SES Performance Management System
Policy

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CHAPTER 1

General Information and Responsibilities

1. Purpose

This framework establishes the Department of Commerce's (DOC) Performance Management System (PMS) for Senior Executive Service (SES) employees. See the Appendix for a Glossary of Terms used in this document.

2. Scope

This system covers all SES employees in the DOC, with the exception of the Patent and Trademark Office (PTO). Other senior level positions subject to the new Office of Personnel Management (OPM) regulations will be covered under separate DOC policy guidance. The Department has one umbrella SES performance management system. The Office of the Inspector General (OIG) will manage and evaluate its own program.

3. Policy

The DOC PMS is established to hold senior executives accountable for their individual and organizational performance in order to drive organizational excellence and results, including improving the overall efficiency of the DOC. DOC recognizes the importance of linking its strategic planning, budget and performance integration, performance appraisal, pay, and other award programs into the management of its human resources to promote efficient and effective attainment of its mission, program objectives, and strategic goals and initiatives. DOC's PMS for SES members is being developed to provide a documented record of management expectations and an individual's

achievement of, or contribution to, those expectations. DOC expects to achieve excellence in senior executive performance by:

a. Linking performance management with the results-oriented goals of the Government Performance and Results Act of 1993 and other strategic planning initiatives;

b. Setting and communicating individual and organizational goals and expectations;

c. Systematically appraising senior executive performance using measures that balance organizational results with customer, employee, or other perspectives;

d. Using performance results as a basis for pay, awards, development, retention, removal, and other personnel decisions;

e. Identifying individual accountability for accomplishing DOC goals and objectives, and;

f. Providing an annual assessment of agency performance overall and for each of its major program and functional areas.

4. Authorities

The SES PMS is established in accordance with the following authorities:

a. Performance Appraisal - Chapter 43 of title 5, United States Code (U.S.C.), subchapter II (Performance Appraisal in the Senior Executive Service); 5 Code of Federal Regulations (CFR), Part 430, Subpart D;

b. National Defense Authorization Act (Public Law 108-136); and

c. Records of Employee Performance - 5 CFR Part 293, Subpart D.

5. Major Responsibilities

The following are the responsibilities of key officials in the DOC's SES rating process.

a. The **Secretary of Commerce**[1] develops and communicates the DOC's strategic plan, and as the DOC "appointing authority" for SES matters:

(1) Approves individual annual summary ratings at the end of the appraisal period, after the Appointing Authorities' recommendations are considered by the Departmental Executive Resources Board (DERB). This is the official rating;

(2) Makes final decisions on bonuses and base salary adjustment for DOC executives;

(3) Nominates DOC executives for Presidential Rank Awards;

(4) Approves all monetary awards and performance-based pay for the SES; and

(5) Approves all aspects of the SES program.

b. The **Deputy Secretary**:

(1) Chairs the Secretary's DERB;

(2) Chairs the Secretary's Departmental Performance Review Board (DPRB)**;**

(3) As the Senior Assessment Official, as designated by the Secretary, provides rigorous oversight of the appraisal process; conducts an annual assessment of the Department's performance; issues guidelines for performance evaluation; certifies that the results of the appraisal process make meaningful distinctions; and assures that pay adjustments and levels of pay accurately reflect and recognize performance and/or contribution to the Department's performance; and

(4) Manages the SES appraisal process, including the issuance of the Secretary's guidance and direction on performance expectations at the beginning of the appraisal process and throughout the appraisal cycle, as required.

[1] The responsibilities listed for the Secretary of Commerce do not apply to employees of the DOC Office of the Inspector General. The Inspector General Act of 1978, as amended, 5 U.S.C. App.

c. The **Chief Financial Officer and Assistant Secretary for Administration,** who also serves as the Department's Chief Human Capital Officer (CHCO), coordinates for the Secretary all aspects of the SES appraisal process. This role is carried out in coordination with the Secretary and applicable DOC Bureau Heads and Secretarial Officers, and includes the following responsibilities:

(1) Coordinating with key DOC officials who have responsibility for strategic and performance planning to ensure that the appraisal process links with strategic planning initiatives as required by law;

(2) Developing and implementing training on SES related issues, including training for the Performance Review Board (PRB) and Executive Resource Board (ERB) members on their roles and responsibilities, as required;

(3) Establishing PRBs at the beginning of the appraisal year to monitor individual and organizational performance and ensuring that the PRB membership is published in the Federal Register as required by law;

(5) Providing support and oversight, for and on behalf of the Secretary, regarding the appraisal process and the workings of the PRBs and DERB;

(6) Conducting an annual assessment of the SES program on behalf of the Secretary; and

(7) Appointing members to the Secretary's DERB, DPRB, and the Chairperson of the DPRB and bureau PRB Chairs.

d. **Rating Officials** (executives' supervisors) are responsible for:

(1) Developing performance plans in consultation with senior executives and communicating performance elements and requirements to executives within 30 days of the beginning of the appraisal period (Note: Although the senior executive being rated should actively participate in setting goals and identifying critical elements, the rating official's decision will prevail in any disagreement on critical elements or performance standards.);

(2) Ensuring that standards reflect the goals and objectives identified in the DOC and agency strategic planning initiatives, and are supported by work plans at the agency or bureau level;

(3) Conducting at least one progress review with the executive, by July 1. The supervisor, however, may conduct as many progress reviews as determined necessary. This review may be used to improve communications, to provide guidance, or to provide assistance to improve performance if below fully successful. The progress review may also provide an opportunity to modify optional critical elements and standards;

(4) Ensuring that performance appraisals and documentation for recommended awards and performance-based salary adjustments are completed, reviewed by a higher level official, if required, and submitted to the servicing human resources office by the required DOC due dates;

(5) Ensuring that the executive is aware that he/she may respond to the initial rating, in writing, and that his/her comments become a part of the appraisal package submitted to the PRB.

h. **Chairpersons** of the PRBs are responsible for a variety of activities. Annual guidelines regarding the PRB and the role of the chairperson will be issued by the Senior Assessment Official, or his/her designee.

i. The **Inspector General**[2] is responsible for:

(1) Appointing SES members (from within the Department's OIG) to serve on the OIG PRB;

(2) Approving performance appraisals for all career executives in the OIG;

(3) Approving Special Act or Service awards for all career executives in the OIG;

(4) Approving ratings, bonuses, and base salary adjustments for all career executives in the OIG; and

(5) Reporting final rating, pay and bonus information to the Senior Assessment Official for inclusion in required reports to the OPM.

[2] The Inspector General has separate authorities under the Inspector General Act of 1978, as amended, 5 U.S.C. App

CHAPTER 2

Overview of DOC SES Performance Management System

6. Performance Management Principles

The DOC has adopted the following set of principles to guide performance management within the SES:

a. The DOC and its component bureaus create the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and stewardship. The SES PMS provides the leadership necessary to achieve this mission.

b. The DOC leaders and managers create a climate for excellence by communicating their vision, values, and expectations clearly and by:

(1) Creating an environment in which every employee may excel, regardless of race, color, religion, sex, age, national origin, disability, sexual preference, or parental status, and which is free of sexual harassment;

(2) Creating an environment for continual learning;

(3) Working in partnership with employees to ensure they reach their full potential;

(4) Recognizing and rewarding excellence with financial incentives and non-financial incentives, such as increased flexibility to do jobs, more meaningful work, and achieving a sense of accomplishment;

(5) Taking timely action to both reward and correct performance appropriately, and ensuring that excellence is the standard for all;

(6) Holding individuals personally responsible for being results-oriented, performance-based, and customer-focused; and

(7) Recognizing that leaders, managers, and employees have a mutual obligation to provide value and excellence. This requires each individual to be continually challenged to perform his/her best. Taking action to improve the performance of each individual is imperative to achieving DOC's mission.

7. Coverage

a. All SES members are subject to the SES PMS without regard to type of appointment (career, noncareer, or limited) or the type of position (general or career reserved) occupied.

b. All SES members (career, noncareer, and limited) are eligible for base salary increases (if no adjustment has been made within a 12-month period). On an exception basis, a waiver request to the 12-month rule can be approved by the Secretary, or designee, if it is determined that an additional increase is warranted.

c. Performance Awards and Presidential Rank Awards. Only SES members holding career appointments are eligible for performance awards (bonuses) and Presidential Rank Awards.

8. Performance Appraisal Period

a. The DOC's performance appraisal period begins annually October 1 and ends the following September 30, unless advanced or delayed by the appropriate authority. By law, rating officials of executives must communicate performance elements and requirements (standards) to executives at or before the beginning of each rating period. Written performance plans must normally be provided to the executive within 30 calendar days after the beginning of the rating period.

b. The minimum performance appraisal period is 90 days. Every senior executive who occupies a covered position must be under performance standards for a minimum of 90 days during the appraisal cycle in order to receive an annual performance appraisal. When a senior executive transfers jobs within and outside the DOC, after completing the minimum appraisal period, the supervisor must appraise the executive's performance, in writing, before the executive leaves.

c. The senior executive's rating official may end the appraisal period any time after the minimum appraisal period is completed, if there is adequate basis on which to appraise and rate the senior executive's performance.

d. There is no minimum period that the rating official needs to be in place before doing a rating as long as he/she was in place on the last day of the rating period.

e. A career appointee's performance may not be appraised or rated within 120 days after the beginning of a new Presidential administration.

f. If a senior executive fails to complete the established minimum appraisal period because of reassignment, change in rating official, or other reasons, the issue should be discussed with the DOC's Office of Executive Resources (OER) on a case-by-case basis.

g. When a senior executive is detailed for more than 90 days, the gaining agency must set performance goals and requirements, and appraise the executive's overall performance, in writing, which is factored into the overall summary rating.

9. Details and Job Changes

a. Position Changes Within the Department. When the senior executive occupies two or more positions in the DOC during the appraisal cycle (in which the executive served under written elements and performance requirements for the minimum appraisal period), an interim narrative must be prepared. This interim narrative rating, along with the Performance Agreement (see Section 10 for information on developing Performance Agreements) upon which it was based, must be forwarded to the new rating official for inclusion in the rating of record due at the end of the appraisal cycle. The weight given to this interim narrative should generally be proportionate to the amount of the appraisal period covered by it. When such an interim narrative is used to develop a rating of record, both the interim narrative and the Performance Agreements upon which it is based must be attached to the material furnished to the PRB. The PRB, however, recommends one final annual summary rating.

b. Temporary Assignments Within the Department. If the senior executive is detailed or temporarily reassigned WITHIN the DOC, and if the assignment is expected to last the minimum appraisal period or longer, written critical elements and performance requirements are to be provided to the senior

executive, and a narrative assessment prepared based on the performance during the assignment. The narrative assessment will be considered in the overall assessment of the senior executive's performance at appraisal time.

c. Temporary Assignments Outside the Department. If the senior executive has been temporarily assigned outside the DOC, a reasonable effort must be made to obtain a narrative assessment from the organization to which the senior executive was detailed. The narrative assessment will be considered in the overall assessment of the senior executive's performance at appraisal time.

d. Transfers From Other Agencies. If the senior executive transfers from another agency into the DOC during the appraisal cycle, any rating(s) which are forwarded from the losing agency (and which encompass periods of time included in the DOC's appraisal cycle) must be considered in deriving the rating of record. Weight given to any such rating should be proportionate to the amount of time covered during the appraisal cycle.

e. Transfers To Other Agencies. If a senior executive transfers to a new agency at any time during the appraisal period, a summary (interim) narrative must be prepared by the senior executive's rating official and provided to the gaining agency.

10. Performance Agreements

The **Senior Executive Performance Agreement** describes the individual and organizational expectations for the appraisal period and sets the requirements against which performance will be evaluated. Supervisors must develop performance plans in consultation with senior executives and communicate them on or before the beginning of the appraisal period. Performance plans must: (1) describe critical elements; (2) describe performance requirements; and (3) link with strategic planning initiatives based on DOC and agency strategic plans, annual performance plans, organizational work plans, and any other related initiatives.

a. Each senior executive must have a written Performance Agreement (also sometimes referred to as Performance Work Plan), which describes the individual and organizational expectations for the appraisal period and sets the requirements against which performance will be evaluated. The DOC will issue annual guidance on the SES performance work plans and procedures to ensure that plans appropriately reflect strategic initiatives, to address training requirements, and to communicate procedural changes, as appropriate.

Performance Agreements should be supplemented by agency or office level work plans to clearly identify expected priorities and results.

b. The Performance Agreement is the written aggregation of an executive's critical elements and performance requirements. Critical elements must be so designated.

c. Rating officials should develop Performance Agreements in consultation with senior executives and communicate, in writing, the plans within 30 days after the beginning of the rating period.

d. Elements must reflect both individual and organizational performance. They can be either capsulized aspects of the most important duties and responsibilities associated with the SES position or specific projects or tasks which can be logically inferred from the duties and responsibilities cited in the senior executive's position description. Accomplishment of organizational objectives must be included in Performance Agreements by incorporating objectives, goals, program plans, work plans, or by other similar means that account for program results. DOC prescribes two mandatory elements for all SES executives, which account for 40 percent of an executive's total performance agreement, and a separate mandatory element for bureau Chief Financial Officers (CFO) which accounts for 25 percent of a bureau CFO's total plan. The bureaus have the option to add up to three bureau-specific critical elements. (See Section 11.)

e. Critical elements for each senior executive must be consistent with the goals and performance expectations in the DOC's strategic planning initiatives.

f. Before or at the outset of the rating period (usually within 30 days) or, in the case of an executive entering a new position, as soon as possible (but no later than 30 days) after entry into the position, a Performance Agreement must be either developed or reviewed for continued appropriateness, and the elements and performance requirements covered by the Performance Agreement communicated to the executive.

g. Final authority for establishing the elements and requirements rests with the rating official and the plan must be issued within 30 days of the beginning of the rating cycle or after the executive enters the position, even if the executive doesn't agree with the plan contents. The Performance Agreement can be modified, as appropriate, at any time during the appraisal period, to reflect changing priorities or shifts in workload.

11. Establishing Performance Elements and Requirements

The Performance Agreement consists of performance elements and associated performance requirements or standards. The DOC prescribes two mandatory elements, and there may be up to three bureau-specific optional elements.

a. **Performance Elements**: A performance element is a key component of a position consisting of one or more duties and responsibilities, which contribute toward accomplishing organizational goals and objectives.

(1) Mandatory Elements. All senior executives must be rated on the following mandatory elements which represent 40 percent of the overall Performance Agreement:

(a) Leadership/Management (critical element -25 percent); and

(b) Customer/Client Service Responsiveness (critical element –15 percent).

(2) Optional Elements. Rating Officials may add up to three bureau-specific critical elements.

(3) Critical Elements. If an element is so important that unsatisfactory performance would make the executive's overall job performance unsatisfactory, then that element is considered "critical." Critical elements are those elements that are of such importance that an “Unsatisfactory” rating in any one of those elements would result in overall Unsatisfactory performance rating in the position. Collectively, critical elements should cover the major duties and responsibilities of the position.

b. **Performance requirements:**

(1) Each critical element must be accompanied by specific requirements written, at a minimum, at the level expected of Fully Successful performance. At the end of the rating period, each element will be rated at one of five levels.[3] The Department's performance requirement definitions for the five levels listed below are provided as Appendix B.

Outstanding (5)	Meets or exceeds requirements written at this level.
Commendable (4)	Meets requirements written at this level**.**
Fully Successful (3)	Meets requirements written at this level.
Minimally Acceptable (2)	Meets requirements written at this level.
Unsatisfactory (1)	Meets (or falls below) requirements written at this level.

(2) A performance requirement or standard is a statement of the expectations or requirements established by management for a performance element at a particular rating level. These requirements are the standards against which the senior executive's performance will be appraised. Standards may be based on outcomes and/or work behaviors, as appropriate to the element. It is important that a standard describe performance that is:

(a) Observable - can be witnessed;
(b) Measurable - can be assessed at different levels; and
(c) Achievable - can be accomplished within the timeframe specified.

(3) At a minimum, the standard for the "Fully Successful" level is described in writing in the SES Performance Agreement. Like critical elements, performance requirements must be consistent with the goals and performance expectations in the DOCs strategic planning initiatives. The absence of a written performance requirement at a given level does not preclude the assignment of a rating at that level.

12. Review of Performance Agreements.

[3] Bureaus may vary the descriptors of the five DOC summary performance levels, subject to the approval of the DOC.

a. The Head of the Operating Unit or Secretarial Officer is encouraged to review Performance Agreements to ensure appropriate levels of quality and difficulty of performance requirements.

b. The executive, the rating official, and the reviewing official, should sign the Performance Agreement.

13. Progress Reviews

a. Rating officials must monitor each senior executive's performance during the appraisal period and provide ongoing, timely, and honest feedback to the senior executive on progress in accomplishing the performance elements and requirements described in the performance plan to sustain and reinforce expected performance.

b. A progress review shall be held for each SES member at least once during the appraisal period, before July 1. At a minimum, senior executives must be informed about how well he/she is performing by comparing his/her performance with the elements and performance requirements established for his/her position.

c. The rating official must provide advice and assistance to senior executives on how to improve their performance.

d. If either the rating official or the executive believes that modifications to previously established elements or performance requirements are warranted because of unforeseen shifts in workload or changes in priorities, he/she must be prepared to discuss possible alternatives. If the rating official believes that performance in one or more of the established elements is lacking, he/she should discuss possible corrective actions as well as the ramifications of unimproved performance. The progress review should not be viewed solely as a discussion of performance weaknesses or deficiencies, but should also serve as a forum for encouraging employees whose performance is Fully Successful to strive for even greater achievement.

e. If modifications in either elements or requirements are warranted, they must be discussed and recorded during the progress review process. At the end of the review session, both the rating official and the executive should share a common understanding of where the employee stands in relationship to his/her Performance Agreement, what is expected of the senior executive through the

remainder of the rating period, and what actions, if any, will be initiated as a result of performance to date. The executive and the rating official each sign and keep a copy of the Performance Agreement or progress reviews, acknowledging that the progress review was conducted.

14. Appraising Performance

a. Annual Appraisals. Senior executives must be appraised annually. Rating officials must appraise each senior executive's performance and assign an initial summary rating at the end of the appraisal period. If a senior executive has received an interim summary performance narrative for service in another covered position within the DOC or another agency during the appraisal period, then that summary narrative(s) must be considered in determining the executive's annual summary rating.

(1) Senior executives must be appraised on the performance of critical elements in the Performance Agreement using the established summary performance levels.

(2) Appraisals of senior executives must be based on both individual and organizational performance, taking into account such factors as:

(a) Results achieved in accordance with the goals of the Government Performance and Results Act of 1993 and other strategic planning initiatives;
(b) Customer satisfaction;
(c) Employee perspectives;
(d) Compliance with the merit system principles set forth under section 2301 of title 5, U.S.C.; and
(e) Effectiveness, productivity, and performance quality of the employees for whom the senior executive is responsible.

(3) With regard to number 2 (e) above, bureaus must institute a process for ensuring the senior executive's rating (as well as subordinate employees' performance expectations and ratings for those with supervisory responsibilities) appropriately reflect performance measures and any other relevant factors;

b. Methodology for Deriving Summary Ratings. The following approach will be followed in DOC for bureaus that use a point system to obtain a summary rating. The rating officials must prepare and discuss an initial written rating of

performance with each senior executive they supervise. This rating must be based on an assessment of the senior executive's performance against the requirements set at the beginning of the rating period (or as modified and documented in the Performance Agreement during a progress review) and must include a written rating for each individual performance element based on the following:

Outstanding (5)	Meets or exceeds requirements written at this level.
Commendable (4)	Meets requirements written at this level**.**
Fully Successful (3)	Meets requirements written at this level.
Minimally Acceptable (2)	Meets requirements written at this level.
Unsatisfactory (1)	Meets (or falls below) requirements written at this level.

(1) If an individual's performance falls between two rating levels, e.g., Commendable (4) and Outstanding (5), the rating official may give a 4.5 element rating.

(2) Each critical element must be rated using the five-level element rating scale shown above. All ratings of elements must be supported by a narrative justification. If an element is rated as Fully Successful, the rating official need only document that 1) the Fully Successful requirements were met, and 2) the rating was discussed with the senior executive.

(3) To obtain the overall summary rating, each element must be rated using the five-level element rating scale (Outstanding = 5, Commendable = 4, Fully Successful = 3, Minimally Acceptable = 2, and Unsatisfactory = 1). Then, each individual element rating is multiplied by the weight assigned to that element. The summary rating points assigned to the individual elements are then totaled to determine an overall summary rating based on the following scale:

Outstanding	460 - 500
Commendable	380 - 459
Fully Successful	290 - 379
*Minimally Acceptable	200 - 289

*Unsatisfactory	A summary rating of Unsatisfactory must be assigned to any senior executive who is given an Unsatisfactory rating on one or more critical elements.

* Under DOC policy, a covered senior executive who fails to meet at least the Fully Successful level requirements in one (or more) critical element(s) must not be given a Fully Successful or above rating, regardless of the point total.

15. Process for Rating Performance

a. Initial Summary Rating. The rating official must develop an initial summary rating of the senior executive's performance, in writing, and share that rating with the senior executive. The senior executive may respond in writing. Any response shall be made to the rating official within 5 calendar days after the executive receives the initial rating. A rating official may change the initial rating after considering the response received from the executive.

b. Higher Level Review. The senior executive may ask for a higher level official to review the initial summary rating before the initial rating is given to the PRB. Any such request must be made within 10 calendar days after receipt of the initial rating. The senior executive is entitled to one higher level review. The senior executive may request this higher level review by contacting the servicing Human Resources Manager within 5 calendar days after the rating has been received. The Human Resources Manager will appoint a higher level review official within the bureau. If there is no higher level official between the senior executive and the Appointing Authority, the Human Resources Manager will forward the request to the Department's Office of Human Resources Management (OHRM). The Department's Director for Human Resources Management will appoint a member from the DPRB for the review. The higher level review official will consider the initial rating and narrative assessment, if any, and the written response, if any, made by the senior executive. The higher level review official will not consider any written comments by the senior executive to the initial rating which were not provided to the rating official within 5 calendar days from receipt of the rating. The higher lever review official cannot change the rating official's initial summary rating, but may recommend a different rating to the rating official, PRB, and the Appointing Authority. Copies of the higher level review official's findings and recommendations must be given to the senior executive at the same time it is given to the rating official and the PRB.

c. PRB Review. The initial summary rating, the senior executive's response to the initial rating, if any, and the higher level review official's recommendations must be given to the PRB. The PRB must review the rating, the response, if any, from the senior executive and the higher level review official's recommendation, and make recommendations to the Appointing Authority. A PRB has the authority to make any inquiry it deems necessary. However, there is no right for the senior executive to make a presentation to the PRB or provide any written comments to the PRB not previously provided to the rating official and the higher level review official.

d. Annual Summary Rating. The Appointing Authority recommends the annual summary rating of the senior executive's performance, in writing, after considering any PRB recommendations. DOC approval of the recommendation is required before the rating can be finalized. This is the official rating.

e. Extending the Rating Period. When a rating official cannot prepare an annual summary rating at the end of the appraisal period because the senior executive has not completed the minimum appraisal period or for other reasons, the agency may extend the executive's appraisal period. Any such extension must be coordinated with the Departmental Office of Human Resources Management before it is done.

f. Appeals. Senior executive performance agreements and ratings are not appealable.

16. Using Performance Results

a. Rating officials will use the results of performance appraisals and ratings as basis for making recommendations for adjusting pay, granting awards, and other personnel decisions. Performance information will also be a factor in assessing a senior executive's continuing development needs.

b. An annual summary rating for a career executive which is at least Fully Successful will provide the basis for an executive's retention in SES and will establish the executive's eligibility for consideration for performance awards and performance-based pay adjustments. Executives on Limited Term or Limited Emergency appointments and noncareer executives are not eligible for bonuses, but are eligible for performance-based salary adjustments.

c. An executive may be removed from the SES for performance reasons, subject to the provisions of 5 CFR Part 359, Subparts D and E.

(1) An executive who receives an Unsatisfactory annual summary rating must be reassigned or transferred within the SES or removed from the SES;

(2) An executive who receives two Unsatisfactory annual summary ratings in any 5-year period must be removed from the SES; and

(3) An executive who receives less than a Fully Successful annual summary rating twice in any 3-year period must be removed from the SES.

d. Executives with a final rating of Minimally Satisfactory or Unsatisfactory may have their base salary decreased. Decisions concerning SES performance-related downward pay adjustments are limited to no more than 10 percent of base pay and will be made at the discretion of the Appointing Authority, with prior consultation with the Director for OHRM, and approval of the DERB.

17. Rights of the Executive

By law, a senior executive may not appeal the final rating, and the rating is not grievable. A career executive, however, may seek guidance from the servicing Human Resources Office during the performance appraisal process regarding the procedures available for challenging the initial summary rating.

18. SES Probationary Period

New career SES executives must serve a 1-year probationary period. Satisfactory completion of the probationary period is a prerequisite for retention in the SES. This probationary period begins on the effective date of the initial SES career appointment and ends 1 calendar year later.

a. The rating official of the new career SES executive has the following responsibilities during the probationary period:

(1) Follow through on agency initiated or OPM Qualifications Board recommended training.

(2) Observe the senior executive's performance and conduct.

(3) Hold at least one periodic rating prior to 90 days before the end of the rating period, documenting discussions of progress with the senior executive, clearly outlining the strengths and weaknesses of the senior executive in relation to the position's performance requirements.

(4) The servicing Human Resources Office issues a Form CD-364 as a midpoint reminder to the senior executive's Appointing Authority. At least 60 days prior to completion date of the probationary period, Form CD-365A will be sent to the executive's Appointing Authority, indicating when the senior executive will complete the SES probationary period. If the senior executive's performance is Less than Fully Successful, Appointing Authorities must seek assistance from their servicing Human Resources office.

(5) The removal of a probationer for performance reasons is not appealable to the Merit Systems Protection Board (MSPB) and does not entitle the senior executive to an informal hearing before the MSPB.

19. Performance Review Boards

PRBs make recommendations to their respective Appointing Authorities on the performance and performance awards of its senior executives.

a. Membership.

(1) Each PRB must have three or more members who are appointed by the Appointing Authority or his/her designee acting on behalf of the Agency. Bureaus are encouraged to have diversity on their PRBs and members from outside the bureau.

(2) PRB members must be appointed in a way that assures consistency and objectivity in SES performance appraisal.

(3) When appraising a career appointee's performance or recommending a career appointee for a performance award, more than one-half of the PRBs members must be SES career appointees.

(4) Bureaus must publish notice of PRB appointments in the Federal Register before service begins.

b. Functions.

(1) Each PRB must review and evaluate the initial summary rating, the senior executive's response, and the higher level review official's recommendations on the initial summary rating, and conduct any further review needed to make its recommendations.

(2) The PRB must make a written recommendation to the Appointing Authority about each senior executive's annual summary rating and any bonus/pay adjustment recommendation.

(3) A PRB member must not participate in a senior executive's performance review or discussions or recommendations on that review when:

(a) The review pertains to that PRB member;

(b) The PRB member is the rating official of the senior executive whose performance appraisal is being reviewed;

(c) The PRB member is the direct subordinate of the senior executive whose performance appraisal is being reviewed; or

(d) The PRB member was the designated higher level review official of the senior executive whose performance is being reviewed.

(4) There is no right to a hearing before the PRB for executives requesting a higher level review, nor may the executive provide any additional information not initially provided to the rating official.

(5) The DPRB provides higher level review of individuals reporting directly to the Appointing Authority.

20. Training and Evaluation

a. Servicing Human Resources Offices must provide appropriate information and training to rating officials and senior executives on performance management, including planning and appraising performance.

b. Information on changes in the operation of the SES PMS is conveyed to DOC management and affected senior executives through the DOC's OHRM issuances.

c. OHRM assesses the effectiveness of the SES PMS through an ongoing evaluation program. DOC organizations are evaluated on their technical compliance with law, the OPM performance management regulations, and DOC policy. Evaluations focus on the adequacy of performance plans and ratings as related to the bureau's accomplishments as reflected in the DOC's strategic plan and bureau organizational assessments provided by the Senior Assessment Official.

d. The Secretary or his/her designee is responsible for evaluating data and feedback from PRBs and Office of Budget, and advising other key officials of any changes or corrective actions associated with the SES PMS. The Secretary, or his/her designee, will conduct an annual assessment of the bureau systems to ensure that the performance appraisal process is an effective tool for the DOC, and that the DOC's SES PMS meets all OPM regulatory requirements.

21. Record Keeping

a. Employee performance folders (EPFs). EPFs must be established for each senior executive, retained as separate files, and maintained by the rating official. EPFs must contain the following:

(1) The senior executive's performance plans;
(2) Documentation of progress review(s);
(3) Summary appraisals and ratings;
(4) Written comments on ratings, if any;
(5) The higher level review official's written recommendations, if any.
(6) PRB/DPRB recommendations;
(7) Nominations for bonuses, pay adjustments, and rank awards, and
(8) Decisions by the DERB.

b. All performance related records contained in the EPF must be retained for 5 years.

c. When a senior executive transfers to another operating unit within the DOC or to another federal agency, EPF records must be transferred with the senior executive.

d. Disclosure of information contained in EPFs may be made only as permitted by the Privacy Act.

APPENDIX A

GLOSSARY OF TERMS

Alignment means performance expectations linked to or derived from the DOCs mission, strategic goals, program/policy objectives, and/or annual performance plan.

Annual Compensation Limitations. The new pay for performance system establishes level III of the Executive Schedule (currently $145,600) as the base salary limit for all SES members. However, those agencies that demonstrate that their executive appraisal systems make "meaningful distinctions based on relative performance," as certified by OPM, with concurrence by the Office of Management and Budget, may grant base pay increases to their highest performing executives up to level II of the Executive Schedule (currently $158,100). However, the statute dictates that any amount over the maximum that is not paid to an employee in a calendar year be paid at the beginning of the following calendar year.

Appointing Authority means the Secretary of Commerce or his/her designee, such as a Secretarial Officer or the head of a primary operating unit, or an official so designated by the Secretary of Commerce. For purposes of this guidance, the following list constitutes those positions which meet the definition of "Appointing Authority."

- Deputy Secretary
- Chief of Staff
- General Counsel
- Chief Financial Officer and Assistant Secretary for Administration
- Under Secretary for Economics Affairs
- Assistant Secretary for Communications and Information
- Assistant Secretary for Economic Development
- Inspector General
- Under Secretary for International Trade
- Under Secretary for Oceans and Atmosphere
- Under Secretary for Export Administration
- Under Secretary for Technology
- Chief Information Officer (Office of the Secretary)
- National Director, Minority Business Development Agency

Appraisal Period means the period of time for which a senior executive's performance will be appraised and rated.

Approving Official means the approving official for a senior executives' Summary Evaluation Ratings, performance bonuses, and base salary increases. The DOC approving official is the Secretary of Commerce who receives recommendations from the PRB.

Balance means performance expectations for senior executives that include appropriate measures or indicators of results, customer/stakeholder feedback; quality, quantity, timeliness, and cost effectiveness, as applicable; and competencies or behaviors that contribute to and are necessary to distinguish outstanding performance.

Balanced Measures means an approach to performance measurement that balances organizational results with the perspectives of other distinct groups, such as customers, stakeholders, and employees.

Base Salary means the continuing annual salary paid to a senior executive.

Base Salary Decrease means a decrease resulting from an executive's final annual summary rating of Minimally Satisfactory or Unsatisfactory.

Base Salary Increase means an increase resulting from a senior executive's final annual summary rating. The Secretary of Commerce approves base salary increases based on recommendations from the DERB.

Basic Pay means the rate of pay fixed by law or administrative action for the position held by a senior executive before any deductions are made and exclusive of additional pay of any kind.

Bonus means a lump sum monetary performance award that may be given to an SES career employee with at least a Fully Successful rating.

Bonus Pool Dollars means the total amount of money available to be awarded to career SES for bonuses, limited by statute to 10 percent of the aggregate career SES basic pay as of the end of the preceding fiscal year.

Bonus Restriction means bonuses may not be less than 5 percent of an executive's basic pay and not more than 20 percent of a senior executive's basic pay.

Career SES means a senior executive on competitive appointments to the SES without time limitation.

Consultation means performance expectations established after discussion with the senior executive.

Critical Performance Element means a key component of a senior executive's work that contributes to organizational goals and results and is so important that unsatisfactory performance of the element would make the executive's overall job performance Unsatisfactory.

Department or DOC means the Department of Commerce.

Excess Annual Compensation Amounts means any sum of money that a senior executive receives beyond the statutory limitation on the total aggregate amount of money an Executive Branch employee may receive in any 1 calendar year.

Executive Performance Agreement means a multipart agreement intended to establish annual performance expectations for executives, which also includes the midyear progress review, Summary Evaluation, and the PRB process. It describes the individual and organizational expectations for the appraisal period and sets the requirements against which performance will be evaluated. Rating officials must develop performance plans in consultation with senior executives and communicate with them on or before the beginning of the appraisal period. Performance plans must: (1) describe critical elements; (2) describe performance requirements; and (3) link with strategic planning initiatives.

Executive Resources Board (ERB) means a group comprised of DOC executives that oversees aspects of the SES and advises the SAO and the Secretary of Commerce.

Fully Successful Rating means the performance rating for a senior executive who meets the Fully Successful standard and the responsibilities and commitments in his/her Performance Agreement. A Fully Successful senior executive is eligible for base salary increase and/or performance bonus.

Generic Elements means standard Departmentwide required critical elements.

Minimally Satisfactory Rating means the performance rating for a senior executive who fails to meet the retention standard, responsibilities, and/or commitments in his/her Performance Agreement. Base salary reductions may be required.

Official Rating is the annual final summary rating.

Outstanding Performance means performance that exemplifies rare, high performance in fostering an organizational climate that sustains excellence and results. It should be thought of as an exception. The senior executive's performance has made a positive and significant impact on organizational results in alignment with the mission of DOC. All critical element activities are not only achieved, but completed in an exemplary manner. The senior executive has exerted a major positive influence on the organization through innovative and effective management practices, procedures and program implementation, building partnerships and coalitions, being responsive to internal and external customers, and leveraging scarce resources, which has contributed substantially to mission accomplishment.

Pay Adjustment is a monetary adjustment to base pay that may be given to a senior executive with at least a Fully Successful annual final summary rating.

Performance means the accomplishment of the work described in the senior executive's Performance Agreement.

Performance Agreement describes the individual and organizational expectations for the appraisal period and sets the requirements against which the senior executive's performance will be evaluated. Rating officials must develop performance plans in consultation with senior executives and communicate them on or before the beginning of the appraisal period. Performance plans must: (1) describe critical elements; (2) describe performance requirements; and (3) link with strategic planning initiatives.

Performance Appraisal means the review and evaluation of a senior executive's performance against performance elements and requirements, and may take into account their contribution to agency performance, where appropriate.

Performance Bonus means a lump sum payment, ranging from 5 to 20 percent of basic salary awarded by the Secretary of Commerce to a career SES member who has at least a Fully Successful rating. It provides recognition of consistently good performance throughout the rating cycle with substantial achievement of the DOC's performance objectives. Bonuses are optional.

Performance Cycle means the period, typically starting October 1 and ending September 30 for executives, during which a senior executive's performance is evaluated (generally 1 year).

Performance Management System means the framework of policies and practices that the DOC establishes for planning, monitoring, developing, evaluating, and rewarding

both individual and organizational performance, and for using resulting performance information in making personnel decisions.

Performance Requirement means a statement of the performance expected for a critical element.

Performance Review Board means a group of senior executives who make recommendations to an Appointing Authority on the performance of senior executives under the Appointing Authority's supervision. PRBs have appointed members in accordance with 5 CFR 430.310. PRB membership must be published in the Federal Register before service begins.

Progress Review means a review of the senior executive's progress in meeting performance requirements. A progress review is not a performance rating.

Presidential Rank Award means an award (Distinguished for sustained extraordinary accomplishment and Meritorious for sustained accomplishment) given to career SES (and certain other career senior level positions) to recognize exceptional performance over a period of time. Nominations are submitted by the Secretary of Commerce to the OPM, which, in turn, makes recommendations to the President for approval.

Rating Official means the senior executive's supervisor who is responsible for evaluating performance and proposing the ratings for each performance expectation and the initial summary rating.

***Ratings*:**

> ***Initial Summary Rating*** means an overall rating level the rating official derives from appraising the senior executive's performance during the appraisal period and forwards to the PRB.
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> ***Annual Summary Rating*** means the overall rating level that an Appointing Authority assigns at the end of the appraisal period after considering a PRBs recommendations and receiving DOC approval. This is the official rating.

Relative Performance means the performance of a senior executive with respect to the performance of other senior executives, including his/her contribution to agency performance, where appropriate.

Results mean the outcome of performance expectations for senior executives that apply to his/her respective areas of responsibility; reflect expected agency and/or organizational

outcomes and/or outputs performance targets or metrics, policy/program objectives, and/or milestones; and are stated in terms of measurable, demonstrable, or observable performance.

Reviewing Official means a manager in the organization at a higher level than the Rating Official who reviews the self-assessments, summary narratives, and ratings assigned. After this review, they endorse or disapprove the performance rating and/or pay level increase using the Performance Agreement Form and forwards endorsed package to the PRB.

Senior Executive Performance Agreement means the written summary of performance requirements the senior executive is expected to accomplish during the appraisal period and the standards against which performance will be evaluated. The Performance Agreement addresses all critical elements established for the senior executive.

Senior Executive Service (SES) Compensation Plan The guidelines used to establish a framework for how DOC will increase base salary and determine performance bonuses and awards for members of the SES. The Plan sets bonus targets "up front" to reinforce critical performance expectations, and links base salary increases and performance bonuses and awards with performance results.

Secretary of Commerce The Secretary of Commerce serves as the Approving Official for summary evaluation ratings, performance-based salary increases, performance bonuses, and for Presidential Rank Awards nominations.

SES Probationary Period means the prerequisite 1-year period that new SES career executive must serve in his/her position, which will result in a determination as to the senior executive's retention in the SES.

Special Act or Service Award is an action taken outside of the performance appraisal process to recognize and reward individual or team achievements that contribute to meeting organizational goals or improving the efficiency, effectiveness, or economy of the government, or is otherwise in the public interest.

Strategic Planning Initiatives means agency strategic plans, annual performance plans, organizational work plans, and other related initiatives.