

**§ 534.305**

**5 CFR Ch. I (1-1-03 Edition)**

**§ 534.305 Pay periods and computation of pay.**

(a) The requirements of 5 U.S.C. 5504, must be applied to employees of temporary organizations. This includes requirements for biweekly pay periods and requirements for converting an annual rate of basic pay to a basic hourly, daily, weekly, or biweekly rate.

(b) Employees of temporary organizations must receive basic pay on an hourly basis.

**Subpart D—Pay and Performance Awards Under the Senior Executive Service**

SOURCE: 54 FR 2987, Jan. 23, 1989, unless otherwise noted.

**§ 534.401 Definitions and setting individual basic pay.**

(a) *Definitions.* In this subpart—

*Agency* means an executive agency or military department, as defined by 5 U.S.C. 105 and 102.

*ES rate* means one of the five or more rates of basic pay established by the President under 5 U.S.C. 5382 for the Senior Executive Service.

*Senior executive* means a member of the Senior Executive Service (SES).

(b) *Setting pay upon initial appointment.* (1) An appointing authority may set the rate of pay of an individual at any ES rate upon initial appointment to the SES except under the conditions described in paragraph (b)(2) of this section.

(2) Subject to paragraph (b)(4) of this section, if an individual who receives an initial career appointment in the SES—

(i) Has at least 5 years of current continuous service in one or more positions in the competitive service and is appointed without any break in service, the initial rate of pay may not be less than the rate of basic pay last payable to that individual immediately before the appointment.

(ii) Holds a position that is converted from the competitive service to a career reserved position in the SES and as of the conversion date the individual has at least 5 years of current continuous service in one or more positions in the competitive service, the initial

rate of pay may not be less than the rate of basic pay last payable to that individual immediately before the conversion of the position.

(3) For the purpose of paragraph (b)(2) of this section, *rate of basic pay* means the rate of pay fixed by law or administrative action for the position held by an employee or, in the case of an employee entitled to grade or pay retention, the employee's retained rate of pay, before any deductions and exclusive of additional pay of any other kind, such as locality-based comparability payments under 5 U.S.C. 5304 or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509).

(4) If pay setting is subject to paragraph (b)(2) of this section and the rate of basic pay in the individual's current position exceeds the maximum ES rate, then the initial rate of pay shall be set at the maximum ES rate.

(c) *Adjusting pay while in the SES.* (1) The pay of a senior executive may not be adjusted by an agency more than once in any 12-month period. A pay adjustment includes:

(i) The assignment of an ES rate upon initial appointment to the SES;

(ii) The change from one ES rate to another while employed in the SES; or

(iii) The assignment of an ES rate upon reappointment to the SES following a break in SES service if the new ES rate is different from the executive's former rate or if the break in service exceeds 12 months.

(2) An appointing authority may raise the pay for a senior executive any number of ES rates at the time of an adjustment.

(3) An appointing authority may lower the pay for a senior executive only one rate at the time of an adjustment. Restrictions on reducing pay of career senior executives are in paragraph (f) of this section.

(d) *Setting pay upon transfer.* An appointing authority may set the pay of a senior executive transferring from another agency at any ES rate. If the pay is set at the same rate the executive had in his or her former agency, the action is not considered a pay adjustment for purposes of paragraph (c) of this section.