

U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

DEPARTMENTAL REGULATION		NUMBER: DR-4040- 5340-001
SUBJECT: Senior Executive Pay Setting Policy	DATE: March, 1, 2012	
	OPI: Office of Human Resources Management	

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1. PURPOSE

The purpose of this Regulation is to set forth the Department of Agriculture's (USDA) policy on Senior Executive Service (SES) pay setting for new appointments, reassignments, and transfer actions.

2. AUTHORITY

This regulation complies with 5 U.S.C. 5382 et seq. and Title 5 Code of Federal Regulations (CFR) 534, Subpart D, Pay Under Other Systems, Pay and Performance Awards Under the SES.

3. SPECIAL INSTRUCTIONS

The issuance of this regulation will constitute USDA's SES pay setting policy governing all executive level pay setting for new appointments, reassignments, transfers and/or conversions to higher level tiered positions. This policy is effective upon issuance and may not be retroactive.

4. DELEGATIONS OF AUTHORITY

Agency and Staff Office Heads are responsible for recommending and justifying the salary levels for SES employees appointed, reassigned, and transferred to their Agency or Office and for recommending tier designations for positions under their area of authority in accordance with the guidance set out in this regulation.

The Secretary retains the authority to approve final salary determinations for all SES employees and for approving exceptions to the 12-month rule.

5. DEFINITIONS

- a. Agencies: Refers to mission areas, agencies or staff offices (such as the Office of General Counsel).
- b. Agency Head: The head of a Department of Agriculture (USDA) agency or an official who has been delegated the authority to act for the head of the agency in the matter concerned.
- c. Staff Office. A USDA administrative office whose head reports to the Secretary.
- d. Staff Office Head. The Head of a Staff Office or an official who has been delegated the authority to act for the Head of the Staff Office in the matter concerned.
- e. Tier Structure. A three-level system that groups positions with common characteristics. Tier levels delineate the importance of different positions by placing emphasis on the characteristics of positions such as impact on

mission, level of complexity, span of control, inherent authority, scope and breath of responsibility and influence in national security matters.

6. RESPONSIBILITIES

- a. The Director, Office of Human Resources Management (OHRM) is responsible for setting policy and providing overall technical guidance and direction for this policy. OHRM shall provide staff assistance to Agencies and Staff Offices and monitor compliance with Departmental policy. OHRM will report to the Office of Personnel Management as required.
- b. Agency and Staff Office Heads are responsible for adhering to the policy set out by this regulation and for reporting to OHRM as requested. They are responsible for ensuring compliance with the provisions of this policy so that the processes associated with managing it are fair, equitable, credible, and transparent. They are responsible for recommending tier designations for positions under their area of authority.

7. GENERAL GUIDELINES FOR SETTING AND ADJUSTING OF SES PAY

The SES pay range has a minimum rate of basic pay equal to 120 percent of the rate for GS-15, step 1, and a maximum rate of basic pay equal to the rate for Level III of the Executive Schedule. Agencies certified under 5 U.S.C. 5307(d) as having a performance appraisal system which, as designed and applied, makes meaningful distinctions based on relative performance, have a maximum rate of basic pay equal to the rate for Level II of the Executive Schedule.

8. 12-MONTH RULE

Pursuant to 5 CFR 534.404(c), a senior executive's rate of basic pay may not be adjusted more than once during a 12-month period. This is commonly referred to as the 12-month rule. A pay increase made as a result of a determination to approve an exception to the 12-month rule is considered a pay adjustment and begins a new 12-month period.

9. EXCEPTIONS TO THE 12-MONTH RULE

SES employees may receive an increase in base pay more than once during a 12-month period for the following reasons:

- a. For an exceptionally meritorious accomplishment that significantly contributes to the Agency's performance;
- b. When it is necessary to reassign an 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;

- c. For the retention of a senior executive who is critical to the mission of the agency and who would be likely to leave the agency in the absence of a pay increase; and
- d. To align a senior executive with the agency's senior executive appraisal and pay adjustment cycle.

10. INITIAL SALARY DETERMINATIONS

All SES employees receiving an initial appointment, transfer, or reassignment to a USDA position will have their salary set using a three-tier structure as a means of ensuring comparability and transparency in Executive positions and compensation management across the Department. Additionally, SES employees being transferred or reassigned within USDA to a position designated in a higher tier may be recommended for elevation to that tier or within that tier as an exception to the 12-month rule under the authority of 5 CFR 534.404 (c)(4)(ii) and Section 9, b, above. The tier limits act as a control point when determining the appropriate pay rate for Executives.

11. TIER STRUCTURE

All USDA SES positions will be sorted into 3 tiers based upon the position characteristics described in Exhibits 1, 2, and 3 for initial salary setting purposes. The tier structure is a tool to promote a common understanding of position differences, a common perspective about the relationship of these differences on mission outcomes, and a common language to identify these positions. If a position has a higher or greater scope and the agency feels that an exception to the tier needs to be granted, they can follow exhibit 6 to request approval. Exceptions should be rare and will require review by OHRM; concurrence by the ASA; and approval by the Secretary.

Based on 2011 pay levels the salary bands for each tier will be as follows:

Tier	Salary Band
Tier 3	\$172,500 to \$179,700
Tier 2	\$165,300 to \$172,500
Tier 1	\$119,554 to \$165,300

The salary levels will be adjusted commensurate with any annual adjustment awarded by Executive Order each year.

12. EXECUTIVE SALARY DETERMINATIONS

Once a decision has been made regarding the appropriate tier in which an employee should be placed in accordance with Section 11 of this policy the following guidelines will be considered when recommending the SES employees actual placement within the tier:

- a. Pay may be set at any rate within the SES tier upon initial appointment to the SES, subject to the limitation on the maximum rate of basic pay per 5 USC 534.403(a) and the guidelines set out in Section 11 of this policy.
- b. In accordance with 5 CFR 534.403(a), rates of basic pay above the rate for level III of the Executive Schedule, but less than or equal to the rate of level II of the Executive Schedule generally are reserved for those newly appointed senior executives who possess superior leadership or other competencies, as determined by the agency within the context of its strategic human capital plan.
- c. In setting a new senior executive's rate of basic pay Agencies and Staff Offices must consider, as outlined in 5 CFR 534.404(a):
 - (1) The nature and quality of the individual's experience;
 - (2) Qualifications, and accomplishments as they relate to the requirements of the SES position; and
 - (3) The individual's current responsibilities.
- d. In addition, the following items will be considered in recommending and setting pay for USDA SES employees within a tier:
 - (1) Comparable pay for like SES positions;
 - (2) Loss of locality pay for employees moving from a GS or comparable position into the SES and for those employees who transfer to higher locality areas to accept USDA SES position;
 - (3) Functional and program responsibilities, including geographic scope (e.g., local, regional, national, or international), budget size, and impact on the accomplishment of the agency's and organization's mission;
 - (4) Organizational characteristics, including the level in the agency where the position is located, and the size and complexity of the organization (including subordinate organizational units);
 - (5) Degree and scope of executive, managerial, and/or supervisory authorities and responsibilities;

- (6) Level and purpose of contacts (Contacts should be essential for successful performance of the work, be a recurring requirement of the position, and have a demonstrable impact on the difficulty and responsibility of the position); and
- (7) Nature of the Staff, e.g., staff size (including staff in subordinate organizational units) and grade levels of individuals reporting directly to the position.
- (8) The projected date the employee might be considered for their next salary increase under the SES performance recognition system.

13. PAY FOR PERFORMANCE SALARY SETTING DETERMINATION

All SES employees will have their salary adjusted in accordance with USDA policy regarding the pay for performance system. The tier system is to be used only for initial pay setting purposes. There is nothing in this policy to restrict an SES from exceeding any tier level after initial pay setting through the pay for performance system or as an exception to the 12-month rule as outlined in Section 9 of this policy.

14. AGENCY AND STAFF OFFICE PAY SETTING RECOMMENDATION REQUESTS

Agencies and Staff Offices should follow the examples shown in Exhibits 4, 5, and 6, as appropriate, to request and justify an SES employee's pay for new appointments, reassignments, transfers and exceptions to the tier. All exceptions to the tier levels (exhibit 6) should be requested with the prior approval package to recruit.

Agencies and Staff Offices wishing to provide more than one pay adjustment in a 12-month period must specify in their selection or reassignment prior approval package that they are seeking an exception to the 12-month rules and specifically address why the exception might be justified. The pay rate analysis should also note the rationale supporting the request.

Exhibit 1

TIER 3			
Indicators	Characteristics		
<p><u>Responsibility</u></p> <ul style="list-style-type: none"> -Degree of latitude exercised -Degree of policy-making authority -Degree of decision-making authority -Degree of alignment to enterprise perspective 	<ul style="list-style-type: none"> -Complex and multi-Component, multi-function, multi-agency -Performs activities that are vital to the mission accomplishment of multiple organizations -Most significant levels of latitude and responsibility, as indicated by degree of policy and decision making authority 	<ul style="list-style-type: none"> -Deputy Under Secretary/Deputy Assistant Secretary/Administrator -Reports to a Presidential Appointee -Typically supervises several Senior Executives -Serves as the most senior level in a substantial functional community 	<ul style="list-style-type: none"> Deputy Under Secretary/Deputy Assistant Secretary, Administrators Assistant Administrators Associate Administrators Chief Chief Advisor Chief Associate Deputy General Council
<p><u>Complexity</u></p> <ul style="list-style-type: none"> -Size of budget -Size of staff -Degree of consensus, collaboration, coordination required -Interplay of policies -Degree of precedence -Single vs multi-function 	<ul style="list-style-type: none"> -Impact is extraordinary, tangible and substantially furthers Department, Mission Area and/or agency objectives and strategic goals 	<ul style="list-style-type: none"> -Represents top leadership to external entities, to include Congress, Executive Office of the President, OMB and White House Staff -Approves or effects Department or Agency-wide policy and programs -Represents the Department at key interagency meetings 	
<p><u>Scope of Influence</u></p> <ul style="list-style-type: none"> -Number of organization affected 	<ul style="list-style-type: none"> -Characterized by substantial executive-level leadership and managerial skills and competencies; 	<ul style="list-style-type: none"> -Formulates Agency-wide strategic plans, programmatic objectives, policies and standards 	

<ul style="list-style-type: none"> -Level of organizations affected -Impact inside vs outside USDA or Component/agency -number of SES supervised 	<p>positions at this level are more likely to be encumbered by more seasoned executives from within the Federal government or from private industry</p>	
<p>Impact of Mission</p> <ul style="list-style-type: none"> -Impact on objectives and strategic goals (Outside USDA, Across USDA, Component, Organization) -Impact on development of goals and objective vs reaction to them 		

Exhibit 2

TIER 2			
Indicators	Characteristics		
<p><u>Responsibility</u></p> <ul style="list-style-type: none"> -Degree of latitude exercised -Degree of policy-making authority -Degree of decision-making authority -Degree of alignment to enterprise perspective 	<ul style="list-style-type: none"> - Interactions are typically less complex than Tier 3 and generally involve multi-Component or intra-Component/agency participants -Activities that are vital to the mission accomplishment of the assigned organization(s) 	<ul style="list-style-type: none"> -Leader/Deputy of an organization below the Administrator level and/or serves as senior functional authority with accountability for major programs 	<ul style="list-style-type: none"> Deputy Administrators Deputy Assistant Administrators Associate Deputies Assistant Deputies Deputy Chiefs Associate Deputy Chiefs Executive Directors Chief Financial Officers Chief Information Officers Chief, Human Resources Officer Chief, Acquisitions Officer Chief of Staff Chief, Operating Officer Regional Administrators Area/Station Managers Budget Officers Associate General Council
<p><u>Complexity</u></p> <ul style="list-style-type: none"> -Size of budget -Size of staff -Degree of consensus, collaboration, coordination required -Interplay of policies -Degree of precedence -Single vs multi-function 	<ul style="list-style-type: none"> -Has latitude and responsibility, as indicated by degree of policy and decision-making authority, typically include Agency-level only -Impact is tangible and furthers Agency objectives and strategic goals 	<ul style="list-style-type: none"> -Manages large numbers of programs, personnel or organizations. Formulates, oversees and enforces Agency policy. Has approval authority on major command or equivalent policies and programs. Represents functional area at Agency or organization/service at interagency meetings 	

<p><u>Scope of Influence</u></p> <ul style="list-style-type: none"> -Number of organizations affected -Level of organizations affected -Impact inside vs outside USDA or Component/agency 	<ul style="list-style-type: none"> -Serves on boards, committees and other groups pertaining to assigned functional areas 	
<ul style="list-style-type: none"> -Impact of Mission -Impact on objectives and strategic goals (Outside USDA, Across USDA, Component, Organization) -Impact on development of goals and objective vs reaction to them 	<ul style="list-style-type: none"> -Typically reports to Tier 3 Senior Executive -May supervise at least one Tier 1 Senior Executive or equivalent 	

Exhibit 3

TIER 1			
Indicators	Characteristics		
<p><u>Responsibility</u></p> <ul style="list-style-type: none"> -Degree of latitude exercised -Degree of policy-making authority -Degree of decision-making authority -Degree of alignment to enterprise perspective 	<ul style="list-style-type: none"> -Interactions are typically less complex than Tier 2 and generally involve intra-Agency participants -Activities that are vital to the mission accomplishment of the assigned organization -Has latitude and responsibility, as indicated by degree of policy and decision making authority, typically include Agency Level only 	<ul style="list-style-type: none"> -Oversees planning and effective execution of the full spectrum of programs -Develops systems and standards for the administration and management of approved plans and programs 	<ul style="list-style-type: none"> Executive Associates Directors Coordinators Associate Area Directors Center Directors Institutional Directors Managers Special Assistants Economist Engineers Soil Scientist State Conservationist Assistant General Council Regional Attorney's
<p><u>Complexity</u></p> <ul style="list-style-type: none"> -Size of budget -Size of staff -Degree of consensus, collaboration, coordination required -Interplay of policies -Degree of precedence -Single vs multi-function 	<ul style="list-style-type: none"> -Impact is tangible and furthers Agency objectives and strategic goals -Characterized by significant functional and/or technical expertise; positions at this level are more likely to be encumbered by newly-appointed executives. 	<ul style="list-style-type: none"> -Develops policies and programs -Manages medium-to-small programs that have Agency-wide impact -Participates in a primary role in planning, programming and budgeting activities -Initiates programs and action to ensure adherence to Agency-wide policies and objectives 	
		<ul style="list-style-type: none"> -Technical/expertise- 	

<p><u>Scope of Influence</u></p> <ul style="list-style-type: none"> -Number of organization affected -Level of organizations affected -Impact inside vs outside USDA or Component/agency 	<p>based positions, is a leader/authority in a focused organization, usually below an Agency Deputy level in such areas as technical, engineering, contracts, industrial management.</p>	
<p><u>Impact of Mission</u></p> <ul style="list-style-type: none"> -Impact on objectives and strategic goals (Outside USDA, Across USDA, Component, Organization) -Impact on development of goals and objective vs reaction to them 		

EXHIBIT 4
SAMPLE
REQUEST FOR SES PAY RECOMMENDATION
INITIAL PAY SETTING

Subject: Salary decision for (name), tentative selectee for Senior Executive Service (SES) position of (position title), (series), (organization)

Background: (Selectee name) was recently selected for the subject position. Upon conversion to the SES, he/she is eligible for a pay increase as recommended by the agency head/selecting official. (Selectee name) current salary is (amount) per year. Consistent with the pay setting policy the position is most closely in tier _____.

General Guidelines for Initial Appointment to the SES

- Agency determines the appropriate rate of pay based on the nature and the quality of the individual's experience, qualifications, and accomplishments as they relate to the requirements of the SES position, and the employee's current responsibilities. NOTE: Rates of basic pay above the rate for EX III but less than or equal to the rate for EX II are generally reserved for those newly appointed executives who possess superior leadership or other competencies.
- The SES is a "pay banded" system, with a salary range of \$119,554 to \$179,700 based on 2010 levels.
- The employee's pay cannot be less than their current salary.
- Upon conversion from GS to SES, employees should have their salary set at a dollar amount that is at least the minimum band level and provide sufficient monetary consideration and elevation for those entering Tier 1.
- With few exceptions, the pay for SES members may be adjusted not more than once every 12 months. Consequently, after (Selectee name) is converted to the SES, he/she is not eligible for another pay increase until the one-year anniversary date of his/her conversion. Outside of a rare exception to the 12 month rule, the only adjustment to (Selectee name) pay would be a pay adjustment based on his FY performance accomplishments.

JUSTIFICATION: (provide rationale of agency's determination of the appropriate rate of pay based on the nature and the quality of the individual's experience, qualifications, and accomplishments as they relate to the requirements of the SES position, and the employee's current responsibilities as outlined in the SES pay policy.)

Decision: Based on (Selectee's name) experience, qualifications, and accomplishments as they relate to the requirements of the SES position, **I am recommending a total salary of _____.**

Recommending Official: _____ **Date:** _____

Approving Official: _____ **Date:** _____

EXHIBIT 5
REQUEST FOR SES PAY RECOMMENDATION
REASSIGNMENT/TRANSFER

Subject: Salary decision for (name), tentative selectee for Senior Executive Service (SES) position of (position title), (series), (organization)

Background: (Selectee name) was recently selected for the subject position. Upon conversion/ reassignment, he/she is eligible for a pay increase as recommended by the agency head/selecting official. (Selectee name) current salary is (salary) per year. Consistent with the pay setting policy the position is most closely in tier _____.

General Guidelines

In setting a senior executive's rate of basic pay, an agency should analyze the similarities to and differences from the subject position in terms of factors such as:

- organizational characteristics, including the level in the agency where the position is located, and the size and complexity of the organization (including subordinate organizational units);
- functional and program responsibilities, including geographic scope (e.g., local, regional, national, or international), budget size, and impact on accomplishment of the agency's and organization's mission;
- degree and scope of executive, managerial, and/or supervisory authorities and responsibilities;
- level and purpose of contacts (Contacts should be essential for successful performance of the work, be a recurring requirement of the position, and have a demonstrable impact on the difficulty and responsibility of the position.); and
- nature of the staff, e.g., staff size (including staff in subordinate organizational units) and grade levels of individuals reporting directly to the position.
- Or other items as outlined in the SES pay setting policy.

JUSTIFICATION: (Agency name) requests an increase in (employee name) salary from (current salary) to (proposed salary). The Agency has determined that this pay increase, an exception to the 12- month rule, is necessary to (insert reason, i.e. reassign (employee name) to this position of substantially greater scope and responsibility.) (Provide specific details of determination.) Consistent with the pay setting policy the position is in tier ___.

A pay increase made as a result of this determination to approve an exception to the 12-month rule is considered a pay adjustment and begins a new 12-month period effective date _____.

Recommending Official: _____ **Date:** _____

Approving Official: _____ **Date:** _____

EXHIBIT 6
REQUEST FOR SES TIER CHANGE RECOMMENDATION

Subject: Senior Executive Service (SES) position of (position title), (series), (organization)

Background: (Position) is in a tier X subject position. Positions meeting the criteria of band definitions can be placed into another existing band with the approval of an exception. Consistent with the pay setting policy and exhibit 1,2 and 3 the position is most closely in tier _____.

General Guidelines

An agency should analyze the similarities to and differences from the subject position in terms of factors such as:

- organizational characteristics, including the level in the agency where the position is located, and the size and complexity of the organization (including subordinate organizational units);
- functional and program responsibilities, including geographic scope (e.g., local, regional, national, or international), budget size, and impact on accomplishment of the agency's and organization's mission;
- degree and scope of executive, managerial, and/or supervisory authorities and responsibilities;
- level and purpose of contacts (Contacts should be essential for successful performance of the work, be a recurring requirement of the position, and have a demonstrable impact on the difficulty and responsibility of the position.); and
- nature of the staff, e.g., staff size (including staff in subordinate organizational units) and grade levels of individuals reporting directly to the position.
- Or other items as outlined in the SES pay setting policy.

JUSTIFICATION: (Agency name) requests a tier change for (position), from (current tier) to (proposed tier). The Agency has determined that this position is an exception to the tier system and is necessary to and has a substantially greater scope and responsibility than tier _____. (Provide specific details of determination.)

Recommending Official: _____ **Date:** _____

Approving Official: _____ **Date:** _____

Final Approval: _____ **Date:** _____