

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

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| DEPARTMENTAL REGULATION | NUMBER: 4040-534-002 |
| SUBJECT: Senior Executive Service Pay and Compensation Policy | DATE: September 30, 2015 |
| | OPI: Office of Human Resources Management |

| <u>Section</u> | <u>Page</u> |
|--|-------------|
| 1. Purpose | 2 |
| 2. Special Instructions/Cancellations | 2 |
| 3. Delegations of Authority | 2 |
| 4. Responsibilities | 2 |
| 5. SES Rate Range for Setting and Adjusting Pay | 3 |
| 6. Effect of Annual Pay Increase | 3 |
| 7. Initial Salary Determinations | 4 |
| 8. USDA SES Position Structure | 4 |
| 9. Setting Pay for Senior Executives | 4 |
| a. Initial Appointment to the SES | |
| b. Reappointments and Reinstatements | |
| c. Transfers | |
| 10. Adjusting Individual Pay Rates | 6 |
| a. Performance-Based Pay Increase | |
| b. Twelve-Month Rule | |
| c. Exceptions to the Twelve-Month Rule | |
| 11. Restrictions on Reducing Pay | 8 |
| 12. Aggregate Limitation on Pay | 9 |
| 13. Other Pay Provisions | 9 |
| a. Premium Pay | |
| b. Retention of SES Pay Provisions | |
| c. Pay Following Placement Outside the SES | |
| d. Pay Flexibilities | |
| e. Pay for Military and Civilian Retirees | |
| f. Critical Position Pay | |
| 14. Prior Approval Procedures for Pay Recommendations | 12 |
| 15. Pay for Performance Salary Setting Determinations | 12 |
| 16. Pay and Performance for Comparable Level (AD) Positions | 13 |
| Exhibit 1 – SES Position Levels (Characteristics, Indicators, and Positions) | 14 |
| Exhibit 2 – Guidelines – Initial Pay Setting Pay Recommendation | 17 |
| Exhibit 3 – Guidelines – Reassignment/Transfer Pay Recommendation | 18 |
| Exhibit 4 – Guidelines – Reappointment/Reinstatement Pay Recommendation | 19 |
| Exhibit 5 – Guidelines – Request for Recruitment Incentive | 20 |
| Exhibit 6 – Guidelines – Request for Relocation Incentive | 21 |
| Exhibit 7 – Guidelines – Request for Retention Incentive | 22 |
| Exhibit 8 – Sample Executive Resources Personnel Action Selection Request Form | 23 |
| Appendix A – Authorities and References | A-1 |
| Appendix B – Definitions | B-1 |

1. PURPOSE

The purpose of this directive is to set forth the Department of Agriculture's (USDA) pay policy for setting and adjusting the rates of basic pay and other pay provisions for the Senior Executive Service (SES) and other comparable level Administratively Determined (AD) positions. Applies to all USDA SES regardless of appointment type (career, non-career, limited-term, or limited-emergency) or position type occupied (general or career reserved). Members of the USDA Office of Inspector General are excluded from this directive.

2. SPECIAL INSTRUCTIONS/CANCELLATIONS

This policy supersedes Departmental Regulation 4040-5340-001; Senior Executive Pay Setting Policy dated March 1, 2012.

This directive provides policies and procedures for setting and adjusting the SES rate of basic pay for SES members in accordance with the provisions of Title 5 United States Code (U.S.C.), Section 5381 – 5385 and the Code of Federal Regulations (CFR), 5 CFR Part 534, Subpart D, Pay and Performance Awards Under the Senior Executive Service.

This policy is effective upon issuance and may not be retroactive.

3. DELEGATIONS OF AUTHORITY

- a. The Secretary retains the authority to approve final salary determinations for setting and adjusting the pay for all SES members and other comparable level positions. The Secretary also retains the authority to review and approve payment of recruitment, relocation, and retention incentives to SES members.
- b. The Assistant Secretary for Administration (ASA) retains the authority to receive, review, and recommend action on all salary decisions for the Secretary's approval in the pay administration of the SES.

4. 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 (OPM) as required.
- b. The Secretary's Executive Resources Board (ERB) is responsible for recommending the executive resources policies and actions associated with executive pay and compensation guidelines and other related activities as the Secretary deems necessary.

- c. The Performance Review Board (PRB) is responsible for making recommendations for annual summary ratings, performance-based pay adjustments, performance awards, and other performance related matters.
- d. 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 position level designations for positions under their area of authority in accordance with the guidance set out in this regulation. They are responsible for ensuring compliance with the provisions of this policy so that the processes associated with applying the policy are fair, equitable, credible, and transparent.
- e. The USDA White House Liaison (WHL) is responsible for recommending the rates of basic pay for Noncareer SES appointees in accordance with the laws and guidance set forth during the Presidential administration based on the President's goals, objectives and priorities.
- f. The Executive Director, Executive Resources Management Division (ERMD), OHRM is responsible for providing Departmental and technical guidance to agencies and staff offices regarding the prior approval packages for SES staffing, position management and classification, pay and compensation, performance management, recognition, and personnel action processing for the SES as it relates to pay setting and adjusting SES rates of pay.

5. SES RATE RANGE FOR SETTING AND ADJUSTING PAY

The National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136, November 24, 2003) established a performance-based pay system for members of the SES. The SES pay range has a minimum rate of basic pay equal to 120 percent of the rate for GS-15, step 1, and the maximum rate of basic pay is equal to the rate for Level III of the Executive Schedule (EX). 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.

The minimum rate of basic pay for the SES rate range will increase consistent with any increase in the rate of basic pay for GS 15, step 1. The applicable maximum rate of basic pay for the SES rate range will increase with any increase in the rate for levels EX-II or EX-III under 5 U.S.C. 5318.

For a chart of the salaries and wages for SES members visit
<http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>.

6. EFFECT OF AN ANNUAL PAY INCREASE

The Legislation provides for an increase to the minimum and maximum executive pay ranges, but does not provide for an automatic or across-the-board increase in pay of individual SES members. This increase will be determined under the applicable pay rules in this policy and with compensation guidelines approved by the Secretary in accordance with the USDA's SES performance management system.

Since the minimum rate of basic pay payable under 5 U.S.C. 5376 must not be less than 120 percent of the minimum rate of basic pay for GS-15 of the General Schedule, any SES member's salary that falls below the new minimum range must receive an increase that will at least meet the new range minimum.

Annual pay adjustments are made during the first applicable pay period beginning on or after the first day of the month in which an adjustment takes effect in accordance with annual pay adjustments to pay schedules.

7. INITIAL SALARY DETERMINATIONS

All SES employees receiving an initial appointment, reappointment, or reinstatement to a USDA position will have their salary set using a three-position level structure as a means of ensuring comparability and transparency in Executive positions and compensation management across the Department. Additionally, SES members being transferred or reassigned to a position designated in a higher position level may be recommended for a pay increase as an exception to the 12-month rule under the authority of 5 CFR 534.404(c)(4)(ii) and Section 10, Adjusting Individual Pay Rates. The position level limits act as a control point when determining the appropriate pay rates for Executives.

8. USDA SES POSITION STRUCTURE

All USDA SES positions will be sorted into 3 levels based upon the position characteristics described in Exhibit 1 (SES Position Levels). The position 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.

Pay will be set based on the position level structure. Each level will consist of a salary range of a minimum rate of basic pay up to a maximum rate of basic pay. The salary levels will be adjusted commensurate with any annual adjustment awarded by Legislation. The current rates for USDA SES members may be found at OHRM/ERMD website, <http://www.dm.usda.gov/employ/exec/pl-emp.htm>, or by contacting the servicing human resources specialist, ERMD.

9. SETTING PAY FOR SENIOR EXECUTIVES

- a. Initial Appointment to the SES. Initial pay for new appointments to the SES will be set at 8 percent from the individual's previous salary or to the bottom of the salary range for the SES position, whichever is greater. In no case, can the pay

exceed the top of the salary range or exceed EX-III. See exception below regarding pay above EX-III. For pay-setting purposes, initial SES appointment includes first SES appointment from outside the Federal Government and conversions from GS or other non-SES pay systems from inside the Federal Government.

The following guidelines apply:

- (1) Pay above EX-III or equal to the rate for EX-II 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. Proposed salaries exceeding this level must be justified based on appropriate factors, such as the scope and impact of the position, or the special or unique qualifications of the selectee. Exceptions must be requested in writing.
- (2) Individuals, who have at least 5 years of current continuous service in one or more positions in the competitive service and are appointed without any break in service, cannot have their basic pay rate set lower than their current salary.
- (3) In setting a new senior executive's rate of basic pay, Agencies and Staff Offices must consider:
 - (a) The nature and the quality of the individual's experience;
 - (b) Qualifications, and accomplishments as they relate to the requirements of the SES position; and
 - (c) The individual's current responsibilities.

In addition, a recruitment incentive may also be offered. See DM-4050-575-001, Pay Administration – Recruitment, Relocation and Retention Incentives for additional guidance at <http://www.ocio.usda.gov/sites/default/files/docs/2012/DM4050-575-001.pdf>.

- b. Reappointments and Reinstatements. It is USDA's policy to use Highest Previous Rate (HPR) to set pay for former senior executives upon reappointment or reinstatement. Such actions apply to reappointment following a break in SES service of more than 30 days or reinstatement from a Presidential appointment (12-month rule applies). **Note:** If there has been a break in SES service of 30 days or less, the senior executive's rate of basic pay may not be set higher than the senior executive's former SES rate of basic pay. For more details regarding pay involving a Presidential appointee, See Section 13b. Retention of SES Pay Provisions regarding retaining SES pay.

The Secretary may approve a higher rate than the former or existing rate of basic pay for these individuals to support where necessary to:

- (1) Recruit an executive with superior leadership or other competencies from a position outside USDA; or
- (2) To reacquire the service of an executive whose services are critical to the mission of USDA.

If a higher rate is warranted, pay may be set up to 8 percent from the individual's previous salary. In no case, can the rate of basic pay exceed the top of the salary range designated for the SES position.

Agency and Staff Office Heads must consider the individual's qualifications and accomplishments as they relate to the requirements of the SES position.

- c. Transfers. Career SES appointees may be transferred from one Agency to another upon approval of the gaining agency. Pay for these individuals typically remains unchanged however, the Secretary may approve a higher rate than their existing rate of pay to recruit an executive with superior leadership or other competencies.

If pay is set at the same SES rate the executive received in his or her former agency, the action is not considered a pay adjustment and does not begin a new 12-month period. Adjustments to pay for these executives will be considered during the annual performance process.

If a higher rate is warranted, pay may be set up to 8 percent from the individual's previous salary. In no case, can the rate of basic pay exceed the top of the salary range designated for the SES position. **Note:** If pay is set at a rate higher than that received in the executive's former agency, the action restarts the clock under the 12-month rule.

In addition, a senior executive whose rate of basic pay is higher than the rate for EX-III may not suffer a reduction in pay when the maximum rate of basic pay for the applicable SES rate range is equal to the rate for EX-III. If the agency's performance appraisal certification has been suspended, the employee would not be eligible for a pay adjustment until the performance appraisal system is certified.

10. ADJUSTING INDIVIDUAL PAY RATES

The Secretary may adjust (increase or reduce) the rate of basic pay of a senior executive consistent with this policy for adjusting SES rates of basic pay.

- a. Performance-Based Pay Adjustments

Adjustments in pay will be made based on demonstrated individual performance and contributions to organizational and mission success in accordance with USDA's performance management system. The annual summary rating of a senior executive is the basis for individual performance recognition, i.e., performance-based pay adjustment or performance award. A senior executive who receives an annual summary rating of Outstanding or equivalent must be

considered for an annual pay increase. Executives who are paid consistent with their current level of responsibilities and performance and who receive an acceptable (“Fully Successful” or better) annual summary rating may receive a performance-based pay increase. Executives who receive a rating below Fully Successful may be considered for a pay decrease.

Executives who meet all of the following guidelines may receive a performance-based increase effective the first pay period in January:

- (1) Has completed at least 90 days under an approved SES performance plan.
- (2) Has received an official rating of record of at least Fully Successful as approved by the Secretary.
- (3) Has not received a performance-based increase in the last 12 months.

The Assistant Secretary for Administration serves as the Senior Performance Official and oversees the Performance Review Board process. Performance-based pay adjustments for SES members are recommended by their Agency and Staff Office Heads, reviewed by the PRB, and approved by the Secretary.

b. 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. Setting of an individual’s rate of basic pay upon initial appointment, reappointment, or reinstatement is considered a pay adjustment for the purpose of applying the 12-month rule.

c. Exceptions to the 12-Month Rule

The Secretary may approve an increase more than once during a 12-month period where he or she determines an additional increase is warranted. The executive’s most recent performance rating, current position, and earlier pay adjustments will be factored into the decision. An additional increase may be warranted for the following reasons:

- (1) For an exceptionally meritorious accomplishment that significantly contributes to the Agency’s performance;
- (2) When it is necessary to reassign a USDA executive to a position with substantially greater scope and responsibility or to recruit a senior executive with superior leadership or other competencies;
- (3) For the retention of a senior executive who is critical to the mission of USDA and who would be likely to leave in the absence of a pay increase; or
- (4) To align a senior executive with USDA’s senior executive appraisal and pay adjustment cycle (e.g., in the case of a senior executive who was appointed to

an SES position within the past 12 months or a senior executive who was transferred to an SES position from an agency with a different senior executive appraisal and pay adjustment cycle within the past 12 months).

In setting the rate of basic pay for these individuals, the following guidelines apply:

- (a) If a higher rate is warranted, pay may be set up to 8 percent from the individual's previous salary. In no case, can the rate of basic pay exceed the top of the salary range designated for the SES position.
- (b) A reassignment to a position with substantially greater scope and responsibility is movement from a lower position level into a higher position level in accordance with USDA's position structure.
- (c) A reassignment to a position assigned to the same position level (of equal stature), in accordance with USDA's position level structure does not warrant a pay increase. Adjustments to pay for these executives will be considered during the annual performance process.
- (d) If a higher rate is warranted to align an individual to USDA's SES performance management system, pay will be set in accordance with the compensation guidelines used in the PRB process. Such actions apply to any senior executive, who was appointed to a new SES position or was reassigned or transferred to a different SES position within the past 12 months.
- (e) Agency and Staff Office Heads must consider the individual's qualifications, accomplishments, and most recent performance appraisal.
- (f) Relocation and retention incentives may be granted, when applicable. See DM-4050-575-001, Pay Administration – Recruitment, Relocation and Retention Incentives for additional guidance at <http://www.ocio.usda.gov/sites/default/files/docs/2012/DM4050-575-001.pdf>.
- (g) A pay increase made as a result of a determination to approve an exception to the 12-month rule must be documented in writing and is considered a pay adjustment and begins a new 12-month period.

11. RESTRICTIONS ON REDUCING PAY

Decisions concerning performance-based pay decreases are limited to a 10 percent decrease and will be made at the discretion of the Secretary, with prior discussion with OHRM. The Secretary must provide the senior executive with at least a 15-day advance written notice prior to effecting the downward adjustment.

Adjustments to decrease base pay may also occur with disciplinary actions resulting from conduct-related activities (e.g., misconduct, neglect of duty, or malfeasance). Any such action must be coordinated with OHRM and the Office of the General Counsel.

12. AGGREGATE LIMITATION ON PAY

In accordance with 5 CFR 530.201, the aggregate annual compensation of employees in the SES pay system may not exceed the rate payable for EX-I or the Vice President's salary on the last day of that calendar year. The rate payable is based on the certification status of USDA's performance appraisal system. USDA's performance appraisal system must be certified for senior executives to receive the higher aggregate limitation on pay, up to the Vice President's salary. Aggregate compensation for SES employees includes basic pay and certain payments made under the authority of title 5, United States Code, such as rank and performance awards, physicians' comparability allowances, recruitment, relocation, and retention incentives, and other similar payments.

If a performance award, rank award, or other additional payment, when added to basic pay, would cause an executive's aggregate compensation to exceed the applicable aggregate limitation by the end of the calendar year, the excess amount is withheld from the award or other additional payment subject to the aggregate pay limit, rather than from the individual's basic pay. Basic pay itself is not reduced or withheld. The amount so paid shall be considered part of the executive's aggregate compensation for the new calendar year. If the executive transfers to another agency or leaves the Federal service, the agency responsible for making the payment is the agency that employed the executive when the excess amount was created.

ERMD is responsible for managing all personnel actions regarding pay and compensation for all senior executives. If an executive is due a lump-sum payment of an excess amount, the human resources specialist (ERMD) will manage the payment process.

13. OTHER PAY PROVISIONS

a. Premium Pay

SES members are excluded from the premium pay provisions of 5 U.S.C. chapter 55, subchapter V (such as overtime pay, Sunday premium pay, holiday premium pay, night pay, standby duty pay, and hazardous duty pay) by 5 U.S.C. 5541(2)(xvi). SES members are also excluded from earning compensatory time off in lieu of overtime pay under 5 U.S.C. 5543 for the work performed as an SES member.

b. Retention of SES Pay Provisions

Career SES members who, without a break in service, accept a Presidential appointment to an Executive Schedule position (or a position whose pay is set by reference to an Executive Schedule rate) may elect to retain SES benefits (e.g., pay, leave, performance awards and Presidential Rank Award eligibility). This will apply as if the career senior executive remained in the career SES position from which he/she was appointed. This election must be made in writing and shall

remain in effect for at least one year, unless the appointee leaves the position sooner. New elections may be made on an annual basis.

c. Pay Following Placement Outside the SES

- (1) Saved Pay. Saved pay is used when a career senior executive is guaranteed placement in a position outside the SES if he/she is removed during his/her probationary period due to performance or as a result of a reduction in force, (See 5 USC 3594). If the individual is placed in a General Schedule position, saved pay is subject to the limitation on SES position under 5 USC 5382 of Executive Schedule Level II.
- (2) Retained Pay. If an appointee is not eligible for saved pay under 5 U.S.C. 3594 following separation from the SES and is placed in a General Schedule position, the individual may still be eligible for pay retention under 5 CFR 536.104(b).

An appointee is not eligible for pay retention if placement in the General Schedule is at the employee's request. The employee's request is defined as an action initiated by an employee for his/her benefit, convenience, or personal advantage and that is not caused or influenced by a management action.

An appointee is not eligible for retained pay if he/she declines a reasonable offer, as defined in 5 CFR 536.206.

- (3) Maximum payable rate. In setting pay for an SES member who is moving to a position in the General Schedule, the following guidelines apply.
 - (a) If an SES member takes a position in the General Schedule at the member's request and is not eligible for saved pay, the individual may be paid under the "maximum payable rate" rule.
 - (b) Individuals serving on a limited term appointment who return to the General Schedule are not eligible for retained pay. Pay for these individuals will be set at the rate that would have been in effect had the employee remained in the GS position, including any within-grade increases to which the employee would have been entitled.

d. Pay Flexibilities

Agency and Staff Office Heads may use any of the following flexibilities when recruiting for SES vacancies and when setting pay for SES appointees.

- (1) Payment of Travel and Transportation Expenses for New Appointees. Pre-employment interview expenses and travel/moving costs for new appointees may be paid under 5 U.S.C. 5706b and 5 CFR Part 572.

- (2) Advance Pay for New Appointees. Advance payment up to two pay periods may be paid under 5 U.S.C. 5524(a) and 5 CFR Part 550, Subpart B.
- (3) Recruitment and Relocation Incentives. Recruitment and relocation bonuses up to 25% of basic pay may be given for hard to fill positions; executives must agree to serve in the Federal Government for one-year or be subject to repayment of all or part of the bonus received. A relocation incentive may be paid only when the senior executive's annual summary under an official performance appraisal system is at least "Fully Successful." (See Exhibits 5 and 6, Request for SES Pay Recommendation – Recruitment and Relocation Incentives).
- (4) Retention Incentives. Retention allowances up to 25% of basic pay may be paid, if the agency determines that unusually high or unique qualifications of the executive, or a special need of the agency for the executive's services makes it essential to retain the executive, and that the executive would likely leave the Federal service in the absence of an incentive. A retention incentive may be paid only when the senior executive's annual summary under an official performance appraisal system is at least "Fully Successful." (See Exhibit 7, Request for SES Pay Recommendation – Retention Incentives).

e. Pay for Military and Civilian Retirees

Determinations in setting pay for military and civilian retirees' impact their Federal pay, retirement pay or annuity. When a military retiree becomes a Federal employee there is no reduction in his or her Federal pay or retirement pay or annuity. However, paid work may reduce Social Security retirement, and survivor or disability benefits if earnings exceed the established limits. If a civilian retiree is "reemployed," his or her salary is generally reduced or the annuity is terminated. When making decisions regarding these individuals, human resources specialists must consult with the Retirement/Benefits Officer to determine if pay will be reduced or the annuity will be terminated.

f. Critical Position Pay

Critical position pay up to Level I of the Executive Schedule may be authorized only in exceptional cases under 5 U.S.C. 5377. Pay above Level I must be approved by the President. Critical position pay may be granted only for positions that require expertise of an extremely high level in a scientific, technical, professional, or administrative field, and are critical to the agency's accomplishment of the agency's mission, and only to the extent necessary to recruit or retain an individual exceptionally well qualified for the position. Agencies wishing to use the critical position authority should review 5 CFR 535. All requests must be submitted to OPM which, in consultation with OMB, will make the determination to approve such a request.

14. PRIOR APPROVAL PROCEDURES FOR PAY RECOMMENDATIONS

Agency and Staff Office Heads (i.e., recommending officials), in coordination with their servicing human resources specialist (ERMD) will prepare the request for pay recommendations, including the justification and forward it for consideration in the prior approval package. They should follow the guidance outlined in Exhibits 1 – 7 to ensure that pay decisions are in compliance with the policy guidelines for authorizing pay. The Executive Director, ERMD will serve as the reviewing official for these pay recommendations.

The request for SES pay recommendations are submitted along with Form AD-3075, Executive Resources Personnel Action Selection Request (Exhibit 8). This form is used to document and obtain the required clearance and approval for all executive personnel actions. This form is located at <http://www.ocio.usda.gov/sites/default/files/docs/2012/AD%203075%20Executive%20Resources%20Personnel%20Action%20Request.pdf>.

This form is prepared by the servicing human resources specialist (ERMD) and routed for:

- a. Clearance by the:
 - (1) Agency Head or Staff Office Director;
 - (2) Under or Assistant Secretary;
 - (3) Executive Director, ERMD;
 - (4) Director, OHRM; and
 - (5) ASA.
- b. Approval by or for the Secretary.

The written request must be approved by the Secretary before the official salary offer or pay incentive is made. SES appointees should be advised that the pay recommendation is tentative until the request is approved.

15. PAY FOR PERFORMANCE SALARY SETTING DETERMINATIONS

All SES members will have their salary adjusted in accordance with USDA's performance management system. The PRB ensures that SES members are compensated equitably for their work and that their accomplishments are recognized and rewarded, by reviewing and recommending pay adjustments; and providing advice on matters relating to executive compensation (e.g., bonuses, performance awards, base position, etc.).

The position level system is to be used only for pay setting purposes. There is nothing in this policy to restrict an executive from exceeding the salary range for the designated SES position after initial pay setting through the pay for performance system.

16. PAY AND PERFORMANCE FOR COMPARABLE LEVEL (AD) POSITIONS

USDA positions that are equivalent to the SES and designated under an administratively determined (AD) pay plan are covered under this pay policy. The pay and performance standards for these positions will be determined under the USDA SES position level structure and in accordance with USDA's SES performance management system.

EXHIBIT 1 – SES POSITION LEVELS

| POSITION LEVEL 3 | | |
|--|--|--|
| SES Positions | Position Indicators | Position Characteristics |
| <ul style="list-style-type: none"> Deputy Under Secretary/Deputy Assistant Secretary Administrators Assistant Administrators Associate Administrators Chief Associate Chief Deputy General Counsel Deputy Chief Financial Officer Deputy Chief Information Officer Chief Human Capital Officer Deputy Director, OHRM Director, OBPA Director, OPPM Director, OO Director, OHSEC Director, OAO <p>Administratively Determined Position</p> <ul style="list-style-type: none"> Director, NAD | <u>Responsibility</u> <ul style="list-style-type: none"> Degree of latitude exercised Degree of decision-making authority Degree of policy-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 the degree of policy and decision authority Reports to a Presidential Appointee Typically supervises several senior executives Serves as the most senior level in a substantial functional community |
| | <u>Complexity</u> <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 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 |
| | <u>Scope of Influence</u> <ul style="list-style-type: none"> Number of organization affected Level of organizations affected Impact inside vs. outside USDA or Component/agency Number of SES supervised | <ul style="list-style-type: none"> Characterized by substantial executive-level leadership and managerial skills and competencies; positions at this level are more likely to be encumbered by more seasoned executives from within the Federal government or from private industry Formulates Agency-wide strategic plans, programmatic objectives, policies and standards |
| | <u>Impact of Mission</u> <ul style="list-style-type: none"> Impact on objectives and strategic goals (Outside USDA, Across USDA, Component, Organization) Impact on development of goals and objectives vs. reaction to them | None |

Exhibit 1 – SES Position Levels (continued)

| POSITION LEVEL 2 | | |
|--|--|---|
| SES Positions | Position Indicators | Position Characteristics |
| <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 Resource Officers • Chief, Acquisitions Officers • Chief of Staff • Chief Operating Officers • Regional Administrators • Area/Station Managers • Budget Officers • Associate General Counsel • Regional Attorneys • Provost | <u>Responsibility</u> <ul style="list-style-type: none"> • Degree of latitude exercised • Degree of decision-making authority • Degree of policy-making authority • Degree of alignment to enterprise perspective | <ul style="list-style-type: none"> • Interactions are typically less complex than Position Level 3 and generally involve multi-Component or intra-Component/agency participants • Activities that are vital to the mission accomplishment of the assigned organization(s) • Leader/Deputy of an organization below the Administrator level and/or serves as senior functional authority with accountability for major programs |
| | <u>Complexity</u> <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 includes Agency-level only • Impact is tangible and furthers Agency objectives and strategic goals • 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 |
| | <u>Scope of Influence</u> <ul style="list-style-type: none"> • Number of organization affected • Level of organizations affected • Impact inside vs. outside USDA or Component/agency • Number of SES supervised | <ul style="list-style-type: none"> • Serves on boards, committees and other groups pertaining to assigned functional areas |
| | <u>Impact of Mission</u> <ul style="list-style-type: none"> • Impact on objectives and strategic goals (Outside USDA, Across USDA, Component, Organization) • Impact on development of goals and objectives vs. reaction to them | <ul style="list-style-type: none"> • Typically reports to Position Level 3 Senior Executive • May supervise at least one Position Level 1 Senior Executive or equivalent |

Exhibit 1 – SES Position Levels (continued)

| POSITION LEVEL 1 | | |
|--|--|--|
| SES Positions | Position Indicators | Position Characteristics |
| <ul style="list-style-type: none"> Executive Associates Directors Coordinators Associate Area Directors Center Directors Institutional Directors Managers Special Assistants Economists Engineers Soil Scientists State Conservationists Assistant General Counsels U.S. Manager | <u>Responsibility</u> <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 Position Level 2 and generally involve intra-Agency participants Activities that are vital to the mission accomplishment of the assigned organization(s) Has latitude and responsibility, as indicated by degree of policy and decision making authority, typically include Agency level only Oversees planning and effective execution of the fully spectrum of programs Develops systems and standards for the administration and management of approved plans and programs |
| | <u>Complexity</u> <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 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 actions to ensure adherence to Agency-wide policies and objectives |
| | <u>Scope of Influence</u> <ul style="list-style-type: none"> Number of organization affected Level of organizations affected Impact inside vs. outside USDA or Component/agency | <ul style="list-style-type: none"> Technical/expertise-based positions is a leader/authority in a focused organization, usually below an Agency Deputy level in such areas as technical, engineering, contracts, and industrial management |
| | <u>Impact of Mission</u> <ul style="list-style-type: none"> Impact on objectives and strategic goals (Outside USDA, Across USDA, Component, Organization) Impact on development of goals and objectives vs. reaction to them | N/A |

EXHIBIT 2

SAMPLE REQUEST FOR INITIAL PAY SETTING RECOMMENDATION

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/staff office head. (Selectee name) current salary is (amount) per year. Consistent with the pay setting policy the position is most closely in Position level ____.

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.
- USDA uses a position level structure system to set pay. Each level consists of a salary range which has a minimum rate of basic pay up to a maximum rate of basic pay based on current SES rates of pay.
- 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 salary range and provide sufficient monetary consideration and elevation for those entering Position Level 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 pay would be a pay adjustment based on his/her 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** _____.

RECOMMENDATION:

Recommended by: _____
Agency/Staff Office Head *Date*

Reviewed by: _____
Executive Director, ERMD *Date*

NOTE: Further clearance and approval for the request will be obtained via Form AD-3073, Executive Resources Personnel Action Selection Request.

EXHIBIT 3

SAMPLE REQUEST FOR REASSIGNMENT/TRANSFER PAY RECOMMENDATION

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 reassignment/transfer, 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 Position Level ____.

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:

- Comparable pay for like SES positions;
- 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.);
- Nature of the staff, e.g., staff size (including staff in subordinate organizational units) and grade levels of individuals reporting directly to the position;
- Most recent SES pay adjustment;
- Current or most recent performance rating; or
- The projected date the employee might be considered for their next salary increase under the SES performance management system.

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 Position Level ____.

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____.

RECOMMENDATION:

Recommended by: _____
Agency/Staff Office Head *Date*

Reviewed by: _____
Executive Director, ERMD *Date*

NOTE: Further clearance and approval for the request will be obtained via Form AD-3073, Executive Resources Personnel Action Selection Request.

EXHIBIT 4

SAMPLE REQUEST FOR REAPPOINTMENT/REINSTATEMENT PAY RECOMMENDATION

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 reappointment/reinstatement, he/she is eligible for a pay increase as recommended by the agency head/selecting official. (Selectee name) current salary/previous SES salary is (salary) per year. Consistent with the pay setting policy the position is most closely in Position Level ____.

General Guidelines

The determination to set the senior executive's rate of basic pay should be based on factors such as:

- 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.
- Previous SES rate of pay;
- Break in SES service of more than 30 days (the employee's pay cannot be less than their highest previous rate of pay);
- Break in SES service of less than 30 days (the pay cannot be higher than the senior executive's former SES rate of basic pay, unless warranted);
- At least 12 months have elapsed since the employee's last SES pay adjustment (i.e. presidential appointment)
- Fewer than 12 months have elapsed since the employee's last SES pay adjustment (i.e. presidential appointment); an additional pay increase, if warranted);
- Comparable pay for like SES positions;
- 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.);
- Nature of the staff, e.g., staff size (including staff in subordinate organizational units) and grade levels of individuals reporting directly to the position;
- Most recent performance rating (if applicable); or
- Other items as outlined in the SES pay setting policy.

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, as outlined in this 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 _____. The Agency has determined that this pay increase, an exception to the 12- month rule, is necessary to (insert reason, i.e. unique or unusual qualifications/reacquire their service) (Provide specific details of determination.) Consistent with the pay setting policy the position is in Position Level ____.

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 _____.

RECOMMENDATION:

Recommended by: _____
Agency/Staff Office Head

Date

Reviewed by: _____
Executive Director, ERMD

Date

NOTE: Further clearance and approval for the request will be obtained via Form AD-3073, Executive Resources Personnel Action Selection Request.

EXHIBIT 5

SAMPLE REQUEST FOR RECRUITMENT INCENTIVE

A recruitment incentive is paid to a newly appointed employee if it has been determined that the position is critical to the mission of the organization, and in the absence of the incentive, it would be difficult to fill the position with a highly-qualified employee from either the Federal or private sector. An employee for this purpose means an individual who is newly appointed in the organization. For additional guidance, see DM-4040-575-001, Pay Administration – Recruitment, Relocation and Retention Incentives, <http://www.ocio.usda.gov/sites/default/files/docs/2012/DM4050-575-001.pdf>.

Subject: Request payment of a (dollar amount/incentive percentage rate) for a recruitment incentive to (selectee name) tentative selectee for Senior Executive Service (SES) position of (position title), (series), (organization)

Justification Statement must include: The determination to pay a recruitment incentive must be based on factors including, but not limited to:

- The success (or lack thereof) of recent efforts to recruit candidates for similar positions, using indicators such as job offer acceptances rates, the proportion of positions filled, the length of time required to fill similar positions, and the probable cost of renewed recruitment efforts;
- Recent turnover in similar positions. For purposes of recruitment incentives approval, positions are considered similar if they have the same duties and responsibilities and have the same level of responsibility;
- The current non-Federal salary and fringe benefits package the candidate receives;
- Employment trends and competition in the labor market that make it difficult to recruit candidates for similar positions;
- Special qualifications or competences (i.e., knowledge, skills, abilities, education, etc.) required for the position (or group of positions). These competencies must be applicable to a vast majority of the duties and responsibilities of the job;
- Efforts to use non-pay authorities and other methods, such as special training, work scheduling flexibilities, delegation of special projects to resolve difficulties alone or in combination with a recruitment incentive;
- The desirability of the duties, work and organizational environment or geographic location of the position; and
- Other supporting factors.

RECOMMENDATION:

Recommended by: _____
Agency/Staff Office Head *Date*

Reviewed by: _____
Executive Director, ERMD *Date*

NOTE: Further clearance and approval for the request will be obtained via Form AD-3073, Executive Resources Personnel Action Selection Request.

EXHIBIT 6

SAMPLE REQUEST FOR RELOCATION INCENTIVE

A relocation incentive may be authorized and paid when, in the absence of the incentive, it would be difficult to fill a position with a highly-qualified employee.

A relocation incentive is paid to a current employee who must relocate (permanently or temporarily and with no break in service) to accept a position in a different geographic area if it is determined that the position is likely to be difficult to fill in the absence of the incentive. For additional guidance, see DM-4040-575-001, Pay Administration – Recruitment, Relocation and Retention Incentives, <http://www.ocio.usda.gov/sites/default/files/docs/2012/DM4050-575-001.pdf>.

Subject: Request payment of a (dollar amount/incentive percentage rate) for a relocation incentive to (selectee name) tentative selectee for Senior Executive Service (SES) position of (position title), (series), (organization)

Justification Statement must include: The amount of the incentive must be justified in writing by the appropriate approving authority and the determination to pay the incentive must be made prior to the prospective employee entering on duty in the position for which relocated. The determination to pay a relocation incentive must be based on but not limited to:

- The availability and quality of candidates possessing the competencies required for the positions, including the success of recent recruitment efforts to recruit candidates for the position or similar positions, using indicators such as offer acceptance rates, proportion of positions filled, and the length of time required to fill similar positions;
- The salaries typically paid outside the Federal Government for similar positions;
- Recent turnover rates in similar positions;
- Special or unique competencies required for the position;
- Operating unit efforts to use non-pay authorities, such as special training and work scheduling flexibilities, to resolve difficulties alone or in combination with a relocation incentive;
- Personal or professional disruption that will occur as a result of relocation and/or the undesirability of the geographic area of the proposed new duty station;
- The desirability of the duties, work or organizational environment, geographic locations of the positions;
- When the executive's rating of record under an official performance appraisal or evaluation system is at least "Fully Successful" or equivalent; and
- Other supporting factors.

RECOMMENDATION:

Recommended by: _____
Agency/Staff Office Head *Date*

Reviewed by: _____
Executive Director, ERMD *Date*

NOTE: Further clearance and approval for the request will be obtained via Form AD-3073, Executive Resources Personnel Action Selection Request.

EXHIBIT 7

SAMPLE REQUEST FOR RETENTION INCENTIVE

A retention incentive may be to a current career executive if (1) the agency determines that the unusually high or unique qualifications of the executive or a special need of the agency for the executive's services makes it essential to retain the executive, and that the executive would be likely to leave the Federal service in the absence of a retention incentive, or (2) the agency has a special need for the employee's services that makes it essential to retain the employee in his or her current position during a period of time before the closure or relocation of the employee's office, facility, activity, or organization and the employee would be likely to leave for a different position in the Federal service in the absence of a retention incentive. For additional guidance, see DM-4040-575-001, Pay Administration – Recruitment, Relocation and Retention Incentives, <http://www.ocio.usda.gov/sites/default/files/docs/2012/DM4050-575-001.pdf>.

Subject: Request payment of a (dollar amount/incentive percentage rate) for a retention incentive to (selectee name) tentative selectee for Senior Executive Service (SES) position of (position title), (series), (organization)

Justification Statement must include: A retention incentive and the amount of the incentive must be justified in writing by the appropriate approving authority before the incentive may be paid. The determination to pay a retention incentive must be based on but not limited to:

- Employment trends and labor market factors. The availability of quality candidates in the labor market that have the required competencies and who could perform all the duties and responsibilities of the employee's position at the level performed by the employee, with minimal training, cost, or disruption of the service to the public;
- The success of recent efforts to recruit candidates and retain employees with qualifications similar to those possessed by the employee for positions similar to the position held by the employee. For purposes of retention incentive approval, positions are considered similar when they possess the same duties and responsibilities and the same level of responsibility;
- Any special or unique competencies, skills, or training required for the position should be thoroughly described in relation to the operating unit's work;
- Efforts to use non-pay human resources (HR) flexibilities (e.g., work scheduling options, telework, special training, improved working conditions, etc.) to help retain the employee;
- Salary and benefits packages usually paid for comparable positions with similar duties and responsibilities in the private, non-profit and government (non-Federal) sectors;
- The desirability of the duties, work or organizational environment, geographic locations of the positions;
- The extent to which the employee's departure would impair the ability to carry out an activity, perform a function, and/or complete a project deemed essential to the operating unit's mission. If a retention incentive is based on the likelihood that an employee is likely to retire if the incentive is not paid, include recruitment and/or succession planning efforts for the position;
- When the executive's rating of record under an official performance appraisal or evaluation system is at least "Fully Successful" or equivalent; and
- Other supporting factors.

RECOMMENDATION:

Recommended by: _____
Agency/Staff Office Head

Date

Reviewed by: _____
Executive Director, ERMD

Date

NOTE: Further clearance and approval for the request will be obtained via Form AD-3073, Executive Resources Personnel Action Selection Request.

EXHIBIT 8

SAMPLE EXECUTIVE RESOURCES PERSONNEL ACTION SELECTION REQUEST FORM

U.S. Department of Agriculture Executive Resources Personnel Action Selection Request

| | | | | | | | |
|---|----------------------|------------------|------------------|--|-----------------------|-------------------|-------------------|
| 1. Name (Last, First, Middle) | | | | | | | |
| 2. First Action | | | | 3. Second Action | | | |
| 4. From (Position Title) | | | | 5. To (Position Title) | | | |
| 6. Pay Plan | 7. Grade/Step | 8. Series | 9. Salary | 10. Pay Plan | 11. Grade/Step | 12. Series | 13. Salary |
| 14. Agency, Organization Title, Duty Station | | | | 15. Agency, Organization Title, Duty Station | | | |
| 16. Other Compensation and Pay Setting (Attach supporting documentation explaining in detail the proposed request) | | | | | | | |
| <input type="checkbox"/> Recruitment Incentive <input type="checkbox"/> Relocation Incentive <input type="checkbox"/> Retention Incentive | | | | <input type="checkbox"/> Superior Qualifications Authority <input type="checkbox"/> Special Needs Authority | | | |
| 17. Reason for Action (If vacancy, indicate name of former incumbent): | | | | | | | |
| Certification: The position is necessary to carry out the mission of the Agency/Staff Office. The candidate proposed is qualified for the position, is suitable for employment, and has no financial interests or otherwise that would pose any real or apparent conflict-of-interest if appointed to this position. Funds are available to finance this action. | | | | | | | |
| 18. Cleared By | | | | | | | |
| Signature _____ Agency Head or Staff Office Director | | | | Date _____ | | | |
| Signature _____ Under or Assistant Secretary | | | | Date _____ | | | |
| Signature _____ Director, Executive Resources Management Division | | | | Date _____ | | | |
| Signature _____ Director, Office of Human Resources Management | | | | Date _____ | | | |
| Signature _____ Assistant Secretary for Administration | | | | Date _____ | | | |
| 19. Approval | | | | | | | |
| Signature _____ By or For the Secretary of Agriculture | | | | Date _____ | | | |
| For OSEC Use Only: <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved | | | | | | | |

Disclaimer Statement: This form is intended for use by the Office of Human Resources Management, Executive Resources Management Division only. It is to be used to obtain approval to manage USDA executive resources.

APPENDIX A

AUTHORITIES AND REFERENCES

This directive must be used with:

U.S.C. 5381-5385, Pay for the Senior Executive Service (SES)

5 CFR Part 534, Subpart D, Pay and Performance Awards Under the Senior Executive Service

5 CFR Part 530, Subpart B, Aggregate Limitation on Pay

5 U.S.C. 5307, Limitations on Certain Payments

5 U.S.C. 5753 and 5 CFR Part 575, Subpart A, Recruitment Incentive

5 U.S.C. 5753 and 5 CFR Part 575, Subpart B, Relocation Incentive

5 U.S.C. 5754 and 5 CFR Part 575, Subpart C, Retention Incentive

Office of Personnel Management (OPM) Senior Executive Service (SES) Desk Guide (most recent working draft)

USDA DM-4050-575-001, Pay Administration – Recruitment, Relocation and Retention Incentives

5 CFR Part 531, Subpart B, Using a Highest Previous Rate Under the Maximum Payable Rate Rule

APPENDIX B

DEFINITIONS

| | |
|----------------------------------|--|
| Agencies | Refers to mission areas, agencies or staff offices (such as the Office of General Counsel). |
| 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. The Agency Head for USDA is the Secretary of Agriculture. |
| Basic Pay | Basic pay is defined as the rate fixed by applicable law or regulation. Basic pay does not include other types of pay such as: bonuses, allowances, overtime, holiday, and military pay or supplemental payments from the Office of Workers' Compensation Programs (OWCP). |
| Executive Resources Board (ERB) | A group comprised of USDA career and non-career senior executives who review and provide recommendations to the Secretary or designee on various SES policies and programs. Pertinent to this policy are pay, compensation and performance management. |
| GS Maximum Payable Rate | The lowest rate on the current pay scale of the employee's grade that is equal to or exceeds his or her highest previous rate. |
| Highest Previous Rate (HPR) | The highest rate of basic pay previously received by an individual while employed in a civilian position in any part of the Federal Government without regard to whether that position was under the GS pay system; or the highest rate of basic pay in effect when a GS employee held his or her highest GS grade and highest step within that grade. |
| Performance-Based Pay Adjustment | A salary increase or decrease resulting from a senior executive's annual summary rating approved by the appointing authority. Pay may be adjusted once in any 12-month period. |

| | |
|--------------------------------|---|
| Performance Review Board (PRB) | A group of career and non-career senior executives appointed by the Secretary responsible for the oversight of the performance management and compensation processes for senior executives. |
| Previous Salary | Basic pay plus locality pay (or if coming from outside government, best equivalent) immediately prior to the SES appointment. |
| Service Period | A specified period of employment with the agency. |
| Staff Office | A USDA administrative office whose head reports to the Secretary. |
| 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. |
| Twelve (12) Month Period | Fifty-two (52) week period from the last pay adjustment that is known as the 12-month rule. |
| USDA SES Position Structure | A three-level system that groups positions with common characteristics. Position 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. |