



UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer and
Assistant Secretary for Administration
Washington, D.C. 20230

12 Aug 2021

MEMORANDUM FOR: Secretarial Officers
Operating Unit Heads

FROM: Paula E. Patrick
Acting Director for Human Resources Management and
Chief Human Capital Officer

SUBJECT: End-of-Year Operational Guidance for 2021 and
Performance Planning Information for Senior Executive and
Senior Professional Employees for 2022

The Department of Commerce senior leadership is committed to sound principles and policies related to effective performance management. I want to highlight several expectations and requirements as we prepare to establish 2022 performance requirements and complete 2021 end-of-performance-year activities.

When making rating recommendations, performance must be evaluated using applicable performance requirements and performance standards for the position during the relevant appraisal period. The Departmental Executive Resources Board (DERB) expects differentiation in performance ratings, and requires assurance that rating officials' recommended ratings truly meet the performance level definitions under the Senior Executive Service (SES) performance management system (i.e., only those executives whose performance meets the Office of Personnel Management's (OPM) Performance Standards for "Outstanding" are rated "Outstanding"; those rated "Exceeds Fully Successful" entirely meet the performance standards for assignment of that rating level, etc.). Beyond supporting our performance maximization efforts, differentiation is required to maintain certification of our SES and Scientific or Professional and Senior Level (ST/SL) performance management systems.

The Performance Review Boards' (PRB) role in the performance management process is very important. The PRBs must critically review ratings recommendations against the Performance Standards and ensure consistency across the organization(s), paying particular attention to ratings higher than Fully Successful. The PRBs also must critically examine performance appraisals' alignment with strategic goals, results, organizational assessments, employees' documentation of accomplishments, and the OPM Appraisal System Criteria. Appointing authorities are required by regulation to give due consideration to the PRB recommendations. When appointing authorities have any questions or need additional information about PRB recommendations in order to make final recommendations to the Secretary, they should discuss them with the PRB Chair. The DERB will hold your PRB accountable for fulfilling its charge. Guidance on the activities, responsibilities, and composition of the PRBs, and the SES/ST/SL Performance Standards for Critical Elements are provided in Attachment A of this memorandum.

SUBJECT: End-of-Year Operational Guidance for 2021 and Performance Planning
Information for Senior Executive and Senior Professional Employees for 2022

Page 2

The DERB requires that the basis for the proposed ratings be clearly evident. The narrative summaries must describe the specific nature and quality of the executives' performance results, unambiguously convey their contribution to mission accomplishment, and clearly and strongly support your recommendations. Part 6 of the SES Performance Management System Executive Performance Agreement and Part 9 of the ST/SL Appraisal Program Performance Plan should note that the narrative summary is documented in an attachment conforming to Attachment B.

Narrative summaries may not exceed 2 pages in length; must be written by the supervisor of record in an element-by-element format rather than as one long narrative; must specifically address performance requirements contained in the agreements or plans; must describe the specific nature and quality of the results; must unambiguously convey their contribution to mission accomplishment; and must clearly and strongly support recommendations. Adverse action procedures for career SES members who fail to meet performance requirements are outlined in Attachment C.

We anticipate the Department's bonus pool will be funded at 8 percent of salaries of career employees. You will be notified of your organization's bonus pool via separate memorandum. SES and ST/SL pools are separate as the performance management systems are different; thus, interchange of funds between the pools is not possible. Also, please note that recommendations must be consistent with the Departmental Pay Policy Summary (Attachment D).

In accordance with applicable Department Organizational and Administrative Orders, on positions for which there is a bureau-level counterpart position, the Departmental Chief Officer will provide the bureau officials' ratings for Critical Element 3, "Business Acumen." The performance feedback process for these positions must be completed in accordance with the timeline provided with this memorandum.

OPM has not finalized 2021 Presidential Rank Awards (PRA) requirements; therefore, please be certain to submit nominations in accordance with the guidance also contained at Attachment E. Upon receipt of OPM's official guidance, additional instructions will be provided.

As always, remind rating and reviewing officials that performance-related recommendations are not final until conclusion of the DERB's work, and performance outcomes are approved. Bureau/operating unit recommendations are not binding, so no feedback on performance-based bonuses or pay adjustments may be provided to executives until after receipt of the Departmental notification. (Initial summary ratings for SES members and the Rating Official's recommended rating for ST/SL employees must be provided to allow for higher level review, if requested.)

The timetable for end-of-year activities is in Attachment F. Please ensure that your staff follows all procedures and adheres to the Departmental timetable.

Last, and importantly, under regulation, SES and ST/SL 2022 performance agreements must be in place no later than October 1, 2021. Performance expectations must be appropriately rigorous, aligned to the work that needs to be done, and effectively communicated by that date.

SUBJECT: End-of-Year Operational Guidance for 2021 and Performance Planning
Information for Senior Executive and Senior Professional Employees for 2022

Page 3

If you have any questions, please contact me or Nancy Osborn, Director, Office of Executive Resources at (202) 482-5815.

Attachments:

Attachment A – Performance Review Board (PRB) Guidelines and Performance Standards for
Critical Elements

Attachment B – Narrative Summary Format

Attachment C – Adverse Action Procedures for Career SES Members Who Fail to Meet
Performance Requirements

Attachment D – Departmental Pay Policy Summary

Attachment E – Presidential Rank Award Program Instructions with Sample Formats

Attachment F – Timetable for End-of-Year Senior Employee Activities

cc: Principal Human Resources Managers

Performance Review Board (PRB) Guidelines

The following highlights the PRBs' role in performance management and the processes they must follow to meet all applicable statutes, OPM implementing regulations, and Departmental requirements. These guidelines are supplemented by applicable bureau/operating unit PRB charters.

PRB Membership Restrictions

While additional restrictions may be listed in applicable PRB charters, at a minimum, a member shall not participate in a specific performance appraisal review when he/she is:

1. The senior executive or senior professional whose performance is being reviewed, or
2. The rater of the senior executive(s) or senior professional whose performance is being reviewed.

To participate in PRB deliberations, each member's most recent rating of record must be Fully Successful or higher. You are encouraged to consider diversity and inclusion in your PRB membership.

Each PRB must have at a minimum, one member who is not within the organization under the reporting line of the Secretarial Officer or Operating Unit Head. In addition, the PRB must have at least three but no more than five members. Each PRB must include noncareer executive participation. It is encouraged that the executive function as a full member but at a minimum in an advisory capacity.

While a greater number of members may be published in the *Federal Register* to ensure that a sufficient number of executives are available to convene, bureau PRBs are limited to five convening members to perform their work.

General Process Information

Prior to commencement of PRB activities, their responsibilities must be detailed to them by a human resources (HR) office representative having expertise in executive performance management subject matter. The PRBs additionally must be advised that in the conduct of their work, they must critically examine alignment of performance appraisals with strategic goals, results, employees' documentation of accomplishments, organizational assessments, and OPM's Appraisal System Criteria.

The PRBs must be diligent in the review process to ensure that meaningful distinctions based on relative performance are being made, thereby strengthening the link between performance and pay. In particular, the PRBs are required to examine the alignment of executives' performance outcomes with strategic goals. The PRBs review employees' input, organizational assessments, initial summary ratings (or the Rating Official's Recommended ratings), and performance-based pay adjustment and bonus recommendations. Based on Departmental Pay Policy, they make recommendations to Appointing Authorities on:

1. Final annual SES, ST and SL summary ratings
2. Performance-based SES, ST and SL bonuses
3. Performance-based SES, ST and SL pay adjustments
4. Presidential Rank Awards

Higher Level Review

A senior executive or senior professional may request higher level review of the initial summary rating before it is forwarded to the PRB for review. The senior executive or senior professional is entitled to one higher level review. The request must be made to the Principal Human Resources Manager within 5 workdays of receipt of the initial rating. The higher level review must be completed prior to the PRB considering the rating.

Recommendations to Secretarial Officers and Operating Unit Heads

The PRBs must make written recommendations on SES and ST/SL summary ratings, proposed performance-based pay adjustments and bonuses, and PRA nominations (to the appropriate Secretarial Officer/Operating Unit Head). These recommendations are made after reviewing performance appraisals, initial summary ratings (or the Rating Official's recommended rating), SES or ST/SL written responses, recommended performance-based pay adjustments and bonuses, organizational assessments, and higher level review findings, if any. The PRB recommendations are not binding. When the PRB does not concur with the initial summary rating, or when there is a record of disagreement with the rating by the executive, the PRB must include a written explanation for its recommendation. The PRBs must always document their recommendations, and the PRB Chair must sign them.

Performance Standards for Critical Elements

Senior Executive Service

- **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.
- **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.

- **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.
- **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.

Scientific or Professional and Senior Level

- **Level 5:** The Senior Professional demonstrates exceptional performance, directly contributes toward sustaining organizational excellence, and enhances the ability to achieve results in the Senior Professional's organization, agency, department, or Governmentwide. This level represents the highest level of Senior Professional performance, as evidenced by the extraordinary impact on the achievement of the organization's mission. The Senior Professional continually contributes materially to or spearheads agency efforts that address or accomplish important agency goals. The Senior Professional consistently exceeds expectations at the highest level of quality possible, and consistently handles challenges, exceeds targets, and completes high-quality assignments ahead of schedule.
- **Level 4:** The Senior Professional demonstrates a very high level of performance beyond that required for successful performance in the Senior Professional's position. The Senior Professional often exceeds established performance expectations, timelines, or targets, as applicable. The Senior Professional is consistently highly effective and delivers high-quality results.
- **Level 3:** The Senior Professional demonstrates the high level of performance expected of Senior Professionals and the Senior Professional's actions contribute positively toward the achievement of project/program goals and meaningful results. The Senior Professional is

effective, dependable and delivers project/program results based on indicators of quality, or measures of quantity, efficiency, and/or effectiveness within agreed upon timelines. The Senior Professional meets and occasionally exceeds challenging performance expectations established for the position.

- **Level 2:** The Senior Professional's contributions to the organization are acceptable in the short term, but do not appreciably advance the project/program or organization toward achievement of its goals and objectives. While the Senior Professional 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 assigned project/program(s), the Senior Professional may demonstrate limited ability to address problems characteristic of the project/program or organization and its work.

- **Level 1:** In repeated instances, the Senior Professional demonstrates performance deficiencies that detract from project/program goals and objectives or the agency mission. The Senior Professional generally is viewed as ineffectual by agency leadership or peers. The Senior Professional does not meet established performance expectations/timelines/targets and fails to produce – or produces unacceptable – work products, services, or outcomes.

**Department of Commerce
FY 2021 Narrative Summary**

Bureau: _____
Name of Senior Executive/Professional: _____
Position Title: _____
Recommended Rating (Adjective): _____
Recommended Bonus Percentage: _____
Recommended Pay Adjustment Percentage: _____
Is SES or ST/SL member under consideration for a Presidential Rank Award (select one): Yes ___
No ___

(Narrative not to exceed 2 pages. Each critical element must be addressed separately and speak to the performance requirements contained in the performance agreement/plan.)

Critical Elements for SES Members:

Leading Change

Leading People

Business Acumen

Building Coalitions

Results Driven

Critical Elements for Senior Professionals:

Project/Program Management

Interpersonal Leadership/Responsibilities

Leading Innovation

Business Results

Position Specific (Optional)

Adverse Action Procedures for Career SES Members Who Fail to Meet Performance Requirements

Coverage

Career SES members who have completed the probationary period, if required, and who are not re-employed annuitants.

Removal Due to Failure to Meet Annual Performance Requirements

An Unsatisfactory rating requires a reassignment or transfer within the SES, or removal from the SES in accordance with 5 Code of Federal Regulations (CFR) 430.312(c)(1).

Two Unsatisfactory ratings within any period of 5 consecutive years require removal from the SES in accordance with 5 CFR 430.312(c)(2).

Two less than Fully Successful ratings in any period of 3 consecutive years require removal from the SES in accordance with 5 CFR 430.312(c)(3).

Notice in writing is required at least 30 days before the effective date of the removal action. The notice shall include:

- The basis for the action;
- The executive's placement rights;
- The executive's right to an informal Merit Systems Protection Board (MSPB) hearing;
- The effective date of removal;
- (If applicable), the appointee's eligibility for immediate discontinued service retirement in lieu of placement rights.
- The fallback position to a GS-15 or equivalent position will be identified.
- Notice of the right to an informal hearing before the MSPB at the employee's request at least 15 days before the effective date of removal.

Removal for less than Fully Successful performance cannot be made effective within 120 days after the appointment of a new Secretary of Commerce or the appointment of the career appointee's most immediate supervisor who is a noncareer appointee and has the authority to remove the career appointee (the Secretarial Officer). This restriction does not apply when the career appointee has received a final rating of Unsatisfactory under the Department's performance appraisal system before the appointment of a new agency head or Appointing Authority.

Senior Executive/Professional Pay Policy Summary

The Department's SES and ST/SL Performance Management Systems have five summary performance levels: Outstanding (Level 5), Exceeds Fully Successful (Level 4), Fully Successful (Level 3), Minimally Satisfactory (Level 2), and Unsatisfactory for SES and Unacceptable for ST/SL (Level 1). **No decimals may be used in assigning a level.**

DOC SES and ST/SL Performance-based Pay Adjustment Basic Eligibility Criteria

The following policy provisions will apply:

Generally, the senior executive has not received a pay increase since January 3, 2021. The DERB will entertain requests for exception to this policy; however, it is expected they will be rare and very well-justified in writing by the Appointing Authority.

A senior executive annual summary rating or senior professional's rating of record must be at least Fully Successful. A rating of Fully Successful (Level 3) or higher has been assigned to each critical element in the senior executive/senior professional's performance agreement/plan.

Pay adjustments may only be proposed within the applicable pay adjustment ceilings. SES and ST/SL employees may be recommended for increases of up to 2.6 percent for a Fully Successful rating, up to 3.6 percent for an Exceeds Fully Successful/Commendable rating, and up to 4.6 percent for an Outstanding rating.

In accordance with regulation, a senior executive who receives an annual summary rating of Outstanding (Level 5, 475-500 points) must be considered for an annual pay increase subject to the limitation on the maximum rate of base pay, the EX-II level (\$199,300 for FY 2021).

Decisions concerning SES performance-related downward pay adjustments are limited to no more than 10 percent of base pay, and will be made at the discretion of the Secretarial Officer, with prior consultation with the Acting Director of Human Resources Management and Chief Human Capital Officer, and the approval of the DERB.

In no event may a lower-rated individual receive a performance outcome greater than a higher-rated individual. For example, someone rated Exceeds Fully Successful may not receive a 9 percent bonus if another individual rated Outstanding in the organization received an 8 percent bonus. The same principle applies to pay adjustments as well. We understand exceptions may need to be made for executives and senior professionals with salaries capped at the EX-II pay rate who are likely to be limited in the percentage that pay may be increased by the establishment of a new EX-II pay rate.

DOC SES and ST/SL Bonus Pools

We anticipate the Department's SES bonus pool will be funded at 8 percent of the aggregate salaries of career executives as of September 30, 2021. The DERB may adjust individual pools to

provide a reserve for the Secretary's use as long as the Department's 8 percent funding maximum is maintained. The Department will provide Secretarial Officers/Operating Unit Heads their bonus pool amounts. Bureaus and operating units must not exceed the designated pool amounts.

For the Department's ST/SL cadre, the pool will be calculated similarly to the SES and will be applied in accordance with the requirements provided above. As some ST/SL populations are small, bureaus will be allowed to request that the DERB allow bonuses to be given in excess of the assigned pool amount. Such requests must be on a limited basis, reserved for the highest performers, and supported by thorough, detailed justifications in writing by the Appointing Authority. The DERB will consider such requests to the extent that funds allow.

DOC SES Performance-based Bonuses

In accordance with statute, only career executives may receive performance-based bonuses. If proposed for a bonus, career executives may receive from the statutory minimum of 5 percent, up to 15 percent of salary. Bonuses may only be proposed within the applicable bonus amount ceilings; executives may receive a 5 percent bonus for a Fully Successful summary rating, up to 10 percent for an Exceeds Fully Successful summary rating, and up to 15 percent for an Outstanding summary rating. Bonuses are computed as a percentage of base salary, up to three decimal places. The DERB reserves the right to make recommendations to the Secretary for bonuses of more than 15 percent. Expression of bonuses as dollar values rather than percentages will not be accepted.

DOC ST/SL Performance-based Bonuses

If proposed for a bonus, ST/SL employees may receive up to 4 percent for a Fully Successful Rating; 4.1 to 7.9 percent for an Exceeds Fully Successful rating; and 8 to 12.6 percent, not to exceed \$24,999 for an Outstanding rating.

2020 Presidential Rank Award recipients are not eligible for bonuses.

Presidential Rank Award Program Instructions

General Information

To recognize prolonged high-quality accomplishment, the President awards the rank of Distinguished Executive, Distinguished Senior Professional, Meritorious Executive, and Meritorious Senior Professional each year to a select number of SES career executives and senior career professionals. The Department submits its nominations to OPM, which administers the Presidential Rank Award Review Boards, composed of private citizens. Separate Review Boards evaluate SES nominations and senior professional nominations. Each Board individually evaluates and rates the accomplishments described in the justification statements.

Distinguished Executive and Distinguished Senior Professional Rank Awards recognize sustained extraordinary accomplishment and include an award of 35 percent of base pay.

Meritorious Executive and Meritorious Senior Professional Rank Awards recognize sustained accomplishment and include an award of 20 percent of base pay.

Submission Requirements

Nominations must be signed by the appropriate Secretarial Officer and/or Head of the Operating Unit before submission to the Department. By signing this document, the Secretarial Officer/Head of the Operating Unit affirms that all information and accomplishments in the nomination are accurate.

Each nomination must contain the following original documentation:

- A transmittal memorandum signed by the Secretarial Officer. (When OPM makes the updated nomination forms available to agencies, Secretarial Officers will sign those to enable formal submission to OPM.)
- Biographical Summary in bullet form that describes the executive's current position and lists highlights from his/her SES or ST/SL career.
- Accomplishment Summary that lists accomplishments attained by the executive which serve as the basis for the nomination and are elaborated in the Justification Statement. The Biographical Summary and Accomplishment Summary, combined, may not exceed 1 page.
- A Justification Statement that concisely addresses the nominee's career accomplishments in terms of the senior executive or senior professional criteria. The PRA Review Board members will evaluate the nomination against the same criteria. The Justification Statement may not exceed 3 pages in length; longer justifications will be returned without action. Please spell out acronyms and abbreviations. The justification heading should indicate the individual's name, title, and operating unit.
- A summary data sheet ranks nominees showing name, current and previous 3 years' performance ratings, years of service with the DOC, previous recognition, including rank awards for which nominees were recommended but not approved. See the chart below.
- The accounting classification code number to be used for payment of an award.
- The work phone number of each nominee.

Attachment E (cont.)

Bureaus must ensure that nominations meet OPM and DOC requirements exactly, and all packages must be free of typographical errors. Nominations returned for rewriting or other corrections should be rare. All required documentation must be received in the Department’s Office of Human Resources Management, Office of Executive Resources, by the deadline to ensure that review and preparation for the DERB is not delayed.

If you have questions concerning the Presidential Rank Award Program or the nomination procedures, please call Jason Duncan, at (202) 482-4841.

SAMPLE

[Name of Operating Unit]

DISTINGUISHED NOMINATIONS

NAME	RATING YEAR '21	PRIOR RATINGS			YEARS OF SERVICE	PREVIOUS RECOGNITION*
		'20	'19	'18		
1. Jane Doe	O	O	C	O	18	'19 – 7% Bonus '18 – Meritorious Rank
2. John Sanchez	C	O	O	O	15	'19 – 7.5% Bonus '18 – Dist/Nominee Not Selected

MERITORIOUS NOMINATIONS

NAME	RATING YEAR '21	PRIOR RATINGS			YEARS OF SERVICE	PREVIOUS RECOGNITION*
		'20	'19	'18		
1. Jerry Brown	O	O	O	C	21	'19 – 10% Bonus '17 – 6% Bonus '15 – Gold Medal '14 – Nobel Prize '10 – Merit/Nominee Not Selected
2. Gina Chin	C	C	O	O	6	'19 – 7.5% Bonus

*When an executive received an SES bonus in the past, provide the year and percentage of the bonus as illustrated. **Do not provide the dollar amount.**

Timetable for End-of-Year Senior Executive/Professional Activities

September 30, 2021	End of FY 2021 Senior Executive and Senior Professional Performance Cycle. Organizational Assessments are distributed.
September 30 – October 13, 2021	Initial summary ratings and Rating Official’s Recommended ratings must be completed, and performance discussions held with senior executives and senior professionals.
October 1, 2021	FY 2022 SES and ST/SL performance agreements/plans must be formally executed.
October 9, 2021	Recommended rating and appraisals for bureau CFOs, CIOs, PHRMs, and AMs covering the Department’s 25 percent of “Business Acumen” are provided to the Office of Executive Resources to transmit to bureaus for consolidation into CFOs’, CIOs’, PHRMs’ and AMs’ overall ratings.
October 19, 2021	Principal Human Resources Managers forward performance documentation of executives requesting higher level review for which no higher-level review is possible in the bureau or operating unit. Supplemental Organizational Assessments are issued to bureaus, as needed.
October 25-29, 2021	Bureaus provide performance recommendations and Presidential Rank Award nominations to individual Performance Review Boards (PRB), and convene PRBs.
November 10, 2021	Secretarial Officers submit performance recommendations (with appraisals and narrative justifications) and Presidential Rank Award nominations to the Director of OHRM for the DERB review.
December 1– 3, 2021	DERB meets and finalizes recommendations on performance outcomes and Presidential Rank Awards, and submits them to the Director OHRM/CHCO.
January 6, 2022	Tentative effective date for performance-based bonuses. Official pay date for pay period 26. End date by which individual performance results must be communicated to senior executives and senior professionals.
January 20, 2022	Tentative effective date for performance-based pay increases. Official pay date for pay period 1.