



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

MEMORANDUM FOR: Secretarial Officers
Operating Unit Heads

FROM: Jeremy Pelter
Deputy Assistant Secretary for Administration, performing the non-exclusive functions and duties of the Chief Financial Officer and Assistant Secretary for Administration

SUBJECT: End-of-Year Operational Guidance for Fiscal Year (FY) 2023 for Senior Executive Service (SES) and Senior Professionals (ST/SL)

The following conveys the operational requirements for the FY 2023 Senior Executive Service (SES) and Senior Professional (ST/SL) Performance Management end-of-cycle activities.

Background

Accurate performance results are associated with employees being rated appropriately based on specific and measurable results aligned with organizational goals and objectives. Bureau Human Resources (HR) representatives must ensure and certify that training and/or consultation is provided to employees and Rating Officials on how to measure performance requirements and activities related to determining appropriate, results-based ratings. To ensure consistency across the Department, Bureaus are required to follow the processes established herein to ensure that the Department's Performance Management Appraisal Systems continue to meet the certification requirements established by the Office of Personnel Management (OPM). As required by OPM, prior to the commencement of Performance Review Board (PRB) activities, members need to be made aware of their responsibilities, which must be explained by an HR representative with executive performance management subject matter expertise. Rating Officials must ensure that employees are rated realistically according to the performance standards outlined in their individual performance plans.

Requirements

Roles

The role of PRBs in the performance management process is critical. PRBs must thoroughly review all rating recommendations against the Performance Standards and ensure consistency across the organization(s), paying particular attention to those ratings that are higher than Fully Successful. As required by OPM, PRBs need to attempt to achieve equity and consistency among the ratings of executives as well as accuracy and fairness with individual ratings. Guidance on the activities, responsibilities, and composition of the PRBs, and the SES and ST/SL Performance Standards for Critical Elements are provided in Attachment A of this memorandum.

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

Rating Differentiation

All SES and ST/SL employees who served in a covered position for at least 90 days must be rated. 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 an applicable performance management system (e.g., only those executives whose performance meets the 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.). Differentiation is required to maintain certification of our SES and ST/SL performance management systems. As a reminder, no decimals (e.g., 3.5) may be used in assigning a rating level.

Documentation

Rating Officials must prepare a narrative summary for each SES, ST and SL employee who receives a rating. Guidance for the narrative summary is provided in Attachment B. 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. Adverse action procedures for career SES members who fail to meet performance requirements are outlined in Attachment C.

SES, ST, and SL employees' documentation of accomplishments is optional. If an employee chooses to provide accomplishments, the documentation must not exceed 3 pages. The documented accomplishments must be provided to the PRB for review. PRB members will consider all documentation that is submitted. During the review process, the PRB will not contact rating or other officials to solicit and receive revised narratives that provide additional information to support a particular individual or overall rating.

Funding

This year, funding for the Department's bonus pools is increased from 8.5 to 9 percent of salaries of career employees, based on the employees on board as of September 30, 2023. Given this greater flexibility, it is expected that enhanced differentiation in performance results will be realized and will be reflected in bonuses. Bureaus are responsible for ensuring all employee information, including salaries, are included on PRB spreadsheets for their respective bonus pools. You will be notified of your organization's bonus pool via a separate memorandum. Please note that recommendations must be consistent with the Departmental Bonus Policy Summary (Attachment D). The Departmental Pay Policy Summary will be released under separate cover.

Summary

As always, remind Rating and Reviewing Officials that performance-related recommendations are not final until conclusion of the DERB's work, which includes approving performance outcomes. Bureau/operating unit recommendations are not binding, so no feedback on performance-based

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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 E. Please ensure that your staff follows all procedures and adheres to the Departmental timetable. HR offices will receive additional guidance on operational requirements throughout the appraising and rewarding processes.

If you have any questions, please contact your servicing human resources office.

Attachments:

Attachment A – PRB Guidelines and Performance Standards for Critical Elements

Attachment B – FY 2023 Narrative Summary Format

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

Attachment D – Senior Executive/Professional Bonus Policy Summary

Attachment E – Tentative Timetable for End-of-Year Senior Employee Activities

cc: Principal Human Resources Managers

Attachment A

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

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 may be supplemented by applicable bureau/operating unit PRB charters. Bureaus must submit Bureau PRB nomination packages to the Office of Executive Resources for the Department, Office of Human Resources Management and the Chief Human Capital Officer no later than September 15, 2023. This deadline is to ensure adequate approvals are in place prior to the Bureau PRB publication in the Federal Register and well ahead of the date the Bureau PRB will be convened.

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 they are:

1. The Senior Executive or Senior Professional whose performance is being reviewed, or
2. The rater of a Senior Executive 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. An Appointing Authority may not serve as a PRB member.

Each PRB must have, at a minimum, one member who is not in the organization under the reporting line of the Secretarial Officer or Operating Unit Head. In addition, the PRB must have at least three—but not more than five—members. Each PRB must include noncareer executive participation. It is encouraged that the executive function as a full member, but the executive must at least serve in an advisory capacity. In addition, it is a requirement for each PRB to have the representative from outside the bureau fully participate as a member.

While a greater number of members may be published in the *Federal Register* to ensure that enough 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, Bureaus must provide training to members of the PRB being convened. Trainings need to be clear and concise on how PRBs are to be conducted, and members must be advised of their responsibility to critically examine alignment of performance appraisals with strategic goals, results, employees' documentation of accomplishments, organizational assessments, and OPM's Appraisal System Criteria. Members are cautioned not to

share personal knowledge or opinions of an executive's performance; however, points of fact (e.g., date a report was released, or an event took place) may be shared.

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. PRBs are required to examine the alignment of executives' performance outcomes with strategic goals. PRBs review performance appraisals, initial summary ratings (or the Rating Official's recommended rating), narrative summaries, employee-documented accomplishments if any, employee written responses, recommended performance-based pay adjustments and bonuses, organizational assessments, and higher-level review findings if any.

Based on Departmental policies, 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

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 Executive Resources or 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, ST, and SL summary ratings, proposed performance-based pay adjustments, and bonuses, to the appropriate Secretarial Officer/Operating Unit Head. 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. Appointing Authorities are required by regulation to give due consideration to the PRB recommendations. PRB deliberations are considered confidential and may not be shared with non-PRB members. However, when appointing authorities have questions or need additional information about PRB recommendations to make final recommendations, they should discuss them with the PRB Chair.

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.

Attachment B

FY 2023 Mandatory Narrative Summary Format

Name of Senior Executive/Professional: _____

Recommended Rating: _____

Recommended Bonus Percentage: _____

Recommended Pay Adjustment Percentage: _____

Narrative must not exceed 2 pages. Each critical element must be addressed separately and speak to the performance requirements contained in the performance plan. The narrative must be signed by the Rating Official and describe the specific nature and quality of the results, unambiguously convey contribution to mission accomplishment, and clearly support the initial summary rating. For employees who served in an “acting” role, Rating Officials may choose to incorporate accomplishments tied to the role under each applicable critical element. If incorporated, the accomplishments should be clearly identified as pertaining to the role and the time spent acting must be stated.

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)

Rating Official's Signature

Date

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; and
- 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 Secretary of Commerce or Appointing Authority.

Attachment D

Senior Executive/Professional Bonus Policy Summary

SES and ST/SL bonus pools are separate, as the performance management systems are different; thus, interchange of funds between the pools is not possible.

Department of Commerce SES and ST/SL Bonus Basic Eligibility Criteria

A Senior Executive's 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.

2023 Presidential Rank Award recipients are not eligible for FY 2023 bonuses.

Department of Commerce SES and ST/SL Bonus Pools

The Department's SES bonus pool is funded at 9 percent of the aggregate salaries of career executives as of September 30, 2023. The DERB may adjust individual pools to provide a reserve for the Secretary's use so long as the Department's 9 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. 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 detailed justifications in writing by the Appointing Authority. The DERB will consider such requests to the extent that funds allow.

Department of Commerce 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 5.0 to 6.0 percent bonus for a Fully Successful rating, 6.1 to 8.9 percent for an Exceeds Fully Successful rating, and 9.0 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 for employees that have achieved exemplary results. Expression of bonuses as dollar values rather than percentages will not be accepted. Employees cannot receive bonus amounts outside of their respective rating. For example, an employee rated as Fully Successful cannot receive a bonus percentage at the Outstanding level.

Department of Commerce ST/SL Performance-based Bonuses

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If proposed for a bonus, ST and SL employees may receive up to 4.0 percent for a Fully Successful Rating; 4.1 to 7.9 percent for an Exceeds Fully Successful rating; and 8.0 to 12.25 percent, not to exceed \$24,999 for an Outstanding rating.

Attachment E

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

September 30, 2023	End of FY 2023 Senior Executive and Senior Professional Performance Cycle.
October 6, 2023	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.
Sep 30 - Oct 11, 2023	Initial summary ratings and Rating Official's Recommended ratings must be completed, and performance discussions held with Senior Executives and Senior Professionals.
October 16, 2023	Bureaus serviced by the Department's Office of Executive Resources must submit their initial summary ratings and Rating Official's Recommended ratings.
October 16, 2023	Secretarial Officers Submit a Completion Report to Department's Office of Executive Resources, confirming all initial summary ratings and rating Official's recommendations for rating are completed.
October 18, 2023	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 23-27, 2023	Bureaus provide performance recommendations to individual Performance Review Boards (PRB) and convene PRBs.
November 8, 2023	Secretarial Officers submit performance recommendations (with appraisals and narrative justifications) to the Department, Office of Executive Resources for the DERB review.
December 22, 2023	Bureaus will receive pay adjustment and bonus finalization process updates.