the sample against the June 2011 CPDF and deleted those employees who were no longer employed in their sampled agency at that time.

We administered the survey via SurveyMonkey, an online survey tool between July and October of 2011. After an initial attempt to deliver surveys, we subtracted out those that appeared to have invalid email addresses and those who had opted out of SurveyMonkey surveys.

Upon receiving the survey results, we also subtracted out approximately 100 respondents who completed less than 19 items. Therefore, we ended up with 17,339 usable survey responses out of 52,620 surveyed for a response rate of 33 percent.

For the analysis of the FMSS results, we generally excluded the "don't know/not applicable" responses to focus on those who reported an opinion in response to each question.

Appendix D: Federal Merit Systems Survey Email Request

Dear Federal Colleague—

We request your assistance in a study of the Federal merit systems.

What does the survey cover?

The survey asks about your experiences and opinions related to fairness and merit system principles in your workplace. The merit system principles, which are the foundation of the Federal civil service, include:

- Fair and open competition for filling jobs;
- Fair and equitable treatment of all employees; and
- Protection against favoritism.

Here is a link to the survey: (survey link)

Who is conducting this survey?

This survey is being conducted by the U.S. Merit Systems Protection Board (MSPB). MSPB is a Federal Government agency that serves as guardian of Federal merit systems. In that role, MSPB periodically administers surveys to assess the health of the Federal merit systems and to recommend improvements to the President, the Congress, and Federal agency leaders. Information about MSPB and MSPB's research is available by visiting http://www.mspb.gov or http://www.mspb.gov/studies/. We are using SurveyMonkey, an online survey tool, to administer the survey.

Has this survey been authorized?

Yes. MSPB is authorized to collect this information by Section 1204 of Title 5, United States Code and your agency has been informed of this survey. You may complete the survey during work hours at your work site or at home. You should be able to complete the survey in approximately 30 minutes.

Is my participation important?

Yes. Fewer than 3% of Federal employees were invited to complete this survey. Your response will allow your voice to be heard and ensure that we have a representative sample of your agency and the Federal Government. Your responses to this survey are voluntary and will be kept strictly confidential.

What if I have additional questions?

A fact sheet with more questions and answers is posted at http://www.mspb.gov/studies/surveys.htm or you may contact our survey help desk by emailing FederalMeritSystems@mspb.gov.

Thank you for your assistance!

Sincerely,
John Crum, Ph.D.

Appendix E: Federal Merit Systems Survey

Federal Merit Systems Survey

1. Overview

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Thank you for your assistance!

Sincerely,

John Crum, Ph.D.

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Federal Merit Systems Survey

2. Privacy Statement

Privacy Statement:

MSPB wants to assure survey participants that your involvement in this survey is both voluntary and confidential. This privacy statement identifies MSPB's authorization to conduct the survey and explains how we will manage the data we receive.

The purpose of collecting this information is to study how well the Federal Government is managing its workforce in adherence to the merit system principles. The results of the survey will be shared with the President, the Congress, and other Federal decisionmakers to be used in developing policy that supports both merit and mission accomplishment.

Collection of this information is authorized by 5 U.S.C. 1204.

Your responses to this survey are completely voluntary. However, we encourage your participation to ensure that our data is complete and representative of the Federal workforce.

Only MSPB staff and our survey support contractor staff (if any) will have access to individually completed surveys. In accordance with the Privacy Act of 1974 (Public Law 93-579), no data will be disclosed that could be used to identify individual participants.

Federal Merit Systems Survey

3. Instructions

General Instructions
Please respond to each question based only on your experience in your organization within the past two years.

Definitions of Survey Terms

Work unit: the immediate group of employees headed by your direct supervisor.

Supervisor: the person who is responsible for an employee's performance appraisal and approval of his/her leave.

Manager: a person who supervises other supervisors.

Organization: an agency, office or division.

Favoritism: Making human capital management decisions based upon personal feelings and/or relationships and NOT on objective criteria, such as assessments of ability, knowledge and skills.

Favoritism involves the granting of any preference or advantage not authorized by law, rule, or regulation to:

1) any employee, such as in selection for work assignments, promotions, telework, flexible work schedules, reassignments, geographic relocations, training or developmental opportunities, pay, performance appraisal ratings, awards, discipline, retention efforts, etc., OR

2) any applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

In other words, favoritism occurs when a selecting official or supervisor grants a benefit to one applicant or employee but not another similarly situated applicant or employee for reasons other than a legitimate or merit-based reason.

Possible examples might include:

o if a supervisor gave a favorite employee an on-the-spot cash award, but not to another equally deserving employee who performed the same work;

o if a supervisor granted a career ladder promotion to one employee but denied it to a similar employee who performed at the same level;

o if a selecting official asked Human Resources to find a way to hire someone (a friend of the selecting official) who had been rated as not qualified for a position.

Federal Merit Systems Survey

4. Engagement

1. Please indicate your level of agreement with the following statements based on your experiences in the past two years.

	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	Don't Know/Not Applicable
My agency is successful in accomplishing its mission.	◯	◯	◯	◯	◯	◯
The work I do is meaningful to me.	◯	◯	◯	◯	◯	◯
Overall, I am satisfied with my supervisor.	◯	◯	◯	◯	◯	◯
Overall, I am satisfied with managers above my immediate supervisor.	◯	◯	◯	◯	◯	◯
My work unit produces high quality products and services.	◯	◯	◯	◯	◯	◯
I know what is expected of me on the job.	◯	◯	◯	◯	◯	◯
My job makes good use of my skills and abilities.	◯	◯	◯	◯	◯	◯
I have the resources to do my job well.	◯	◯	◯	◯	◯	◯
I would recommend my agency as a place to work.	◯	◯	◯	◯	◯	◯
I have sufficient opportunities (such as challenging work assignments or projects) to earn a high performance rating.	◯	◯	◯	◯	◯	◯
Recognition and rewards are based on performance in my work unit.	◯	◯	◯	◯	◯	◯
I am satisfied with the recognition and rewards I receive for my work.	◯	◯	◯	◯	◯	◯
I am given a real opportunity to improve my skills in my organization.	◯	◯	◯	◯	◯	◯
I am treated with respect at work.	◯	◯	◯	◯	◯	◯
My opinions count at work.	◯	◯	◯	◯	◯	◯
A spirit of cooperation and teamwork exits in my work unit.	◯	◯	◯	◯	◯	◯
At my job, I am inspired to do my best work.	◯	◯	◯	◯	◯	◯
I've developed a good working relationship with my supervisor.	◯	◯	◯	◯	◯	◯
I receive the information that I need to perform my job well.	◯	◯	◯	◯	◯	◯

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Federal Merit Systems Survey

5. My Supervisor

2. Please indicate your level of agreement with the following statements based on your experiences in the past two years.

	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	Don't Know/Not Applicable
My supervisor provides me with constructive and timely feedback on my job performance.	◯	◯	◯	◯	◯	◯
My supervisor values input from all employees.	◯	◯	◯	◯	◯	◯
My supervisor avoids communicating with some employees.	◯	◯	◯	◯	◯	◯
My supervisor uses fair standards for praise for everyone in the office.	◯	◯	◯	◯	◯	◯
My supervisor uses fair standards for criticism for everyone in the office.	◯	◯	◯	◯	◯	◯
My supervisor provides appropriate rewards for excellent performance in my work unit.	◯	◯	◯	◯	◯	◯
My supervisor provides appropriate negative consequences for poor performance in my work unit.	◯	◯	◯	◯	◯	◯
My supervisor treats everyone in my work unit with the same amount of respect.	◯	◯	◯	◯	◯	◯
My supervisor demonstrates favoritism by spending more time talking with favorite employees about work-related topics (e.g., assignments, agency goals).	◯	◯	◯	◯	◯	◯
My supervisor demonstrates favoritism by spending more time talking with favorite employees about non work-related topics (e.g., hobbies, family).	◯	◯	◯	◯	◯	◯
My supervisor provides better treatment to the better performers in the work unit.	◯	◯	◯	◯	◯	◯
My supervisor provides better treatment to employees who are a "personality fit" with the supervisor.	◯	◯	◯	◯	◯	◯
My supervisor provides better treatment to employees who ingratiate themselves to the supervisor.	◯	◯	◯	◯	◯	◯

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Federal Merit Systems Survey

6. My Supervisor

3. Please indicate your level of agreement with the following statements based on your experiences in the past two years.

	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	Don't Know/Not Applicable
My supervisor demonstrates favoritism by treating some employees better than others.	◯	◯	◯	◯	◯	◯
My supervisor demonstrates favoritism to me that has helped me.	◯	◯	◯	◯	◯	◯
My supervisor demonstrates favoritism to others that has harmed me.	◯	◯	◯	◯	◯	◯
My supervisor demonstrates favoritism that has helped others in my work unit.	◯	◯	◯	◯	◯	◯
My supervisor demonstrates favoritism that has harmed others in my work unit.	◯	◯	◯	◯	◯	◯
My supervisor demonstrates nepotism (giving an unfair advantage to his/her relatives).	◯	◯	◯	◯	◯	◯

4. In the past two years, my supervisor has demonstrated favoritism through:

	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	Don't Know/Not Applicable
Recruitment	◯	◯	◯	◯	◯	◯
Initial hiring	◯	◯	◯	◯	◯	◯
Selection for work assignments	◯	◯	◯	◯	◯	◯
Selection for acting supervisor responsibilities	◯	◯	◯	◯	◯	◯
Advancement/promotion	◯	◯	◯	◯	◯	◯
Granting telework	◯	◯	◯	◯	◯	◯
Granting flexible work schedules	◯	◯	◯	◯	◯	◯
Selection for geographic relocation and/or reassignments	◯	◯	◯	◯	◯	◯
Training/developmental opportunities	◯	◯	◯	◯	◯	◯
Allowing access to networking opportunities	◯	◯	◯	◯	◯	◯
Social interactions (friendlier to some employees)	◯	◯	◯	◯	◯	◯
Performance appraisals	◯	◯	◯	◯	◯	◯
Awards	◯	◯	◯	◯	◯	◯
Pay	◯	◯	◯	◯	◯	◯
Discipline	◯	◯	◯	◯	◯	◯
Retention efforts	◯	◯	◯	◯	◯	◯

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Federal Merit Systems Survey

7. My Supervisor

5. When your supervisor is out of the office, how does he/she decide who serves as the acting supervisor?

	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	Don't Know/Not Applicable
The person with the best skills is selected.	◯	◯	◯	◯	◯	◯
The person who is most interested is selected.	◯	◯	◯	◯	◯	◯
The person with a developmental need is selected.	◯	◯	◯	◯	◯	◯
The person who is a favorite of the supervisor, but not the best qualified is selected.	◯	◯	◯	◯	◯	◯
The person with time available is selected.	◯	◯	◯	◯	◯	◯
The person with the highest grade is selected.	◯	◯	◯	◯	◯	◯

6. When your supervisor has a critical project that would be career-enhancing, how does he/she decide who receives the assignment?

	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	Don't Know/Not Applicable
The person with the best skills is selected.	◯	◯	◯	◯	◯	◯
The person who is most interested is selected.	◯	◯	◯	◯	◯	◯
The person with a developmental need is selected.	◯	◯	◯	◯	◯	◯
The person who is a favorite of the supervisor, but not the best qualified is selected.	◯	◯	◯	◯	◯	◯
The person with time available is selected.	◯	◯	◯	◯	◯	◯

7. Compared to other employees at my performance level, my supervisor treats me:

- ◯ Much better
- ◯ Somewhat better
- ◯ The same
- ◯ Somewhat worse
- ◯ Much worse

Federal Merit Systems Survey

8. My Supervisor

8. Please indicate the level of importance of each of the following to your supervisor.

	Very Important	Somewhat Important	Neutral	Somewhat Unimportant	Very Unimportant	Don't Know/Not Applicable
Producing high quality products and services.	◯	◯	◯	◯	◯	◯
Building good working relationships with employees who report directly to him/her.	◯	◯	◯	◯	◯	◯
Building good working relationships with peer level supervisors.	◯	◯	◯	◯	◯	◯
Building good working relationships with higher level officials.	◯	◯	◯	◯	◯	◯
Obtaining a promotion.	◯	◯	◯	◯	◯	◯
Treating employees fairly.	◯	◯	◯	◯	◯	◯
Helping employees succeed in their careers.	◯	◯	◯	◯	◯	◯
Helping the agency succeed in its mission.	◯	◯	◯	◯	◯	◯

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Federal Merit Systems Survey

9. In My Organization

9. Please indicate the frequency with which you believe the following occur based on your experiences in the past two years.

	Always	Most of the Time	Sometimes	Rarely	Never	Don't Know/Not Applicable
Favoritism occurs in my organization.	◯	◯	◯	◯	◯	◯
Nepotism occurs in my organization.	◯	◯	◯	◯	◯	◯

10. Please indicate your level of agreement with the following statements based on your experiences in the past two years.

	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	Don't Know/Not Applicable
Favoritism is a problem in my organization.	◯	◯	◯	◯	◯	◯
Supervisors in my organization (excluding my supervisor) practice favoritism by treating some employees better than others who perform similarly.	◯	◯	◯	◯	◯	◯
Supervisors in my organization (excluding my supervisor) have demonstrated nepotism (giving an unfair advantage to their relatives).	◯	◯	◯	◯	◯	◯
Supervisors in my organization (excluding my supervisor) have demonstrated favoritism toward relatives of other agency officials.	◯	◯	◯	◯	◯	◯
Applicants who have connections to agency officials are given unfair advantages.	◯	◯	◯	◯	◯	◯

11. If you believe favoritism occurs, why do you think it happens?

	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	Don't Know/Not Applicable
Superviors do not understand what's required to fairly and effectively perform their supervisory role.	◯	◯	◯	◯	◯	◯
Supervisors value friendships/loyalty over competence.	◯	◯	◯	◯	◯	◯
There aren't good tools for making personnel decisions.	◯	◯	◯	◯	◯	◯

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Federal Merit Systems Survey

10. In My Organization

12. Please indicate the frequency with which the following occur in your organization based on your experiences in the past two years.

	Always	Most of the Time	Sometimes	Rarely	Never	Don't Know/Not Applicable
Vacancies are filled through "preselection" where the selecting official had decided whom to select before advertising the vacancy.	◯	◯	◯	◯	◯	◯
Vacancy announcements are designed to favor or disfavor a particular person or persons. (For example, recruitment or who may apply is inappropriately narrowed to limit the competition.)	◯	◯	◯	◯	◯	◯
Selection criteria (e.g., qualification requirements or desired skills) are tailored to give an unfair advantage to a particular candidate.	◯	◯	◯	◯	◯	◯
Based on friendship with the selecting official or other connections, an individual is selected over more qualified candidates.	◯	◯	◯	◯	◯	◯

Federal Merit Systems Survey

13. In my organization, employees ARE promoted because of their

	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	Don't Know/Not Applicable
Education or training	◯	◯	◯	◯	◯	◯
Quality of work experience/technical competence	◯	◯	◯	◯	◯	◯
Length of work experience	◯	◯	◯	◯	◯	◯
Dedication to the organization/mission	◯	◯	◯	◯	◯	◯
Physical attractiveness	◯	◯	◯	◯	◯	◯
Personal relationship with the selecting official	◯	◯	◯	◯	◯	◯
Professional relationship with the selecting official	◯	◯	◯	◯	◯	◯
Professional relationships with higher level employees	◯	◯	◯	◯	◯	◯
Professional relationships with peers	◯	◯	◯	◯	◯	◯
Professional relationships with lower level employees	◯	◯	◯	◯	◯	◯
References/contacts who recommended the employee	◯	◯	◯	◯	◯	◯
Performance in the selection process	◯	◯	◯	◯	◯	◯
Recognized potential to handle higher level responsibilities	◯	◯	◯	◯	◯	◯

Federal Merit Systems Survey

12. Management Practices

14. Employees SHOULD BE promoted because of their

	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	Don't Know/Not Applicable
Education or training	◯	◯	◯	◯	◯	◯
Quality of work experience/technical competence	◯	◯	◯	◯	◯	◯
Length of work experience	◯	◯	◯	◯	◯	◯
Dedication to the organization/mission	◯	◯	◯	◯	◯	◯
Physical attractiveness	◯	◯	◯	◯	◯	◯
Personal relationship with the selecting official	◯	◯	◯	◯	◯	◯
Professional relationship with the selecting official	◯	◯	◯	◯	◯	◯
Professional relationships with higher level employees	◯	◯	◯	◯	◯	◯
Professional relationships with peers	◯	◯	◯	◯	◯	◯
Professional relationships with lower level employees	◯	◯	◯	◯	◯	◯
References/contacts who recommended the employee	◯	◯	◯	◯	◯	◯
Performance in the selection process	◯	◯	◯	◯	◯	◯
Recognized potential to handle higher level responsibilities	◯	◯	◯	◯	◯	◯

Federal Merit Systems Survey

13. Management Practices

15. Please indicate your level of agreement with the following statements.

	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	Don't Know/Not Applicable
A supervisor should give better assignments to employees who perform well.	◯	◯	◯	◯	◯	◯
A supervisor should give more training and developmental opportunities to employees who perform well.	◯	◯	◯	◯	◯	◯
A supervisor should provide more networking opportunities to employees who perform well.	◯	◯	◯	◯	◯	◯
A supervisor should spend more time mentoring employees who perform well.	◯	◯	◯	◯	◯	◯
A supervisor should "go easier" on a high-performing employee who makes a mistake than a low-performing employee who makes a mistake.	◯	◯	◯	◯	◯	◯
A supervisor should clearly explain to an employee the reasons behind denial of the employee's request to telework.	◯	◯	◯	◯	◯	◯
A supervisor should grant greater autonomy to employees who perform well.	◯	◯	◯	◯	◯	◯
A selecting official should select the candidate with whom he/she most enjoys working even if this results in not selecting one of the most qualified applicants.	◯	◯	◯	◯	◯	◯
A selecting official should select the candidate with the best personality fit with the work unit even if this results in not selecting one of the most qualified applicants.	◯	◯	◯	◯	◯	◯
It's okay for a supervisor to socialize with some employees more than others at work.	◯	◯	◯	◯	◯	◯
It's okay for a supervisor to socialize with some employees more than others outside of work.	◯	◯	◯	◯	◯	◯
It's okay for employees to use their physical attractiveness to their advantage at work.	◯	◯	◯	◯	◯	◯

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14. Possible Outcomes of Favoritism

16. Please indicate your level of agreement with the following statements based on your experiences within the past two years.

	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree
Favoritism has reduced my work satisfaction.	◯	◯	◯	◯	◯
Favoritism has reduced my motivation to put forth my best effort at work.	◯	◯	◯	◯	◯
Favoritism has reduced camaraderie in my work unit.	◯	◯	◯	◯	◯
Favoritism has resulted in resentment toward the recipient(s) of favoritism.	◯	◯	◯	◯	◯
The favoritism demonstrated by my supervisor has reduced my respect for my supervisor.	◯	◯	◯	◯	◯
Favoritism has resulted in some employees leaving the organization.	◯	◯	◯	◯	◯
Favoritism has negatively impacted my agency's performance.	◯	◯	◯	◯	◯

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17. If you have witnessed favoritism in your organization within the past two years, what are the most common ways that supervisors demonstrate favoritism?

18. If you perceive favoritism to be a problem, what can or should be done to decrease the practice of favoritism in organizations?

Federal Merit Systems Survey

16. About You

19. Compared to other employees in my work unit, my performance is:

- ◯ Much better
- ◯ Somewhat better
- ◯ About the same
- ◯ Somewhat worse
- ◯ Much worse

20. Please indicate your level of agreement with the following statements.

	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	Don't Know/Not Applicable
I am familiar with the merit system principles.	◯	◯	◯	◯	◯	◯
I am familiar with the prohibited personnel practices.	◯	◯	◯	◯	◯	◯

21. Within the past 2 years, have you applied for a job within your agency that you did not receive?

- ◯ Yes
- ◯ No

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17. About You

22. Please indicate your level of agreement with the following statements.

	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	Don't Know/Not Applicable
I requested feedback regarding why I was not selected for the job.	◯	◯	◯	◯	◯	◯
I received helpful feedback that explained why I was not selected for the job.	◯	◯	◯	◯	◯	◯

23. Please indicate your level of agreement with the following statements.

	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	Don't Know/Not Applicable
I plan to retire within the next 12 months.	◯	◯	◯	◯	◯	◯
I plan to leave Federal service within the next 12 months and continue working outside the Federal sector.	◯	◯	◯	◯	◯	◯
I plan to leave my agency and go to another Federal agency within the next 12 months.	◯	◯	◯	◯	◯	◯
I plan to leave my work unit and go to another work unit in my agency within the next 12 months.	◯	◯	◯	◯	◯	◯

24. What is your supervisory status?

◯ Non-Supervisor

◯ Team Leader (You are not an official supervisor; you provide employees with day-to-day guidance in work projects, but do not have supervisory responsibilities, such as conducting performance appraisals or approving leave).

◯ Supervisor (You are responsible for employees' performance appraisals and approval of their leave, but you do not supervise other supervisors.)

◯ Manager (You are in a management position and supervise other supervisors.)

◯ Executive (You are a member of the Senior Executive Service or equivalent.)

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18. For Supervisors Only

25. Please indicate how important each of the following is to you.

	Very Important	Somewhat Important	Neutral	Somewhat Unimportant	Very Unimportant	Don't Know/Not Applicable
Producing high quality products and services.	◯	◯	◯	◯	◯	◯
Building good working relationships with employees who report directly to you.	◯	◯	◯	◯	◯	◯
Building good working relationships with peer level supervisors.	◯	◯	◯	◯	◯	◯
Building good working relationships with higher level officials.	◯	◯	◯	◯	◯	◯
Obtaining a promotion.	◯	◯	◯	◯	◯	◯
Treating employees fairly.	◯	◯	◯	◯	◯	◯
Helping employees succeed in their careers.	◯	◯	◯	◯	◯	◯
Helping the agency succeed in its mission.	◯	◯	◯	◯	◯	◯
Selecting an employee whose personality will be a good fit with me.	◯	◯	◯	◯	◯	◯
Selecting an employee whose personality will be a good fit with the work unit.	◯	◯	◯	◯	◯	◯
Selecting an employee whose skills will be a good fit with the work unit.	◯	◯	◯	◯	◯	◯

26. Please indicate your level of agreement with the following statements.

	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	Don't Know/Not Applicable
I select employees based on my overall impression (gut instincts).	◯	◯	◯	◯	◯	◯
My gut instincts would produce a more appropriate best qualified list than the current hiring tools/process.	◯	◯	◯	◯	◯	◯

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19. Thank you!

Thank you for completing this survey!

If you would like to be notified when this report (and other MSPB reports) are released, please visit http://www.mspb.gov/studies/ and subscribe to the MSPB Studies Listserv.

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Appendix F: Seeking Redress for Favoritism from the Office of Special Counsel

When Federal employees believe that favoritism has occurred as a result of a prohibited personnel practice, they can seek redress within their agency through internal mechanisms such as the employee grievance process. However, since employees may feel they are at a disadvantage when contesting a decision made by a supervisor or manager, an employee has the option to file a complaint externally with the Office of Special Counsel (OSC). The authors of the Civil Service Reform Act of 1978 designed this process to provide employees with a route to raise and resolve complaints that are not covered by other entities (e.g., discrimination complaints that would be handled by the U.S. Equal Employment Opportunity Commission) outside of their own agency.[86]

Upon request, OSC will investigate the complaint and decide whether or not to take up the issue with the employing agency.[87] If the situation cannot be resolved within the agency, OSC can file a complaint with MSPB seeking disciplinary action against an employee who committed a prohibited personnel practice. If the Board finds a PPP has been committed, it may impose penalties including reprimand, suspension, demotion, removal from Federal employment, restriction from future Federal employment for up to 5 years, and a fine up to $1,000.[88] Corrective action for the employee who was disadvantaged by the PPP can include: job restoration, reversal of suspensions and other adverse actions, reimbursement of attorney's fees, back pay, medical and other costs and damages.[89]

Similarly, employees may report nepotism to OSC when they believe advantages have been granted to relatives as discussed in 5 U.S.C. § 2302 (b)(7) and 5 U.S.C. § 3110.

[86] Some cases could be handled by OSC or EEOC. For example, in situations where the supervisor demonstrates favoritism based on an intimate relationship with subordinate(s), this situation could be addressed by the OSC under 5 U.S.C. § 2302 (b)(6), or by the EEOC if the behavior constitutes *quid pro quo* harassment or hostile work environment harassment, which are violations of Title VII of the Civil Rights Act of 1964.

[87] For a full description of the OSC investigative process, see 5 U.S.C. § 1214 and visit www.osc.gov.

[88] 5 U.S.C. § 1215(a)(3).

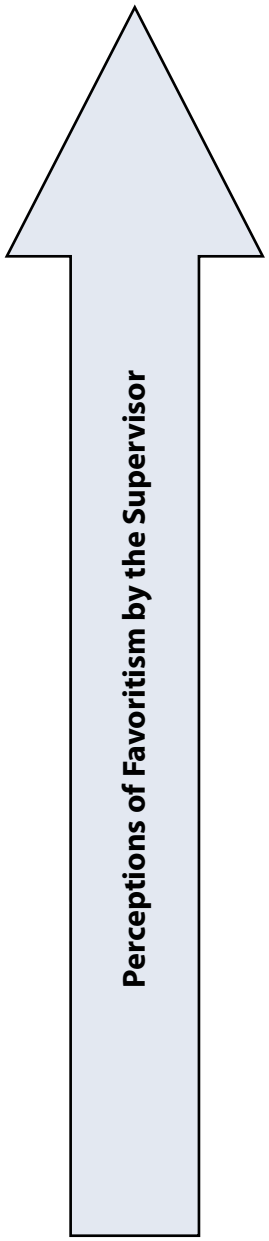
[89] 5 U.S.C. § 1214(g)(2).

Appendix G: Correlations Between Perceptions of the Supervisor's Behavior and Perceptions of Favoritism

Behavior (Survey Item)	Correlation
My supervisor treats everyone in my work unit with the same amount of respect.	-0.776
My supervisor uses fair standards for praise for everyone in the office.	-0.749
My supervisor uses fair standards for criticism for everyone in the office.	-0.737
My supervisor values input from all employees.	-0.723
I've developed a good working relationship with my supervisor.	-0.663
My supervisor provides appropriate rewards for excellent performance in my work unit.	-0.659
My supervisor provides me with constructive and timely feedback on my job performance.	-0.648
I receive the information that I need to perform my job well.	-0.508
My supervisor provides appropriate negative consequences for poor performance in my work unit.	-0.486
My supervisor provides better treatment to the better performers in the work unit.	0.375
My supervisor avoids communicating with some employees.	0.618
My supervisor demonstrates favoritism by spending more time talking with favorite employees about work-related topics.	0.813
My supervisor demonstrates favoritism by spending more time talking with favorite employees about non-work-related topics.	0.816
My supervisor provides better treatment to employees who ingratiate themselves to the supervisor.	0.817
My supervisor provides better treatment to employees who are a "personality fit" with the supervisor.	0.818

Appendix H: Correlations Between Perceived Favoritism and Aspects of Employee Engagement

Engagement Item	Correlation
Overall, I am satisfied with my supervisor.	-0.682
I am treated with respect at work.	-0.578
My opinions count at work.	-0.576
Recognition and rewards are based on performance in my work unit.	-0.552
I am satisfied with the recognition and rewards I receive for my work.	-0.526
A spirit of cooperation and teamwork exists in my work unit.	-0.518
I am given a real opportunity to improve my skills in my organization.	-0.499
I have sufficient opportunities (such a challenging work assignments or projects) to earn a high performance rating.	-0.465
Overall, I am satisfied with managers above my supervisor.	-0.412
I would recommend my agency as a place to work.	-0.41
My job makes good use of my skills and abilities.	-0.402
My work unit produces high quality products and services.	-0.349
I know what is expected of me on the job.	-0.321
I have the resources to do my job well.	-0.294
My agency is successful in accomplishing its mission.	-0.293
The work I do is meaningful to me.	-0.191



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