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The Senior Executive Service: Overview and Current Issues

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Summary

The Senior Executive Service (SES) was created in 1979 to provide a government-wide, systematic program for the recruitment, retention, development, and management of senior executives in the federal government. This cadre of nearly 7,000 top-level executives, which is noted for its policymaking and leadership responsibilities, consists of four types of appointees. Entry into the SES and performance management are governed by law and regulations that emphasize executive competencies, pay for performance, and the concept of rank-in-person. Current issues include pay compression, retirement and succession planning, proliferation, mobility, restructuring, and performance management.

Background

On October 13, 1978, President Jimmy Carter signed the Civil Service Reform Act (CSRA) of 1978 (P.L. 95-454, 92 Stat. 1111), which abolished the U.S. Civil Service Commission and established in its place two organizations, the Office of Personnel Management (OPM) and the Merit Systems Protection Board (MSPB).¹ Major reform of the civil service system had taken place last in 1883. When the CSRA took effect in July 1979, it established a new component of the civil service system, the Senior Executive Service (SES).²

¹ See CRS Report 98-773, *Office of Personnel Management: Background, Strategic and Performance Plans, and Congressional Oversight*, by Barbara L. Schwemle; and CRS Report RL30194, *Merit Systems Protection Board: Background, Strategic and Performance Plans, and Congressional Oversight*, by Barbara L. Schwemle.

² There are three mainstays of the federal civil service. The Federal Wage system covers trade, craft, and labor occupations. The General Schedule system consists of classified white-collar positions: professional, administrative, technical, and clerical. By comparison, members of the SES are generalists with executive and policymaking responsibilities.

Creation of the SES was undertaken with the goal of remedying problems related to the recruitment, retention, development, and management of senior-level executives. Prior to the establishment of the SES, OPM lacked systematic plans for identifying, recruiting, and developing senior executives, and for determining which executives were or were not doing a good job.³

Major Features of the SES

Among several main features of the SES, there are two key concepts on which the SES is based.⁴ Guided by the notion of pay for performance, the SES offers its members a trade-off: in return for the opportunity to earn greater financial rewards (i.e., salary, bonuses, presidential rank awards) through outstanding job performance, executives give up some of the usual job security associated with the civil service. The second concept is that rank resides in the person, not the position. This concept facilitates reassignment of executives to functions or positions where they are needed.

The SES consists of four categories of appointees — career, limited term, limited emergency, and noncareer — and two types of positions: career reserved and general.⁵ Career appointees make up the largest group within the SES: 6,118 in FY2001 (compared to 265 noncareer and 243 limited appointees). The total number of positions authorized for each fiscal year is determined by the Office of Personnel Management in consultation with the Office of Management and Budget (OMB).

Entry into the SES is open to both civil service employees and non-civil service employees, though no more than 30% of SES positions may be filled by individuals who do not have the requisite experience in the civil service. Each new appointee must have his/her executive qualifications certified by an independent Qualifications Review Board. The five Executive Core Qualifications were updated by OPM in September 1997.⁶

Two major tools of performance management are the annual performance appraisal, which must be conducted at least annually for each member of the SES, and the compensation system. Career appointees who receive a rating of fully successful or better are eligible for a lump-sum performance award equal to an amount not less than 5% or more than 20% of their rate of basic pay.⁷ There are six rates of basic pay for members of the SES, beginning with ES-1 (\$116,500) and topping out at ES-6 (\$134,000), effective

³ Sally H. Greenberg, "The Senior Executive Service," *The Bureaucrat* vol. 7, no. 3 (1978), p. 17.

⁴ For greater detail, see 5 U.S.C. 2101a, 3131-3136, 3391-3397, 3591-3596, 4311-4315, 5381-5385, 5752, and 7541-7543.

⁵ Unless otherwise noted, this report focuses primarily on career appointments and appointees.

⁶ See "Executive Qualifications," U.S. Office of Personnel Management, available at web site [<http://www.opm.gov/ses/exqualify.html>], visited Feb. 14, 2003.

⁷ Conversely, a rating of unsatisfactory or minimally satisfactory can lead to reassignment within or removal from the SES. See 5 U.S.C. 4314 for additional information.

January 2003.⁸ The President establishes SES salaries, subject to the following restrictions: the basic pay rate must be at least 120% of the basic pay rate for GS-15, step 1, and cannot exceed the basic pay rate for Level IV of the Executive Schedule.⁹ The combination of the basic pay rate and locality pay rate for members of the SES cannot exceed Level III of the Executive Schedule.¹⁰

Historically, the cap on total compensation has been Executive Schedule Level I,¹¹ which is \$171,900 in 2003. New language was added to 5 U.S.C. 5307 by P.L. 107-296¹² Section 1322, which raises the cap and requires that an agency be certified by OPM, with the concurrence of OMB, for its employees to be eligible for the new cap. The new cap is the Vice President's salary, which is \$198,600 in 2003. Section 1322 states that an agency must be "certified ... as having a performance appraisal system which (as designated and applied) makes meaningful distinctions based on relative performance." Certification is for two years, but OPM, with the concurrence of OMB, may terminate an agency's certification at any time. The cap for senior executives employed by an agency that fails to receive or maintain certification remains at Executive Schedule Level I. OPM and OMB will jointly issue regulations and guidance on the certification process.¹³

Senior executives who have displayed exceptional performance for a minimum of three years, and have met other criteria, are eligible to be nominated by their agencies for one of two presidential rank awards, Meritorious Executive or Distinguished Executive.

Current Issues

The 20th anniversary of the SES in 1998 prompted an examination of the service by OPM and other interested parties. OPM issued "An Outline of OPM's Proposed Framework for Improving the Senior Executive Service" in April 1998, released a status report in December 1998,¹⁴ and announced proposed administrative rule changes.¹⁵ The

⁸ See CRS Report 98-53, *Salaries of Federal Officials: A Fact Sheet*, by Sharon Gressle. The six payable rates (base and locality pay) in Washington-Baltimore, DC-MD-VA-WV are: ES-1, \$129,874; ES-2, \$132,541; ES-3, \$138,516; ES-4, \$142,500; ES-5, \$142,500; and ES-6, \$142,500.

⁹ 5 U.S.C. 5376(b)(1)(A) and 5382(b).

¹⁰ 5 U.S.C. 5304(g)(2).

¹¹ 5 U.S.C. 5307(a)(1).

¹² H.R. 5005; 116 Stat. 2135.

¹³ Memorandum for Human Resources Directors from Donald J. Winstead, Acting Director, Workforce Compensation and Performance Service, U.S. Office of Personnel Management, "Aggregate Pay Limitation for Members of the Senior Executive Service and Employees in Senior-Level and Scientific or Professional Positions," CPM 2003-02, Jan. 24, 2003.

¹⁴ See "Draft Framework for Improving the SES," U.S. Office of Personnel Management, available at web site [<http://www.opm.gov/ses/draftframe.html>], visited Feb. 14, 2003; and "Status Report Draft Framework, Status Report as of December 1998," U.S. Office of Personnel Management, available at web site [<http://www.opm.gov/ses/statusreport.html>], visited Feb. 14,

Senior Executives Association (SEA) responded to the OPM framework in June 1998,¹⁶ and an OPM- and Senior Executives Association-sponsored survey of SES members was completed in 1999.¹⁷ The major issues facing the SES are pay compression, retirement and succession planning, proliferation, and mobility.

Pay Compression

Pay compression is an ongoing problem for members of the SES. As SES pay rates climb, due to increases determined by the President, and in the absence of significant increases in Executive Schedule salaries, which, as noted above, are the caps for SES pay, the base pay rates for the six SES pay levels move closer together. The ES-5 and ES-6 levels have the same base pay rate (\$134,000). When locality pay rates are added, the top three pay levels are the same (\$142,500) in all locality pay areas. In 20 localities, the top four pay levels are the same amount. In Houston, Los Angeles, New York, and San Francisco, five pay levels are the same amount. There is concern that the pay compression problem, and the belief that salaries for senior executives are inadequate, might affect recruitment and retention efforts.

The President's FY2004 budget contains a proposal to change the SES pay system which, if enacted, could help to alleviate pay compression. The President's proposal, through amendments to Sections 5304, 5382, and 5383(a) and (c) of Title 5, would raise the cap for base and locality pay to Level II of the Executive Schedule, replace the six rates of basic pay with a range of rates (i.e., one pay band),¹⁸ raise the cap on basic pay to Level III of the Executive Schedule, and allow for adjusting the pay of a senior executive more than once in any 12-month period as provided in regulations prescribed by OPM. The proposal also states that the pay of a senior executive could not be reduced as a result of these changes during the first year they take effect. The minimum rate of basic pay would not change.¹⁹

¹⁴ (...continued)

2003. Also, the director of the Office of Personnel Management remarked on OPM's draft framework in July 1999: see "Remarks by Janice Lachance, Director, Office of Personnel Management, Senior Executives Association Conference," available at web site [<http://www.opm.gov/speeches/1999/sea2.htm>], visited Feb. 14, 2003.

¹⁵ See Office of Personnel Management, "Employment in the Senior Executive Service," *Federal Register*, vol. 64, no. 146, July 30, 1999, pp. 41334-41336.

¹⁶ Carol A. Bonosaro, President, Senior Executives Association, letter to Janice LaChance, Director, U.S. Office of Personnel Management, June 30, 1998.

¹⁷ Survey results are available on OPM's web site, [<http://www.opm.gov/ses/survey.html>], visited Feb. 14, 2003.

¹⁸ This proposal would create one pay band for members of the senior executive service: "The Administration ... proposed to reform the pay structure of its senior managers by increasing the limit on pay and replacing the current six-tier system [i.e., six rates of base pay] with a pay band so that agencies can tie these managers' compensation more closely to their performance." (U.S. Office of Management and Budget, *Budget of the United States Government*, Fiscal Year 2004, Analytical Perspectives (Washington: GPO, 1993), p. 287.)

¹⁹ U.S. Office of Management and Budget, *Budget of the United States Government*, Fiscal Year (continued...)

Retirement and Succession Planning

A 2000 GAO report on the Senior Executive Service calculated retirement trends for members of the SES through fiscal year 2005 and delved into the related issue of succession planning by executive agencies.²⁰ Seventy-one percent of the approximately 6,000 career SES members on board presently will be eligible for regular retirement by the end of fiscal year 2005. OPM estimates that 45% of those eligible will retire in the six-year period between fiscal years 1999 and 2005. The impact on agencies and occupation series will vary. For example, 82% of the career SES members in the Department of Veteran Affairs will be eligible to retire by the end of FY2005, while the figure is 65% each for the Environmental Protection Agency and the Nuclear Regulatory Commission. The projected loss of senior executives to retirement suggests, according to the GAO report, that succession planning should be a priority among executive agencies. However, responses by SES members to the 1999 survey suggest that a number of agencies have not instituted formal succession planning programs.

Proliferation

Numerous agencies, government corporations, intelligence activities, administrative law judges, and foreign service positions are excluded from the SES. Agencies that have their own cadres of senior executives include the Federal Bureau of Investigation, the Drug Enforcement Administration, the Central Intelligence Agency, the Federal Election Commission, and the Office of the Comptroller of the Currency.²¹ Statutory exclusions acknowledge that some positions do not meet the criteria for a “Senior Executive”; that some agencies do not meet the definition of “executive agency”; or that, in the case of intelligence activities, the nature of the work precludes membership in a government-wide executive corps. Other agencies or agency components may be excluded from the SES if they have applied for and received a waiver that allows them to establish and maintain their own group of senior executives.²² For example, the National Security Council, having received a statutory waiver pursuant to 5 U.S.C. 3132(c), has established its own cadre of senior executives separate from the Senior Executive Service. Segmenting the executive corps in this manner gives agencies latitude in managing their top-level executives. As the pay compression problem has worsened, establishment of an independent executive cadre appears to have allowed affected agencies to increase the salaries of their senior executives regardless of the base pay rate of Level IV of the Executive Schedule. For example, the maximum salary for senior executives at the Federal Aviation Administration is \$154,700. The maximum salary for individuals

¹⁹ (...continued)

2004, Appendix, (Washington: GPO, 2003), p. 13.

²⁰ See U.S. General Accounting Office, *Senior Executive Service: Retirement Trends Underscore the Importance of Succession Planning*, GAO report GCD-00-113BR (Washington: May 12, 2000).

²¹ See 5 U.S.C. 3132(a)(1)(A)-(D) for a list of agencies and positions excluded from the SES by statute. See also 5 U.S.C. 3151-3152 for FBI and DEA SES systems.

²² According to 5 U.S.C. 3132(d), any agency or agency component whose waiver is approved “shall make a sustained effort to bring its personnel system into conformity with the Senior Executive Service to the extent practicable.”

employed by the Internal Revenue Service (IRS) under its streamlined critical pay authority²³ is the Vice President's salary (\$198,600). It is unclear how this trend toward compartmentalization of senior executives might affect recruitment and retention, job performance, mobility, or the status of the SES.

Mobility

Prior to the creation of the SES, movement of top-level executives (GS-16 through GS-18) within and between agencies was hampered by procedural and organizational obstacles. Consequently, one of the major features and strengths of the SES was to be executive mobility. The expectation was that intra-agency (i.e., reassignment) and, particularly, inter-agency (i.e., transfer) mobility, in helping executives gain a broad base of experience and knowledge, would benefit members of the SES and the agencies that employ them. The number of local and geographic reassignments was highest in FY1982, when 1,399 executives were reassigned; in FY2002, the most recent year for which figures are available, only 657 executives were reassigned.²⁴ The number of geographic and local transfers to another agency is even smaller: the highest number of transfers in any one year was 149 (in 1980); in FY2002, 38.²⁵ Financial burdens associated with relocation constitute a set of obstacles peculiar to geographic reassignments and transfers. Whereas SES stakeholders rejected an OPM-proposed mobility requirement, there is support for voluntary mobility. Consequently, OPM is focusing on ways to encourage and facilitate mobility, especially inter-agency transfers, among SES appointees. One of OPM's initiatives is the Senior Opportunity and Resume System (SOARS) website.²⁶ SOARS is an on-line job center where SES members and OPM-certified Candidate Development Program (CDP) Graduates may post resumes and view opportunities. Federal departments and agencies may use SOARS to post job openings and view resumes.

²³ 5 U.S.C. 9503; P.L. 105-206, Sec. 9503.

²⁴ This category (reassignments) also includes job changes resulting from reorganizations, revisions of job descriptions, and changes in job and organization titles.

²⁵ Reassignment and transfer information provided by the Office of Personnel management.

²⁶ SOARS is found at [<http://sesmobility.opm.gov/ses.asp>], visited Feb. 14, 2003. The introductory page is available to the public, but access to resumes and opportunities is restricted to members of the SES, CDP graduates, departments and agencies.