

**U.S. NUCLEAR REGULATORY COMMISSION MANAGEMENT DIRECTIVE (MD)**

<b>MD 10.137      SENIOR EXECUTIVE SERVICE      DT-17-212</b>	
<b>PERFORMANCE MANAGEMENT SYSTEM</b>	
<i>Volume 10, Part 6:</i>	Personnel Management, Senior Executive Service, Senior Level Positions, and Judges
<i>Approved By:</i>	Kristine L. Svinicki, Chairman
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<i>Issuing Office:</i>	Office of the Chief Human Capital Officer Policy, Labor and Employee Relations Branch
<i>Contact Name:</i>	Amanda Noonan
<b>EXECUTIVE SUMMARY</b>	
Management Directive 10.137 is revised to—	
<ul style="list-style-type: none"> <li>• Update the Organizational Responsibilities and Delegations of Authority section;</li> <li>• Remove guidance regarding the Office of the Inspector General, which has established its own guidance;</li> <li>• Reflect changes based on adoption of the Governmentwide basic Senior Executive Service Appraisal System; and</li> <li>• Remove procedural guidance covered in the performance management system description (Exhibit 1, Senior Executive Service Performance Management System) and intranet guidance.</li> </ul>	
The performance management system described in this revision has received approval from the Office of Personnel Management.	

**TABLE OF CONTENTS**

<b>I.    POLICY.....</b>	<b>2</b>
<b>II.   OBJECTIVES .....</b>	<b>2</b>
<b>III.  ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY.....</b>	<b>3</b>
A.  Chairman.....	3

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B. Commission.....	4
C. Executive Director for Operations (EDO) .....	4
D. Other Appointing Authorities .....	5
E. Chief Financial Officer (CFO).....	5
F. Chair, Executive Resources Board (ERB).....	5
G. Executive Resources Board (ERB).....	5
H. Performance Review Board (PRB) .....	6
I. Chair, Performance Review Board (PRB).....	6
J. Performance Review Board (PRB) Panel .....	6
K. Chief Human Capital Officer (CHCO) .....	6
L. Office Directors and Regional Administrators .....	7
M. Supervising Executives.....	7
<b>IV. APPLICABILITY .....</b>	<b>7</b>
<b>V. DIRECTIVE HANDBOOK .....</b>	<b>7</b>
<b>VI. REFERENCES.....</b>	<b>7</b>

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## **I. POLICY**

It is the policy of the U.S. Nuclear Regulatory Commission (NRC) to implement and maintain a performance management system for its Senior Executive Service (SES) members (generally called “executives”) that promotes executive excellence and accountability through a focus on results and leadership; strengthens the links with strategic planning; clearly and directly links organizational mission/program goals and individual executive performance and results; balances organizational results, customer perspectives, and employee perspectives; and forms the basis for other executive personnel activities.

## **II. OBJECTIVES**

- Communicate and clarify organizational goals and objectives.
- Identify individual accountability for accomplishing NRC goals and objectives.

- Make meaningful distinctions among executives with regard to performance ratings and rewards that are tied to the scope and responsibility of the assigned responsibilities, the leadership skills demonstrated, and the results achieved.
- Evaluate and improve individual and organizational capacity, performance, and accomplishments.
- Enhance communication and feedback between executives and their supervisors in establishing performance expectations.
- Use the results of performance appraisals as a basis for adjusting pay and for rewarding, reassigning, retaining, developing, training, and removing executives.

### **III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY**

#### **A. Chairman**

1. Serves as the appointing authority for executives on the Chairman's staff, for the Director and the SES staff of the Office of Public Affairs, and the Director and SES staff of the Office of Congressional Affairs.
2. Serves as supervising official for Commission-level office directors and the Executive Director for Operations (EDO).
3. Develops initial detailed performance appraisals and ratings for officials whose appointing authority is the full Commission.
4. Approves pay adjustments for executives who report directly to or serve in offices that report directly to the Chairman or Commission.
5. Serves as awarding authority for executives who report directly to or serve in offices that report directly to the Chairman or Commission, except for those executives for whom the Commission serves as appointing authority.
6. Designates the Chief Operating Officer (COO) in accordance with the Government Performance and Results Modernization Act of 2010 (GPRAMA).
7. Designates the Chair of the Executive Resources Board.

## **B. Commission**

1. Serves as the appointing and awarding authority for the Chief Financial Officer (CFO) and Deputy CFO, the General Counsel (GC), the Secretary of the Commission (SECY), the EDO, and the Directors of the Office of Commission Appellate Adjudication (OCAA), the Office of International Programs (OIP), the Office of Nuclear Regulatory Research (RES), the Office of Nuclear Reactor Regulation (NRR), the Office of New Reactors (NRO), the Office of Nuclear Security and Incident Response (NSIR), and the Office of Nuclear Material Safety and Safeguards (NMSS). The NRC Senior Executive Service Supervisory Performance Appraisal Chain [chart](#), hereafter referred to as the chart, shows appointing and awarding authorities for SES positions (chart is available on the Office of Chief Human Capital Officer Senior Executive Service Web site at <http://www.internal.nrc.gov/HR/ses.html>).
2. Approves the final annual summary rating determination after the Performance Review Board has reviewed the appraisal and ratings developed by the Chairman.

## **C. Executive Director for Operations (EDO)**

1. Serves as the appointing and awarding authority for executives in offices and regions reporting to the EDO except those listed in Section III.B of this directive. The [chart](#) shows appointing and awarding authorities for SES positions.
2. Approves pay adjustments for executives in offices and regions that report to the EDO.
3. Provides oversight and direction on matters involving implementation and assessment of the NRC Senior Executive Service Supervisory Performance Management System.
4. Serves as the COO, appoints the Performance Improvement Officer (PIO), and ensures alignment between individual and organizational performance management and results in accordance with the Government Performance and Results Modernization Act of 2010. This includes—
  - (a) Conducting an assessment of organizational and program performance to determine level of achievement of strategic goals, performance measures, and other NRC objectives.
  - (b) Communicating results of the assessment to rating and reviewing officials, Performance Review Board (PRB) members, and executives.

5. Certifies that—

- (a) The SES appraisal process takes into account the results of organizational performance assessment as well as other relevant considerations, as appropriate;
- (b) The SES appraisal process makes meaningful distinctions among executives based on relative performance;
- (c) Pay levels, pay adjustments, and awards accurately reflect and recognize distinctions in individual performance and contribution to the agency's performance, leadership skills, and results achieved; and
- (d) Final decisions consider PRB or PRB Panel recommendations, are consistent with regulations for managing SES performance and appropriately reflect the employee's performance expectations, relevant program performance measures, and other relevant factors.

**D. Other Appointing Authorities**

For subordinate executives within their organizations, the CFO, GC, Chairman of the Office of the Advisory Committee on Reactor Safeguards (ACRS), SECY, and Director of OIP serve as the appointing authority, except that the Commission serves as the appointing authority for the Deputy CFO. The [chart](#) shows appointing and awarding authorities for SES positions.

**E. Chief Financial Officer (CFO)**

Ensures that NRC budgets for costs for SES pay adjustments and performance awards.

**F. Chair, Executive Resources Board (ERB)**

Appoints, after consulting with the Chairman and the EDO, as appropriate, the members and Chair of the PRB and the PRB Panel.

**G. Executive Resources Board (ERB)**

- 1. Provides broad oversight, review, and program evaluation for policies, programs and activities relating to the SES, including SES performance management and pay.
- 2. Reviews and recommends changes to NRC's SES pay policy and to agency-specific aspects of SES performance plans (such as weights assigned to critical elements).

3. Provides policy guidance and oversight to the PRB.
4. The Chairman appoints the ERB Chair, for further guidance and information, including authorities for appointing ERB members, are available through MD 10.135, "Senior Executive Service (SES) Employment and Staffing Programs," and the Executive Resources Board Charter, available on the OCHCO Senior Executive Service Web site at <http://www.internal.nrc.gov/HR/ses/erb-charter.pdf>.

#### **H. Performance Review Board (PRB)**

1. Makes recommendations to the appointing and awarding authorities on the performance rating, awards, pay adjustments, and other related personnel actions for NRC executives.
2. Monitors and conducts an annual review of the SES appraisal system and its implementation in order to recommend improvements and strengthen the entire performance appraisal system.

#### **I. Chair, Performance Review Board (PRB)**

Renders decisions on requests for modification of normal performance appraisal procedures on a case-by-case basis under applicable laws and regulations.

#### **J. Performance Review Board (PRB) Panel**

1. Makes recommendations to the appointing and awarding authorities on the performance rating, awards, pay adjustments, and other related personnel actions for PRB members.
2. Participates in monitoring and conducting the annual review of the SES appraisal system and its implementation in order to recommend improvements and strengthen the entire performance appraisal system.

#### **K. Chief Human Capital Officer (CHCO)**

1. Submits the SES performance management system for approval and certification, and any additional reports or information to the U.S. Office of Personnel Management, as required.
2. Administers and advises on the appraisal system.

#### **L. Office Directors and Regional Administrators**

1. Serve as supervising executive for executives who report directly to them and the reviewing official for executives who report to subordinate executives.
2. Serve as the ranking official when ranking is used (e.g., to help determine amounts of awards for executives with similar ratings).
3. Consult with subordinate executives in the development of performance plans to ensure that objectives, requirements, and time frames are understood.
4. Ensure consistency in the application of the performance management system in their offices so ratings accurately reflect the executives' performance against elements, requirements and standards appropriate to the position.

#### **M. Supervising Executives**

Consult executives in developing performance plans, provide feedback about performance and assistance in improving performance, appraise executives, assign initial ratings, and recommend a personnel action, pay adjustment, and/or award, if appropriate.

### **IV. APPLICABILITY**

All incumbent NRC SES members, except those in the Office of the Inspector General (OIG), are subject to the SES performance appraisal system without regard to type of appointment or type of position occupied. In accordance with the Inspector General Reform Act of 2008, OIG SES members are covered by a separate performance management system.

### **V. DIRECTIVE HANDBOOK**

Handbook 10.137 contains the program requirements and procedures for administering the NRC's SES Performance Management System, incorporates the system description, and provides assistance to SES members and supervising executives in carrying out their responsibilities regarding performance planning and appraisal.

### **VI. REFERENCES**

#### ***Code of Federal Regulations***

5 CFR Part 317, "Employment in the Senior Executive Service."

5 CFR Part 430, Subpart C, "Managing Senior Executive Performance."

5 CFR Part 430, Subpart D, "Performance Appraisal Certification for Pay Purposes."

5 CFR Part 534, Subpart D, "Pay and Performance Awards Under the Senior Executive Service."

### ***Nuclear Regulatory Commission***

NRC Management Directives—

10.72, "Awards and Recognition."

10.135, "Senior Executive Service (SES) Employment and Staffing Programs."

10.138, "Reduction in Force in the Senior Executive Service."

NRC Senior Executive Service Supervisory Performance Appraisal Chain [chart](#), available at <http://www.internal.nrc.gov/HR/ses/perf-appraisal-chain.pdf>.

NRC Performance Review Board Charter, available at <http://www.internal.nrc.gov/HR/performance/prb-charter.pdf>.

OCHCO Senior Executive Service Web site: <http://www.internal.nrc.gov/HR/ses.html>.

### ***United States Code***

Agency Awards (5 U.S.C. 4503).

Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

Awarding of Ranks in the Senior Executive Service (5 U.S.C. 4507).

Civil Service Reform Act of 1978 (Pub. L. 95-454).

Energy Reorganization Act of 1974, as amended (42 U.S.C. 5801 et seq.).

General Appointment provisions (5 U.S.C. 3392).

Government Performance and Results Modernization Act of 2010 (Pub. L. 111-352).

Guaranteed Placement in Other Personnel Systems (5 U.S.C. 3594).

Inspector General Reform Act of 2008 (Pub. L. 110-409).



National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136).

Performance Appraisal, and Performance Appraisal in the Senior Executive Service (5 U.S.C. 43, and 5 U.S.C. 43 Subchapter II).

Performance Awards in the Senior Executive Service (5 U.S.C. 5384).

Privacy Act of 1974, as amended (5 U.S.C. 552a).

Setting Individual Senior Executive Pay (5 U.S.C. 5383).

Ratings for Performance Appraisals (5 U.S.C. 4314(b)(3)).

Reinstatement in the Senior Executive Service (5 U.S.C. 3593(b)).

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**TABLE OF CONTENTS**

<b>I. THE SENIOR EXECUTIVE SERVICE (SES) PERFORMANCE MANAGEMENT PROCESS.....</b>	<b>3</b>
A. The SES Performance Management System .....	3
B. Overview of the Appraisal Process .....	4

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<b>II. PERFORMANCE APPRAISAL.....</b>	<b>6</b>
A. Appraising Performance .....	6
B. Details and Temporary Reassignments .....	6
C. Limitations .....	6
D. Performance Review Board (PRB) .....	6
E. Decisions on Pay Adjustments .....	7
F. Decisions by the Awarding Authority.....	7
G. Disposition of Completed Appraisal .....	7
H. Effect of the Rating .....	7
<b>III. SES PAY ADJUSTMENTS .....</b>	<b>9</b>
A. General .....	9
B. Pay Adjustments.....	10
C. Pay Structure.....	10
<b>IV. SES PERFORMANCE-BASED AWARDS AND RECOGNITION .....</b>	<b>11</b>
A. Statutory Basis .....	11
B. Budgeting .....	11
C. Similarities Between Presidential Rank Awards and Performance Awards .....	12
D. Differences Between Presidential Rank Awards and Performance Awards .....	12
E. Performance Awards (Bonuses).....	13
F. Presidential Rank Awards.....	14
<b>V. ADVERSE ACTIONS BASED ON PERFORMANCE.....</b>	<b>17</b>
A. Reassignment or Removal .....	17
B. Appeals .....	18
C. Procedures .....	19
D. Guaranteed Placement.....	20
E. Reductions in Pay.....	20
<b>VI. RECORDS .....</b>	<b>20</b>
A. Employee Electronic Official Personnel Folder (eOPF).....	20
B. Maintenance.....	21

---

C. Retention.....	21
D. Access to Records.....	21

## EXHIBITS

Exhibit 1	Senior Executive Service Performance Management System.....	22
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### I. THE SENIOR EXECUTIVE SERVICE (SES) PERFORMANCE MANAGEMENT PROCESS

#### A. The SES Performance Management System

1. The Senior Executive Service (SES) performance management (or appraisal) system provides a documented record of management performance expectations and executive accomplishments that serves as the basis for a variety of performance-based actions, including performance awards (sometimes called performance bonuses), pay adjustments, removal or reassignment, training, retaining, and development.
2. Exhibit I is the U.S. NRC Senior Executive Service Performance Management System. It provides core guidance and definitions regarding the SES performance management policy and process. This system description has been approved by the U.S. Office of Personnel Management (OPM).
3. The remainder of this handbook provides additional process guidance on selected aspects of the performance management system as well as actions taken as a result of executive performance. Supplemental guidance is available on the Office of the Chief Human Capital Officer (OCHCO's) Senior Executive Service Web Site at <http://www.internal.nrc.gov/HR/ses.html>. The executive resources Intranet site includes, but is not limited to—
  - (a) A [chart](#) reflecting approving authorities for SES positions;
  - (b) Best practices for and advice on preparing SES performance plans, providing feedback, assessing performance, and preparing appraisals;

- (c) Current Executive Resources Board (ERB) guidance on weights and any agencywide measures to be included in SES performance plans;
- (d) Recommendations for continued improvement from the Performance Review Board (PRB);
- (e) Results of recent SES appraisal cycles;
- (f) Charters for the ERB and the PRB; and
- (g) A summary of guidance on addressing an executive's poor performance.

## **B. Overview of the Appraisal Process**

The SES performance appraisal process includes two distinct phases: performance planning/consultation and performance appraisal. Although distinct, each phase is part of an ongoing management process linked to the other phase. The appraisal process provides for the following:

1. One or more performance planning sessions in which the rating official and the executive consult to review expectations related to—
  - (a) The five critical elements on the SES performance plan.
  - (b) The specific requirements for the Results Driven critical performance element.
  - (c) Appropriate agency-specific requirements under the other four critical elements.
  - (d) Weights of the elements to the extent within the organization's discretion.
  - (e) Preparation of a performance plan for the upcoming rating period. The plan is generally approved by the office director or regional administrator, or designee.
2. Monitoring performance and providing feedback, including a mid-year progress review of the executive's progress toward achieving the performance requirements. This review also provides an opportunity to modify the agency-specified performance requirements as a result of changes in position requirements, program, or resources. Such changes may be made at other times, as appropriate. An executive must have worked under the performance plan for at least 90 days before being rated.

3. Input from the executive to the rating official documenting the executive's accomplishments related to the five critical performance elements.
4. Consideration of the NRC's organizational performance by rating and reviewing officials, PRB members, and executives.
5. An initial appraisal of each element and an initial summary rating and pay/award recommendation, if appropriate, by the rating official.
6. An opportunity for the executive to request a higher level review. Additional information about the higher level review process is available on the OCHCO's [Senior Executive Service Web site](#).
7. Pay and/or award recommendations by a reviewing official (if any), based on the executive's overall contribution to the organization, the performance appraisal, and the initial summary rating. Office directors and regional administrators serve as reviewing officials for executives reporting to their subordinates. They may also be asked to rank the performance contributions of executives within their organizations. Such rankings are typically considered as a check for comparison to the performance ratings assigned and/or to help determine the relative amounts of awards within a rating level but do not directly affect the appraisal or compensation outcomes.
8. A review of all performance appraisal information, including any response from the executive, organizational performance results (such as the Performance and Accountability Report, quarterly business line reports, input from the Chief Operating Officer or designee on organizational performance, etc.), the rating official, and input, if any, from a higher level reviewer, by the NRC PRB or the PRB Panel. (The PRB or the PRB Panel may conduct any necessary additional review.)
9. A recommendation from the NRC PRB or the PRB Panel to the appointing authority on performance ratings, retention, reassignments, and removals. The PRB or PRB Panel also make recommendations to appropriate authorities on awards and compensation adjustments resulting from ratings. The [chart](#) shows approving authorities for SES positions.
10. An annual summary rating by the appointing authority, after consideration of all available information and the PRB or the PRB Panel recommendations, and any decision by the appointing authority to reassign or remove the executive.

## **II. PERFORMANCE APPRAISAL**

### **A. Appraising Performance**

Exhibit 1 confirms the annual appraisal period and requirements for appraising performance, as well as the executive's right to respond in writing and/or request a higher level review.

### **B. Details and Temporary Reassignments**

#### **1. NRC Details and Temporary Reassignments**

When an executive serves on detail or temporary assignment, the temporary supervisor provides at least a narrative summary describing the executive's performance to the executive's home office or region. A summary rating will be prepared when an executive is detailed or temporarily reassigned within NRC and when the detail or temporary reassignment lasts 120 calendar days or more. This information is considered when deriving the executive's annual rating.

#### **2. Details Outside NRC**

When an executive is detailed outside the agency, NRC will make reasonable efforts to obtain appraisal information from the outside organization. This information is considered when deriving the executive's annual rating.

### **C. Limitations**

Performance ratings must not be given to career SES appointees in the first 120 calendar days of a new Presidential administration. This moratorium applies to all phases of the formal appraisal process but does not apply to interim summary ratings resulting from position changes, to instances in which a supervisor leaves the agency, or to mid-year progress reviews.

### **D. Performance Review Board (PRB)**

1. The Performance Review Board (PRB) and PRB Panel make recommendations to the appointing and awarding authorities on the performance rating, awards, pay adjustments, and other related personnel actions for NRC executives. The PRB and PRB Panel also review the SES appraisal system and its implementation in order to recommend improvements.

2. The [PRB Charter](#) applies to the PRB and PRB Panel and is available on the OCHCO's [Senior Executive Service Web site](#).
3. The PRB develops and recommends the assignment of the Annual Summary Rating by the Appointing Authority.
4. The appointing authority will make a final determination of the executive's annual summary rating after considering the recommendations of the PRB or the PRB Panel.

#### **E. Decisions on Pay Adjustments**

After considering the recommendations of the PRB or the PRB Panel, the awarding authority make final decisions on award recipients and amounts of pay adjustments.

#### **F. Decisions by the Awarding Authority**

After considering the recommendations of the PRB or the PRB Panel, the awarding authority makes the final decisions about award recipients and amounts of performance awards.

#### **G. Disposition of Completed Appraisal**

1. The completed annual summary rating (also called an appraisal or rating) and any applicable supplemental information will be retained for the period specified in regulation in the employee electronic Official Personnel Folder (eOPF). (See Section VI.C of this handbook, for further guidance about recordkeeping.)
2. A copy of the completed appraisal will be forwarded to the executive through eOPF, including appropriate e-mail notification.

#### **H. Effect of the Rating**

1. General

An annual summary rating of Fully Successful provides the basis for the executive's retention in the SES and establishes the executive's eligibility for consideration for pay adjustments and performance awards.



## 2. Pay Adjustments

- (a) Performance appraisals and ratings provide the basis for adjusting the executive's pay.
- (b) The rate of pay of an executive may not be adjusted more than once during any 12-month period. However, there are exceptions to the 12-month rule that allow an additional pay adjustment during a 12-month period. These exceptions are identified in 5 CFR 534.404(c).
- (c) If the executive's pay is decreased on the basis of a performance appraisal of less than Fully Successful, the reason must be documented and the decrease must conform to regulations at 5 CFR 534.404.

## 3. Assistance To Improve Performance

- (a) Supervisors must monitor each executive's performance during the appraisal period and provide feedback to the executive on progress in meeting the performance elements and requirements described in the plan. Supervisors provide advice and assistance to executives on how to improve their performance and how to continually develop.
- (b) This assistance may include, but is not limited to, formal training, counseling, mentoring by other executives, coaching, and closer supervision.

## 4. Reassignment, Transfer, or Removal

- (a) Summary ratings may provide the basis for decisions to reassign or transfer executives within the SES and will provide a basis for decisions to remove executives from the SES.
- (b) Section V of this handbook describes the procedures for instituting adverse actions on the basis of performance.
- (c) Management Directive 10.138, "Reduction in Force in the Senior Executive Service," provides information on the use of summary ratings to determine an executive's performance group on retention registers.
- (d) OCHCO's Senior Executive Service Web site provides summary guidance related to addressing an executive's poor performance at <http://www.internal.nrc.gov/HR/performance/managing-poor-performance.pdf>.

5. Rights of the Senior Executive

- (a) By law, an executive may not appeal any appraisal or rating under the SES Performance Management System.
- (b) An executive who alleges that his or her rating was based on a prohibited personnel practice may file a complaint with the U.S. Office of Special Counsel (OSC) in accordance with the regulations of that office.
- (c) Other avenues afforded by law or regulation (e.g., the Equal Employment Opportunity Commission) may be appropriate (e.g., discrimination allegations filed through the Office of Small Business and Civil Rights (SBCR)).

### III. SES PAY ADJUSTMENTS

#### A. General

1. Federal law and regulations creating an SES performance-based pay system established a single, open-range pay band with minimum and maximum rates of basic pay fixed by statute in accordance with the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136, November 24, 2003). Pay is set and adjusted on the basis of individual performance and contribution to the agency's mission as determined under this performance management system.
2. All SES pay must be set within the following open-range payband:
  - (a) The minimum rate of SES basic pay is equal to 120 percent of the rate for GS/GG-15 step 1; the maximum rate of basic pay is equal to the rate for Level III of the Executive Schedule.
  - (b) Automatic across-the-board cost-of-living adjustments and locality-based comparability payments do not apply.
3. The maximum rate may be raised to the rate for Executive Level II when the NRC's SES performance appraisal system has been certified by OPM, with Office of Management and Budget concurrence.
4. Rates of pay higher than the rate for Executive Level III are generally reserved for those executives who have demonstrated the highest levels of individual performance and/or made the greatest contributions to the NRC's performance.

## **B. Pay Adjustments**

1. The basic pay of an executive may be adjusted (increased or reduced) within the pay band, as described in Section III.A of this handbook. A pay increase may be provided to advance an executive's relative position only upon a determination that the executive's performance and contributions so warrant (i.e., performance appraisal rating of at least Fully Successful), and if the executive is otherwise eligible (i.e., has not received a pay adjustment during the previous 12-month period, with certain exceptions).
2. The following actions are considered pay adjustments:
  - (a) Setting of an individual's rate of basic pay upon initial appointment to the SES,
  - (b) A change from one SES rate of basic pay to another while employed in the SES, and
  - (c) The assignment of an SES rate of basic pay upon reappointment to the SES following a break in SES service, when the new rate of basic pay is different from the executive's former rate, or if the break in service exceeds 12 months.
3. An executive who receives an annual summary rating of Outstanding must be considered for an annual pay increase to the extent there is room for an increase within the pay ceiling applicable to the executive's position.
4. An executive who receives an annual summary rating below Fully Successful may not receive a pay increase for the current performance appraisal period.
5. In addition to performance-based adjustments, NRC may adjust an executive's pay based on any of the authorities provided in Part 534 of Title 5 of the *Code of Federal Regulations* when circumstances warrant.

## **C. Pay Structure**

Recommendations for performance-based pay increases and/or awards may be in the form of groupings based on relative contributions, or indices based on actual dollar amounts available, percentages of individual base pay, or percentages of the awards pool. Recommendations consider individual and organizational performance, including differences in scope, complexity, and responsibility of such contributions. NRC communicates its pay structure to all executives each year.

## **IV. SES PERFORMANCE-BASED AWARDS AND RECOGNITION**

### **A. Statutory Basis**

1. To attract, retain, reward, and motivate highly competent executives, special recognition and awards may be granted to members of the SES who hold career appointments, whether serving in a career reserved position or a general position.
2. Career SES members who receive Presidential appointments with Senate confirmation at Level V of the Executive Schedule or higher without a break in service are entitled to elect to retain certain SES benefits, including eligibility for performance awards and Presidential rank awards.
3. Specifically, these payments and recognition include awards for excellence of performance pursuant to 5 U.S.C. 5384, "Performance Awards in the Senior Executive Service," and the awarding of ranks and accompanying stipends for sustained accomplishment and sustained extraordinary accomplishment (Meritorious and Distinguished Executives) pursuant to 5 U.S.C. 4507, "Awarding of Ranks in the Senior Executive Service."
4. Presidential Rank Awards (also called rank awards) and SES performance awards must not be confused with special act or service awards described in MD 10.72, "Awards and Recognition." A special act or service award is a separate form of recognition available to mark a single significant act or service that may have occurred in a day, a month, or any other specified time frame. Executives are eligible for special act or service awards, but such awards should be rare and must not be tied to the executive's overall performance.

### **B. Budgeting**

1. NRC budgets the necessary funds for performance awards and rank awards consistent with guidance provided by OPM.
2. The Chair of the ERB, after consultation with the Chief Financial Officer, may recommend annually to the Commission the total dollar amount to be budgeted for SES awards and rank awards.

### **C. Similarities Between Presidential Rank Awards and Performance Awards**

1. Although awards authorized pursuant to 5 U.S.C. 4507 and 5384 differ in certain respects as to eligibility, frequency, and amounts payable, there also are similarities and interrelationships between the two types of awards.
2. Only executives holding career appointments or career SES members appointed without a break in service to Executive Schedule positions in the executive branch are eligible for these awards.
3. Awards must be given as lump-sum cash payments.
4. Both kinds of awards are granted in recognition of work performance of high caliber.
5. An executive's aggregate compensation (the total of an executive's salary, performance award, rank award, and other payments received in any calendar year) may not exceed the annual rate appropriate to the current certification status of the NRC's SES performance management system; that is, the rate for Executive Level I if not certified, or the rate of the Vice President's salary if certified.
6. Any aggregate compensation in excess of the ceiling in 1 calendar year will be rolled over and paid as a lump sum at the beginning of the following calendar year in accordance with applicable law and OPM guidance.
7. Award payments are taxable income but are not subject to health benefits, Government life insurance deductions, or retirement, and are not creditable for inclusion in the "high-three" average pay computation for retirement benefits.

### **D. Differences Between Presidential Rank Awards and Performance Awards**

1. Rank awards are granted to fewer individuals, are made only upon OPM recommendation and Presidential approval, and confer both rank and a sum of money expressed as a percentage of the recipient's basic pay.
2. Performance awards (also termed bonuses) are granted entirely within NRC to more executives and involve varying sums of money.
3. Although both awards are related to performance, there is a philosophic difference that should be noted: rank awards are based on service over a long period, while performance awards reflect performance over the performance appraisal period.

4. These awards are not interchangeable. If the service being recognized fits one mold, a different award cannot properly be substituted. For example, a single performance rating reflecting performance entirely at the Excellent level is not appropriately awarded with a nomination for a Meritorious or a Distinguished Presidential rank award. A performance award might be appropriate. Conversely, an unbroken record of high-level performance in the annual appraisals over a period of years suggests that a person may be a candidate for a Presidential rank award.

#### **E. Performance Awards (Bonuses)**

##### 1. Eligibility

- (a) An NRC career SES executive who has received an annual summary rating of Fully Successful, Excellent, or Outstanding, on the basis of a minimum appraisal period of 90 calendar days, is eligible to be considered for a performance award.
- (b) Reemployed annuitants and individuals who are no longer in the SES at the time the bonus decision is made but who were SES career appointees at the end of the appraisal period are eligible, but not entitled, to be considered for a performance award.
- (c) A career SES member on detail to another agency is eligible in his or her agency of record.
- (d) Employees who transfer with reemployment rights to an international organization after the end of the rating period are eligible.

##### 2. Limitations

- (a) Noncareer SES appointees are ineligible for performance awards. However, former SES career appointees who were appointed without a break in service to Executive Schedule positions in the executive branch, and who met the eligibility criteria for entitlement to elect to retain SES benefits, are eligible for a performance award if they elected to retain these benefits.
- (b) Only one performance award may be granted to a career executive for any performance year.

- (c) A performance award may not be less than 5 percent nor more than 20 percent of the executive's base pay as of the end of the performance appraisal period.
  - (d) NRC will comply with OPM regulations and guidance regarding the maximum percentage of pay and payroll that may be paid as performance awards and the submission of required data to OPM.
  - (e) When OPM guidelines allow agency discretion as to payment of awards, NRC may vary from OPM guidelines and provide any required explanation.
3. Relationship of Special Act or Service Awards to Performance Awards
- (a) A special act or service award under NRC's Incentive Awards Program should be considered only in those rare circumstances when a bonus would not be appropriate.
  - (b) A special act or service award may be used to recognize a nonrecurring contribution, such as an extraordinary effort on a project not anticipated in the annual performance plan or a scientific achievement that may have culminated after a significant period.
  - (c) Receipt of a special act or service award does not bar an executive from receiving a bonus or vice versa. However, careful consideration must be given before granting both a bonus and a special act or service award in the same year to an individual.

## **F. Presidential Rank Awards**

### 1. Types of Presidential Rank Awards

Two types of Presidential Rank Awards are available—

- (a) The Distinguished Executive award is presented for sustained extraordinary accomplishment, with a lump-sum payment equal to 35 percent of the recipient's pay from the recipient's employing agency.
- (b) The Meritorious Executive award is presented for sustained accomplishment, with a lump-sum payment equal to 20 percent of the recipient's pay from the recipient's employing agency.

## 2. Eligibility

- (a) An NRC SES career appointee is eligible for consideration for a Presidential rank award of Meritorious or Distinguished Executive if he or she is on the NRC rolls as a career SES employee by the deadline for submission of nominations.
- (b) The performance for which a nomination is submitted must have been sustained over a minimum period of at least 3 years; preferably the nominee's performance over an even longer period should be taken into account.
- (c) The minimum 3-year period on which recognition is based must have been as a career appointee in the SES or must be "equivalent" Federal civilian service, such as Senior Foreign Service or "administratively determined" executive classifications.
- (d) A former SES career appointee who received appointment to an Executive Schedule position in the executive branch and met the criteria for eligibility to retain certain SES benefits also may be eligible for a rank award, as long as the executive elected to retain that benefit and also meets the other criteria for nomination.
- (e) A reemployed annuitant who holds a career SES appointment is eligible as long as the individual meets the other criteria for nomination. However, careful consideration should be given as to whether the nomination is in the best interests of the NRC's SES program in light of the very limited number of awards that can be made.
- (f) An individual who leaves the SES or who dies after being nominated but before receiving the award remains eligible, unless NRC withdraws the nomination.

## 3. Limitations

Limitations on the awarding of rank awards are as follows:

- (a) To provide for progression in the awarding of ranks, a nominee for Distinguished Executive usually would have received the rank of Meritorious Executive in a prior year. At any time, it may be appropriate to confer the rank of Distinguished Executive without regard to progression when only the highest rank would serve as fitting recognition.



- (b) Any individual who receives a rank of either Meritorious Executive or Distinguished Executive is not eligible to receive that same award during the following 4 fiscal years. There is no prohibition, however, against receiving one rank award, then the other, at a closer interval.

#### 4. Criteria

- (a) A nominee must have demonstrated sustained accomplishment for the Meritorious Executive award and sustained extraordinary accomplishment for the Distinguished Executive award.
- (b) Criteria upon which nominees will be evaluated are those established by OPM each year and will be made known to the NRC Chairman, Commission, office directors and regional administrators when nominations are requested.
- (c) In meeting the above criteria and in all other areas cited in support of the nomination, it must be clear that the nominee has demonstrated qualities of achievement, leadership, integrity, industry, and personal conduct that have established and maintained a high degree of public confidence and trust. These are not awards to recognize long and faithful service.

#### 5. Procedures for Nomination and Selection

- (a) The specific documentation and procedural requirements for submitting nominations to OPM are described in the call for nominations that is issued annually by the CHCO.
- (b) OPM reviews an agency's nominations and recommends candidates for Meritorious or Distinguished Executive awards for the President's approval.

#### 6. Award Payment

- (a) Recipients of a Meritorious Executive rank award receive an amount equal to 20 percent of their pay and recipients of a Distinguished Executive rank award receive an amount equal to 35 percent of their pay, subject to aggregate pay limitations that are in effect for the calendar year.
- (b) Any portion of the award that would cause total compensation to exceed the aggregate pay limitation (the rate for Executive Level I if the NRC's performance

management system is not certified, or the rate of the Vice President's salary if it is certified) is deferred for payment during the following calendar year.

- (c) Payment by the agency of ceremonial expenses in connection with the actual presentation of these awards is authorized pursuant to 5 U.S.C. 4503, "Agency Awards."
- (d) Information about the contributions a recipient has made may be disseminated to the general public and the Federal workforce.

## V. ADVERSE ACTIONS BASED ON PERFORMANCE

### A. Reassignment or Removal

An executive may be reassigned, removed from the SES, or have his or her pay reduced as a result of less than Fully Successful performance. OCHCO's Senior Executive Service Web site provides summary guidance related to addressing an executive's poor performance at <http://www.internal.nrc.gov/HR/performance/managing-poor-performance.pdf>.

1. By law, an executive receiving—
  - (a) Less than a Fully Successful rating twice within 3 consecutive years shall be removed from the SES.
  - (b) Two Unsatisfactory ratings within any 5 consecutive years shall be removed from the SES.
  - (c) One Unsatisfactory rating shall be either reassigned or transferred within the SES or removed from the SES.
  - (d) One Needs Improvement rating may be removed, retained or reassigned in the SES. The appropriate action should depend on the nature of the performance deficiency and the likelihood that the executive will perform successfully if retained or reassigned.
2. If appropriate, the rating official will recommend to the PRB either removal of the executive from the SES or reassignment of the executive within the SES.
3. A recommendation for reassignment or transfer in lieu of separation must contain a justification and be accompanied by a remedial program fully detailing actions to be

- taken by the senior executive and his or her rating official to assist the executive to achieve the Fully Successful performance level.
4. This recommendation will be forwarded through the reviewing official, if any, to the PRB for its recommendation and to the appointing authority for its decision on the reassignment, transfer, or removal of the executive.
  5. Any recommendation by the reviewing official or, where appropriate, the higher level reviewer that differs from that of the rating official must be fully documented.

## **B. Appeals**

An executive may not appeal a performance rating. However—

1. If the executive being rated believes the performance rating and the resultant recommendations have been based on prohibited personnel practices, he or she may file a complaint with the OSC. Filing a complaint does not serve to delay the removal action unless OSC seeks a stay from the Merit Systems Protection Board (MSPB) and the MSPB grants the stay.
2. If a recommendation involves removal of the executive from the SES for performance reasons, the career executive is entitled, upon request, to an informal hearing before an MSPB-designated official at least 15 days before the effective date of the proposed removal.
3. At the informal hearing, the career executive may appear and present arguments, but the hearing does not give the executive the right to initiate action with the MSPB, nor is the removal action delayed as a result of the MSPB granting a hearing. The MSPB has indicated that it lacks authority to change a performance rating or to order a specific remedy for the executive as a result of a hearing.
4. The MSPB can comment on the executive's arguments and recommend appropriate action if a serious defect in the personnel action is evident.
5. Other avenues afforded by law or regulation (e.g., the Equal Employment Opportunity Commission) may be appropriate (e.g., discrimination allegations filed through the SBCR).

### **C. Procedures**

1. The performance-based removal of a career appointee from the SES must be based on the appointee's annual summary rating(s) assigned by the appointing authority following a recommendation from the PRB.
2. NRC management may terminate a performance appraisal period before it is completed when there is an adequate basis on which to appraise and rate the executive. Thus, although NRC does not have to retain an unsatisfactory performer in a position until the end of the SES rating cycle, the executive must be given a reasonable opportunity to demonstrate competence in a position for a minimum of 90 days before being appraised, and a rating process must be completed that includes all review levels, including a PRB review, as well as the executive's right to provide comments and/or request a higher level review.
3. The career appointee must be given a written notice at least 30 calendar days before the effective date of removal from the SES. The notice must include the following:
  - (a) The reason for the removal.
  - (b) The executive's right to be placed in a position outside the SES.
  - (c) Identification of the placement position either in the 30-day notification letter or in a supplemental notice issued at least 10 calendar days before the effective date of removal.
  - (d) The executive's right to request an informal hearing before an MSPB-designated official and notification that this request must be submitted to the MSPB's headquarters office at least 15 days before the effective date of removal.
  - (e) The effective date of removal.
  - (f) The executive's eligibility to apply for discontinued service retirement, when applicable.
4. The removal of a career appointee for performance reasons is subject to a 120-day moratorium after appointment of the Chairman or the appointment of a noncareer Executive Director for Operations (EDO).

5. An exception to this moratorium is a removal based on an Unsatisfactory rating given before the appointment of the Chairman or a noncareer EDO, such as—
  - (a) An optional removal based on one Unsatisfactory rating.
  - (b) A mandatory removal based on two Unsatisfactory ratings in 5 years.
  - (c) A mandatory removal based on two less than Fully Successful ratings in 3 years.

**D. Guaranteed Placement**

1. A career SES appointee who is removed from the SES for less than fully successful performance is entitled to be placed in a continuing position at a level no lower than the GS/GG-15 level or in an equivalent position with the pay described in 5 U.S.C. 3594.
2. The placement of a career executive under this provision may not cause the separation or reduction in grade of any other employee.

**E. Reductions in Pay**

1. Reductions in pay pursuant to “Setting Individual Senior Executive Pay,” 5 U.S.C. 5383 may not reduce an individual’s pay more than once during a 12- month period.
2. The pay of a career executive may be reduced involuntarily for performance and/or disciplinary reasons; for example, if the executive has received a performance rating of less than Fully Successful. The agency shall provide the executive written notice of the reduction in pay at least 15 days’ in advance of the reduction.

**VI. RECORDS**

**A. Employee Electronic Official Personnel Folder (eOPF)**

1. The records of the NRC SES Performance Appraisal System are maintained in the eOPF.
2. The eOPF will contain the scanned, completed SES Performance Management Executive Performance Agreement in its entirety and any other official appraisal documents.

## **B. Maintenance**

1. The OCHCO will maintain and purge, as appropriate, the eOPF for each executive given an appraisal under this system.
2. The PRB and the PRB Panel will forward any records generated to OCHCO for appropriate retention with the eOPF as part of the official agency files.
3. The eOPF will be maintained under Privacy Act requirements in the OPM System of Records.

## **C. Retention**

1. Appraisals in the eOPF will be retained for 5 consecutive years under 5 U.S.C. 4314(b)(3), except when removal is required by this MD or by administrative or judicial proceedings.
2. The five consecutive years begin with the date the first SES appraisal is issued after the employee is appointed into the SES, including employees reinstated under 5 U.S.C. 3593(b).
3. When the executive moves to another position in the SES with a different agency, all performance-related documents in the eOPF less than 5 years old will be forwarded to the new agency along with the eOPF.
4. When an executive accepts a Presidential appointment pursuant to 5 U.S.C. 3392, the appraisals in the employee's eOPF will be retained as long as the employee remains employed under that Presidential appointment. When the appointment ends, the appraisals in the employee's eOPF will be destroyed if the individual does not return to the SES.
5. Appraisal documents in the eOPF will be destroyed at the end of the 5 years, except when any performance-related document is needed in connection with an ongoing administrative, negotiated, quasi-judicial, or judicial proceeding, and it continues to be retained in this system rather than in another system. In this case, the document may be retained for as long as necessary beyond the 5-year retention period.

## **D. Access to Records**

Access to eOPF records is governed by the provisions of the Privacy Act of 1974 and OPM regulations.

## EXHIBIT

### Exhibit 1 Senior Executive Service Performance Management System

#### 1. System Coverage

The Nuclear Regulatory Commission (hereafter referred to as the agency) Senior Executive Service (SES) performance management system applies to all career, non-career, limited term and limited emergency Nuclear Regulatory Commission senior executives covered by subchapter II of chapter 43 of title 5, United States Code.

#### 2. Definitions

- *Annual summary rating* means the overall rating level that an appointing authority assigns at the end of the appraisal period after considering (1) the initial summary rating, (2) any input from the executive or a higher level review, and (3) the applicable Performance Review Board's (PRB) recommendations. This is the official final rating for the appraisal period.
- *Appointing authority* means the department or agency head, or other official with authority to make appointments in the Senior Executive Service.
- *Appraisal period* means the established period of time for which a senior executive's performance will be appraised and rated.
- *Critical element* means a key component of an executive's work that contributes to organizational goals and results and is so important that unsatisfactory performance of the element would make the executive's overall job performance unsatisfactory. Critical elements may include the possession and demonstration of competencies critical to success in the position. Such elements shall be used to measure performance only at the individual level.
- *Initial summary rating* means an overall rating level the rating official derives from appraising the senior executive's performance during the appraisal period in relation to the critical elements and performance standards and requirements and forwards to the PRB.
- *Oversight official* means the agency head, or the individual specifically designated by the agency head, who provides oversight of the performance management system and issues performance appraisal guidelines.

- *Performance* means the accomplishment of the work described in the senior executive's performance plan.
- *Performance appraisal* means the review and evaluation of a senior executive's performance against critical elements and performance standards and requirements.
- *Performance management system* means the framework of policies and practices that an agency establishes under subchapter II of chapter 43 of title 5, United States Code, for planning, monitoring, developing, evaluating, and rewarding both individual and organizational performance and for using resulting performance information in making personnel decisions.
- *Performance requirement* means a description of what a senior executive must accomplish, or the competencies to be demonstrated, to be rated at a specific level of performance. Performance requirements must include quality indicators and generally include other performance measures such as quantity, timeliness, cost savings, manner of performance, or other factors.
- *Performance standard* means a normative description of a single level of performance and also provides the benchmark for developing performance requirements against which actual performance will be assessed.
- *Progress review* means a review of the senior executive's progress in meeting the performance requirements. A progress review is not a performance rating.
- *Quality indicator* means descriptive language that explains how the rating official will determine the work product is acceptable. These indicators often are expressed as smaller, verifiable accomplishments ("mini-results") that must be completed successfully to produce the principal result identified in the performance objective.
- *Senior executive performance plan* means the written critical elements and performance requirements against which performance will be evaluated during the appraisal period by applying the established performance standards. The plan includes all critical elements, performance standards, and performance requirements, including any specific goals, targets, or other measures established for the senior executive. The performance plan template, included in this performance management system, is the senior executive performance plan.
- *Strategic planning initiatives* means agency strategic plans as required by the GPRA Modernization Act of 2010, annual performance plans, organizational work plans, and other related initiatives.



### 3. Appraisal Period

- **Appraisal Period.** Executives must be appraised at least annually on their performance against their critical elements and performance standards and requirements and an annual summary rating must be assigned for the relevant period of performance for each year (e.g., October 1 through September 30). The performance year at NRC begins on October 1 and ends September 30 of the following year.
- **Minimum Period.** The minimum period of performance that must be completed before a performance rating can be given is 90 days.
- **Adjusting Appraisal Period.** The agency may end an appraisal period at any time after the minimum appraisal period is completed, but only if the agency determines there is an adequate basis on which to appraise and rate the performance of senior executive(s) and the shortened appraisal period promotes the effectiveness of the administration of the appraisal system.
- **Transition Period.** The agency may not appraise and rate any career executive within 120 days after the beginning of a new Presidential administration.

### 4. Summary Performance Levels

- The system includes five summary performance levels:

Level	Basic System Label	NRC Label
Level 5	Outstanding	Outstanding
Level 4	Exceeds Fully Successful	Excellent
Level 3	Fully Successful	Fully Successful
Level 2	Minimally Successful	Needs Improvement
Level 1	Unsatisfactory	Unsatisfactory

## 5. *Planning Performance: Critical Elements*

- Supervisors must develop performance plans in consultation with the senior executives and communicate the plans to them in writing, including through the use of automated systems, on or before the beginning of the appraisal period or upon appointment to a new senior executive position.
- Each senior executive performance plan shall include, as a minimum, the following critical elements and performance requirements:

- **Critical Element 1 - Leading Change**

Develops and implements an organizational vision that integrates key organizational and program goals, priorities, values, and other factors. Assesses and adjusts to changing situations, implementing innovative solutions to make organizational improvements, ranging from incremental improvements to major shifts in direction or approach, as appropriate. Balances change and continuity; continually strives to improve service and program performance; creates a work environment that encourages creative thinking, collaboration, and transparency; and maintains program focus, even under adversity.

- **Critical Element 2 - Leading People**

Designs and implements strategies that maximize employee potential, connects the organization horizontally and vertically, and fosters high ethical standards in meeting the organization's vision, mission, and goals. Provides an inclusive workplace that fosters the development of others to their full potential; allows for full participation by all employees; facilitates collaboration, cooperation, and teamwork, and supports constructive resolution of conflicts. Ensures employee performance plans are aligned with the organization's mission and goals, that employees receive constructive feedback, and that employees are realistically appraised against clearly defined and communicated performance standards. Holds employees accountable for appropriate levels of performance and conduct. Seeks and considers employee input. Recruits, retains, and develops the talent needed to achieve a high quality, diverse workforce that reflects the nation, with the skills needed to accomplish organizational performance objectives while supporting workforce diversity, workplace inclusion, and equal employment policies and programs.

- **Critical Element 3 - Business Acumen**

Assesses, analyzes, acquires, and administers human, financial, material, and information resources in a manner that instills public trust and accomplishes the

organization's mission. Uses technology to enhance processes and decision making. Executes the operating budget; prepares budget requests with justifications; and manages resources.

○ **Critical Element 4 - Building Coalitions**

Solicits and considers feedback from internal and external stakeholders or customers. Coordinates with appropriate parties to maximize input from the widest range of appropriate stakeholders to facilitate an open exchange of opinion from diverse groups and strengthen internal and external support. Explains, advocates, and expresses facts and ideas in a convincing manner and negotiates with individuals and groups internally and externally, as appropriate. Develops a professional network with other organizations and identifies the internal and external politics that affect the work of the organization.

○ **Critical Element 5 - Results Driven**

This critical element includes specific performance results expected from the executive during the appraisal period, focusing on measurable outcomes from the strategic plan or other measurable outputs and outcomes clearly aligned to organizational goals and objectives. At a minimum, the performance plan will include performance requirements that contain measurable results and their quality indicators describing the range of performance at Level 3 for each result specified. It is recommended to also establish the threshold indicators for Levels 5 and 2. Indicators must reflect the same level of performance as the respective performance standard contained in section 6. In addition to the quality indicators, applicable measures of quantity, timeliness, and/or cost-effectiveness may be included to describe the appropriate level of outcome(s) expected.

The Results-Driven critical element must also identify clear, transparent alignment to agency strategic planning initiatives (e.g., relevant agency or organizational goals/objectives with cited page numbers from the Strategic Plan, Congressional Budget Justification/Annual Performance Plan, or other organizational planning document) in the designated section for each performance requirement in the Results Driven critical element.

- Executive performance plans must include the Governmentwide SES performance requirements in critical elements 1 through 4 as written and may include additional agency-specific performance requirements written as competencies or specific results/commitments/measurable activities associated with the critical element.

- Senior executive performance plans must include specific results focused performance requirements (e.g., outcomes and outputs) that align to agency goal(s) and objective(s) listed under the Results-Driven element. Performance requirements for the Results Driven element must include quality indicators that identify how well work must be performed and describe how the rating official will know the work is acceptable. Other measures, targets, and timelines may be included, as appropriate.
- The performance requirements in the executive performance plan describe performance at the Fully Successful level, as established in the Fully Successful performance standard contained in section 6 of this document.
- Each critical element must be assigned a weight, with the total weights adding to 100 points.
  - The minimum weight that may be assigned to the Results Driven critical element is 20 points.
  - The minimum weight that may be assigned to any of the other four critical elements is 5 points.
  - No single performance element may be assigned a greater weight than the Results Driven element.

The Executive Resources Board (ERB) reviews and assigns minimum weights for elements each year. The ERB may allow offices and regions flexibility to distribute any remaining percentage points, either for all executives within the office or region, or based on the responsibilities of the individual executive.

- The gaining organization must set performance goals and requirements for any detail or temporary assignment of 120 days or longer and appraise the performance in writing, including through an automated system. The executive's rating official will factor this appraisal into the initial summary rating.

#### **6. *Planning Performance: Performance Standards for Critical Elements***

The performance standard for each critical element is specified below.

- **Level 5:** The executive demonstrates exceptional performance, fostering a climate that sustains excellence and optimizes results in the executive's organization, agency, department or Governmentwide. This represents the highest level of executive performance, as evidenced by the extraordinary impact on the achievement of the organization's mission. The executive is an inspirational leader

and is considered a role model by agency leadership, peers, and employees. The executive continually contributes materially to or spearheads agency efforts that address or accomplish important agency goals, consistently achieves expectations at the highest level of quality possible, and consistently handles challenges, exceeds targets, and completes assignments ahead of schedule at every step along the way.

Performance at this level may be demonstrated in such ways as the following examples:

- Overcomes unanticipated barriers or intractable problems by developing creative solutions that address program concerns that could adversely affect the organization, agency, or Government.
  - Through leadership by example, creates a work environment that fosters creative thinking and innovation; fosters core process re-engineering; and accomplishment of established organizational performance targets.
  - Takes the initiative to identify new opportunities for program and policy development and implementation or seeks more opportunities to contribute to optimizing results; takes calculated risks to accomplish organizational objectives with positive results.
  - Accomplishes objectives even under demands and time pressure beyond those typically found in the executive environment.
  - Achieves results of significant value to the organization, agency, or Government.
  - Achieves significant efficiencies or cost-savings in program delivery or in daily operational costs of the organization.
- **Level 4:** The executive demonstrates a very high level of performance beyond that required for successful performance in the executive's position and scope of responsibilities. The executive is a proven, highly effective leader who builds trust and instills confidence in agency leadership, peers, and employees. The executive consistently exceeds established performance expectations, timelines, or targets, as applicable.

Performance at this level may be demonstrated in such ways as the following:

- Advances progress significantly toward achieving one or more strategic goals.
- Demonstrates unusual resourcefulness in dealing with program operations or policy challenges.

- Achieves unexpected results that advance the goals and objectives of the organization, agency, or Government.
- **Level 3:** The executive demonstrates the high level of performance expected and the executive's actions and leadership contribute positively toward the achievement of strategic goals and meaningful results. The executive is an effective, solid, and dependable leader who delivers high-quality results based on measures of quality, quantity, efficiency, and/or effectiveness, within agreed upon timelines. The executive meets and sometimes exceeds challenging performance expectations established for the position.

Performance at this level may be demonstrated in such ways as the following:

- Seizes opportunities to address issues and effects change when needed.
- Finds solutions to serious problems and champions their adoption.
- Designs strategies leading to improvements.
- **Level 2:** The executive's contributions to the organization are acceptable in the short term but do not appreciably advance the organization towards achievement of its goals and objectives. While the executive generally meets established performance expectations, timelines and targets, there are occasional lapses that impair operations and/or cause concern from management. While showing basic ability to accomplish work through others, the executive may demonstrate limited ability to inspire subordinates to give their best efforts or to marshal those efforts effectively to address problems characteristic of the organization and its work.
- **Level 1:** In repeated instances, the executive demonstrates performance deficiencies that detract from mission goals and objectives. The executive generally is viewed as ineffectual by agency leadership, peers, or employees. The executive routinely does not meet established performance expectations/timelines/targets and fails to produce – or produces unacceptable – work products, services, or outcomes.

## 7. *Monitoring Performance*

- **Monitor and Provide Feedback.** Throughout the appraisal period, a supervisor must monitor senior executive performance in accomplishing elements and requirements and provide feedback, including advice and assistance on improving performance, when needed and encouragement and positive reinforcement as appropriate. Supervisors and senior executives should engage in frequent two-way

conversations regarding progress toward meeting the critical elements in the senior executive's performance plan. Such conversations should include the following: status updates; identification of obstacles that impede progress in attaining milestones; indicators of success or needs for improvement; and a need to revise the senior executive's performance plan to account for changing objectives, priorities and any other factors affecting the senior executive's performance toward work assignments or responsibilities.

- **Progress Review.** Each senior executive must receive at least one progress review during the appraisal period. At a minimum, the executive must be informed how well he or she is performing against performance requirements.

#### **8. *Rating Critical Elements***

When an element has multiple components (for example, when the executive is responsible for more than one result under critical element 5), the appraiser will use judgment to determine the overall element rating based on the definitions for the 5 performance levels found in Section 6, and considerations such as the outcome for each component, the degree to which the executive surpassed or failed to meet measures, challenges associated with the different components, and relative priorities and importance to agency performance of the different results or requirements. Appraisals consider organizational performance (as reflected in the Agency Performance Report, business line reports, etc.) as well as individual performance.

#### **9. *Deriving the Summary Rating***

- **Critical Element Point Values.** Once the rating for each critical element is determined, the following point values will be assigned to the element ratings:
  - Level 5 = 5 points
  - Level 4 = 4 points
  - Level 3 = 3 points
  - Level 2 = 2 points
  - Level 1 = 0 points

- **Derivation Formula.** The derivation formula is calculated as follows:
  - If any critical element is rated Level 1 (Unsatisfactory), the overall summary rating is Unsatisfactory. If no critical element is rated Level 1 (Unsatisfactory), continue to the next step.
  - For each critical element, multiply the element rating level point value by the weight assigned to that element.
  - Add the results from the previous step for each of the five critical elements to come to a total score.
  - Assign the initial summary rating using the ranges below:
    - 475-500 = Level 5
    - 400-474 = Level 4
    - 300-399 = Level 3
    - 200-299 = Level 2
    - Any critical element rated Level 1 = Level 1
  - Example, with the initial summary rating determined to be Level 4 (Excellent):



Critical Element	Rating Level	Weight	Score	Summary Level Range
	Initial Element Score		Initial Point Score	
1. Leading Change	4	15	4 x 15 = 60	475-500 = Level 5 400-474 = Level 4 300-399 = Level 3 200-299 = Level 2 Any CE rated Level 1 = Level 1
2. Leading People	5	15	5 x 15 = 75	
3. Business Acumen	3	15	3 x 15 = 45	
4. Building Coalitions	4	15	4 x 15 = 60	
5. Results Driven	4	40	4 x 40 = 160	
Total		100%	400	

- **Initial Summary Rating.** The rating official will develop an initial summary rating in writing, including through the use of automated systems, and share the rating with the senior executive.
- **Opportunity for Written Response.** A senior executive may respond in writing, including through the use of automated systems, to the initial summary rating.
- **Opportunity for Higher Level Review (HLR).** Upon a senior executive’s request, the agency must provide an opportunity for review of the initial rating before the rating is presented to the PRB. The agency may designate who will provide HLR for its executives, except that a review may not be provided by a member of the PRB or an official who participated in determining the initial summary rating.
  - When an agency cannot provide a review by a higher-level official because no such higher-level official exists in the agency (e.g., the agency head

provided the initial summary rating, the higher-level reviewer position is vacant, etc.), the agency must offer an alternative review by an official the agency deems appropriate.

An official providing HLR or an alternative review may not change the initial rating but may recommend a different rating to the PRB. Copies of findings and recommendations by the HLR official or the official performing an alternative review must be given to the senior executive, the rating official, and the PRB.

- **Forced Distribution.** A forced distribution of rating levels is prohibited.
- **Job Changes or Transfers.** When a senior executive who has completed the minimum appraisal period changes jobs or transfers to another agency, the supervisor must appraise the executive's performance in writing, including through the use of automated systems, before the executive leaves; the appraisal will be given to the executive and forwarded to the gaining agency.
- **Transferred Ratings.** When developing an initial summary rating for an executive who transfers from another agency, a supervisor must consider any applicable ratings and appraisals of the executive's performance received from the former agency.
- **Extending the Appraisal Period.** If the agency cannot prepare an executive's rating at the end of the appraisal period because the executive has not completed the minimum appraisal period or for other reasons, the agency must extend the executive's appraisal period. Once the appropriate conditions are met, the agency will then prepare the annual summary rating.
- **Annual Summary Rating.** The annual summary rating must be assigned by the appointing authority (and may not be delegated to an official who does not have authority to make SES appointments) only after considering the recommendations of the PRB. The annual summary rating must be communicated to the executive in writing, including through the use of automated systems, normally within 3 months of the end of the appraisal period.

#### 10. Performance Review Boards

- **PRB.** The agency shall establish one or more PRBs to make written recommendations on each executive's annual summary rating, performance-based pay adjustment, and performance award to the appointing authority.

- **Membership.** Each PRB must have 3 or more members selected by the agency head or designee(s) in a manner that ensures consistency, stability, and objectivity in SES performance appraisal. PRB appointments must be published in the Federal Register before service begins.
- **Career Membership.** More than one-half of the PRB's members must be career appointees when considering a career appointee's appraisal, performance-based pay adjustment, or performance award.
- **Review Ratings.** The PRB must review and evaluate the initial performance appraisal and summary rating, any senior executive's response, and any higher-level official's findings and recommendations on the initial summary rating or the results of an alternative review. The PRB may conduct any additional review needed to make written recommendations to the appointing authority on annual summary ratings, performance awards, and performance-based pay adjustments for each senior executive. PRB members may not be involved in deliberations involving their own appraisals, performance-based pay adjustments, and performance awards.
- **Executive Response.** The PRB may not review an initial summary rating to which the executive has not been given the opportunity to respond in writing, including through the use of automated systems.
- **Agency/Organizational Performance.** The PRB must be provided and take into account appropriate assessments of the agency/organization's performance, as communicated by the oversight official through performance appraisal guidelines, when making recommendations.

## 11. Dealing with Poor Performance

- **Performance Actions.** The agency must: 1) reassign, transfer or remove from the Senior Executive Service a career senior executive who has been assigned a Level 1 (Unsatisfactory) final summary rating; 2) remove from the Senior Executive Service an executive who has been assigned two final summary ratings at less than Level 3 (i.e., Level 2 or a combination of Levels 2 and 1) within a three year period; and 3) remove from the Senior Executive Service an executive who receives two Level 1 (Unsatisfactory) final summary ratings within five years. Non-probationary career appointees are removed under procedures in 5 CFR 359 subpart E. Probationary career appointees are removed under procedures in 5 CFR 359 subpart D. (Nothing here shall be interpreted to limit removal of probationary SES employees as

permitted by current regulations.) Guaranteed placement in a non-SES position will be provided under 5 CFR 359 subpart G when applicable.

- **Appeal Rights.** Senior executive performance appraisals and ratings may not be appealed. The executive may file a complaint about any aspect of the rating process the executive believes to involve unlawful discrimination (EEOC) or a prohibited personnel practice (Office of Special Counsel). A career appointee being removed from the SES under 5 U.S.C. 3592(a)(2) shall, at least 15 days preceding the date of removal, be entitled, upon request, to an informal hearing before an official designated by the Merit Systems Protection Board.

## 12. Other System Requirements

- **Appraisal Results.** Performance appraisals will be used as a basis for adjusting pay, granting awards, retaining and removing senior executives, and making other personnel decisions. Performance appraisals also will be a factor in assessing a senior executive's continuing development needs.
- **Organizational Assessment and Guidelines.** The agency must assess organizational performance (overall and with respect to each of its particular missions, components, programs, policy areas, and support functions). The agency also must ensure its assessment results and evaluation guidelines based upon them are communicated by the oversight official to senior executives, rating officials, higher level review officials, PRB members, and appointing authorities at the conclusion of the appraisal period and before completion of the initial summary ratings so that they may be considered in preparing performance appraisals, ratings and recommendations.
- **Oversight.** The agency head or the official designated by the agency head provides organizational assessments and evaluation guidelines and is responsible to oversee the system and to certify: 1) the appraisal process makes meaningful distinctions based on relative performance; 2) executive ratings take into account assessments of organizational performance; and 3) pay adjustments, awards and pay levels based on the results of the appraisal process accurately reflect individual performance and/or contribution to agency performance. The responsible official designated to provide evaluation guidelines and oversee the appraisal system must do so for the entire executive agency.

- **Performance Distinctions.** Rating officials and PRBs will make meaningful distinctions based on relative performance that take into account assessment of the agency's performance against relevant program performance measures.
- **Differences in Pay Based on Performance.** Differentiation will be evident in the pay adjustments, performance awards, and rates of pay separately. Senior executives who have demonstrated the highest levels of performance will receive the highest annual summary ratings and the largest corresponding performance awards, pay adjustments, and rates of pay. Pay adjustments and performance awards will be made within 5 months following the end of the applicable appraisal period.

### 13. Training and Evaluation

- **Training.** The agency will provide information and training to agency leadership, supervisors, and senior executives on the requirements and operation of the agency's performance management and pay-for-performance systems.
- **Evaluation.** The agency will periodically evaluate the effectiveness of the performance management system(s) and implement improvements as needed.

### 14. Additional Agency-Specific Policies

- Management Directive 10.137, Senior Executive Performance Appraisal System, confirms NRC's authorities and provides additional process guidance for executive performance management.