

PERSONNEL MANAGEMENT LETTER NO. 92-3 (319) (534)

SUBJECT: Departmental Policy on Pay Reform - Senior Level and Scientific and Professional Positions

Attached is the Department's policy regarding the implementation of Section 102 of the Federal Employees Pay Comparability Act of 1990 (FEPCA). This policy provides employment procedures and pay policy for recommending initial pay rates and pay rate adjustments for senior level and scientific and professional positions within the Department.

This pay plan was approved for implementation by the Executive Resources Board on November 22, 1991.

Morris A. Simms
Director of Personnel

Attachment

INQUIRIES: Cindy Hancock, Division of Staffing,
Classification and Executive Resources Management,
Telephone 208-4231, Room 5023, Mail Stop 5203

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cc:
Dir-FPM
DivChron
SCERM/PPM:Hancock:ra:02/11/92:x4231
Title: FINEL
Disk: Cindy Hancock

Chapter 319 Employment in Senior-Level (SL) and Scientific and Professional
(ST) Positions 370 DM 319.1.1

Subchapter 1. General Provisions

1.1 Authority. The senior-level position system was established under authority of the Federal Employees Pay Comparability Act of 1990.

1.2 Coverage. Senior-level positions include those classified above GS-15 (i.e. positions formerly classified at GS-16, 17, and 18) pursuant to 5 U.S.C. 5108, scientific and technical positions established under 5 U.S.C. 3104, and any position formerly graded at GS-16.17 and 18 not otherwise covered under a separate pay system.

1.3 Exclusions. The following positions are excluded from the senior-level position system:

- A. Senior Executive Service positions established under 5 U.S.C. 3132;
- B. Administrative Law Judge positions paid under a separate pay system (5 U.S.C. 5372);
- C. Positions of members of agency boards of contract appeals paid under a separate pay system (5 U.S.C. 5372a); and
- D. Positions where pay is fixed by administrative action and is limited to level IV of the Executive Schedule under 5 U.S.C. 5373.

1.4 Position Allocations.

A. Positions may be established by the Department only under a position allocation approved by the Office of Personnel Management (OPM). Once the Department receives its allocation, it may establish senior-level positions within the allocation without the prior approval of OPM.

B. Bureaus and offices are responsible for submitting to their respective Assistant Secretaries annual plans covering their senior-level position needs by August 15 of each year.

C. Assistant Secretaries, the Solicitor and equivalent officials will identify their senior-level position needs in the annual Executive Resource Plan which is submitted to the Assistant Secretary--Policy, Management and Budget by September 1 of each year.

D. Control of all senior-level position allocations in the Department is maintained at the Secretariat level and is carried out by the Executive Resources Board (ERB) which determines priorities for the utilization of these positions.

E. The ERB may:

- (1) authorize the continued utilization of a senior-level position

authorization when the position becomes vacant, or

(2) authorize the establishment of a new senior-level position by reprogramming a currently available vacant authorization under the control of a bureau or office, or

(3) request OPM approval of additional position allocations when a senior-level position authorization is not available and a critical need for such an allocation can be established and justified by a requesting bureau/office.

1.5 Filling Senior-Level Positions

A. Senior-level positions (except those established under the authority of 5 U.S.C. 3104) generally will be filled utilizing the same recruitment and staffing procedures outlined in 370 DM 920,4 for positions established under the Senior Executive Service. Bureaus or offices, at their discretion, may recommend the noncompetitive placement of individuals in senior-level positions in the following situations:

(1) a promotion resulting from the upgrading of a position without significant change in duties and responsibilities due to the issuance of a new classification standard or the correction of an initial classification error;

(2) a position change permitted by reduction-in-force regulations;

(3) a promotion resulting from an employee's position being classified at a higher grade because of additional duties and responsibilities;

(4) reinstatement of an individual who previously served in a senior-level position on a permanent appointment; and

(5) transfer or reassignment of an individual from another agency or bureau currently serving in a senior-level position.

B. Senior scientific and professional positions in the ST-3104 category generally will be filled through noncompetitive action following review and confirmation of the individual's qualifications as a research scientist. Bureaus and offices have the option of utilizing the recruitment procedures outlined in 370 DM 920,4 to fill ST positions on either a temporary or permanent basis. ✓

1.6 Qualification Standards and Qualifications Approval. Bureaus and offices are responsible for establishing the qualification standards for ST and senior-level positions, subject to the approval of the ERB. The ERB is responsible for approving the qualifications of all appointees to senior-level and ST positions. Time-in-grade restrictions, provided for in 5 CFR 300, subpart F, do not apply in filling SL or ST positions. ←

1.7 Pay for Senior-Level and Scientific and Professional Positions. Pay setting for senior-level (SL) and scientific and professional (ST) positions is addressed in 370 DM 534.

1.8 Reporting Personnel Actions. Bureaus and offices will report all personnel actions taken with respect to senior-level and ST positions using OPM Form 1390. This includes appointments, pay rate adjustments, other pay change actions, reassignments, and resignations. The 1390 must be forwarded promptly to ensure its receipt by the Office of Personnel not later than three days after the effective date of the action.

e:slchapt.dm (Draft dated July 10, 1991)

Subchapter 3. Pay for Senior-Level (SL) and Scientific and Professional (ST) Positions

3.1 Authority. The authority to set pay for senior level (SL) and scientific and professional (ST) positions is established in the Federal Employees Pay Comparability Act of 1990. Implementing regulations are set forth by the Office of Personnel Management in 5 CFR part 534, Subpart E.

3.2 Policy. It is the Department's policy to establish and implement a plan which provides for fair and equitable setting of pay for individuals serving in SL and ST positions. Pay will be commensurate, as appropriate, with the individual's recognized stature and demonstrated achievements in a particular area of specialization, his/her contributions to overall success of the mission of the Department, or the level of responsibility exercised in the position. Additionally, the awards system may be used to provide recognition and reward for employees who demonstrate high levels of achievement.

3.3 Pay Range. Pay rates fixed under this authority shall be not less than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule (GS), and not greater than the rate of basic pay payable for level IV of the Executive Schedule.

3.4 Aggregate Compensation Limitations. SL/ST employees are subject to a calendar year limitation on aggregate compensation of level I of the Executive Schedule, as provided for under 5 CFR part 530, subpart B. This limitation includes basic pay, allowances (including retention allowances), differentials, bonuses (including recruitment and relocation bonuses), awards, and similar cash payments.

3.5 Responsibilities.

A. Executive Resources Board (ERB). The ERB is responsible for establishing senior level compensation policy; setting initial pay rates for employees selected to serve in SL/ST positions; and approving pay rate adjustments (excluding comparability adjustments in pay).

B. Assistant Secretary - Policy, Management and Budget (AS-PMB). The Assistant Secretary Policy, Management and Budget is authorized to act for the ERB, under delegation provisions and for providing recommendations to the ERB concerning senior level pay policy; issuing pay policy guidance to program Assistant Secretaries, bureaus and offices; conducting periodic reviews of SL/ST programs to ensure compliance with applicable law and regulation; and developing recommendations regarding individual cases submitted to the ERB for approval.

C. Program Assistant Secretaries and Equivalent Officials. Program Assistant Secretaries and equivalent officials are responsible for recommending establishment and adjustment of SL/ST pay rates.

D. Bureau and Office Directors/Commissioners. Bureau and office direc-

tors/commissioners are responsible for recommending the initial establishment and adjustment of pay rates for SL/ST employees and approving performance awards within limits established by the Department for the GS work force.

3.6 Senior Level Position Pay System.

A. Structure. The Department's Senior Level Position Pay System utilizes a fixed number of specific rates in setting pay for SL/ST employees. There are six pay levels in the senior pay system, designated as SL/ST Level 1 (lowest) through SL/ST Level 6 (highest). The pay for each level is set at fixed rates which correspond to rates currently in effect for employees in the SES (e.g. ES-1 corresponds to SL/ST-1, ES-2 corresponds to SL/ST-2, etc.). The system operates in accordance with pay setting procedures and requirements summarized in section 3.7 of this subchapter.

B. Pay Distribution. The following pay distribution schedule provides a general guide for the reasonable distribution of individuals within the SL/ST pay range provided by law. It is recognized that the actual percentage of SL/ST employees at each pay level may vary depending on a variety of factors, however, the greatest concentration of individuals normally should be near the middle of the pay scale.

SL/ST-1	6-12%
SL/ST-2	6-12%
SL/ST-3	25-45%
SL/ST-4	25-45%
SL/ST-5	1- 5%
SL/ST-6	1- 5%

The ERB will periodically review SL/ST pay rates in effect within the department to ensure that an appropriate distribution similar to the above guidance is achieved.

3.7 Senior Level Pay Rate Determinations.

A. Setting Entry Rates of Pay.

(1) The rate of basic pay for current Federal employees appointed to SL or ST positions shall be at least equal to the individual's rate of pay immediately before such appointment, including any interim geographic or locality based adjustment authorized under existing law, regulation, or Executive Order. The senior level pay rate will be set at the lowest scheduled SL/ST rate which represents an increase from previous level of compensation. At a minimum, the two step promotion rule will be used in setting this rate. If the individual's constructed pay falls between levels, pay will be set at the next higher level which represents an increase in pay. Pay for individuals receiving geographic or locality based adjustments at the time of appointment to SL/ST positions will be set by reference to the regular General Schedule (GS) pay scale, determination of the individual's constructed pay at his/her current grade/step, and application of the two step rule. Consideration will be given also to the alignment of pay to other positions and incumbents with comparable responsibilities and qualifications. In no case, will the individual's pay be set at a rate lower than that received immediately prior to an ST or SL appointment.

(2) The scheduled pay rate for individuals initially appointed from outside Government to SL/ST positions shall be set at a rate equal to the lowest pay level that represents an increase over present salary. No pay rate above SL/ST-4 should be recommended, however, bureaus/offices may request ERB consideration of an entry rate higher than that level if a review of factors stipulated in section 3.7A(1) of this subchapter supports such consideration.

(3) The pay rate for an employee reassigned from an SES position shall be set at the rate which is the same as that received immediately prior to the SL or ST appointment.

B. Pay Adjustments. Automatic comparability adjustments in pay, equivalent to any increase approved for the Senior Executive Service (SES), are authorized for employees serving in SL/ST positions. Adjustments will be made effective on the same day any SES pay adjustment takes effect. Pay adjustments do not subject individuals to a new 12-month waiting period in making other pay rate changes if such increases do not exceed the average GS comparability increase.

C. Pay Rate Changes.

(1) With the prior approval of the ERB, upward adjustments of SL/ST rates may be made annually for employees with performance appraisal ratings of Fully Successful or higher. Upward adjustments in basic pay may be made once only in any 12-month period, except as provided for in section 3.7B of this subchapter.

(2) With the prior approval of the ERB, downward adjustments of SL/ST rates, not to exceed one level, may be made annually for employees with a performance rating of Unacceptable. Downward adjustments may be made once only in any 12-month period. Any reduction in the basic pay of SL/ST employees is subject to provisions of 5 CFR 752, subparts C and D, and Federal Personnel Manual 752, Adverse Actions by Agencies.

(3) Upward rate adjustments normally will be limited to no more than one level at a time and will be based on factors such as changes in position content, performance, increased professional stature, pay for comparable private or public sector personnel, or the relationship to pay for employees in executive positions. The following specific factors, when applicable, will be considered and addressed in making pay rate change recommendations:

- (a) the scope, depth, and breadth of assignments/research activities,
- (b) the degree of independence with which pioneering research, advisory services, and program support are undertaken,
- (c) the impact of contributions on national policy, program direction, or science,
- (d) the degree of stimulation provided to colleagues or other individuals in the field of specialization or area of assignment,

(e) professional standing in the national and international community, honors and awards, and services to professional societies, and

(f) the quality of publications and continuing production in the assignment or scientific area of study.

(4) Upward adjustments of two levels may be recommended in instances of sustained overall outstanding performance, exceptional achievement and accomplishment, or for an exceptional honor or award which clearly reflects unique or distinctive standing in the field of specialization or assignment.

D. Pay Rate Limitations. Pay rates above SL/ST-4 will be reserved for situations in which the position is especially important to the Department, the individual demonstrates exceptional competence, and/or the qualifications and contributions of the individual are unusually high or significant. In recommending pay above this level, bureaus/offices should take into account the nature and type of executive positions at equivalent levels within the Department (i.e. above the ES-4 level) which normally include Bureau or Office Director/Commissioner, Bureau Deputy Director, Deputy Assistant Secretary, and Assistant to the Secretary.

3.8 Performance Awards (Bonuses). Performance awards (bonuses) for SL and ST employees may be paid under authority of 5 U.S.C. 4505a and implementing OPM regulations.

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