



Approved On: November 26, 2013

DOJ ORDER

EXECUTIVE RESOURCES MANAGEMENT

PURPOSE: Establishes Department of Justice (DOJ) policies that govern Executive Resources management. Executive Resources include Senior Executive Service (SES), Senior Level (SL), and Scientific and Professional (ST) positions and appointments. SL and ST positions are collectively referred to as "Senior Professional" (SP) positions.

SCOPE: The provisions of this Order apply to all SES and SP positions in the Department, except that only the following portions of the Order apply to positions in the Federal Bureau of Investigation and Drug Enforcement Administration: Section I.A - Delegation; and Section I.D - Position Titles.


ORIGINATOR: Justice Management Division, Human Resources Staff

CATEGORY: (I) Administrative, (II) Human Resources

AUTHORITY: 5 U.S.C. §§ 3104, 3131-3134, 3151-3152, 3301, 3324-3325, 3391-3396, 4301-4303, 4311-4314, 5108, 5376, 5381-5385; 5 U.S.C. Chapter 75.

CANCELLATION: DOJ Order 1920.1; DOJ Order 1200.1, Part 8; Deputy Attorney General (DAG) Memoranda, Delegation of Authority for Executive Resources, December 29, 1999; DAG Memorandum Updated Delegation of Authority for Senior Executive Service Positions, May 27, 2008.

DISTRIBUTION: Electronically distributed to those referenced in the "SCOPE" section and posted on the DOJ directives electronic repository (SharePoint) at: <https://portal.doj.gov/sites/dm/dm/Pages/Home.aspx>

APPROVED BY: 
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ACTION LOG

Issuing Components must review its DOJ directives, at a minimum, every 5 years and make revisions as necessary. The action log records dates of approval, recertification, and cancellation, as well as major and minor revisions to this directive and provides a brief summary of all revisions. In the event this directive is cancelled, superseded, or supersedes another directive, that will also be noted in the action log.


Action	Authorized by	Date	Summary
Initial Approval	The Attorney General (AG)	November 26, 2013	Establishes DOJ policies that govern executive resources management.
Minor Change	The Assistant Attorney General for Administration	June 19, 2014	On the last page of the Appendix, the reference to "Assistant Chief Immigration Judge" under "Key SL Positions" was deleted. These judges are on the Immigration Judge pay scale and are not SL positions.
Revised	The Attorney General (AG) 	Nov. 22, 2022	Makes changes to list of key SES positions; changes membership of SERB; requires AG approval for directed reassignments from key positions; other changes for clarity and consistency.

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DEFINITIONS

Term	Definition
Annual Summary Rating	The overall rating level that an appointing authority assigns at the end of the appraisal period after considering a PRB's recommendations. This is the official rating.
Appointing Authority	The AG or other Department official with authority to make an SES or SP appointment. For purposes of performance management, the appointing authority is the AG or other Department official with authority to issue an annual summary rating.
Career Reserved SES Position	A position that meets the criteria in 5 C.F.R. § 214.402.
Career SES Appointment	An appointment to an SES position based on Office of Personnel Management's approval of the appointee's executive qualifications.
Component	An Office, Board, Division, or Bureau of the Department of Justice as defined in 28 C.F.R. § 0.1.
Directed Reassignment	A management-initiated reassignment of an employee to another position within the Department.
General SES Position	A position that does not meet the criteria in 5 C.F.R. § 214.402.
Higher Level Reviewing Official	An official designated to provide a higher-level review of an SES or SP appointee's initial appraisal, typically the second-level supervisor.
Initial Summary Rating	The overall rating level the supervisor derives from appraising the SES or SP appointee's performance during the appraisal period.
Key SES Positions	High-ranking SES positions for which certain personnel actions require the approval of the Attorney General. These positions are listed in the Appendix of this Order.
Limited Emergency SES Appointment	A non-renewable appointment, not to exceed 18 months, to a SES position established to meet a bona fide, unanticipated, urgent need.
Limited Term SES Appointment	A non-renewable appointment not to exceed 36 months to a SES position where the duties will expire at the end of such term.
Non-Career SES Appointment	An SES appointment that is not a career, limited term, or limited emergency appointment.
Performance	The accomplishment of the work described in the SES or SP appointee's performance plan.

Performance Appraisal	The review and evaluation of an SES or SP appointee's performance against performance elements and requirements documented on a Department-approved SES or SP Performance Work Plan (PWP).
Performance Management System	The framework of policies and practices established under 5 U.S.C. § 4312 and 5 C.F.R. Part 430, Subpart C, for SES, or 5 U.S.C. § 4302 and 5 C.F.R. Part 430, Subpart B, for SPs, for planning, monitoring, developing, evaluating, and rewarding both individual and organizational performance and for using resulting performance information in making personnel decisions.

ACRONYMS

Acronym	Meaning
AAG/A	Assistant Attorney General for Administration
AG	Attorney General
CHCO	Chief Human Capital Officer
DAG	Deputy Attorney General
DEA	Drug Enforcement Administration
DOJ	Department of Justice
ERB	Executive Resources Board
FBI	Federal Bureau of Investigation
JMD/HR/ER	Justice Management Division, Human Resources Staff, Executive Resources Group
OMB	Office of Management and Budget
OPM	Office of Personnel Management
PRB	Performance Review Board
SERB	Senior Executive Resources Board
SES	Senior Executive Service
SL	Senior Level (positions)
SP	Senior Professional (positions)
ST	Scientific and Professional (positions)

I. Policy

This Order establishes Department of Justice (DOJ or Department) policies that govern executive resources management. These policies ensure that human resources decisions relating to executive resources are consistent with principles of fairness and equity and comply with all applicable laws. DOJ will not discriminate based on race, color, national origin, religion, sex, gender identity, age, political affiliation, disability, marital status, sexual orientation, status as a parent, membership or non-membership in an employee organization, genetic information, or other non-merit factors. The Department is an Equal Opportunity/Reasonable Accommodation Employer.

This Order is based on the executive personnel provisions of the Civil Service Reform Act of 1978 (Pub. L. No. 95-454) as codified in Titles 5 and 28 of the U.S. Code, and regulations and guidance issued by the Office of Personnel Management (OPM). Additional administrative policy guidance affecting the DOJ's executive resources will be issued as necessary by the Assistant Attorney General for Administration (AAG/A).

A. Delegation. The Attorney General (AG) delegates to the heads of Department Components certain authorities identified in the Appendix. The Appendix also identifies those actions that require the approval of the Deputy Attorney General (DAG) or, in some cases, the AG. The Appendix identifies certain Senior Executive Service (SES) positions as key positions for which only the AG may take certain enumerated actions. The DAG may modify the delegations made in this Order pursuant to the DAG's authority under 28 C.F.R. § 0.15(b)(1)(i).

B. Allocations. The DAG, with the support of the Senior Executive Resources Board (SERB), oversees the biennial allocation of executive resources (including SES and Senior Professional (SP) positions) to components.

1. During each biennial cycle, components must provide a comprehensive assessment of their executive resources needs to the Justice Management Division, Human Resources Staff, Executive Resources Group (JMD/HR/ER). This assessment must identify the components' established SES and SP positions and any requests for new SES and SP positions, and it must prioritize all established and requested positions in terms of their relative contribution to the Department's mission.
2. JMD/HR, under the guidance of the Chief Human Capital Officer (CHCO), will compile the components' assessments and present them to the AAG/A. The AAG/A will review and make written recommendations to the DAG regarding the components' requests for SES and SP positions.

3. Following transmittal of the AAG/A's recommendations, the SERB will review and make recommendations to the DAG regarding all requests for new allocations. The DAG will approve DOJ's final request for SES and SP positions and submit that request to OPM and the Office of Management and Budget (OMB).
 4. Upon receipt of OPM/OMB's decision, the DAG or the SERB will allocate to the respective components the positions authorized by OPM/OMB.
 5. Upon the DAG's approval of the allocation, JMD/HR must report establishment of new positions to OPM.
 6. The DAG may request from OPM an adjustment of DOJ's allocations outside the biennial cycle.
 7. When a component establishes a new SES or SP position, JMD/HR must concur with the position description and the qualification standards for the position prior to any personnel action (reassignment, transfer, initial career appointment).
 8. Components that receive additional SES or SP positions through the biennial allocation must use the allocation for the position or positions approved by the SERB.
- C. Position Designation.** SES positions are designated as either general or career reserved. A career reserved position may be filled only by a career appointee. A general position may be filled by a career, noncareer, limited term, or limited emergency appointment. Upon establishment of positions, components must submit recommendations to JMD/HR/ER on whether the positions should be designated as general or career reserved. JMD/HR/ER approval is required for position designations. JMD/HR/ER must submit any requests to change position designations to OPM for OPM's approval.
- D. Position Titles.** Components will utilize position titles that clearly communicate the nature and duties of the position. JMD/HR may review SES and SP position titles for consistency and compliance with Department protocols and regulations.

II. Roles and Responsibilities

- A. Deputy Attorney General.** The DAG, by delegation at 28 C.F.R. § 0.15(b)(1)(i), is responsible for managing the Department's executive resources. The DAG makes final decisions regarding matters that are not delegated to Heads of Components and that do not require AG approval, as listed in the Appendix.
- B. Heads of Components.** The Heads of Components exercise the delegated authorities identified in the Appendix.

C. Senior Executive Resources Board.

1. **Membership.** The SERB will have the following members:
 - a. The AAG/A, who will serve as the Chairperson (voting member);
 - b. The senior career Associate Deputy Attorney General in the Office of the Deputy Attorney General, who will serve as the Vice Chairperson (voting member);
 - c. The Associate Attorney General (voting member);
 - d. The Chief of Staff to the AG, or designee (non-voting member);
 - e. The DOJ CHCO, who will serve as the Executive Secretary (non-voting member); and
 - f. The Director, JMD/HR, who may serve as a non-voting Technical Advisor on an “as needed” basis.
2. **Functions.** The SERB reviews and, with the approval of the DAG, makes determinations regarding: the allocation of SES and SP positions to components; agency awards and performance-based pay adjustments for SES and SP appointees; and any other action for which the DAG requires or requests the recommendation of the SERB.

D. Executive Resources Boards.

1. **Establishment.** Components must establish one or more Executive Resources Boards (ERB).
2. **Membership.** The members of an ERB must be appointed by the Heads of Components or their designee. ERBs must consist of SES or SP appointees employed by the Department. A component should consider diversity and qualifications when staffing an ERB. More than half of the members of each ERB must be career SES appointees. A majority of the members must be from outside the section or branch of the component where the vacant position is. Components must not appoint officials to serve on an ERB who are in the supervisory chain of the position being filled. Each ERB must be led by a Chairperson. ERB Chairpersons must appoint a non-voting technical advisor. The technical advisor should be a human resources expert who is available to the ERB as an advisor on executive resources.

3. **Functions.** ERBs will review the qualifications of candidates for SES or SP positions that are being competed, make written recommendations to the appropriate selecting official concerning eligible executive candidates, and identify the best-qualified candidates.

E. Performance Review Boards.

1. **Establishment.** Each Head of Component must establish a Performance Review Board (PRB) to review the performance of SES and SP appointees. Two or more Heads of Component may jointly establish one PRB. A component may establish a separate PRB to review SP performance, or it may use the same PRB to review both SES and SP performance. When reviewing SP performance, a PRB may also be referred to as a Senior Professional Review Panel.
2. **Membership.**
 - a. Each PRB must have at least three members, one of which will serve as Chairperson. When appraising a career SES appointee's performance or recommending a career SES appointee for an agency award, a majority of the PRB must be career SES appointees. When appraising an SP appointee's performance or recommending an SP for an agency award, a majority of the PRB must be either career SES or SP appointees. Heads of Components must appoint PRB members in such a manner as to assure consistency, stability, and objectivity in reviewing performance appraisals. In lieu of appointing their own PRB members, Heads of Components may request that JMD appoint the members of the PRB.
 - b. JMD/HR/ER will maintain a list of all employees eligible to serve on PRBs. This list must consist of all career and noncareer SES appointees and SP appointees in the Department, except those in the FBI and DEA. The AAG/A will submit the list annually to the Office of Legal Counsel, which will ensure that it is published in the Federal Register. Other than for the FBI and DEA, no one may serve on a PRB unless his or her name is included on the most recent list of PRB eligible employees published in the Federal Register.
 - c. To be appointed to a PRB, an SES, or SP appointee:
 - (1) Must have a current performance rating of "Achieved Results" or above;
 - (2) Should have consistently applied the Department's appraisal systems effectively in his or her respective organization; and

- (3) Should possess a thorough knowledge and understanding of the performance appraisal system and other pertinent aspects of SES or SP performance management.
- d. PRB members must recuse themselves from matters that pose an actual or apparent conflict of interest. Accordingly, a member of a PRB may not participate in the consideration of the performance appraisal of:
 - (1) Any SES/SP employee whom the PRB member initially reviewed during the same rating cycle;
 - (2) Anyone in the supervisory chain of the PRB member; or
 - (3) The PRB member's own performance appraisal.

If a PRB member is recused from a particular action or review, the remaining PRB members must conduct the action or review.

3. Functions.

- a. For each SES or SP appraisal assigned to a PRB, the PRB must review and evaluate: (1) the initial appraisal and initial summary rating; (2) any accompanying recommendations for awards, performance-based pay adjustments, or corrective actions; (3) the employee's written response (if any); and (4) the written comments of the higher-level reviewing official (if any). To aid in its review, a PRB may seek or review additional information, including by conducting interviews. A PRB must request assistance from their servicing Human Resources staff in conducting such interviews.
- b. The PRB must submit its recommendations in writing under the signature of the PRB Chairperson, along with the proposed rating and accompanying documentation, to the appropriate appointing authority. Where the PRB does not concur with the initial appraisal, or where the employee or higher-level reviewing official disagrees with the initial appraisal, the PRB must provide a written justification to accompany its recommendations. The appointing authority must issue the final appraisal and annual summary rating only after considering the PRB's recommendations.

APPENDIX

U.S. Department of Justice Executive Resources Delegations of Authority

Position Management Delegations	
Authority Delegated to Component Heads	Actions Requiring AG or DAG Approval ¹
<ul style="list-style-type: none"> Establishment/abolishment of SES and SP positions within Component's allocation. Abolishment of encumbered SES and SP positions [i.e., reduction-in-force (RIF)], after notification to the AAG/A. 	<ul style="list-style-type: none"> Request allocation from Office of Personnel Management (OPM) for Senior Executive Service (SES) and Senior Professional (SP) positions. Approval of Components' SES and SP allocations, including temporary ("float") allocations, within Department's overall allocation.

Staffing Delegations	
Authority Delegated to Component Heads	Actions Requiring AG or DAG Approval
<ul style="list-style-type: none"> Establishment of qualifications standards. Establishment of ERBs. Approval of SES and SP appointments (except to key positions listed below). Approval of SES and SP reassignments, reinstatements, transfers, and intradepartmental details, including designations of acting officials (except to key positions listed below). Limited term and limited emergency appointments to the FBI/DEA SES (except to key positions listed below). 	<ul style="list-style-type: none"> AG approval required for appointments (including limited term and limited emergency SES appointments), reassignments, reinstatements, transfers, and details to key positions listed below, including designations of acting officials. AG approval required for all directed reassignments from key positions listed below, regardless of whether the new position is a key or non-key SES position. Limited term and limited emergency SES appointments to non-key positions, except FBI/DEA. AG approval required for noncareer SES appointments.

¹ These actions may be approved by either the AG or the DAG, unless it is specifically indicated that AG approval is required.

Compensation Delegations	
Authority Delegated to Component Heads	Actions Requiring AG or DAG Approval
<ul style="list-style-type: none"> • Initial pay setting of career SES and SP not to exceed 10% over current salary (except for key positions listed below). • Pay adjustment of career SES (except for key positions listed below) not to exceed 10% over current salary upon reassignments or transfers to positions with greater complexity, scope, and responsibility, except that a second pay adjustment in a 12-month period requires AG or DAG approval. • Recruitment and relocation bonuses (except to key positions listed below). Only career SES and SL are eligible for these bonuses. 	<ul style="list-style-type: none"> • Initial pay setting of career SES and SP in excess of 10% over current salary. • Pay setting of career SES in excess of 10% over current salary upon reassignments or transfers to positions with greater complexity, scope, and responsibility. • Exceptions to prohibition on second pay adjustment in 12-month period. • Approval of retention allowances. Only career SES and SP are eligible for these allowances. • Initial pay setting and pay adjustments for key positions listed below. • Initial pay setting and pay adjustments for limited term and limited emergency appointments. • AG approval required for requests to OPM to approve initial pay setting and pay adjustments for noncareer SES appointees.

Performance Management Delegations	
Authority Delegated to Component Heads	Actions Requiring AG or DAG Approval
<ul style="list-style-type: none"> • Issuance of annual summary rating on SES and SP performance appraisals. • Appointment of Performance Review Boards. • Performance-based reassignments (except to key positions listed below). 	<ul style="list-style-type: none"> • Approval of agency awards for SES and SP appointees. • The AG or the AG's designee makes recommendations to OPM for Presidential Rank Awards. • SES and SP performance-based pay adjustments. (Pay adjustments for noncareer SES appointees require AG approval.)

Adverse Action Delegations	
Authority Delegated to Component Heads	Actions Requiring AG or DAG Approval
<ul style="list-style-type: none"> • Reprimand, suspension, or removal (except actions requiring AG or DAG approval). 	<ul style="list-style-type: none"> • The AG has sole authority to approve removal from key positions or suspension without pay from key positions for more than 30 days. • The AG has sole authority to approve reprimand, suspension, or removal of noncareer executives. • Reprimand or suspension, with or without pay, for 30 days or less, from key positions listed below. • Suspension or removal of career SES attorneys. • Reprimand, suspension, or removal of limited emergency and limited term appointees covered by 5 C.F.R. Part 752, Subpart F.

Other Delegations	
Authority Delegated to Component Heads	Actions Requiring AG or DAG Approval
<ul style="list-style-type: none"> • None. 	<ul style="list-style-type: none"> • Any other authority granted to the DAG by law or by delegation from the AG, and which the DAG cannot delegate or has not delegated.

Key SES Positions (except DEA and FBI):

- Assistant Attorney General for Administration
- All SES officials who report directly to the AG, DAG, or Associate Attorney General
- All SES officials who are deputy Heads of Component in Components with a single deputy position
- All SES officials who are principal or ranking deputy Heads of Components, including those designated as such by order or memorandum, in Components with two or more deputy positions
- All SES officials who are deputy Heads of Component in Components with two or more deputies but no principal or ranking deputy
- All Deputy Assistant Attorneys General
- All Deputy Solicitors General
- The Chairman and Vice Chairman of the Board of Immigration Appeals

- The Chief Immigration Judge, Principal Deputy Chief Immigration Judge, and Regional Deputy Chief Immigration Judges
- The Chief Administrative Hearing Officer in the Executive Office for Immigration Review
- The Director of the Office of Audit, Assessment, and Management in the Office of Justice Programs
- The Special Master and Deputy Special Masters of the September 11th Victims Compensation Fund

Key DEA SES Positions:

- Principal Deputy Administrator
- Chief Counsel
- Chief of Operations
- Chief of Intelligence
- Chief Inspector
- Assistant Administrator, Diversion Control Division

Key FBI SES Positions:

- Deputy Director
- Associate Deputy Director
- All Executive Assistant Directors
- General Counsel
- SES officials who report directly to the Director of the FBI

**** Note:** Nothing in this Order authorizes the appointment, reassignment, transfer, or reinstatement of a person to an inferior officer position, or the removal or suspension without pay for over 30 days of a person from an inferior officer position, without the express approval of the Attorney General. For example, the appointments of Immigration Judges, Members of the Board of Immigration Appeals, and Administrative Law Judges require Attorney General approval.

**** Note:** Additional SES, SL, or ST positions in the Department may be identified as key positions for purposes of this Order.

**** Note:** The approval of the President is required for an appointment, reassignment, reinstatement, transfer, or detail to the Assistant Attorney General for Administration position, and for a removal of the Assistant Attorney General for Administration.

**** Note:** Nothing in this Order limits, or is intended to limit, the authority of the Inspector General to select, appoint, and employ officers or employees, pursuant to the Inspector General's authority under the Inspector General Act of 1978, as amended.