

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

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

**§ 534.401 Purpose.**

This subpart contains the rules for setting and adjusting rates of basic pay and granting performance awards for members of the Senior Executive Service (SES), as provided by 5 U.S.C. 5382, 5383, and 5384. An agency must set and adjust the rate of basic pay for an SES member on the basis of the employee's performance and/or contribution to the agency's performance, as determined by the agency through the administration of its performance management system(s) for senior executives. These regulations must be read in combination with applicable statutes and with the regulations for the approval of an SES performance management system under 5 CFR part 430, subpart C, and certification of an SES performance appraisal system under 5 CFR part 430, subpart D.

[69 FR 70362, Dec. 6, 2004]

**§ 534.402 Definitions.**

In this subpart—

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

*Authorized agency official* means the head of an agency or an official who is authorized to act for the head of the agency in the matter concerned. The agency's Inspector General is the *authorized agency official* for senior executive positions in the Office of the Inspector General, consistent with the requirements in section 3(a) of the Inspector General Act of 1978.

*Outstanding performance* means performance that substantially exceeds the normally high performance expected of any senior executive, as evidenced by exceptional accomplishments or contributions to the agency's performance.

*Performance expectations* means the critical and other performance elements and performance requirements that constitute the senior executive

performance plans (as defined in § 430.303).

*PRB* means Performance Review Board, as described in § 430.310.

*Rate of basic pay* means the rate of pay fixed by law or administrative action for the senior executive, within the established SES rate range or, in the case of a senior executive entitled to pay retention, the employee's retained rate of pay, excluding any applicable locality-based comparability payments under 5 U.S.C. 5304, but before any deductions and exclusive of additional pay of any other kind.

*Relative performance* means the performance of a senior executive with respect to the performance of other senior executives, including their contribution to agency performance, where appropriate, as determined by the application of a certified performance appraisal system under 5 CFR part 430, subpart D.

*Senior executive* means a member of the Senior Executive Service (SES) paid under 5 U.S.C. 5383.

*SES rate* means a rate of basic pay within the SES rate range assigned to a member of the SES under § 534.403(a).

*SES rate range* means the range of rates of basic pay established for the SES under 5 U.S.C. 5382 and § 534.403(a).

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**§ 534.403 SES rate range.**

(a) *SES rate range.* (1) On the first day of the first applicable pay period beginning on or after January 1, 2004, the minimum rate of basic pay of the SES rate range is set at an amount equal to the minimum rate of basic pay under 5 U.S.C. 5376 for senior-level positions (excluding any locality-based comparability payment under 5 U.S.C. 5304). The minimum rate of basic pay for the SES rate range will increase consistent with any increase in the minimum rate of basic pay for senior-level positions under 5 U.S.C. 5376. An SES member may not receive less than the minimum rate of the SES rate range. Except as provided in paragraph (a)(2) of this section, the maximum rate of basic pay of the SES rate range is set at the rate for level III of the Executive Schedule. An SES member's rate of basic pay must be set at one of the rates within the SES rate range