

# SES Performance Management System

## **Section 1. General**

A. *Statutory authority.* Chapter 43 of title 5, United States Code, provides for performance management for the Senior Executive Service (SES), the establishment of SES performance appraisal systems, and appraisal of senior executive performance. This document prescribes Department of Commerce (DOC) policy for managing SES performance to implement the statutory provisions at 5 U.S.C. 4311-4315 and OPM regulations in 5 CFR part 430.

B. *Purpose.* The DOC Performance Management System 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 by:

1. Expecting excellence in senior executive performance;
2. Linking performance management with the results-oriented goals of the Government Performance and Results Act of 1993 and other strategic planning initiatives;
3. Setting and communicating individual and organizational goals and expectations;
4. Systematically appraising senior executive performance using measures that balance organizational results with customer, employee, or other perspectives, and;
5. Using performance results as a basis for pay, awards, development, retention, removal, and other personnel decisions.

## **Section 2. Coverage.**

The Senior Executive Service Performance Management System applies to all senior executives of the Department who occupy Senior Executive Service positions, including career, noncareer, and SES limited appointees.

## **Section 3. Definitions.**

*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
- \* □ Under Secretary for Intellectual Property and  
Director of the U.S. Patent and Trademark Office
- \* □ 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.

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.

Critical performance element means a key component of an 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 means the Department of Commerce.

Generic elements means standard Departmentwide required critical elements.

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

Performance appraisal means the review and evaluation of a senior executive's performance against performance elements and requirements.

Performance management system means the framework of policies and practices that the Department 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.

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

*Performance Review Board* means a group of senior executives who make recommendations to the Appointing Authority on the performance of our senior executives and have appointed members in accordance with 5 CFR 430.310. Board membership must be published in the Federal Register before service begins.

*Ratings:*

*Initial summary rating* means an overall rating level the supervisor derives from appraising the senior executive s performance during the appraisal period and forwards to the Performance Review Board.

*Annual summary rating* means the overall rating level that an Appointing Authority assigns at the end of the appraisal period after considering a Performance Review Board s recommendations. This is the official rating.

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

*Strategic planning initiatives* mean agency strategic plans, annual performance plans, organizational workplans, and other related initiatives.

**Section 4. SES Performance Management System.**

A. Scope:

The Department has one umbrella performance management system. Within that system, there are three subsystems: (1) Economics and Statistics Administration (ESA); (2) U. S. Patent and Trademark Office (USPTO); and (3) all others. All three subsystems are the same except where a specific variation is permitted.

B. The Department s performance management system provides for:

1. Planning and communicating performance elements and requirements that are linked with strategic planning initiatives;
2. Consulting with senior executives on the development of performance elements and requirements;
3. Monitoring progress in accomplishing elements and requirements;
4. Appraising each senior executive s performance against requirements at least annually using measures that balance organizational results with customer, employee, or other perspectives;
5. Using performance information to adjust, reward, reassign, develop, and remove senior executives or make other personnel decisions; and
6. Additional system requirements.

C. Additional system requirements.

1. Appraisal period.

- a. The Department s performance appraisal period starts October 1 and ends the following September 30.
- 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.
- c. The senior executive s supervisor 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 a supervisor 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 within 120 days after the beginning of a new Presidential administration.

2. Summary performance levels. The Department s umbrella system is a five-level system - **Outstanding, Commendable, Fully Successful, Minimally Acceptable** and **Unsatisfactory**. However, subject to approval by the Department, the ESA will be allowed a variation to pilot a three-level system, and develop its own nomenclature for the summary performance levels, which will be evaluated for three years to determine feasibility for broader application within the Department. The USPTO will vary the description of the five summary performance levels, subject to the approval of the Department.

## **Section 5. Planning and communicating performance.**

A. Each senior executive must have a performance agreement that describes the individual and organizational expectations for the appraisal period and sets the requirements against which performance will be evaluated. Supervisors must develop performance agreements in consultation with senior executives on or before the beginning of the appraisal period.

B. Performance agreement requirements:

The Department has two **Generic Critical Elements** that must be part of each performance plan: **Leadership/Management and Customer/Client Service Responsiveness.**

1. *Critical elements.* At a minimum, agreements must describe the two generic critical performance elements and a maximum of three bureau specific critical elements of the senior executive s work. Elements must reflect individual and organizational performance.
2. *Performance requirements.* At a minimum, agreements must describe the level of performance expected for Fully Successful performance of the executive s work. These are the performance requirements against which the senior executive s performance will be appraised.
3. *Link with strategic planning initiatives.* Critical elements and performance requirements for each senior executive must be consistent with the goals and performance expectations in the agency s strategic planning initiatives.

## **Section 6. Monitoring Performance.**

A. Supervisors must monitor each senior executive s performance during the appraisal period and provide feedback to the senior executive on progress in accomplishing the performance elements and requirements described in the performance plan.

B. Supervisors must hold a progress review for each senior executive at least once during the appraisal period. At a minimum, senior executives must be informed about how well they are performing against performance requirements.

C. Supervisors must provide advice and assistance, as needed, to senior executives on how to improve their performance.

## **Section 7. Appraising Performance.**

A. *Annual appraisals.* Senior executives must be appraised annually. Supervisors 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 rating for service in another covered position within the Department or another agency during the appraisal period, then that summary rating or ratings 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. The effectiveness, productivity, and performance quality of the employees for whom the senior executive is responsible; and
  - e. Compliance with the merit system principles set forth under section 2301 of title 5, United States Code.

### **B. Interim Ratings**

If a senior executive has received an interim summary performance rating for service in another covered position within the Department or another agency during the appraisal period, then that summary rating (or ratings) must be considered in determining the executive s annual summary rating.

C. The rating official must prepare and discuss with each senior executive they supervise an initial written rating of performance. This rating must be based on an assessment of the senior executive s performance against the requirements established at the beginning of the period (or as modified and documented during a progress review) in the performance agreement and must include a written rating of each individual performance element.

### **D. Methodology for Deriving Summary Ratings**

Except for the ESA and USPTO, which will develop their own methodology, subject to the Department s approval, the following approach will be followed in the rest of DOC: 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 annotated in the agreement during a progress review) and must include a written rating for each individual performance element based on the following:

- Outstanding (5)*** Meets or exceed 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. Any fraction may be used.
2. Each critical element must be rated using the five-level element rating scale shown above. Ratings of elements below Fully Successful 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) that 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 (generic element #1 must be weighted at 30% and element #2 must be weighted at 20% (combined elements #1 and #2 equal 50%). Therefore, e.g., if an employee receives for generic element #1 a rating of Fully Successful or 3;  $3 \times 30\% = 90$  points and for general element #2 a Commendable or 4;  $4 \times 20\% = 80$  points. The points assigned to the individual elements are then totalled 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, no matter what point total the senior executive earns.

4. If a senior executive received an interim summary performance rating for service in another covered position during the appraisal period, then that summary rating or ratings must be considered as follows in determining the senior executive's annual summary rating:

The rating official completes his or her appraisal of the senior executive on his/her current position (if in that position for 90 days or more of the appraisal period and under performance requirements for that period of time) and assigns a total score. The current supervisor's score is doubled and added to the interim rating score (s) given by any other supervisors. This new total is then divided by the number of positions occupied for 90 days or more **plus 1**, and a final total score is assigned. (Scores with decimals should be rounded to the next highest number.) For example:

*Example 1:*

Interim rating score:	$300 \times 1 = 300$
Current rating official's score	$360 \times 2 = \underline{720}$
	1020

1020 divided by 3 = 340

The senior executive's recommended rating would be 340 or Fully Successful.

*Example 2:*

Interim rating score:	$320 \times 1 = 320$
Interim rating score:	$300 \times 1 = 300$
Current rating official's score	$360 \times 2 = \underline{720}$
	1340

1340 divided by 4 = 335

The senior executive's recommended rating would be 335 or Fully Successful.

In computing the overall performance rating using this formula, the rating assigned

by the current supervisor (the one that is to be doubled) must be checked carefully.

E. Details and job changes.

1. When a senior executive is temporarily assigned for 90 days or longer, the gaining supervisor must set performance goals and requirements for the detail or temporary assignment. The senior executive's performance must be appraised in writing, and the appraisal must be factored into the initial summary rating.
2. When a senior executive changes jobs or transfers to another agency after completing the minimum appraisal period, the supervisor must appraise the executive's performance in writing before the executive leaves.
3. The annual summary rating and any subsequent appraisals must be transferred to the gaining agency. The gaining supervisor must consider the rating and appraisals when developing the annual summary rating at the end of the appraisal period.

**Section 8. Process for Rating Performance.**

A. Initial summary rating. The supervisor 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.

B. Higher level review. The senior executive may ask for a higher level official to review the initial summary rating before the rating is given to the Performance Review Board (PRB). 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 five 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. The Department's Director for Human Resources Management will appoint a member from the Departmental Performance Review Board (DPRB) for the review. The higher level official cannot change the supervisor's initial summary rating, but may recommend a different rating to the supervisor, PRB and the Appointing Authority. Copies of the reviewer's findings and recommendations must be given to the senior executive at the same time it is given to the supervisor and the PRB.

C. PRB review. The initial summary rating, the senior executive's response to the initial

rating, and the higher level official's comments must be given to the PRB. The PRB must review the rating and comments from the senior executive and the higher level official, and make recommendations to the Appointing Authority. A PRB has the authority to make any inquiry it deems necessary.

D. *Annual summary rating.* The Appointing Authority must assign the annual summary rating of the senior executive's performance, in writing, after considering any PRB recommendations. This rating is the official rating.

E. *Extending the rating period.* When a supervisor 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. After the senior executive has been on standards for 90 days, the supervisor will then prepare the annual summary rating.

F. *Appeals.* Senior executive performance agreements and ratings are not appealable.

#### **Section 9. Using performance results.**

A. Supervisors will use the results of performance appraisals and ratings as bases 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. A career executive whose annual summary rating is at least Fully Successful may be given a performance award.

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 Senior Executive Service, or removed from the Senior Executive Service;
2. An executive who receives two Unsatisfactory annual summary ratings in any five-year period must be removed from the Senior Executive Service; and
3. An executive who receives less than a Fully Successful annual summary rating twice in any three-year period must be removed from the Senior Executive Service.

## **Section 10. Performance Review Boards (PRBs).**

PRBs make recommendations to the Appointing Authority 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 designee acting on behalf of the Agency. Bureaus are encouraged to include women, minorities, people with disabilities, and individuals from outside the bureau on PRBs.
2. PRB members must be appointed in a way that assures consistency, stability, 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 PRB's 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 reviewer's comments 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 bonus recommendation.
3. A PRB member must not participate in an individual'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 rater 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 reviewer of the senior executive whose performance is being reviewed.
4. The DPRB provides higher level review of individuals reporting directly to the Appointing Authority.

**Section 11. Training and Evaluation.**

- A. Servicing Human Resources Offices must provide appropriate information and training to supervisors and senior executives on performance management, including planning and appraising performance.
- B. Information on changes in the operation of the Senior Executive Service Performance Management System are conveyed to Department management and affected senior executives through the Department's Office of Human Resources Management issuances.
- C. The Office of Human Resources Management assesses the effectiveness of the Senior Executive Service Performance Management System through an ongoing evaluation program. Commerce organizations are evaluated on their technical compliance with law, the Office of Personnel Management performance management regulations, and Department policy. Evaluations focus on the adequacy of performance plans and ratings as related to the bureau's accomplishments as reflected in the Department's strategic plan. Additionally, the Pilot system will be tested and evaluated to determine Departmentwide feasibility.

**Section 12. Record Keeping.**

- A. *Employee performance folders (EPFs).* EPFs must be established for each senior executive, retained as separate files, and maintained by the supervisor. EPFs must contain the following:
- 1. The individual performance plans;
  - 2. Documentation of progress review(s);
  - 3. Summary appraisals and ratings;
  - 4. Written comments on ratings, if any;
  - 5. PRB/DPRB recommendations; and
  - 6. Nominations for bonuses, pay level adjustments, and rank awards.

- B. All performance related records contained in the EPF must be retained for five years.
- C. When a senior executive transfers to another operating unit within the Department or to another federal agency, EPF records must be transferred with the employee.
- D. Disclosure of information contained in EPFs may be made only as permitted by the Privacy Act.