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## Senior Executive Service (SES) Pay System

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L. Elaine Halchin  
Analyst in American National Government  
Government and Finance Division

# Senior Executive Service (SES) Pay System

## Summary

A new pay system for the Senior Executive Service (SES) was established in 2004 by Section 1125 of the FY2004 National Defense Authorization Act (P.L. 108-136). This legislative provision capped several years when the Director of the Office of Personnel Management (OPM) had advised federal agencies that they needed to provide more rigorous and realistic ratings of their senior executives. (In FY2002, 69% of career senior executives received the highest rating.) Additionally, certain components of the new system could help resolve the long-standing problem of pay compression within the SES. Key features of the new pay system, which took effect on January 11, 2004, include the elimination of locality pay and annual pay adjustments (which were provided in conjunction with annual adjustments for General Schedule and Executive Schedule employees); the replacement of six pay rates (ES-1 through ES-6) with one broad pay range; an increase in the cap on base pay from Executive Schedule IV (EX-IV) to EX-III; and the addition of a second, higher cap, EX-II, for SES appraisal systems that have been certified by OPM.

The certification process involves, in part, designing and implementing a performance appraisal system that makes meaningful distinctions based on the relative performance of senior executives (or senior-level (SL), or scientific or technical (ST) professionals). With the concurrence of the Office of Management and Budget (OMB), OPM developed a certification regulation, which includes nine criteria agencies must meet in the design and administration of their appraisal systems. Barring any compliance problems that might arise after certification has been awarded, full certification is for two calendar years. Provisional certification for one calendar year is awarded when an appraisal system meets design requirements, but there is insufficient documentation to determine whether implementation meets certification requirements. Certification also determines the cap on aggregate compensation for senior executives and SL and ST employees. For an appraisal system that has not been certified, the cap is EX-I; for an appraisal system that has been certified, the cap is the equivalent of the Vice President's salary. The second, higher cap (Vice President's salary) and the establishment of a certification process were enacted by Section 1322 of the Homeland Security Act of 2002 (P.L. 107-296). (For SL and ST employees, certification does not affect their base pay.)

Some of the issues that might arise with the implementation of the new SES pay system and certification process are how to define "meaningful distinctions," the potential for the politicization of senior executives, and the system's implications for the notion of "rank in person," which is a key feature of the SES. This report will be updated as events warrant.

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# Senior Executive Service (SES) Pay System

## Introduction

The Senior Executive Service (SES), established by the Civil Service Reform Act of 1978 (P.L. 95-454, 92 Stat. 111), consists of approximately 7,000 top-level federal executives. Creation of the SES was undertaken with the goal of remedying problems related to the recruitment, retention, development, and management of senior executives. Highly competent and skilled as leaders and managers, members of the SES constitute a major link between top presidential appointees and other federal employees. About 90% of senior executives are career appointees, who were selected for the SES on the basis of meeting executive core qualifications.<sup>1</sup> Noncareer appointees do not have to meet the same competitive selection requirements, but they also do not receive the same entitlements as career senior executives do.<sup>2</sup> Approximately 70% of senior executives are in Washington, DC, Virginia, and Maryland.

Two notable features of the SES are pay for performance and rank residing in the person, not the position. For senior executives, SES offers a trade-off. In return for the opportunity to earn greater financial rewards through outstanding job performance, executives give up some of the usual job security associated with the civil service. The concept of rank residing in the individual is based on the notion that it facilitates reassignment of executives to functions, agencies, or positions where they are needed.

In 2004, the SES pay system was changed dramatically, with these changes driven by two factors: pay compression, which has been a long-standing problem for senior executives, and the President's Management Agenda (PMA), which was instituted in 2001 by the Bush Administration. The previous pay system had six pay levels, and pay compression resulted in senior executives at the top three SES pay levels receiving essentially the same amount of base (or basic) pay in a given year. Under the PMA, the Bush Administration has emphasized pay for performance for senior executives, and has criticized agency performance management systems that apparently fail to make meaningful distinctions among senior executives' job performances.

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<sup>1</sup> See U.S. Office of Personnel Management, "Executive Core Qualifications (ECQ's)," available at [<http://www.opm.gov/ses/ecq.asp>], for detailed information.

<sup>2</sup> For more information on the noncareer SES, see U.S. Office of Personnel Management, *The Senior Executive Service*, Feb. 2004, p. 3, available at [<http://www.opm.gov/ses/pdf/SESGUIDE04.pdf>].

The next section of this report examines the new SES pay system, and includes a comparison between the new system and the previous system and an explanation of the caps on aggregate compensation. An overview of the certification process and a discussion of policy issues follows. **Appendix B** contains four sets of guidelines developed by different parties that are intended to describe key principles and activities necessary for the establishment and operation of an effective, credible pay-for-performance system.

## Pay Compression

A combination of factors created salary compression within the ranks of the SES. As noted previously, under the previous pay system, there were six rates of base pay, ES-1 through ES-6. The lowest rate could not be less than “120 percent of the minimum rate of basic pay for GS-15 of the General Schedule,” and the highest rate of basic pay could not exceed Executive Schedule Level IV (EX-IV).<sup>3</sup> Within these parameters, the President was required to adjust the rates of basic pay for senior executives whenever an adjustment was made, under 5 U.S.C. § 5303, in the General Schedule rates of pay. However, the President determined the amount by which to adjust SES base pay.<sup>4</sup> Also, under the former pay system, SES members received locality pay when the Pay Agent decided to extend it to the SES, which had been done every year.<sup>5</sup> The combination of basic pay and locality pay for senior executives was capped at EX- III.<sup>6</sup>

While the statutorily-imposed floor pushed up from the bottom, annual salary adjustments increased SES basic pay and, in the absence of significant increases in Executive Schedule salaries, statutory salary caps squeezed down from the top. Consequently, as shown in **Table 1**, the differences in amounts of pay between some SES pay levels were nonexistent or negligible. In each column, the amount entered in “ES-6” is the maximum amount of basic pay, or basic pay and locality pay, payable to senior executives for that year. In columns where the same amount for basic pay and locality pay is entered in two or more rows (for example, ES-5 and ES-6), senior executives in all localities at those pay levels received the same (maximum) amount of basic and locality pay. Otherwise, the amount of base pay plus locality pay was not the same in every locality.

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<sup>3</sup> 5 U.S.C. § 5376(b)(1)(A); 5 U.S.C. § 5382(b). These citations refer to sections of the *U.S. Code* that were subsequently amended by Sec. 1125 of P.L 108-136, which effected the changes in the SES pay system.

<sup>4</sup> 5 U.S.C. § 5382(c). This citation refers to a section of the *U.S. Code* that was subsequently amended by Sec. 1125 of P.L 108-136.

<sup>5</sup> The President’s Pay Agent consists of the Secretary of Labor and the Directors of the Office of Management and Budget and the Office of Personnel Management. The President delegated authority to the Pay Agent, through Executive Order 12883, to extend locality pay to certain categories of positions, including SES positions.

<sup>6</sup> 5 U.S.C. § 5304(g)(2). This citation refers to a section of the *U.S. Code* that was subsequently amended by Sec. 1125 of P.L 108-136.

**Table 1. SES Pay Schedule, 1999-2003**

Pay Level	1999		2000		2001		2002		2003	
	Basic Pay	Basic Pay & Locality Pay	Basic Pay	Basic Pay & Locality Pay	Basic Pay	Basic Pay & Locality Pay	Basic Pay	Basic Pay & Locality Pay	Basic Pay	Basic Pay & Locality Pay
<b>ES-1</b>	\$102,300	\$108,305-\$115,660	\$106,200	\$113,400-\$121,141	\$109,100	\$117,479-\$127,625	\$113,000	\$122,763-\$134,515	\$116,500	\$127,707-\$141,417
<b>ES-2</b>	\$107,100	\$113,387-\$121,087	\$111,200	\$118,739-\$127,891	\$114,200	\$122,971-\$133,591	\$118,300	\$128,521-\$138,200 <sup>i</sup>	\$122,000	\$133,736-\$142,500 <sup>k</sup>
<b>ES-3</b>	\$112,000	\$118,574-\$125,900 <sup>b</sup>	\$116,300	\$124,185-\$130,200 <sup>f</sup>	\$119,400	\$128,570-\$133,700 <sup>h</sup>	\$123,700	\$134,388-\$138,200 <sup>j</sup>	\$127,500	\$139,766-\$142,500 <sup>l</sup>
<b>ES-4</b>	\$118,000	\$124,927-\$125,900 <sup>c</sup>	\$122,200	\$130,200 <sup>g</sup>	\$125,500	\$133,700 <sup>g</sup>	\$129,800	\$138,200 <sup>g</sup>	\$133,800	\$142,500 <sup>g</sup>
<b>ES-5</b>	\$118,400 <sup>a</sup>	\$125,350-\$125,900 <sup>d</sup>	\$122,400 <sup>a</sup>	\$130,200 <sup>g</sup>	\$125,700 <sup>a</sup>	\$133,700 <sup>g</sup>	\$130,000 <sup>a</sup>	\$138,200 <sup>g</sup>	\$134,000 <sup>a</sup>	\$142,500 <sup>g</sup>
<b>ES-6</b>	\$118,400 <sup>a</sup>	\$125,350-\$125,900 <sup>e</sup>	\$122,400 <sup>a</sup>	\$130,200 <sup>g</sup>	\$125,700 <sup>a</sup>	\$133,700 <sup>g</sup>	\$130,000 <sup>a</sup>	\$138,200 <sup>g</sup>	\$134,000 <sup>a</sup>	\$142,500 <sup>g</sup>

**Sources:** U.S. Office of Personnel Management, “Rates of Basic Pay for Members of the Senior Executive Service, Employees in Senior-Level and Scientific or Professional Positions, Administrative Law Judges, and Members of Boards of Contract Appeals,” Jan. 1999; U.S. Office of Personnel Management, “1999 Locality Rates of Pay for Members of the Senior Executive Service,” Jan. 1999; U.S. Office of Personnel Management, “2000 Scheduled Rates of Basic Pay for Members of the Senior Executive Service and Employees in Senior-Level and Scientific or Professional Positions,” Jan. 2000; U.S. Office of Personnel Management, “2000 Locality Rates of Pay for Members of the Senior Executive Service,” Jan. 2000; U.S. Office of Personnel Management, “2001 Scheduled Rates of Basic Pay for Members of the Senior Executive Service, Employees in Senior-Level and Scientific or Professional

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Positions, Administrative Law Judges, and Members of Boards of Contract Appeals,” Jan. 2001; U.S. Office of Personnel Management, “2001 Locality Rates of Pay for Members of the Senior Executive Service and Employees in Senior-Level and Scientific or Professional Positions,” Jan. 2001; U.S. Office of Personnel Management, “2002 Scheduled Rates of Basic Pay for Members of the Senior Executive Service, Employees in Senior-Level and Scientific or Professional Positions, Administrative Law Judges, and Members of Boards of Contract Appeals,” Jan. 2002; U.S. Office of Personnel Management, “2002 Locality Rates of Pay for Members of the Senior Executive Service and Employees in Senior-Level and Scientific or Professional Positions,” Jan. 2002; U.S. Office of Personnel Management, “Salary Table 2003-ES, Rates of Basic Pay for Members of the Senior Executive Service (SES),” Jan. 2003; U.S. Office of Personnel Management, “Locality Rates of Pay for Members of the Senior Executive Service,” Jan. 2003.

### Notes:

- a. This is the maximum amount of basic pay allowed for senior executives.
- b. In 2 of 32 localities, ES-3 basic pay and locality pay was \$125,900.
- c. In 22 of 32 localities, ES-4 basic pay and locality pay was \$125,900.
- d. In 27 of 32 localities, ES-5 basic pay and locality pay was \$125,900.
- e. In 27 of 32 localities, ES-6 basic pay and locality pay was \$125,900.
- f. In 4 of 32 localities, ES-3 basic pay and locality pay was \$130,200.
- g. This is the maximum amount of basic pay and locality pay allowed for senior executives, and senior executives at this pay level in all localities received the same amount.
- h. In 8 of 32 localities, ES-3 basic pay and locality pay was \$133,700.
- i. In 2 of 32 localities, ES-2 basic pay and locality pay was \$138,200.
- j. In 15 of 32 localities, ES-3 basic pay and locality pay was \$138,200.
- k. In 4 of 32 localities, ES-2 basic pay and locality pay was \$142,500.
- l. In 20 of 32 localities, ES-3 basic pay and locality pay was \$142,500.



The information displayed in **Table 1** shows the extent of pay compression for the period 1999-2003. The amount of base pay was virtually the same at the top three pay levels for each year. Beginning in 2000, there were no differences among the combinations of base pay and locality pay at the top three pay levels for each year. The greatest variation in base pay occurred at the three lowest pay levels, ES-1 through ES-3, and the pay range for these three levels increased slightly over five years. The difference between ES-1 and ES-3 base pay in 1999 was \$9,700; the difference in 2003 was \$11,000.

**Table 2** contains the pay rate distribution for these same years, which shows how many senior executives were assigned to each pay level.

**Table 2. SES Basic Pay and Pay Rate Distribution, 1999-2003**

Pay Level	1999			2000			2001			2002			2003		
	Basic Pay	# Sr. Execs	% Sr. Execs <sup>a</sup>	Basic Pay	# Sr. Execs	% Sr. Execs <sup>a</sup>	Basic Pay	# Sr. Execs	% Sr. Execs <sup>a</sup>	Basic Pay	# Sr. Execs	% Sr. Execs <sup>a</sup>	Basic Pay	# Sr. Execs	% Sr. Execs <sup>a</sup>
<b>ES-1</b>	\$102,300	915	14%	\$106,200	1,012	15%	\$109,100	1,047	16%	\$113,000	1,099	16%	\$116,500	1,182	18%
<b>ES-2</b>	\$107,100	787	12%	\$111,200	877	13%	\$114,200	845	13%	\$118,300	927	14%	\$122,000	931	14%
<b>ES-3</b>	\$112,000	993	15%	\$116,300	937	14%	\$119,400	949	14%	\$123,700	955	14%	\$127,500	1,023	15%
<b>ES-4</b>	\$118,000	2,413	36%	\$122,200	2,447	36%	\$125,500	2,344	35%	\$129,800	2,288	34%	\$133,800	2,262	34%
<b>ES-5</b>	\$118,400	1,100	16%	\$122,400	1,074	16%	\$125,700	1,003	15%	\$130,000	1,011	15%	\$134,000	930	14%
<b>ES-6</b>	\$118,400	510	7%	\$122,400	484	7%	\$125,700	439	7%	\$130,000	423	6%	\$134,000	408	6%

**Sources:** U.S. Office of Personnel Management, “SES Pay Rate Distribution as of September 30, 1999”; U.S. Office of Personnel Management, “Senior Executive Service Pay Rate Distribution as of September 30, 2002,” available at [[http://www.opm.gov/ses/index\\_demograph.asp](http://www.opm.gov/ses/index_demograph.asp)]; U.S. Office of Personnel Management, “Senior Executive Service Pay Rate Distribution as of September 30, 2001,” available at [[http://www.opm.gov/ses/index\\_demograph.asp](http://www.opm.gov/ses/index_demograph.asp)]; U.S. Office of Personnel Management, “Senior Executive Service Pay Rate Distribution as of September 30, 2002,” available at [[http://www.opm.gov/ses/index\\_demograph.asp](http://www.opm.gov/ses/index_demograph.asp)]; U.S. Office of Personnel Management, “Senior Executive Service Pay Rate Distribution as of September 30, 2003,” available at [[http://www.opm.gov/ses/index\\_demograph.asp](http://www.opm.gov/ses/index_demograph.asp)].

**Note:**

a. Percentages have been rounded.

Nearly 60% of senior executives in any given year were paid at ES-4, ES-5, or ES-6, which means that all of these executives earned virtually the same amount of basic pay. Negation of the financial distinctions among these three pay levels could undermine the concept of rank in person. It is also possible that pay compression could affect recruiting, retention, and reassignments within the SES. Comparison among the four years shows that a similar pattern occurred each year, with the highest percentage of senior executives (34%-36%) clustered at ES-4. The smallest percentage of executives — 6%-7% — were paid at the ES-6 level. The remaining senior executives were evenly distributed (in terms of percentages) across the remaining four pay levels. It is not clear why the highest percentage of senior executives is found at ES-4. A possible explanation is that, because of pay compression, there was no financial reason for moving senior executives to ES-5 and, ultimately, ES-6.

## President's Management Agenda

Whereas pay compression has been a long-standing problem for members of the SES, the other impetus for altering the SES pay system has its roots in the *President's Management Agenda*. Introduced in 2001, the PMA is focused on fostering a government that is citizen-oriented, market-driven, and results-oriented. The strategic management of human capital is one of five PMA initiatives.<sup>7</sup> An excerpt from the PMA chapter on human capital states:

The managerial revolution that has transformed the culture of almost every other large institution in American life seems to have bypassed the federal workforce. Federal personnel policies and compensation tend to take the same “one-size-fits-all” approach they took in 1945. Excellence goes unrewarded; mediocre performance carries few consequences; and it takes months to remove even the poorest performers .... These realities contribute to the growing consensus that action is required. The federal government has a unique opportunity to redefine the way it manages human capital .... [The Administration's assessment of personnel flexibilities] and outcomes achieved under demonstration projects ... will help ... permit more performance-oriented compensation .... Accountability for results will be clear and meaningful, with positive rewards for success and real consequences for failure.<sup>8</sup>

The Bush Administration's interest in the performance of senior executives and how it could be connected to results, organizational excellence, and the Administration's priorities was articulated initially in a November 1, 2001, memorandum that focused exclusively on the SES. In the memorandum to agency human resources directors, the Director of the Office of Personnel Management (OPM) wrote:

Although many of you have only been confirmed recently, you can still use the appraisal process to reinforce our commitment to a results-oriented Government.

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<sup>7</sup> Executive Office of the President, U.S. Office of Management and Budget, *The President's Management Agenda, Fiscal Year 2002*, available at [<http://www.whitehouse.gov/omb/budget/fy2002/mgmt.pdf>].

<sup>8</sup> *Ibid.*, pp. 11-13, 15.

You can ensure that measurable results, not anecdotes, form the basis of executive appraisals. It is completely appropriate to use this opportunity to ask as many follow-up questions as possible and to obtain documentation of results. You can direct rating officials and Performance Review Board members to be rigorous in preparing recommendations on ratings and bonuses. And, most importantly, you can personally communicate your intent to use the SES appraisal system to drive organizational excellence .... It is important that agencies ensure that executive performance plans reflect this Administration's priorities, including the *President's Management Agenda*. A critical aspect of this process is establishing executive performance goals and expectations in line with agency strategic goals and objectives, regularly assess[ing] performance against these goals, and [using] performance as a true basis for pay, development, and other personnel decisions.<sup>9</sup>

Noting that agencies had "rated 85% of their executives at the highest level their system permits," the Director added: "... [T]hese statistics suggest that agencies are not making meaningful distinctions between those who merely do what's expected and those with a consistent track record of outstanding performance."<sup>10</sup>

A second memorandum on senior executives from the OPM Director to department and agency heads, dated September 27, 2002, expressed a similar theme, reminding agency officials that performance appraisals should be based on results, and urging them to be more discerning in preparing recommendations on ratings and bonuses. The Director wrote:

I believe that we have begun to see some shift toward results-based appraisals and greater accountability. However, we have a long way to go. As your FY2002 appraisal cycles come to a close, I once again urge you to ensure that measurable results, not anecdotes, form the basis of your senior executives' performance appraisals. By directing your Performance Review Boards to be rigorous in preparing recommendations on ratings and bonuses, you communicate your intention to use SES performance management systems to drive organizational excellence and hold executives accountable.

To facilitate this effort, OPM implemented new requirements in FY2001 for managing senior executive performance that emphasized results over process and gave agencies considerable flexibility to design systems tailored to their unique and changing missions, cultures, and needs. These requirements call for the establishment of executive performance standards that are in line with agency strategic goals and objectives. They also require agency leadership to expect excellence, communicate performance expectations, and appraise performance against those expectations, take action to reward outstanding performers, and deal appropriately with those who do not measure up.

One of the dimensions of the Human Capital Scorecard [a device used by the Office of Management and Budget (OMB) to measure agencies' success in meeting PMA standards] is the creation of a performance culture that motivates

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<sup>9</sup> U.S. Office of Personnel Management, "Senior Executive Excellence and Accountability," memorandum, transmittal #MSG-091a, Nov. 1, 2001, available at [<http://www.opm.gov/hrmc/2001/msg-091a.htm>].

<sup>10</sup> Ibid.

employees for high performance. Since establishing performance management systems that truly distinguish between levels of performance is a key element of success, your agency's progress in managing senior executive performance will be considered in determining success on this measure. By ensuring that your executives' performance plans and appraisal systems are linked to your organizations' strategic plans and reflect the Administration's priorities, the *President's Management Agenda*, we can continue moving in the right direction.<sup>11</sup>

In 2003, the Administration undertook a new effort to link appraisals and financial compensation more closely to senior executive performance by proposing changes to the SES pay system. The President's FY2004 budget request summarized the problem and offered a solution:

... [I]t's not easy [to reform the management of human capital]. Consider the Office of Personnel Management (OPM) Director Kay James' effort to make senior government executives more accountable. She learned that in 2000, federal agencies gave 85 percent of their senior executives the highest possible performance rating — an assertion that virtually everyone in Washington is way above average. Despite James' urging agencies to begin distinguishing the best performers from others, almost nothing changed. In 2001, more than 83 percent of senior executives received the highest possible rating. Five agencies gave 100 percent of their senior executives the highest rating and six more gave it to 90 percent of their senior ranks. Such figures let the public know that federal managers are not yet serious about holding themselves or their staffs accountable.<sup>12</sup>

The Administration ... proposes to eliminate the current pay structure for senior managers [senior executives] and increase their pay ceiling. Under this proposal, each agency will adjust pay for its senior managers on the basis of individual performance, which will help address the current lack of meaningful senior manager appraisal systems.<sup>13</sup>

In the meantime, while the Administration's legislative proposal was considered, enacted, and implemented, OPM continued to express concern about the percentage of senior executives rated at the highest level. The OPM Director issued a memorandum in early 2004 which noted that the distribution of SES appraisal ratings had improved in some agencies, but not in others. She wrote:

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<sup>11</sup> Kay Coles James, Director, U.S. Office of Personnel Management, "Senior Executive Excellence and Accountability," memorandum, transmittal #MSG-067a, Sept. 27, 2002, available at [<http://www.opm.gov/hrmc/archive2000.asp>].

<sup>12</sup> U.S. Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2004* (Washington: GPO, 2003), p. 38.

<sup>13</sup> U.S. Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2004, Analytical Perspectives* (Washington: GPO, 2003), p. 15. See U.S. Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2004, Appendix* (Washington: GPO, 2003), p. 13, for the Administration's proposed legislative language to revise the SES pay system.

The data [from FY2000 and FY2001] indicate a growing number of agencies have taken seriously the need to improve the distribution of SES ratings and awards to support the high performance culture the President is determined to establish. However, these data also suggest that more work [is] still ... required, and we will be extremely interested in the information you report for fiscal year 2003. The necessity for more rigorous and realistic ratings is especially clear in instances where agencies are not fulfilling their missions and reporting demonstrable results.<sup>14</sup>

OPM's Acting Director followed suit in March 2005, writing in a memorandum on SES performance ratings and awards that:

[An OPM] report shows that in FY2003, over 74% of agency executives received the highest performance rating possible under the applicable performance appraisal system, and more than half of those eligible received substantial performance bonuses. Both of these figures are essentially unchanged from FY2002. These results do not reflect the requirements of the new SES pay-for-performance system .... Among other things, ... regulations [established by OPM and OMB] require that agencies make meaningful distinctions in the performance ratings and pay of their SES members, and that those ratings and pay decisions be consistent with organizational results, overall and with respect to an executive's particular area of responsibility.<sup>15</sup>

## **New SES Pay-for-Performance System**

A new SES pay system, consistent with the language in the President's FY2004 budget message, was enacted, by Section 1125 of the FY2004 National Defense Authorization Act (P.L. 108-136), on November 24, 2003.<sup>16</sup> In amending portions of 5 U.S.C. §§ 5304, 5382, and 5383, Section 1125 modified the SES pay system by:

- Eliminating locality pay from the SES.
- Replacing six SES pay rates or levels (ES-1 through ES-6) with one broad pay range.
- Increasing the cap on SES base pay from Executive Schedule Level IV (EX-IV) to EX-III.
- Adding a second, higher cap on base pay — EX-II — for agencies that have SES performance appraisal systems (and equivalent

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<sup>14</sup> Kay Coles James, Director, U.S. Office of Personnel Management, "Reporting SES Performance Ratings and Awards for FY2003," memorandum, Feb. 12, 2004, available at [<http://www.opm.gov/hrmc/2004/msg-011.asp>].

<sup>15</sup> Dan G. Blair, Acting Director, U.S. Office of Personnel Management, "FY2003 SES Performance Ratings and Awards," memorandum, Mar. 16, 2005, available at [[http://www.chcoc.gov/transmittal\\_detail.cfm?ID=635](http://www.chcoc.gov/transmittal_detail.cfm?ID=635)].

<sup>16</sup> 117 Stat. 1392, at 1638.

systems as determined by the President's Pay Agent) which have been certified by OPM, with the concurrence of OMB.

The foundation for the new SES pay system was laid in 2001, when the Administration proposed the Managerial Flexibility Act of 2001.<sup>17</sup> This legislation introduced the idea of instituting a two-cap system for total, or aggregate, compensation for senior executives (and certain other groups of employees), with the higher cap applicable to agencies whose SES performance appraisal systems had been certified by OPM. (Aggregate compensation may include, for example, basic pay, premium pay, incentive awards, recruitment and relocation bonuses, retention allowances, danger pay allowances, and physicians' comparability allowances.) In 2002, the Director of OPM offered a brief rationale at a congressional hearing for this provision: "We believe the changes we are proposing with respect to senior executives will strengthen the links between their performance and their pay and awards. This portion of our proposal would amend an aggregate pay limitation that prevents senior executives from receiving some award payments in a timely way."<sup>18</sup> Eventually, this provision was enacted as part of the Homeland Security Act.<sup>19</sup>

Section 1322 of the Homeland Security Act of 2002 shifted the cap on total compensation from EX-I to the equivalent of the Vice President's salary (\$208,100 in 2005) for agencies that have certified performance appraisal systems. If an agency does not have a certified system, the cap on aggregate compensation remains EX-I (\$180,100 in 2005). Shifting the cap on total compensation does not represent an increase in compensation; it will not affect the amount of money an individual may receive. The cap on total compensation is a limit placed on the amount of compensation a senior executive may receive in any one year. If a senior executive's total compensation exceeds the applicable cap, the difference between the two amounts is deferred to, and paid, the next calendar year. Thus, senior executives whose agencies have certified SES appraisal systems are more likely to receive all of their compensation in one year instead of having some of their compensation (for example, performance awards) deferred to the following year.

## Senior Level and Senior Technical Positions

Changes involving the cap on total compensation for senior executives also affect two other categories of senior employees in the federal government: senior level (SL) and scientific/professional (ST).<sup>20</sup> SL and ST personnel systems are for

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<sup>17</sup> A copy of the bill that was proposed is available at [[http://www.whitehouse.gov/omb/legislative/mfa\\_bill.pdf](http://www.whitehouse.gov/omb/legislative/mfa_bill.pdf)]. A summary of the Managerial Flexibility Act is available at [[http://www.whitehouse.gov/omb/legislative/mfa\\_summary.pdf](http://www.whitehouse.gov/omb/legislative/mfa_summary.pdf)].

<sup>18</sup> U.S. Congress, Senate Committee on Governmental Affairs, Subcommittee on International Security, Proliferation and Federal Services, statement of Kay Coles James, Director, U.S. Office of Personnel Management, unpublished hearing, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess., Mar. 18, 2002, pp. 5-6, available at [<http://hsgac.senate.gov/031802james.htm>].

<sup>19</sup> Sec. 1322, P.L. 107-296; 116 Stat. 2135, at 2297.

<sup>20</sup> The term "senior employees" includes members of the SES, senior level employees (SL) (continued...)

nonexecutive positions classified above GS-15. Where leadership and management skills and experience are paramount for senior executives, technical expertise is the hallmark of SL and ST employees. An SL system includes positions “that do not meet the criteria for the SES, nor do they involve the fundamental research and development responsibilities that are characteristic of the Scientific/Professional (ST) system.”<sup>21</sup>

Whereas the status of an SES appraisal system — certified or not certified — determines the caps on base pay and total compensation for senior executives, the certification status of an SL or ST appraisal system only affects the cap on total compensation for these employees.<sup>22</sup> (Additionally, the language in P.L. 108-136 that eliminated locality pay for members of the SES did not eliminate locality pay for SL and ST employees.) As with the SES, the two caps on total compensation for SL and ST personnel systems are the equivalent of the Vice President’s salary for appraisal systems that have been certified by OPM, and EX-I for appraisal systems that have not been certified.

## Comparison

The SES base pay provisions took effect on the first day of the first pay period that began after January 1, 2004, which was January 11, 2004. A comparison of selected features of the former SES pay system and the new system is provided in **Table 3**.

It remains to be seen whether the combination of higher caps on basic pay, the shift to one pay band, and the elimination of automatic pay increases will help to alleviate the problem of pay compression. The requirement, for agencies that seek certification, to make meaningful distinctions also could be a factor in facilitating the distribution of senior executives across the entire SES pay range over time.

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<sup>20</sup> (...continued)

and senior technical (ST) employees. SL and ST members may be referred to collectively as “senior professionals.” Senior level positions are positions classified above GS-15 pursuant to 5 U.S.C. § 5108. Scientific/professional positions are established under 5 U.S.C. § 3104.

<sup>21</sup> U.S. Office of Personnel Management, *The Senior Executive Service*, Feb. 2004, p. 7, available at [<http://www.opm.gov/ses/pdf/SESGUIDE04.pdf>].

<sup>22</sup> 5 U.S.C. § 5307(d)(1).



**Table 3. Comparison of Selected Features of Former and Current SES Pay Systems in 2005**

Feature	Former Pay System	Current Pay System
Minimum base pay, 2005	\$107,550 (120% of GS-15, step 1)	\$107,550 (same)
Maximum base pay, 2005	\$140,300 (if EX- IV was still the cap)	1. \$149,200 for agencies without certification <sup>c</sup> (EX-III is the cap) 2. \$162,100 for agencies with certification (EX-II is the cap)
Cap on aggregate compensation, 2005 <sup>a</sup>	\$180,100 (EX-I was the cap)	1. \$180,100 for agencies without certification (EX-I is the cap) 2. \$208,100 for agencies with certification (the Vice President's salary is the cap)
Number of pay levels	Six	One
Automatic pay increase (in conjunction with annual adjustment for General Schedule and Executive Schedule employees)	Yes	No
Locality pay	Yes	No
Certification of agencies' performance appraisal systems as making "meaningful distinctions"	No	Necessary if an agency wants to apply EX-II as the cap on SES basic rate of salary, and to apply the Vice President's salary as the cap on aggregate compensation.

**Sources:** U.S. Office of Personnel Management, "2004 Pay Tables for Executive and Senior Level Employees," available at [<http://www.opm.gov/oca/04tables/indexSES.asp>]; U.S. Office of Personnel Management, "Senior Executive Service Pay and Performance Awards and Aggregate Limitation on Pay," *Federal Register*, vol. 69, no. 145, July 29, 2004, pp. 45543-45545; Kay Coles James, Director, U.S. Office of Personnel Management, "New Performance-Based Pay System for the Senior Executive Service," memorandum, Dec. 16, 2003, CPM 2003-19, available at [<http://www.om.gov/oca/compmemo/2003/2003-19.asp>].

## Conversion to the New Pay System

For most employees affected by the changes to the SES pay system, conversion to the new system occurred on January 11, 2004. Conversion to the new system, or an equivalent pay system, did not qualify as a pay adjustment.<sup>23</sup> (Except as provided in OPM regulations, a senior executive's rate of base pay may not be adjusted more than once during a 12-month period.<sup>24</sup>) The basic pay of a senior executive could not be reduced by the amendments made by Section 1125(a) of P.L. 108-136 during the first year after the effective date (January 11, 2004) of this provision.<sup>25</sup>

**General.** As of the conversion date, an individual's rate of basic pay, plus any applicable locality pay in effect prior to that date, became a senior executive's converted, or new, rate of basic pay. The converted rate is the rate of basic pay to be used for all pay computation purposes. This provision also applies to senior executives employed by the Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration (DEA).<sup>26</sup>

**Remedy for the Senior Foreign Service (SFS) and Senior Executives Stationed Overseas.** When members of the SFS and SES who were stationed overseas as of the conversion date entered the new pay system, their salaries included only base pay, which became their converted pay.<sup>27</sup> Because local pay was not included, these two groups of federal employees entered the new pay system at a financial disadvantage compared with members of the SFS and SES who were stationed in the United States at the time of the conversion and whose converted pay included locality pay.

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<sup>23</sup> Kay Coles James, Director, U.S. Office of Personnel Management, "Conversion to New SES Performance-Based Pay System," memorandum CPM 2004-03, Jan. 9, 2004, available at [<http://www.opm.gov/oca/compmemo/2004/2004-03.asp>]. Detailed information about pay adjustments under the new system may be found in U.S. Office of Personnel Management, "Senior Executive Service Pay and Performance Awards; and Aggregate Limitation on Pay," *Federal Register*, vol. 69, no. 233, Dec. 6, 2004, pp. 70355-70367; Kay Coles James, Director, U.S. Office of Personnel Management, "Final Regulations on Performance-Based SES Pay System," memorandum CPM 2004-25, Dec. 2, 2004, available at [<http://www.opm.gov/oca/compmemo/2004/2004-25.asp>].

<sup>24</sup> 5 U.S.C. § 5383(c).

<sup>25</sup> Sec. 1125(c)(2) of P.L. 108-136.

<sup>26</sup> Kay Coles James, Director, U.S. Office of Personnel Management, "Conversion to New SES Performance-Based Pay System," p. 2.

<sup>27</sup> The SFS pay system is separate from, yet related to, the SES pay system. Under 22 U.S.C. § 3962(a)(1), the President prescribes salary classes for the Senior Foreign Service. The basic pay rates for the SFS cannot be less than the minimum rate and cannot exceed the maximum rate for SES and "shall be adjusted at the same time and in the same manner as rates of basic pay are adjusted for the Senior Executive Service." (5 U.S.C. § 5382.) As of May 31, 2005, 556 members of SFS were stationed overseas. (Information provided by telephone by the Department of State, Bureau of Human Resources, to the author on June 24, 2005). As of Sept. 30, 2004, 27 members of the SES were stationed outside the United States. (Information provided electronically by the U.S. Office of Personnel Management to the author on July 15, 2004.)

Executive Order (E.O.) 13325, dated January 23, 2004, offered a remedy to this problem for members of the SFS. E.O. 13325 stated:

... [A]s of the first day of the first applicable pay period beginning on or after January 1, 2004, a member of the Senior Foreign Service shall receive the rate of basic pay to which he or she was entitled immediately before that date, including any locality-based comparability payment authorized under 5 U.S.C. 5304(h)(2)(C) that the member was receiving immediately before that date.<sup>28</sup>

Explaining how officials might use the executive order to adjust the pay of SFS officers serving overseas, the Deputy Assistant Secretary for Human Resources at the State Department said, “Basically, we can do it either as a pay-for-performance consideration or do the one-time adjustment when they return to the United States.”<sup>29</sup> If corrective action had not been taken, not only would SFS officers stationed abroad have had lower basic pay rates than SFS officers and senior executives stationed in the United States, but also their retirement benefits, which are calculated using basic pay, would have been adversely affected.<sup>30</sup>

Remedying the financial disparity for senior executives stationed overseas at the time of the conversion was accomplished by 5 CFR § 534.406, which provides that the new, or converted, base pay of this particular group is to include their current base pay (as of January 11, 2004) plus the applicable locality pay amount upon their reassignment to Washington, DC, or the contiguous 48 states. This adjustment is prospective, not retroactive, and will not be considered a pay adjustment “for the purpose of applying” 5 CFR § 534.404(c).<sup>31</sup> (As noted above, only one pay adjustment per 12-month period is allowed for each senior executive.)

## Certification of Performance Appraisal Systems

As noted earlier, the changes effected by P.L. 108-136 allow agencies with certified SES performance appraisal systems to apply a higher cap to SES basic pay and total compensation. The crux of the certification process is the design and implementation of performance appraisal systems that make “meaningful distinctions

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<sup>28</sup> The President, “Amendment to Executive Order 12293, the Foreign Service of the United States,” E.O. 13325, *Federal Register*, Jan. 28, 2004, vol. 69, no. 18, p. 4217.

<sup>29</sup> Tim Kauffman, “Executive Order Fixes Senior Foreign Service Pay,” *Federal Times*, Feb. 2, 2004, p. 6.

<sup>30</sup> While SFS officers did not receive locality pay when stationed abroad, because the State Department “had such a problem retaining senior officers at overseas posts ... [it] received special authority from Congress two years ago to include locality pay in the retirement calculations of overseas officers.” (Tim Kauffman, “New Law Shortchanges Foreign Service Officers,” *Federal Times*, Dec. 22, 2003, p. 8.)

<sup>31</sup> 5 CFR § 534.406(c).

based on relative performance.”<sup>32</sup> An agency may have more than one performance appraisal system for senior employees, and each system must be certified separately.<sup>33</sup>

## Certification Process

With OMB’s concurrence, OPM developed regulations for certification, and is responsible for certifying, and, if warranted, decertifying performance appraisal systems.<sup>34</sup> As summarized by OPM, an agency’s appraisal system(s) must fulfill these criteria:

**Alignment:** Individual performance expectations must be derived from/linked to the agency’s mission, strategic goals, program/policy objectives, and/or annual performance plan.

**Consultation:** Individual performance expectations are developed with senior employee involvement and must be communicated at the beginning of the appraisal cycle.

**Results:** Individual expectations describe performance that is measurable, demonstrable, or observable, focusing on organizational outputs and outcomes, policy/program objectives, milestones, etc.

**Balance:** Individual performance expectations must include measures of results, employee and customer/stakeholder satisfaction and/or competencies or behaviors that contribute to outstanding performance.

**Assessments and Guidelines:** Agency head/designee provides assessments comparing performance of agency and each major program and functional areas with agency’s GPRA [Government Performance Results Act of 1993] goals and other program performance measures.<sup>35</sup>

**Oversight:** Agency head/designee must certify (1) appraisal process makes meaningful distinctions based on relative performance, (2) results take into account, as appropriate, the agency’s performance, and (3) pay adjustments and awards recognize individual/organizational performance.

**Accountability:** Senior employee ratings (and subordinates’ [ratings], as applicable) appropriately reflect performance expectations, program performance measures, and other factors.

**Performance Differentiation:** Agency must provide for at least one rating level above Fully Successful (must include an Outstanding level), and in the

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<sup>32</sup> U.S. Office of Personnel Management and U.S. Office of Management and Budget, “Executive Performance and Accountability,” *Federal Register*, vol. 69, no. 145, July 29, 2004, p. 45551.

<sup>33</sup> U.S. Office of Personnel Management, “Executive Performance and Accountability,” p. 45548.

<sup>34</sup> 5 U.S.C. § 5307; 5 CFR 430.403-430.405.

<sup>35</sup> P.L. 103-62; 31 U.S.C. § 1115.

application of those ratings, make meaningful distinctions among executives based on their relative performance. SES appraisal systems must include four or five summary rating levels: outstanding, fully successful, minimally satisfactory, and unacceptable. An optional fifth level would be between “outstanding” and “fully successful.” (Senior professional — SL and ST — appraisal systems must include three to five summary rating levels: outstanding, fully successful, and unacceptable. Two optional levels are allowed: between “outstanding” and “fully successful,” and between “fully successful” and “unacceptable.”)<sup>36</sup>

Pay Differentiation: Agency should be able to demonstrate that the largest pay adjustments and/or highest pay levels (base and performance awards) are provided to its highest performers, and that overall, the distribution of pay rates in the SES rate range and pay adjustments reflects meaningful distinction among executives, based on their relative performance.<sup>37</sup>

The certification process begins when an agency submits a written request to OPM for full or provisional certification. An agency’s written request for certification must include:

- A description of the appraisal systems(s) to be certified. The description should identify the employees and organizations covered by the performance appraisal system, contain guidance for the system’s administration and implementation, and describe how the system uses rating levels to clearly differentiate among senior employees (SES, SL, and ST).<sup>38</sup>
- A description of the review process used to review initial summary ratings and ratings of record, as applicable.
- Documentation that shows the appraisal system(s) meet the applicable certification criteria for full, or provisional, certification, whichever is applicable.
- Documentation from the two appraisal periods preceding the request on senior executive annual summary ratings (or ratings of record for senior professionals) and corresponding pay adjustments, cash awards, and levels of pay provided to the senior executives and senior professionals.

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<sup>36</sup> U.S. Office of Personnel Management, “Executive Performance and Accountability,” *Federal Register*, p. 45549.

<sup>37</sup> U.S. Office of Personnel Management and U.S. Office of Management and Budget, “Senior Executive Service Performance-Based Pay System,” briefing slides, July 2004, available from author. For more details, see U.S. Office of Personnel Management and U.S. Office of Management and Budget, “Executive Performance and Accountability,” pp. 45552-45553.

<sup>38</sup> U.S. Office of Personnel Management and U.S. Office of Management and Budget, “Executive Performance and Accountability,” p. 45548.

- Any additional information that OPM and OMB may require to make a determination of an agency's performance appraisal system(s).<sup>39</sup>

## Full and Provisional Certification

Full certification of an agency's SES performance appraisal system is for two calendar years, but OPM, with OMB's concurrence, may terminate certification if it determines that an agency has failed to continue to adhere to applicable requirements. If an agency fulfills OPM's annual reporting requirements, and the information contained in the agency's reports supports continued certification, full certification will be renewed automatically. Annual reports are to include a synopsis of annual summary ratings and ratings of record, rates of basic pay, pay adjustments, cash awards, and aggregate total compensation.<sup>40</sup>

Provisional certification may be granted by OPM, with OMB's concurrence, for appraisal systems that meet design requirements, but for which insufficient documentation exists to determine whether the implementation of the system meets certification requirements. Provisional certification is for only one calendar year, though OPM may extend provisional certification into the following calendar year, if warranted. An agency may apply for, and receive, provisional certification more than once.<sup>41</sup>

No senior executive can have his or her pay reduced because he or she transferred from an agency that has a certified system to an agency that does not have a certified system.<sup>42</sup> Similarly, if an agency loses its certification, any senior executive whose base pay is higher than EX-III (the cap for appraisal systems that have not been certified) cannot have his or her base pay reduced for this reason. However, a senior executive in this situation "is not eligible for a pay adjustment until the senior executive is assigned to a position that would allow the employee to receive a pay adjustment or until certification of the employing agency's applicable performance appraisal system is reinstated ...."<sup>43</sup>

The new system represents a trade-off for senior executives: higher caps on base pay (EX-III for agencies without a certified appraisal system, and EX-II for agencies with certified appraisal systems) versus the elimination of locality pay and annual across-the-board pay adjustments. For some senior executives, these changes may mean they receive relatively small increases in their base pay, while others may receive increases comparable to pay increases they received under the old pay system.

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<sup>39</sup> 5 CFR § 430.405(b).

<sup>40</sup> 5 CFR § 430.405(c) and (e)(3).

<sup>41</sup> 5 CFR § 430.405(c)(2) and (f).

<sup>42</sup> 5 CFR § 534.404(h)(2).

<sup>43</sup> 5 CFR § 534.403(b).

The Office of Personnel Management maintains a current list of agencies whose SES performance appraisal systems have been fully or provisionally certified. Only one agency, the General Services Administration (GSA), has received full certification for its SES appraisal system. Certification is for 2004-2005. (The Pension Benefit Guaranty Corporation (PBGC) also received full certification, 2004-2005, for its SL and ST employees.) Numerous other departments and agencies received provisional certification for 2005.<sup>44</sup>

## Policy Issues

The new pay system for the SES ushered in some fairly significant changes for senior executives and their supervisors. Implementation of a rigorous performance management system that directs agencies to assign performance ratings based on measurable results and to make distinctions among senior executives based on their job performances promises to mitigate against, if not eliminate, rating inflation. Performance ratings are intended to accurately reflect the job performances of senior executives, thus helping to ensure that they are being held accountable for their work.

In practical terms, the new system is configured to ensure that top performers in the SES receive the greatest rewards in terms of performance ratings and, by extension, pay increases. Average performers will receive ratings and pay increases, if warranted, commensurate with their performances as well. When coupled with the increase in the cap on base pay, and the addition of a higher cap for performance management systems certified by OPM, these changes represent a substantial effort to identify and reward the best performers in the SES.

While the anticipated benefits of the new system are significant, several policy issues touch on the implications of certain aspects of this system, notably the emphasis on meaningful distinctions, the potential for the revamped system to facilitate the politicization of the SES, and how the concept of rank in person might be altered. Additionally, this section addresses the idea that it may be useful to assess the implementation of the new pay system.

## Meaningful Distinctions

Part of the Administration's reasoning for the new pay system is that requiring agencies to make meaningful distinctions based on the relative performances of senior executives is essential in helping to ensure that individuals reap rewards commensurate with their performance, and, in particular, that only outstanding performers receive the greatest rewards. While OPM has clearly stated the objective and rationale for this goal, it has not explicitly defined or described what is meant by the term "meaningful distinctions." In memoranda it has released on this subject, OPM makes general statements about agency ratings of senior executives, indicating that some progress has occurred, but also noting that more needs to be done. Although the evidence presented by OPM consists of tables that list individual agencies (see **Tables 4, 5, and 6**), none is identified by name as an example of an

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<sup>44</sup> The list of these departments and agencies is available at [<http://www.opm.gov/ses/certification.asp>].

organization that is making progress or that has failed to improve. Thus, there is no indication as to what precisely constitutes “progress” or what percentage of senior executives who have received the highest rating in the agency’s SES appraisal system would render a system acceptable.

In the absence of a definition or explanation of the term “meaningful distinctions,” OPM officials possibly are able to exercise a significant degree of discretion in determining whether an agency has met the requirement to make meaningful distinctions among the performances of its senior executives. Another potential result is that OPM’s view or criterion of what type(s) of rating distributions qualify as reflecting meaningful distinctions could shift over time. Because forced distributions of ratings (or quotas) are not permitted for senior executives,<sup>45</sup> OPM employees cannot communicate to agencies that certain distributions of ratings would be preferable to others. While the lack of a definition possibly aids in avoiding the problem of forced distributions, agency officials may be uncertain of the standard to which they are being held regarding meaningful distinctions.

**A Focus on the Highest Level.** What is clear about OPM’s approach is that it focuses exclusively on only one portion of agencies’ rating distributions: the percentage of senior executives who receive the highest summary appraisal rating. **Tables 4, 5, and 6** display the data that were included in OPM’s 2004 and 2005 memoranda on SES performance ratings and awards.<sup>46</sup> (The data in the tables refer to FY2000-FY2003.) Data provided subsequently by OPM showed that several agencies changed the number of levels in their SES appraisal systems during this period. Agencies that changed their appraisal systems are listed only in one table — the table that reflects the type of appraisal system the agency had in 1999. The change to an agency’s appraisal system is noted in the appropriate table.

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<sup>45</sup> 5 CFR § 430.304(c)(3).

<sup>46</sup> The tables in the 2004 and 2005 OPM memoranda included rows for “all others” (all other agencies not already listed in the tables) and “government-wide.” These rows are not included here because the information was aggregated and thus does not belong in rating system-specific (three-, four-, and five-level) tables.



**Table 4. Career SES Performance Ratings by Agency in Five-Level Systems, FY2000-FY2003**

Agency	Percentage of Career Senior Executives Rated at the Highest Level <sup>a</sup>			
	FY2000	FY2001	FY2002	FY2003
Dept. of Agriculture (USDA)	35%	36%	35%	38%
Dept. of Commerce	88%	80%	81%	80%
Dept. of Defense (DOD) <sup>b</sup>	99%	99%	97%	96%
Dept. of Justice	91%	91%	88%	85%
Dept. of Labor	69%	61%	48%	33%
Dept. of the Treasury <sup>c</sup>	66%	63%	59%	52%
Dept. of Veterans Affairs (VA)	56%	56%	57%	67%
Environmental Protection Agency (EPA)	85%	85%	69%	64%
General Services Administration (GSA)	96%	92%	53%	55%
National Aeronautics and Space Administration (NASA)	73%	76%	76%	76%
Office of Personnel Management (OPM)	90%	37%	46%	31%
Small Business Administration (SBA)	79%	82%	50%	45%
U.S. Agency for International Development (USAID)	95%	79%	42%	38%

**Sources:** Kay Coles James, Director, U.S. Office of Personnel Management, "Reporting SES Performance Ratings and Awards for FY2003," memorandum, Feb. 12, 2004, available at [<http://www.opm.gov/hrmc/2004/msg-011.asp>]; Dan G. Blair, Acting Director, U.S. Office of Personnel Management, "FY2003 SES Performance Ratings and Awards," memorandum, Mar. 16, 2005, available at [[http://www.chcoc.gov/transmittal\\_detail.cfm?ID=588#career\\_perf](http://www.chcoc.gov/transmittal_detail.cfm?ID=588#career_perf)].

**Notes:**

- a. The percentages have been rounded.
- b. The Department of Defense does not include the Office of the Secretary of Defense, which instead is found in **Table 6**.
- c. One or more components of the Department of the Treasury changed to a three-level system in 2003.

**Table 5. Career SES Performance Ratings by Agency in Four-Level Systems, FY2000-FY2003**

Agency	Percentage of Career Senior Executives Rated at the Highest Level <sup>a</sup>			
	FY2000	FY2001	FY2002	FY2003
Dept. of Energy (DOE) <sup>b</sup>	100%	99%	18%	38%
Dept. of State <sup>c</sup>	100%	100%	99%	98%
Federal Emergency Management Agency (FEMA)	90%	31%	0% <sup>d</sup>	46%
Merits Systems Protection Board (MSPB) <sup>e</sup>	100%	89%	11%	not listed
Office of Management and Budget (OMB) <sup>f</sup>	88%	20%	25%	32%

**Sources:** Kay Coles James, Director, U.S. Office of Personnel Management, "Reporting SES Performance Ratings and Awards for FY2003," memorandum, Feb. 12, 2004, available at [<http://www.opm.gov/hrmc/2004/msg-011.asp>]; Dan G. Blair, Acting Director, U.S. Office of Personnel Management, "FY2003 SES Performance Ratings and Awards," memorandum, Mar. 16, 2005, available at [[http://www.chcoc.gov/transmittal\\_detail.cfm?ID=588#career\\_perf](http://www.chcoc.gov/transmittal_detail.cfm?ID=588#career_perf)].

**Notes:**

- a. The percentages have been rounded.
- b. The Department of Energy changed from a three-level system in 2002.
- c. The Department of State changed from a five-level system in 2002.
- d. Other information provided by OPM (see FEMA table in Appendix A) shows that 10% of FEMA's senior executives received the highest rating in FY2002.
- e. The Merit Systems Protection Board changed from a five-level system in 2002.
- f. The Office of Management and Budget changed from a five-level system in 2002.

**Table 6. Career SES Performance Ratings by Agency in Three-Level Systems, FY2000-FY2003**

Agency	Percentage of Career Senior Executives Rated at the Highest Level <sup>a</sup>			
	FY2000	FY2001	FY2002	FY2003
Office of the Secretary of Defense (OSD)	100%	99%	100%	99%
Dept. of Education	100%	100%	100%	98%
Dept. of Health and Human Services (HHS)	90%	91%	99%	100%
Dept. of Housing and Urban Development (HUD)	100%	99%	100%	100%

Agency	Percentage of Career Senior Executives Rated at the Highest Level <sup>a</sup>			
	FY2000	FY2001	FY2002	FY2003
Dept. of the Interior	100%	100%	100%	100%
Dept. of Transportation (DOT)	99%	100%	100%	100%
Nuclear Regulatory Commission (NRC)	100%	100%	99%	100%
Social Security Administration (SSA) <sup>b</sup>	100%	100%	100%	41%

**Sources:** Kay Coles James, Director, U.S. Office of Personnel Management, “Reporting SES Performance Ratings and Awards for FY2003,” memorandum, Feb. 12, 2004, available at [<http://www.opm.gov/hrmc/2004/msg-011.asp>]; Dan G. Blair, Acting Director, U.S. Office of Personnel Management, “FY2003 SES Performance Ratings and Awards,” memorandum, Mar. 16, 2005, available at [[http://www.chcoc.gov/transmittal\\_detail.cfm?ID=588#career\\_perf](http://www.chcoc.gov/transmittal_detail.cfm?ID=588#career_perf)].

**Notes:**

- a. The percentages have been rounded.
- b. The Social Security Administration changed to a five-level system in 2003.

As is apparent from these tables, some agencies have evidenced a significant change in the percentage of their senior executives who received the highest rating — particularly those in four-level and five-level systems. Examples include the Department of Labor, OPM, and DOE. On the other hand, other agencies, particularly those with three-level systems, continued to rate all or nearly all of their senior executives in the top rating category.

Awarding the top-level rating to all senior executives in a given agency would not appear to meet OPM’s broad concept of “meaningful distinctions.” However, because OPM at present is emphasizing only the percentage of executives who receive the top-most rating, it is conceivable that an agency could, in a five-level appraisal system, cluster its senior executives at the top two rating levels as long as the percentage of individuals who receive a rating of 5 does not exceed the (unknown) threshold or criterion OPM is using.

Under the new pay system, one of the certification requirements is that agencies must have at least four, but no more than five, levels in their appraisal systems for senior executives.<sup>47</sup> Increasing the minimum number of levels required would seem to be a move toward facilitating meaningful distinctions by increasing the opportunity for making finer distinctions among the performances of senior executives. A distribution of ratings across all four or five levels in a given system would seem to be more indicative of meaningful distinctions than the current criterion used by OPM. Perhaps, though, OPM’s focus on having agencies reduce the percentage of senior executives rated at the highest level is only an initial step

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<sup>47</sup> 5 CFR § 430.405(b)(1)(iii)(A). Appraisal systems for senior professionals (SL and ST employees) may include three, four, or five levels. (5 CFR § 430.405(b)(1)(iii)(B).)

and, as such, is a way to help agencies make the transition from the former system to the requirements of the new system. As another alternative, OPM could address the remainder of an agency's ratings distribution. Assuming that OPM does, or may, want to promote or require a more widespread distribution of agency ratings than existed during the period FY1999-FY2003, a gradual move toward this goal could be more acceptable to agency officials than an abrupt shift.

In the event that OPM does expand its focus to include the entire ratings distributions of agencies, the issue of forced distributions possibly could arise. A significant redistribution of ratings within an appraisal system might lead to questions about whether such an action reflects a natural distribution or a forced distribution. As used here, the term "natural distribution" refers to a ratings distribution that accurately reflects the relative job performances of senior executives. Some might interpret a significant redistribution of ratings as evidence that the new system is functioning as intended. As reported in *Government Executive*, comments made by a senior OPM official support this interpretation: "... [F]ederal agencies must do a more credible job of distributing performance rankings among their top executives" if the new pay system "is to succeed."<sup>48</sup> (A corollary of this interpretation would be that previous ratings were inflated.) A competing interpretation that others might offer is that a redistribution of ratings occurred as the result of a forced distribution, not a natural distribution. One could argue that the financial incentives — higher caps on base pay and total compensation — that can be achieved by obtaining certification could influence agency personnel responsible for rating senior executives. As reported in a news article, the President of the Senior Executives Association (SEA) shares this concern: "The unanswered question is, to what degree are agencies going to feel they have to make the numbers go down, irrespective of their judgment of executive performance, in order to gain certification."<sup>49</sup> However, it has been reported that OPM's Associate Director for Strategic Human Resources Policy indicated that his agency "...would not set quotas on the number of high rankings that agencies could hand out, and would allow agencies to continue to rate most employees highly as long as the agencies were able to justify the rankings."<sup>50</sup> Determining whether significant movement in an agency's ratings distribution is the result of a forced distribution, or accurately reflects the performance of the agency's senior executives, might not be feasible.

**Ratings Distributions by Agency.** Appendix A displays the SES annual summary rating distributions, FY1999-FY2003, for the same agencies that OPM includes in its memoranda on SES performance ratings and awards. (FY2003 data are the most current data available.) Comparisons of ratings distributions before and after the implementation of the new SES pay system could aid in understanding what

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<sup>48</sup> David McGlinchey, "OPM Seeks 'Rigorous and Realistic' Executive Ratings," *Government Executive*, Daily Briefing, Feb. 19, 2004, available at [<http://www.govexec.com/dailyfed/0204/021904d2.htm>].

<sup>49</sup> Kauffman, "OPM Urges Tougher Ratings for Execs," p. 4. The Senior Executives Association is an organization that represents the interests of career senior executives.

<sup>50</sup> Shawn Zeller, "Senior Executive Corps to See Base Salary Increases," *Government Executive*, Daily Briefing, July 26, 2004, available at [<http://www.govexec.com/dailyfed/0704/072604sz1.htm>].

constitutes “meaningful distinctions” and could show how senior executives in those agencies have fared under the new system. Several years of post-implementation data (beginning with FY2004 data) will be needed in order to make this comparison and discern the effects on members of the SES. (All references to tables in this section refer to the tables in **Appendix A**, except as otherwise noted.)

Some of the tables may include data from more than one appraisal system. Federal agencies are permitted to establish more than one performance appraisal system for their senior executives, and different agency components may choose to establish different — three-level, four-level, or five-level — appraisal systems. Two departments, Health and Human Services and Treasury, have both three-level and five-level SES appraisal systems. Additionally, some agencies changed the number of levels in their appraisal systems during the period FY1999-FY2003, and these changes are also noted in the appropriate tables.

- The Department of Energy changed from a three-level system to a four-level system in 2002.
- The Department of Housing and Urban Development changed from a five-level system to a three-level system in 2000.
- The Department of State changed from a five-level system to a four-level system in 2002.
- One or more components of the Department of the Treasury changed from a five-level system to a three-level system in 2003.
- The Merit Systems Protection Board changed from a five-level system to a four-level system in 2002.
- The Office of Management and Budget changed from a five-level system to a four-level system in 2002.
- The Social Security Administration changed from a three-level system to a five-level system in 2003.

As noted previously, only one federal agency, GSA, had received full certification for its SES appraisal system(s) for 2004-2005; and PBGC had received full certification for its SL/ST appraisal system for the same period. Since an agency has to provide data from the two most recent appraisal cycles in its application for certification, GSA apparently used 2002 and 2003 data. In each of these years, no senior executives received the lowest rating of “1”; fewer than 10% received a “2” or “3”; and 39% received a “4.” In 2002, 53% received a “5”; in 2003, 55%. As **Table 7** shows, in nine other agencies, the percentage of senior executives receiving the highest rating was comparable to, or lower than, GSA’s figures in 2002 and 2003.

**Table 7. Agencies Whose Percentage of Top Executives Receiving the Highest Rating Was Less Than 60% in FY2002 and FY2003**

Agency	Percentage of Senior Executives Receiving the Highest Rating	
	2002	2003
Department of Agriculture	34%	38%
Department of Energy	18%	38%
Department of Labor	48%	33%
Department of the Treasury (five-level system)	39%	42%
Federal Emergency Management Agency	10%	46%
General Services Administration	53%	55%
Office of Management and Budget	25%	32%
Office of Personnel Management	54%	31%
Small Business Administration	56%	45%
U.S. Agency for International Development	42%	38%

**Source:** Information provided electronically by the U.S. Office of Personnel Management to the author on July 22, 2005.

As noted earlier, making meaningful distinctions among the performances of senior executives is only one of several requirements that agencies must meet to obtain full certification. Apparently, the agencies listed in **Table 7** have not met all of the other requirements (see “Certification of Performance Appraisal Systems” above). A number of agencies have received provisional certification, but agencies seeking this status are not required to submit ratings data for their senior executives.<sup>51</sup>

During the period FY1999-FY2003, the percentage of senior executives receiving top-level ratings changed significantly at six agencies (see also the tables in **Appendix A**).

- In FY2001, when the Department of Energy still had a three-level system, 99% of the department’s career senior executives received the highest summary rating. In FY2002, the department changed to

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<sup>51</sup> Agency certification status is available at [<http://www.opm.gov.ses.certification.asp>].

a four-level system, and only 18% of senior executives received the highest rating. The following year, 38% received the highest rating.

- In FY2002, 94% of the career senior executives evaluated under five-level performance management systems at the Department of Health and Human Services received the highest rating. The next year, only 48% received that rating. (The department also has three-level rating systems for other senior executives.)
- From a high of 86% in FY1999, the number of career senior executives at FEMA receiving the highest rating dropped to 10% in FY2002, then increased to 46% in 2003.
- After at least two years in which at least 90% of GSA's career senior executives received the highest rating, the percentage dropped to 53% in FY2002 and 55% in FY2003.
- The percentage of career senior executives receiving the highest rating at OMB in FY2000 was 88%. This percentage dropped to 20% in FY2001, then increased to 32% in FY2003.
- At OPM, 91% of the senior executives received the highest rating in FY1999 and FY2000. This figure dropped to 31% in 2003.

As suggested by these data, Appendix A shows that, for the time period covered, it was very rare for a senior executive to receive a rating of "1" or "2" in a four-level or five-level system, or to receive a rating of "1" in a three-level system. Ratings were almost always clustered at the top three (five-level) or two (four-level) levels, or the top level (three-level).

Excluding agencies where at least 90% of the senior executives were awarded the highest ratings over several years, a discernible pattern or distribution is evident at some agencies. That is, the distribution of ratings was fairly consistent from year to year. A summary of five years of data from **Appendix A** shows these patterns:

- Department of Agriculture: fewer than 10% at level 3; 50%-60% at level 4; 35%-38% at level 5.
- Department of Commerce: 3%-4% at level 3; 9%-17% at level 4; 80%-88% at level 5.
- Department of Justice: 1%-2% at level 3; 8%-14% at level 4; 85%-91% at level 5.
- Department of Veterans Affairs: 1%-2% at level 2; 8%-16% at level 3; 25%-33% at level 4; and 56%-67% at level 5.
- Environmental Protection Agency: 1%-3% at level 3; 14%-33% at level 4; and 64%-86% at level 5.

- National Aeronautics and Space Agency: fewer than 1% at level 2; 2%-4% at level 3; 20%-24% at level 4; and 73%-76% at level 5.

As noted previously, similar distribution patterns across five years could reflect consistent job performances among senior executives and/or the consistent application of performance management standards. Another possibility is that similar patterns over several years reflects an internally imposed distribution scheme.

## Potential for Politicization

Whereas some believe the new SES pay system promises to be effective and credible, the judgment of other interested parties, including some senior executives and other federal government employees, will apparently hinge on whether they perceive the system as being equitable, including being free from partisan influence, and transparent. The general acceptance of the new pay system may be contingent, at least in part, upon how it is implemented and how it is perceived.

Some have expressed concern about whether implementation of the new pay system will be carried out in an equitable manner. In the following comments, several members of SEA suggest that the new pay system could lead to the politicization of the SES.

Having worked as a career SES in several agencies for the past 22 years and witnessed the games that some political appointees play with the SES, I would insist upon sufficient safeguards. For example, agency head A wants to free up some SES slots for his or her “supporters” by encouraging current career SES staff to retire. An arbitrary salary cut of let’s say \$20,000 per year in salary for alleged poor performance, impacting the person’s high-3 retirement annuity calculation, would drive many retirement-eligible SES out the door.

I’ve worked directly for a large number (and variety) of political appointees, more than a few of whom responded to career executives on a purely visceral level. If they liked you, your errors were a reflection of desirable risk-taking. If they didn’t like you, your less than total successes were a reflection of your lack of initiative. In other words, I find pay compression under the current system to be more desirable than a wild card system, which is what the proposal looks like to me.

Having the agency set the basic pay would always be “political” whether stated or not. Those on the “right side” or politically connected will be the ones to benefit and those on the “other side” (depending on what party is running the Administration) will not benefit regardless of performance.<sup>52</sup>

One of the specific issues raised by the SEA concerns the increase in the amount that a senior executive’s pay could be reduced for performance or conduct reasons.

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<sup>52</sup> Carol A. Bonosaro, President, and William Bransford, General Counsel, Senior Executives Association, “Comments of the Senior Executives Association on the Proposed Rule Regarding ‘Senior Executive Service Pay and Performance Awards and Aggregate Limitation on Pay,’” pp. 9-10, Aug. 30, 2004, available at [[http://seniorexecs.org/fileadmin/user\\_upload/Letter/08-30-2004\\_PayRegsFinalComments.pdf](http://seniorexecs.org/fileadmin/user_upload/Letter/08-30-2004_PayRegsFinalComments.pdf)].



Under the old system, an executive's pay could be reduced no more than one pay level per year. In 2003, for example, a senior executive who was moved from pay level ES-4 to ES-3 would have experienced a 4.7% decrease in base pay. (Moving from ES-3 to ES-2 represented a 4.3% decrease; ES-2 to ES-1 would have resulted in a 4.5% decrease in base pay.) The new rules allow for an annual pay reduction of up to 10% in base pay. In comments it provided to OPM, the SEA stated that

... with regard to the career SES, it is important to remember the need to avoid the fray of politics and the specter of undue politicization. One of the purposes of the SES is to help maintain consistency during political change. Given human nature, there is a strong probability that, at some point, the allowed 10% reduction will be misused by a political appointee in order to affect or influence a desired politically motivated decision. The mere threat or existence of the 10% reduction has the potential to become a subtle and negative influence that can well contribute to the politicization of the career SES, or at a minimum, result in arguments or perceptions that the career SES has been subject to improper political pressure. This is particularly true considering the impact on a career Senior Executive's retirement annuity that will result when pay is reduced.<sup>53</sup>

In its response to SEA's concerns about possible politicization of the SES under the new pay system, OPM officials wrote: "The new SES pay system provides greater opportunities for higher rates of basic pay and larger pay adjustments, and with these opportunities come greater risks. We believe it is necessary to provide agencies with the authority to reduce basic pay up to 10 percent. Therefore, we made no changes in the regulations."<sup>54</sup> Those parties concerned that the new system possibly could facilitate the politicization of the SES suggest that the withholding of pay adjustments or the offering of pay increases also could be used in attempts to exert undue influence over senior executives.

**DOD Experience.** A situation that arose at DOD in 2005 involving pay increases for career senior executives and noncareer senior executives demonstrates how differential treatment may be perceived. In a memorandum dated January 12, 2005, the Director of Administration and Management in the Office of the Secretary of Defense outlined an SES pay increase proposal that would have permitted noncareer SES members to receive a higher increase in base pay than certain categories of career SES members. While noncareer senior executives — who are also sometimes referred to as political appointees — would have received a 2.5% increase in base pay, career senior executives in certain categories (as described in the memorandum) would have received a 2.38% or 2% increase in base pay in 2005. By way of explanation for these differences, the Director wrote that noncareer SES "members occupy some of the most senior positions in the Department, are ineligible for performance awards and Presidential Rank Awards and did not receive the CY2004 pay adjustment until late in the year."<sup>55</sup> In a letter to the head of OPM,

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<sup>53</sup> Ibid., p. 2.

<sup>54</sup> U.S. Office of Personnel Management, "Senior Executive Service Pay and Performance Awards; Aggregate Limitation on Pay," p. 70358.

<sup>55</sup> Raymond F. DuBois, Director, Administration and Management, Office of the Secretary (continued...)

SEA's President noted that OPM regulations governing salary adjustments for members of the SES do not mention "allowing an adjustment solely because of the political character of an appointment ...." The SEA letter also noted that DOD's proposed policy would have violated 5 U.S.C. § 2302(b)(1)(E), which prohibits discriminating for, or against, any employee on the basis of political affiliation.

Congress's response to what occurred at DOD was Section 1020 of P.L. 109-13, Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (119 Stat. 231, at 251). Section 1020 states:

None of the funds appropriated to the Department of Defense by this Act or any other Act for fiscal year 2005 or any other fiscal year may be expended for any pay raise granted on or after January 1, 2005, that is implemented in a manner that provides a greater increase for non-career employees than for career employees on the basis of their status as career or non-career employees, unless specifically authorized by law: *Provided*, That this provision shall be implemented for fiscal year 2005 without regard to the requirements of section 5383 of title 5, United States Code: *Provided further*, That no employee of the Department of Defense shall have his or her pay reduced for the purpose of complying with the requirements of this provision.

The *Washington Post* and *Government Executive* reported that a July 1, 2005, memorandum, issued by the Principal Deputy Under Secretary of Defense for Personnel and Readiness, directed DOD offices to implement retroactive 2.5% pay increases to career senior executives who were initially denied the 2.5% raise.<sup>56</sup> According to the *Government Executive* article, the retroactive raise will apply to 358 career senior executives in DOD.

**NASA Experience.** Questions also have been raised about pay raises for senior executives employed by NASA. As reported in the news, approximately 50% of NASA's senior executives received a 2.5% pay raise; another 27% received raises ranging from 0.5% to less than 2.5%; and the remaining 23% did not receive pay raises. The fact that NASA considered the importance of jobs held by senior executives as part of its calculations troubled some NASA executives. Reportedly, one executive stated: "The system is geared toward going along to get a raise or performance bonus."<sup>57</sup> A NASA official responded: "We did establish a structure based on position worth — positions with the greatest responsibility were eligible for the greatest increases. The actual fact is that we rewarded the people that are responsible for the mission implementation in the agency, and they happen to be the

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<sup>55</sup> (...continued)

of Defense, "Increase in the Senior Executive Service and Defense Intelligence Senior Executive Service Base Pay," memorandum, Jan. 12, 2005.

<sup>56</sup> Stephen Barr, "Retroactive Salary Increases Ordered for Some Pentagon Career Executives," *Washington Post*, July 12, 2005, p. B2; Karen Rutzick, "Pentagon Gives Retroactive Pay Raise to Career Executives," Daily Briefing, *Government Executive*, July 18, 2005, available at [<http://www.govexefc.com/dailyfed/0705/071805r2.htm>].

<sup>57</sup> Stephen Barr, "Complaints about NASA Raises Follow Switch to Performance-Based System," *Washington Post*, Mar. 2, 2005, p. B2.

people in the senior leadership positions.” Another NASA official added that “decisions were based on performance primarily.”<sup>58</sup>

While the news article is obviously not evidence that anyone acted improperly at NASA, it demonstrates the importance of employees’ perceptions. Speculation within the SES ranks as to why certain members of the service fared better than others on performance appraisals might be fueled by, or lead to, charges of favoritism. Perhaps such concerns have existed previously, but the perceived increase in latitude afforded supervisors under the new system has led some to suggest that perceived favoritism may be a problem, or a greater problem, under the new system than it was under the previous system.

**The Importance of Early Experiences.** Some have suggested that the combination of senior executives’ observations and perceptions of the new system might constitute a form of passive influence. As one observer has written,

... [T]here is considerable evidence that employee morale influences employee performance, and employee perceptions of workplace fairness influence the willingness of employees to go above and beyond the specifics of their job description to demonstrate what researchers call good ‘organizational citizenship’.<sup>59</sup>

Depending upon how the implementation of the SES pay system proceeds, the experience possibly could help to promote, or undermine, other pay-for-performance initiatives within the federal government. As reported by the *Washington Post*, several Senators, including the Chairman of the Senate Committee on Armed Services, expressed concern that DOD’s handling of SES pay in 2005 could affect other employees:

The decision to use the status of an employee — as either career or non-career — as a factor in the awarding of a pay raise appears to be inconsistent with the law, and the department’s stated intent to pay employees on the basis of their performance .... We are concerned that this decision could undermine the credibility of DOD pay systems not only with senior executives, but also with other employees who will be entering pay-for-performance systems when the new National Security Personnel System is implemented.<sup>60</sup>

In a letter sent to the Secretary of Defense and the Acting Director of OPM, other Members wrote:

We believe the importance of maintaining high morale among career DOD employees far outweighs the benefits of giving slightly higher pay raises to political appointees. The new DOD policy has the effect of valuing the work of

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<sup>58</sup> Ibid.

<sup>59</sup> Steven Kelman, “The Right Pay,” *Government Executive*, May 2003, p. 94.

<sup>60</sup> Sen. John W. Warner, Chairman, Senate Committee on Armed Services, Sen. Susan M. Collins, Sen. Carl M. Levin, and Sen. Joseph I. Lieberman, letter to Donald Rumsfeld, Secretary of Defense, Feb. 4, 2005, cited in Stephen Barr, “Defense Pay-Raise Flap Shaking NSPS Confidence,” *Washington Post*, Apr. 24, 2005, p. C2.

career employees less than that of political appointees. This is the wrong message to be sending to 700,000 career DOD employees .... We are also concerned that the new pay policy for SES employees will serve as a precedent for the pay-for-performance system that DOD is currently developing for all Department employees.<sup>61</sup>

The extent to which the administration of the SES pay system is transparent also might play a significant role in how senior executives, and other employees, view the system, and, accordingly, might aid in precluding or alleviating concerns about whether the system has been implemented in an equitable manner. The final rule for the SES pay system requires agencies to “provide for transparency in the processes for making pay decisions, while assuring confidentiality.”<sup>62</sup> However, this is a broad statement, and the lack of detailed guidelines could allow agency personnel broad discretion in determining the extent and type of information they disclose. Uneven disclosure policies and practices across the federal government could be problematic, particularly if some agencies appear less forthcoming than others. Additionally, a lack of standardization among agency disclosure policies might undermine the usefulness of information that is made available to the public. The Senior Executives Association has called for greater transparency, with disclosure of “all information about the operation of the performance management system in an agency, including any guidance or advice provided by the agency official designated to provide oversight to the annual performance appraisal process in the agency ... summary information concerning performance ratings, annual salary adjustments, [and] the percentage of executives who receive bonuses and the range of bonus awards.”<sup>63</sup> It remains to be seen whether OPM provides additional guidance on this matter, and how agencies comply with the regulation.

## Rank in Person

A fundamental principle of the Senior Executive Service is that rank resides in the individual. The final rule for the new pay system, in discussing how to set pay for an individual upon his or her initial appointment to the SES, supports this concept: “In setting a new senior executive’s rate of basic pay, an agency must consider the nature and quality of the individual’s experience, qualifications, and accomplishments as they are related to the requirements of the SES position, as well

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<sup>61</sup> Rep. Henry A. Waxman, Ranking Minority Member, House Committee on Government Reform, Sen. Daniel K. Akaka, Ranking Minority Member, Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on the Oversight of Government Management, the Federal Workforce, and the District of Columbia, and Rep. Danny K. Davis, Ranking Minority Member, House Committee on Government Reform, Subcommittee on Civil Service and Agency Organization, letter to Donald H. Rumsfeld, Secretary of Defense, and Dan G. Blair, Acting Director, U.S. Office of Personnel Management, Feb. 8, 2005.

<sup>62</sup> U.S. Office of Personnel Management, “Senior Executive Service Pay and Performance Awards; Aggregate Limitation on Pay,” p. 70365.

<sup>63</sup> Senior Executives Association, “Comments of the Senior Executives Association on the Proposed Rule Regarding ‘Senior Executive Service Pay and Performance Awards and Aggregate Limitation on Pay;,’” n.d., p. 6, available at [[http://www.seniorexecs.org/fileadmin/user\\_upload/Letter/08-30-2004\\_PayRegsFinalComments.pdf](http://www.seniorexecs.org/fileadmin/user_upload/Letter/08-30-2004_PayRegsFinalComments.pdf)].

as the individual's current responsibilities.”<sup>64</sup> Another excerpt from the final rule, however, might undermine the concept of rank in person. Under the new pay system, a pay adjustment is permitted when an increase in pay

is necessary to reassign a senior executive to a position with substantially greater scope and responsibility or to recruit a senior executive with superior leadership or other competencies from a position in another agency ... [or] [t]he retention of the senior executive is critical to the mission of the agency and the senior executive would be likely to leave the agency in the absence of a pay increase.<sup>65</sup>

While the principle of rank in person may have been undermined incrementally over the years through pay compression and through individual decisions that linked pay with the level of responsibility of a particular position, the rule issued by OPM in December 2004 could be construed as validating this linkage. Reassigning a senior executive and providing him or her a pay increase based on the fact that the new position includes greater responsibility than the former position runs counter to the notion that rank resides in the person. It remains to be seen whether, and how, these two somewhat contradictory concepts — rank in person and rank associated with position — will be reconciled.

## Tracking New Pay System Effects

OPM's regulations and guidance on the new pay system, including the certification process, show that it has established objectives, in the form of requirements (such as making meaningful distinctions), for agencies. Additionally, OPM apparently plans to hold agencies accountable for meeting these requirements. As reported in a *Washington Post* article, the Senior Policy Advisor to the Director of OPM characterized the December 2004 regulation on SES pay and performance awards as making “the most far-reaching changes in the Senior Executive Service since it was formed almost 25 years ago ....”<sup>66</sup> The significance of these changes, and the potential for unintended consequences, give rise to a series of questions:

- Does OPM plan to evaluate the new pay system? If so, what factors or criteria will OPM use in its evaluation? Will the evaluation take into account unintended consequences?
- Will the new system help to alleviate pay compression? If OPM does evaluate the new system, will it include this issue? If pay compression continues, will OPM take steps to address this problem?
- What effects, if any, has the new system had on the performance and retention of senior executives? How many senior executives

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<sup>64</sup> U.S. Office of Personnel Management, “Senior Executive Service Pay and Performance Awards; Aggregate Limitation on Pay,” p. 70363.

<sup>65</sup> *Ibid.*, p. 70364.

<sup>66</sup> Stephen Barr, “For Senior Executives, Pay Relief with a Twist,” *Washington Post*, Dec. 5, 2004, p. C2.

received lower summary ratings under the new system than they had previously? How does their post-rating performance compare with their previous performance?

- What effect might a decrease in some executives' summary ratings have on the employing agency? If these individuals question why they received lower ratings than they had previously, how is management going to explain its decisions?
- Do senior executives view the new system as equitable and credible?

## **Conclusion**

The SES pay system, including the certification option, that was established in 2004 is the most significant change to the SES since its inception in 1978. While the new system has higher caps on base pay than the previous system and may help to alleviate pay compression, its implementation signaled the elimination of locality pay and annual pay adjustments for senior executives. The Administration's emphasis on results, performance, and accountability has been interpreted, in part, as the requirement that agencies which seek certification of their appraisal system(s) must, among other things, make meaningful distinctions among their senior executives. Compensation for senior executives is expected to be commensurate with their relative performance. An agency may receive full certification or provisional certification for each of its appraisal systems. Whether an appraisal system has been certified by OPM, with OMB concurrence, also determines which cap applies to aggregate compensation for senior executives and SL and ST employees. Whereas OPM's regulation and guidance provide one standard for gauging the success of the new pay system, others, including senior executives, might be more concerned with different outcomes, unintended consequences, and issues involving the credibility of the new system.

## Appendix A. Senior Executive Annual Summary Ratings Distribution by Agency

The source of information for the tables is OPM, and percentages have been rounded.<sup>67</sup>

### Department of Agriculture (USDA) Senior Executive Annual Summary Ratings Distribution

Fiscal Year	Rating Levels				
	1	2	3	4	5
1999	3 (1%)	1 (<1%)	14 (5%)	162 (58%)	97 (35%)
2000	3 (1%)	0	6 (2%)	166 (60%)	102 (37%)
2001	0	0	15 (5%)	163 (57%)	106 (37%)
2002	0	0	22 (7%)	172 (58%)	102 (34%)
2003	0	1 (<1%)	21 (7%)	161 (55%)	112 (38%)

### Department of Commerce Senior Executive Annual Summary Ratings Distribution

Fiscal Year	Ratings				
	1	2	3	4	5
1999	0	0	0	35 (15%)	206 (85%)
2000	0	0	7 (3%)	20 (9%)	196 (88%)
2001	0	0	10 (4%)	42 (16%)	211 (80%)
2002	0	0	6 (3%)	36 (17%)	173 (80%)
2003	0	1 (<1%)	9 (4%)	39 (16%)	201 (80%)

<sup>67</sup> Information provided electronically by the U.S. Office of Personnel Management to the author on July 22, 2005.

**Department of Defense  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings				
	1	2	3	4	5
1999	0	0	2 (<1%)	12 (2%)	668 (98%)
2000	0	0	0	11 (2%)	685 (98%)
2001	0	0	1 (<1%)	9 (1%)	716 (99%)
2002	1	0	3 (<1%)	29 (5%)	571 (95%)
2003	1 (<1%)	2 (<1%)	11 (2%)	24 (4%)	608 (94%)

**Note:** The Office of the Secretary of Defense (OSD) is not included in this table. There is a separate table for OSD. The Army Corps of Engineers (ACE) SES ratings are included only in the figures for FY1999-FY2001. ACE data for the remaining two fiscal years were not provided.

**Department of Education  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings		
	1	2	3
1999	0	0	57 (100%)
2000	0	0	53 (100%)
2001	0	0	66 (100%)
2002	0	0	63 (100%)
2003	0	1 (2%)	53 (98%)



**Department of Energy (DOE)  
Senior Executive Annual Summary Ratings Distribution**

<b>Fiscal Year</b>	<b>Ratings</b>			
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
<b>1999</b>	0	1 (<1%)	327 (100%)	NA
<b>2000</b>	0	0	347 (100%)	NA
<b>2001</b>	0	4 (1%)	394 (99%)	NA
<b>2002<sup>a</sup></b>	0	7 (2%)	273 (80%)	63 (18%)
<b>2003</b>	0	1 (<1%)	206 (61%)	129 (38%)

a. The Department of Energy changed to a four-level system in 2002.

**Department of Health and Human Services (HHS)  
Senior Executive Annual Summary Ratings Distribution  
(three-level)**

<b>Fiscal Year</b>	<b>Ratings</b>		
	<b>1</b>	<b>2</b>	<b>3</b>
<b>1999</b>	0	0	253 (100%)
<b>2000</b>	0	0	253 (100%)
<b>2001</b>	0	0	238 (100%)
<b>2002</b>	0	1 (<1%)	327 (100%)
<b>2003</b>	1 (<1%)	0	213 (100%)

**Department of Health and Human Services (HHS)  
Senior Executive Annual Summary Ratings Distribution  
(five-level)**

<b>Fiscal Year</b>	<b>Ratings</b>				
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>1999</b>	0	0	32 (26%)	16 (13%)	76 (61%)
<b>2000</b>	0	0	22 (19%)	13 (11%)	83 (70%)
<b>2001</b>	0	0	21 (17%)	12 (10%)	90 (73%)
<b>2002</b>	0	0	0	2 (6%)	32 (94%)
<b>2003</b>	0	0	0	31 (52%)	29 (48%)

**Department of Housing and Urban Development (HUD)  
Senior Executive Annual Summary Ratings Distribution**

<b>Fiscal Year</b>	<b>Ratings</b>				
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>1999</b>	1 (2%)	0	12 (18%)	10 (15%)	42 (65%)
<b>2000<sup>a</sup></b>	0	0	66 (100%)	NA	NA
<b>2001</b>	0	1 (1%)	67 (99%)	NA	NA
<b>2002</b>	0	0	64 (100%)	NA	NA
<b>2003</b>	0	0	69 (100%)	NA	NA

a. HUD changed to a three-level system in 2000.

**Department of the Interior  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings		
	1	2	3
1999	0	0	180 (100%)
2000	0	0	183 (100%)
2001	0	0	191 (100%)
2002	1 (<1%)	0	191 (100%)
2003	0	0	190 (100%)

**Department of Justice  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings				
	1	2	3	4	5
1999	0	0	0	28 (10%)	245 (90%)
2000	0	0	0	25 (9%)	262 (91%)
2001	0	0	2 (<1%)	24 (8%)	269 (91%)
2002	0	0	4 (2%)	28 (11%)	226 (88%)
2003	0	0	3 (1%)	37 (14%)	223 (85%)

**Department of Labor  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings				
	1	2	3	4	5
1999	0	0	12 (9%)	42 (32%)	76 (58%)
2000	0	0	18 (13%)	26 (19%)	92 (68%)
2001	0	0	21 (16%)	36 (27%)	78 (58%)
2002	0	0	14 (11%)	52 (41%)	61 (48%)
2003	0	1 (<1%)	17 (13%)	69 (53%)	42 (33%)

**Department of State  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings				
	1	2	3	4	5
1999	0	0	0	2 (2%)	83 (98%)
2000	0	0	0	0	101 (100%)
2001	0	0	0	2 (2%)	95 (98%)
2002 <sup>a</sup>	0	0	1 (<1%)	110 (99%)	NA
2003	0	0	2 (2%)	107 (98%)	NA

a. The Department of State changed to a four-level system in 2002.

**Department of Transportation (DOT)  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings		
	1	2	3
1999	0	0	160 (100%)
2000	1 (<1%)	0	165 (99%)
2001	1 (<1%)	0	194 (99%)
2002	0	0	177 (100%)
2003	0	0	155 (100%)

**Department of the Treasury  
Senior Executive Annual Summary Ratings Distribution  
(five-level)**

Fiscal Year	Ratings				
	1	2	3	4	5
1999	0	0	62 (13%)	169 (35%)	248 (52%)
2000	0	0	75 (14%)	176 (33%)	289 (54%)
2001	0	0	112 (20%)	161 (29%)	274 (50%)
2002	0	0	161 (30%)	165 (31%)	207 (39%)
2003	0	0	34 (11%)	143 (47%)	130 (42%)

**Department of the Treasury**  
**Senior Executive Annual Summary Ratings Distribution**  
**(three-level)**

<b>Fiscal Year</b>	<b>Ratings</b>		
	<b>1</b>	<b>2</b>	<b>3</b>
<b>1999</b>	NA	NA	NA
<b>2000</b>	NA	NA	NA
<b>2001</b>	NA	NA	NA
<b>2002</b>	NA	NA	NA
<b>2003<sup>a</sup></b>	0	0	62 (100%)

a. Apparently, one or more Treasury components changed from a five-level system to a three-level system in 2003.

**Department of Veterans Affairs**  
**Senior Executive Annual Summary Ratings Distribution**

<b>Fiscal Year</b>	<b>Ratings</b>				
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>1999</b>	0	2 (<1%)	25 (10%)	79 (33%)	137 (56%)
<b>2000</b>	0	3 (1%)	41 (16%)	68 (27%)	142 (56%)
<b>2001</b>	1 (<1%)	1 (<1%)	32 (11%)	89 (32%)	156 (56%)
<b>2002</b>	0	6 (2%)	34 (13%)	76 (28%)	154 (57%)
<b>2003</b>	0	0	20 (8%)	65 (25%)	176 (67%)

**Environmental Protection Agency (EPA)  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings				
	1	2	3	4	5
1999	0	0	2 (<1%)	34 (15%)	196 (84%)
2000	0	0	1 (<1%)	34 (14%)	212 (86%)
2001	0	0	3 (1%)	39 (16%)	202 (83%)
2002	0	1 (<1%)	4 (2%)	71 (29%)	166 (69%)
2003	0	0	8 (3%)	83 (33%)	164 (64%)

**Federal Emergency Management Agency (FEMA)  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings			
	1	2	3	4
1999	0	0	4 (14%)	25 (86%)
2000	0	0	4 (13%)	28 (88%)
2001	0	0	20 (63%)	12 (38%)
2002	0	0	28 (90%)	3 (10%)
2003	0	0	13 (54%)	11 (46%)

**General Services Administration (GSA)  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings				
	1	2	3	4	5
1999	0	0	1 (1%)	7 (9%)	73 (90%)
2000	0	0	1 (1%)	2 (3%)	76 (96%)
2001	0	0	0	6 (7%)	76 (93%)
2002	0	0	7 (9%)	31 (39%)	42 (53%)
2003	0	1 (1%)	4 (5%)	29 (39%)	41 (55%)

**Merit Systems Protection Board (MSPB)  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings				
	1	2	3	4	5
1999	0	0	0	0	8 (100%)
2000	0	0	0	0	9 (100%)
2001	0	0	0	1 (11%)	8 (89%)
2002 <sup>a</sup>	0	0	0	9 (100%)	NA
2003	0	0	0	10 (100%)	NA

a. The Merit Systems Protection Board switched to four-level system in 2002.

**National Aeronautics and Space Administration (NASA)  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings				
	1	2	3	4	5
1999	0	0	13 (4%)	85 (23%)	268 (73%)
2000	1 (<1%)	0	9 (2%)	91 (24%)	276 (73%)
2001	0	1 (<1%)	10 (3%)	80 (21%)	290 (76%)
2002	0	2 (<1%)	11 (3%)	74 (21%)	271 (76%)
2003	0	3 (<1%)	16 (4%)	75 (20%)	290 (76%)

**Nuclear Regulatory Commission (NRC)  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings		
	1	2	3
1999	0	1 (<1%)	152 (99%)
2000	0	0	135 (100%)
2001	0	0	139 (100%)
2002	0	2 (1%)	138 (99%)
2003	0	0	137 (100%)

**Office of Management and Budget (OMB)  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings				
	1	2	3	4	5
1999	0	0	1 (2%)	10 (18%)	46 (81%)
2000	0	0	1 (2%)	5 (10%)	45 (88%)
2001	0	0	0	37 (80%)	9 (20%)
2002 <sup>a</sup>	0	0	40 (75%)	13 (25%)	NA
2003	0	0	39 (68%)	18 (32%)	NA

a. The Office of Management and Budget switched to a four-level system in 2002.

**Office of Personnel Management (OPM)  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings				
	1	2	3	4	5
1999	0	0	0	3 (9%)	29 (91%)
2000	0	0	1 (3%)	2 (6%)	32 (91%)
2001	0	0	2 (6%)	15 (47%)	15 (47%)
2002	0	0	1 (4%)	11 (42%)	14 (54%)
2003	0	0	3 (10%)	17 (59%)	9 (31%)

**Office of the Secretary of Defense (OSD)  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings		
	1	2	3
1999	0	3 (<1%)	394 (99%)
2000	0	0	403 (100%)
2001	0	2 (<1%)	310 (99%)
2002	1	0	397 (100%)
2003	0	3 (<1%)	389 (99%)



**Small Business Administration (SBA)  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings				
	1	2	3	4	5
1999	0	0	0	7 (23%)	24 (77%)
2000	0	0	1 (3%)	7 (21%)	26 (76%)
2001	0	0	1 (3%)	6 (16%)	29 (81%)
2002	0	0	7 (18%)	10 (26%)	22 (56%)
2003	0	0	5 (16%)	12 (39%)	14 (45%)

**Social Security Administration (SSA)  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings				
	1	2	3	4	5
1999	0	0	90 (100%)	NA	NA
2000	0	0	122 (100%)	NA	NA
2001	0	0	122 (100%)	NA	NA
2002	0	0	116 (100%)	NA	NA
2003 <sup>a</sup>	0	0	13 (12%)	53 (47%)	46 (41%)

a. The Social Security Administration switched to a five-level system in 2003.

**U.S. Agency for International Development (USAID)  
Senior Executive Annual Summary Ratings Distribution**

Fiscal Year	Ratings				
	1	2	3	4	5
1999	0	0	4 (18%)	1 (5%)	17 (77%)
2000	0	0	1 (5%)	0	18 (95%)
2001	0	0	2 (8%)	6 (25%)	16 (67%)
2002	0	0	5 (21%)	9 (38%)	10 (42%)
2003	0	0	9 (43%)	4 (19%)	8 (38%)

## Appendix B

### Section 1126, P.L. 108-136

Section 1126 of the FY2004 National Defense Authorization Act (P.L. 108-136; 117 Stat. 1392, at 1640) lists design elements for pay-for-performance systems initiated under Chapter 47 of Title 5 of the *United States Code*. These elements do not apply to the SES pay system, which is found in Chapter 53 of Title 5. However, they might be instructive when reviewing the elements of the new SES pay system. The elements are

- Adherence to merit principles set forth in section 2301 of such [Title 5 of the *United States Code*]
- A fair, credible, and transparent employee performance appraisal system.
- A link between elements of the pay-for-performance system, the employee performance appraisal system, and the agency's strategic plan.
- A means for ensuring employee involvement in the design and implementation of the system.
- Adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the pay-for-performance system.
- A process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period, and setting timetables for review.
- Effective safeguards to ensure that the management of the system is fair and equitable and based on employee performance.
- A means for ensuring that adequate agency resources are allocated for the design, implementation, and administration of the pay-for-performance system.

### Government Accountability Office

Employing a slightly different perspective, GAO identified the following key practices for effective performance management:

- Align individual performance expectations with organizational goals.
- Connect performance expectations to crosscutting goals.

- Provide and routinely use performance information to track organizational priorities. (A subsequent GAO report stated: “Provide and routinely use performance information to make program improvements.”<sup>68</sup>)
- Require follow-up actions to address organizational priorities.
- Use competencies to provide a fuller assessment of performance.
- Link pay to individual and organizational performance.
- Make meaningful distinctions in performance.
- Involve employees and stakeholders to gain ownership of performance management systems.
- Maintain continuity during transitions.<sup>69</sup>

## Coalition for Effective Change

The Coalition for Effective Change, self-described as a “non-partisan alliance of associations representing current and retired federal managers, executives, and professionals,” offers the following factors as a foundation for any system that links pay and performance:<sup>70</sup>

- *Gaining Consensus on the Basis for Rewards and Corrective Actions:* Determinations to award higher pay and bonuses, and to take corrective actions because of poor performance, must be based on a credible process for evaluating performance that is tailored to the individual needs and culture of each organization (avoiding the temptation to implement a “one size fits all approach”) and which is developed, implemented, evaluated, and adjusted over time with the active involvement of employees and managers. Employees not represented by a union should have representation through their professional or managerial associations.
- *Allowing for the Exercise of Reasonable Judgment:* We [Coalition for Effective Change] recognize that judging overall performance and contributions involves a degree of subjective judgment by the rater[; therefore], the system should strive for as much objectivity as possible while recognizing that an inherent aspect of good management is the ability to exercise and support sound judgment with regard to the quality and quantity of work, the effects outcomes of inputs, and the impact of environment and unforeseen developments.

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<sup>68</sup> U.S. General Accounting Office, *Human Capital: Implementing Pay for Performance at Selected Personnel Demonstration Projects*, GAO Report GAO-04-83 (Washington: 2004), p. 1.

<sup>69</sup> U.S. General Accounting Office, *Results-Oriented Cultures: Creating a Clear Linkage Between Individual Performance and Organizational Success*, GAO Report GAO-03-488 (Washington: 2003), p. 4.

<sup>70</sup> Coalition for Effective Change, available at [<http://www.effective-change.org/about.html>].

- *Flexible*: Recognizing that the proportion of high performers differs among agencies and work groups within agencies, the amount and distribution of awards should be controlled via budget allocations and not by arbitrary quotas or forced distribution. In addition, the system should specifically allow for the possibility of team awards rather than individual awards where that makes the most sense.
- *Reviewable*: A credible system will provide for third party review (preferably peer review) and a rational and reasonable process for the appeals of actions having a material effect upon the employee. Results or outcomes of the pay for performance system should be openly available to those participating in the system to build the credibility of the system over time.
- *Periodically evaluated and adjusted*: Any new or revised performance management system should be tested and evaluated on an ongoing basis and refined based on the results, all with stakeholder participation. The test should be communicated to all employees before starting, and the results and actions to be taken based on those results should also be communicated. Finally, reviews of the system by an agency or by the Office of Personnel Management should include an assessment of the impact of the system on agency workforce diversity goals and initiatives.
- *Adequately funded*: The performance award system, both in testing and full implementation, must be adequately funded with a specific allocation of funds for both implementation and ongoing operation. If unforeseen and uncontrollable circumstances intervene, the circumstances and effect on performance awards should be immediately communicated to all participants. At a minimum, any employee whose performance is deemed to be satisfactory should expect to receive an annual pay increase that at least keeps pace with cost of living increases in [his or her] area.<sup>71</sup>

## Robert D. Behn

Dr. Robert D. Behn, a lecturer in the Kennedy School of Government, Harvard University, suggests these eight principles for improving human and organizational performance:

- Offer enough base pay to attract talented, dedicated people.
- Give people an important mission to achieve.
- Don't create systems that automatically label lots of people as losers.
- Find lots of mechanisms to tell people they are winners. (And don't rely on financial incentives.).
- Reward teamwork.

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<sup>71</sup> Coalition for Effective Change, "Linking the Pay of Federal Employees to Their Performance," Aug. 2004, available at [<http://www.effective-change.org/CECPublications.html>]. (Italics in original.)

- Make it easy to terminate obnoxiously poor performers.
- Ask line managers if your system helps them to improve performance.
- Don't carve your new system in stone; rather, be prepared to make the inevitably necessary changes.<sup>72</sup>

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<sup>72</sup> Robert D. Behn, "Performance, People, and Pay," *Bob Behn's Public Management Report*, 2000, pp. 8-9, available at [<http://www.ksg.harvard.edu/TheBehnReport/>].