



Department of Defense INSTRUCTION

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April 30, 2014

Incorporating Change 2, May 17, 2022

DA&M

SUBJECT: Senior Executive Service (SES), Senior Level (SL), and Scientific and Professional (ST) Personnel Categories in the DoD Fourth Estate: Staffing, Reassignments, Transfers, Details, and Reinstatements

References: See Enclosure 1

1. PURPOSE

a. Instruction. This instruction:

(1) Reissues DoD Directive (DoDD) 1402.3 (Reference (a)) as an instruction in accordance with the authority in DoDD 5105.53 and the January 11, 2021 Deputy Secretary of Defense Memorandum (References (b) and (c)). It is composed of multiple volumes, each containing its own purpose.

(2) Establishes policy, assigns responsibilities, delegates authorities, and provides the DoD Fourth Estate with supplemental guidance to the policy, laws, and regulations relevant to the administration of the SES, SL, and ST categories, in accordance with DoDD 1403.1 (Reference (d)) and pursuant to Title 5, United States Code (U.S.C.) (Reference (e)) and Title 5, Code of Federal Regulations (Reference (f)).

b. Volume. This volume:

(1) Establishes the overarching responsibility for all aspects of the administration of the SES, SL, and ST for the DoD Fourth Estate to the Director of Administration and Management.

(2) Incorporates and cancels Chapter 2 of DoD 1402.3-H (Reference (g)).

(3) Incorporates and cancels the Director of Administration and Management Memorandum (Reference (h)).

2. APPLICABILITY. This volume:

a. Applies to OSD, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the DoD that are not in the Military Departments or the Combatant Commands (referred to collectively in this volume as the “DoD Fourth Estate”).

b. Does not apply to:

(1) Those persons in the Defense Intelligence SES and Defense Intelligence SL positions, established pursuant to section 1601 of Title 10, U.S.C. (Reference (i)).

(2) The Office of Inspector General of the Department of Defense.

(3) Expert and consultant appointments pursuant to section 3109 of Reference (e) or highly qualified experts (HQEs) pursuant to section 9903 of Reference (e).

3. POLICY. It is DoD policy that staffing, reassignments, transfers, and details are conducted pursuant to References (e) and (f) to include that:

a. Current SES members must receive opportunities for reassignment in order to improve sourcing, recruiting, and selection of SES members for SES positions.

b. Recruitment and outreach efforts in support of competitive recruitment must be broad enough to provide an applicant pool that includes ample representation of minorities and women.

c. Reassignment rights and obligations agreements are a mandatory condition of employment for new SES members to ensure their understanding of the potential necessity for position mobility within or outside of the local commuting area.

4. RESPONSIBILITIES. See Enclosure 2.

5. PROCEDURES. The Senior Executive Management Office (SEMO), Human Resources Directorate, Washington Headquarters Services will ensure that all required steps in the merit staffing and competitive recruitment process are completed, documented, and maintained in order to reconstruct or defend actions as needed.

6. RELEASABILITY. **Cleared for public release.** This volume is available on the DoD Issuances Website at <https://www.esd.whs.mil/DD/>.

7. SUMMARY OF CHANGE 2. This change is administrative and, in accordance with the March 21, 2022 Washington Headquarters Services Memorandum (Reference (j)):

a. Reassigns the Director of Administration, Office of the Deputy Chief Management Officer of the Department of Defense responsibilities and duties to the Director of Administration and Management in accordance with Section 901 of Public Law 116-283 (Reference (k)), which eliminated the position of the Deputy Chief Management Officer of the Department of Defense effective January 1, 2021; and Reference (b) and the January 11, 2021 Deputy Secretary of Defense Memorandum (Reference (l)), which implemented Reference (k) and reestablished the Director of Administration and Management.

b. Updates organizational titles and references for accuracy.

8. EFFECTIVE DATE. This volume is effective April 30, 2014.



Michael L. Rhodes
Director of Administration and Management

Enclosures

1. References
2. Responsibilities
3. Position Management
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ENCLOSURE 1

REFERENCES

- (a) DoD Directive 1402.3, "Administration of the Senior Executive Service Program in the Office of the Secretary of Defense and the Defense Agencies," August 16, 1984 (cancelled by Volume 1 of this instruction)
- (b) DoD Directive 5105.53, "Director of Administration and Management (DA&M)," February 26, 2008
- (c) Deputy Secretary of Defense Memorandum, "Re-establishment of the Assistant to the Secretary of Defense for Intelligence Oversight and the Director of Administration and Management," January 11, 2011
- (d) DoD Directive 1403.1, "The Senior Executive Service and Equivalent-Level Positions and Personnel," October 18, 1982
- (e) Title 5, United States Code
- (f) Title 5, Code of Federal Regulations
- (g) DoD 1402.3-H, Chapter 2, "Senior Executive Service Executive Staffing," May 1, 1985 (hereby cancelled)
- (h) Director of Administration and Management Memorandum, "Amendment to Interim Guidance Regarding the Senior Executive Service (SES) Competitive Recruitment Process," May 29, 2007 (hereby cancelled)
- (i) Title 10, United States Code
- (j) Washington Headquarters Services Memorandum, "Approval of Administrative Changes to Office of the Director of Administration and Management (ODA&M) DoD Issuances, Phase 2," March 21, 2022
- (k) Public Law 116-283, "William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021," January 1, 2021
- (l) Deputy Secretary of Defense Memorandum, "Disestablishment of the Chief Management Officer of the DoD and Realignment of Functions and Responsibilities," January 11, 2021
- (m) DoD Instruction 1402.03, Volume 2, "Senior Executive Service (SES), Senior Level (SL) and Scientific and Professional (ST) Personnel Categories in the DoD Fourth Estate: Executive Resources Management," April 30, 2014, as amended
- (n) Title 29, Code of Federal Regulations
- (o) Administrative Instruction 65, "Restrictions on the Employment of Relatives," August 8, 2014, as amended
- (p) Administrative Instruction 37, "Employee Grievances," October 27, 2006
- (q) Sections 107(a) and (b), Title 3, United States Code

ENCLOSURE 2

RESPONSIBILITIES

1. DIRECTOR OF ADMINISTRATION AND MANAGEMENT. In addition to the responsibilities in section 2 of this enclosure, the Director of Administration and Management:

a. Issues written internal operating procedures for the DoD Fourth Estate implementing the provisions of part 317 of Reference (f) and this volume.

b. Ensures compliance with all applicable federal guidelines concerning executive merit staffing and filling SES positions competitively and noncompetitively.

c. Approves appointments to executive positions and salary decisions up to Level III of the Executive Schedule.

2. DoD FOURTH ESTATE COMPONENT HEADS. The Principal Staff Assistants, Defense Agency and DoD Field Activity Directors, and other DoD Fourth Estate Component heads will ensure fair and open competition for all internal or external candidates when filling SES positions.

ENCLOSURE 3

POSITION MANAGEMENT

1. POSITION MANAGEMENT. The Office of Personnel Management (OPM) allocates SES, SL, and ST spaces to each agency on a biennial basis, after analyzing agency needs and consulting with the Office of Management and Budget. DoD further distributes allocations between the Military Departments and the DoD Fourth Estate. Once the biennial allocation is established, OPM may later adjust an agency's allocation. However, the cumulative effect of all adjustments within the biennial cycle cannot increase the total government-wide allocation by more than 5 percent. Agencies have authority to establish and abolish positions and to reassign career executives to deal with variations in program and mission requirement.

2. POSITION TYPES. To meet agency need and provide maximum flexibility, executive positions are classified into two groups: SES general and SES career reserved.
 - a. SES General. Positions that may be filled by career, noncareer, limited emergency, or limited term appointees.

 - b. SES Career Reserved. Positions which, as defined in part 317 of Reference (f), must be filled by a career appointee to ensure impartiality, or the public's confidence of impartiality, of the government.

3. EXECUTIVE ALLOCATIONS. DoD is authorized to make appointments in accordance with regulations and procedures established by OPM. The appointments must be made within DoD's allotted allocations.

4. POSITION REQUIREMENTS. Executive careers differ in scope, influence, accountability, and impact. SES positions are currently supported by a common tier structure to provide transparency and comparability in executive position and compensation management.

5. TIER STRUCTURE. The tier structure is composed of a three-level system that groups positions with common characteristics, such as responsibility, complexity, scope of influence, and impact on mission.
 - a. The tier structure resembles the general officer/flag officer hierarchy with Tier 1 positions (one-star equivalent) generally having less complexity and impact on mission, and Tier 3 (three-star equivalent) having significant complexity, impact on mission, and influence on joint and national security matters.

b. Indicators are an essential element of the tier structure and help delineate the breadth of responsibility and influence in job performance. Detailed tier characteristics and indicators are in Volume 2 of this instruction (Reference (m)).

6. QUALIFICATION STANDARDS

a. The immediate supervisor must establish qualification standards for positions **before** appointment. Standards may be established for individual SES positions or for groups of similar positions. Qualification standards must:

(1) Be in writing.

(2) Identify the breadth and depth of the professional or technical knowledge, executive or managerial knowledge, skills and abilities, or other qualifications.

(3) Enable the user to identify qualified candidates.

(4) Enable the executive evaluation panel (EEP) to make qualitative distinctions among candidates for rating purposes.

b. If the duties and responsibilities of a position are substantially altered, the supervisor will review the qualification standards to determine if new standards are needed. If the position is being filled competitively, the SEMO must approve the qualification standards before the position is announced. The qualification standards may not emphasize organization-related experience to the extent they preclude well-qualified candidates from outside the agency from appointment consideration.

ENCLOSURE 4

RECRUITMENT AND PLACEMENT

1. RECRUITMENT AND PLACEMENT. DoD executives possess well-honed executive skills and share a broad perspective of government and a public service commitment. The SES is a corps of executives selected for their leadership qualifications. Members of the SES serve in the key positions just below top Presidential appointees and serve as the major link between the appointees and the rest of the federal work force.

2. APPOINTMENT TYPES. There are four executive appointment types: career, noncareer, limited term, and limited emergency.

a. Career Appointments. Career appointments are made without time limitations and may be made to either SES career reserved or general positions.

(1) Competitive merit staffing provisions must be met at the time of initial appointment or selection for SES or upon selection for the SES Candidate Development Program (CDP). An OPM-administered qualifications review board (QRB) must certify a candidate's qualifications before initial appointment to the SES.

(2) Career appointments may also be made under noncompetitive procedures to reassign or transfer an appointee or reinstate a former career appointee who completed an SES probationary period. These actions do not require QRB approval.

b. Noncareer Appointments. Noncareer appointments are made without time limitation, but the appointee serves at the discretion of the appointing authority.

c. Limited Term Appointments. Limited term appointments can only be made to a position for which the duties will expire at the end of a specified period or under other special circumstances. The limited term appointment cannot exceed 3 years and is made only to SES general positions. DoD must have a limited appointment authority from OPM or use an authority from its limited appointment pool (3 percent of the DoD SES allocation). Appointments made from current federal employees do not require OPM approval; outside appointments do require OPM approval. Limited appointments are not renewable.

d. Limited Emergency Appointments. Limited emergency appointments can only be made to meet a *bona fide*, unanticipated, and urgent need for a period not to exceed 18 months.

3. CONDITIONS OF EMPLOYMENT. Executive service candidates must meet the following requirements for employment:

a. Mobility. The SES is administered to enable the head of any agency to reassign senior executives to best accomplish the agency mission and provide for the initial and continuing development of highly competent senior executives; therefore, the candidate must be willing and able to relocate.

b. Selective Service Registration. All male U.S. citizens and immigrant non-citizens between the ages of 18 and 25 must have registered with the selective service within 30 days of their 18th birthday. Anyone who fails to register with the selective service is ineligible for federal employment, including appointment into the SES.

c. Employment Eligibility Verification. SES appointees who are not currently in federal service must verify they are eligible to work in the United States in accordance with Title 29, Code of Federal Regulations (Reference (n)).

4. EMPLOYMENT DURING TERMINAL LEAVE. Members of a uniformed service (e.g., Army, Navy, Marine Corps, Air Force) on terminal leave pending separation may be appointed to and receive pay from another government position, including an SES position in accordance with section 5534a of Reference (e).

5. EMPLOYMENT RESTRICTIONS. Hiring relatives, experts and consultants, HQEs, two persons for the same job (dual incumbency), and private sector temporary employees for the SES is prohibited. However, there are exceptions with regard to the employment of relatives and dual incumbency.

a. Employment of Relatives. Relatives may be appointed under unique circumstances, such as an urgent need resulting from an emergency posing an immediate threat to life or property or a national emergency. These appointments cannot exceed 1 month, and may be extended only 1 additional month if the emergency still exists. Legal restrictions on the employment of relatives can be found in Administrative Instruction 65 (Reference (o)).

b. Dual Incumbency. Dual incumbency of executive positions is strictly prohibited; however, OPM may authorize use of the SES limited appointment authority to provide continuity during the transition of an incumbent and his or her successor.

c. Experts and Consultants. Experts and consultants cannot be appointed to policy-making or executive positions and are prohibited from positions in the SES.

d. HQE. HQEs cannot be hired to replace an SES member in a position with a continuing DoD function.

e. Private Sector Temporary Employees. Private sector temporary employees cannot perform SES functions.

6. COMPETITIVE RECRUITMENT AND SELECTION

a. Procedures for Recruitment

(1) Positions restricted to federal civil service employees must be open for a minimum of 14 days in accordance with section 317.501(b)(2) of Reference (f).

(2) General practice for the length of a vacancy announcement within Fourth Estate is 21 days for federal civil service employees only and 30 days for all qualified individuals (an announcement open to the public).

(3) A person is considered to be in the civil service only if occupying a civil service position at the time of applying for a position.

(4) When competitive recruitment for an SES position is limited to the civil service, SES reinstatement eligibles outside the civil service and SES CDP graduates with noncompetitive eligibility may apply for noncompetitive consideration for that position.

(5) The servicing human resources (HR) specialists will ensure applicants are notified of their status when an application is received; assessed for qualifications; referred for appointment consideration or not; and when the applicant is selected or not.

b. Area of Consideration

(1) Searches for candidates must at a minimum include all groups of individuals within the civil service.

(2) Employing organizations may also recruit from outside the civil service (i.e., all groups of qualified individuals). These positions must be open at least 14 calendar days.

c. Vacancy Announcements. Organizations must announce SES vacancies they intend to fill by initial career appointment to all federal civil service employees via OPM's USAJOBS Website (www.usajobs.gov).

(1) Vacancy announcements must include the position title; location; duties; area of consideration; SES pay ranges; executive core qualifications (ECQs) and technical qualifications requirements; evaluation methods; opening and closing dates; equal employment opportunity and reasonable accommodation statements; how to request additional information; how to apply; and other required information.

(2) Announcements must designate which merit staffing selection methods will be used.

(a) Traditional. This option is best suited for Tier 1 or entry-level executive positions. The vacancy announcement must direct applicants to submit a resume and narratives addressing the ECQs and any technical qualifications.

(b) Accomplishment Record. This option is best suited to filling positions at the Tier 2 or 3 levels. This format also helps distinguish candidates when there is a large pool of qualified candidates. The vacancy announcement requests applicants submit a resume and narrative addressing selected or tailored competencies underlying the ECQs and any technical qualifications. This method may require additional time and effort by the EEP due to the additional requirement to read and evaluate each candidate's package, but provides the specific information pertinent to a particular position.

(c) Resume-based. This method is generally appropriate in filling Tier 3 or higher-level Tier 2 positions requiring extensive leadership skills that are normally filled by highly experienced executives. At this level, applicants' executive experience is generally very apparent from their resumes. In addition, as the applicant pool is generally smaller for the highest level positions in the organization, this method is more practical than when filling lower level executive positions where more definitive information is needed to demonstrate executive competency.

d. Recruitment Outreach. Nonprofit employment services and commercial recruiting firms may be used in addition to other recruitment sources, consistent with the provisions of Reference (e) and part 300, subpart D of Reference (f), when their use might provide well-qualified candidates who would otherwise not be available, or when well-qualified candidates are in short supply. The service or firm must use the organization's qualifications standards, and the position must also be included in OPM's USAJOBS Website under the SES vacancy listing and be open to all groups of qualified individuals. Candidates applying directly to the agency and those identified by a service or firm must be given equal consideration and must complete the full SES merit staffing process, including EEP referral to the appointing authority and QRB certification, before appointment.

e. Merit Staffing – EEP. Begin identifying the EEP membership at least 2 weeks before the closing date of the announcement.

(1) The EEP is composed of an odd number, 3 or 5, SES members, general officers/flag officers, or Defense Intelligence SES members. The EEP will include a chair, a member from the Executive Resources Board (ERB), and a third member from outside the hiring Component or supervisory chain. An EEP HR specialist ensures compliance with EEP composition and will serve in an advisory capacity. The EEP Chair and members are nominated by the selecting official or DoD Component head.

(2) The selecting official meets with the EEP members and an HR specialist to ensure a better understanding of the duties, responsibilities, and skills required to succeed in this position. At this meeting the hiring manager has the opportunity to discuss how this position supports DoD's missions and goals. The EEP meeting can be done in person or by e-mail or teleconference, but must take place before the panel members receive the application packages.

(3) The servicing HR specialist will review the EEP membership to ensure only one individual is nominated from the DoD Component where the vacancy is located or from any component or organization under the authority, direction, and control of the Principal Staff

Assistant. For example, for a position in the Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer, Department of Defense, this person could be selected from either the Comptroller's office, the Defense Finance and Accounting Service, or Defense Contract Audit Agency, as long as there are no conflicts of interest. This individual may not function as the ERB representative (see Volume 2 of this instruction for ERB composition) and may not have a supervisory relationship to the vacant position.

(4) The Chair will establish the date and time for the EEP to meet, oversee the entire process, and resolve any disparities in individual ratings.

f. Methods for Rating and Referral. The procedures used for rating candidates and for making the subsequent selection for an SES position must meet the requirements of applicable laws, rules, and regulations, including the uniform guidelines in employee selection procedures, as defined in the Glossary.

(1) The HR specialist will conduct a preliminary screening and assessment of each candidate to determine whether the candidates meet the ECQs and technical qualifications.

(2) The HR specialist will meet with the chair to advise on the process and answer any procedural questions.

(3) The HR specialist will ensure each EEP member receives the applications, rating worksheets, a copy of the job opportunity announcement, and position description before the EEP meeting. Each member will review applications and complete a rating worksheet for each applicant in preparation for the meeting.

(4) The EEP will assign a consensus rating of superior, acceptable, or not acceptable to each technical qualification element for each applicant. A rating of not acceptable in any one of the technical qualification elements will disqualify the applicant from further consideration.

(5) ECQs will be reviewed only for the remaining candidates eligible for referral. ECQs are not given individual ratings and are only reviewed to ensure that the candidate has fully and clearly demonstrated and documented the ratings in writing.

(6) The EEP will prepare a comprehensive SES rating matrix, which provides a summary of the ratings of qualifications for each applicant. If differences cannot be resolved, the Assistant Director, SEMO, or Chief Human Resources Officer, Human Resources Directorate will resolve them in coordination with the EEP Chair.

(7) After rating all applicants, the EEP determines the best qualified candidates and refers them to the selecting official. As a rule, all applicants with superior ratings in each technical qualification element will be referred. If sufficient candidates are not available in this group, the EEP may go to the next successive group of applicants and refer those. If the EEP does not come up with a suitable number (more than two) of superior candidates, the EEP may go to the next group of applicants (e.g., applicants with two superior ratings out of three technical elements) or may recommend the position be re-advertised.

(8) The ERB panel member signs the certificate of eligible candidates to certify that merit systems principles have been met and as assurance that candidates included on the referral list are the best qualified applicants. This certificate and the applications of the best qualified applicants are then referred to the selecting official. The EEP summary rating sheets and information on ineligible candidates must be retained as part of the merit staffing file, but are not provided to the interviewing official.

g. Merit Staffing Review (MSR). If the selectee is a current limited term or noncareer SES member, the QRB package will require an MSR. OPM will review those proposed appointments to ensure they comply with merit systems principles and applicable civil service laws. This process takes place before the QRB and, upon receipt of the complete QRB and MSR package, takes approximately 15 work days to complete. If OPM approves the MSR, the package is forwarded to the QRB for review.

h. Selection and Submission to the OPM QRB. The ECQs of a proposed career appointee must be approved by an OPM QRB before an individual's initial career appointment. Initial career executive appointments must be submitted to OPM for QRB approval within 90 business days of the closing date of the position's vacancy announcement. Failure to meet this timeline will require that the organization reissue a new vacancy announcement and repeat the competitive selection process.

(1) All QRB packages for the DoD Fourth Estate are coordinated through SEMO. Hiring organizations are responsible for preparation of the ECQs for submission to OPM.

(2) Organizations may not make a final employment offer to the selectee until the QRB approval. A tentative offer may be made contingent upon receipt of appropriate security clearance, drug test, and OPM QRB approval. Once the OPM QRB approves the case, the final job offer and request for personnel action can be submitted for processing. Cases submitted to OPM's QRB are designated as meeting Criterion A, B, or C.

(a) Criterion A. The case or demonstrated executive experience must include three collated copies of:

1. An application for federal employment (e.g., resume).
2. A statement from the ERB or appointing authority that qualifications were met and the merit system principles were followed.
3. ECQs (written assessment, not to exceed 10 pages, of the candidate's potential for success in the SES). Longer ECQ statements will result in the case being returned without action.
4. A vacancy announcement with the control number and the qualifications standard, if not fully reproduced in the announcement.

(b) Criterion B. Successful completion of an OPM-approved SES CDP. Candidates who complete a CDP are eligible for non-competitive appointment to the SES and are not required to submit ECQs. Successful completion does not guarantee placement in the SES. Documentation required for Criterion B cases is the same as Criterion A in paragraph 6h(2)(a) of this enclosure, with the addition of the individual's OPM CDP certification and the exception of ECQs.

(c) Criterion C. Possession of special or unique qualifications (potential) that indicate a likelihood of executive success. Approval of these cases is based on the entire submission, including the proposed executive development plan (EDP), and imposes an obligation on the organization to carry out the proposed executive development activities. This case must include three collated copies of:

1. An application form for federal employment required, e.g., a resume.
2. An ECQ statement: a brief written assessment of the candidate's potential for success in the SES in relation to the five ECQs (10-page maximum).
3. A written description of the unique and special qualifications that make the candidate a superior choice for the SES position.
4. The vacancy announcement and the qualifications standard, if not fully reproduced in the announcement.
5. An EDP, organized by the five ECQs, that shows how the candidate will obtain executive level knowledge and experience related to the deficient ECQ(s).
6. A reference letter addressing each ECQ by someone familiar with the candidate's demonstrated executive level experience (optional).

i. Documenting Merit Staffing Actions. Consistent with Reference (e), the organization responsible for the staffing action must keep sufficient records to allow reconstruction of the merit staffing process for 2 years after an initial career appointment (if no appointment results from a vacancy announcement, the records must be kept for 2 years from the closing date of the announcement). At minimum, the records must include:

- (1) OPM control number for the vacancy listing and copies of any separate agency announcements.
- (2) List of recruitment sources used (e.g., vacancy announcement distribution list, any newspaper or journal advertisements, and any use of nonprofit employment services or commercial recruiting firms).
- (3) Copy of qualification standards and position description(s).
- (4) Originals of all applications received by the agency.

(5) Written selection procedures (rating plan) and names and organizational titles of rating panel members.

(6) Written recommendations of the EEP (signed and dated), including a list of the groupings of all applicants and the supporting rationale, or consolidated rating sheets.

(7) Any references, qualifications questionnaires, or inquiries obtained on the candidates.

(8) Record of candidates that were interviewed.

(9) Any recommendation by a selecting official to the appointing authority if the two are different individuals.

(10) The appointment action (signed and dated).

(11) Appointing authority certification that the appointee meets the qualifications requirements of the position.

(12) Appointing authority or ERB certification that appropriate merit staffing procedures were followed.

(13) Signed copy of the SES reassignment rights and obligations agreement.

(14) Copies of any complaints about the staffing process, agency findings, and response.

j. Applicant Inquiries and Appeals. Individuals are entitled to information about the nature of the procedures used in recruiting and selecting candidates for any position.

(1) Applicants are also entitled, upon request, to know if they were found qualified for the position and if they were referred to the selecting official for consideration for appointment.

(2) Applicants may have access to qualifications questionnaires or reports of qualifications inquiries about themselves, except for information that would identify a confidential source.

(3) DoD Fourth Estate Components may provide procedures other than those in Administrative Instruction 37 (Reference (p)), tailored to their needs, to handle complaints about the staffing process.

(4) An applicant has no right of appeal to OPM of actions taken by the EEP, QRB, or appointing official. Other avenues (e.g., the Office of Special Counsel or the Equal Employment Opportunity Commission) afforded by law or regulation may be appropriate for prohibited personnel practice allegations.

k. Corrective Actions. If an individual was not placed on a selection certificate of best qualified candidates because of a statutory, regulatory, or procedural violation, the organization,

as a corrective action, may select the individual for a career appointment to another SES position without conducting a new merit staffing action. However, the individual must meet the technical and executive qualifications for the new position and must be approved by a QRB. The corrective action authority permits, but does not require, the Fourth Estate Component to select the individual noncompetitively.

7. NONCOMPETITIVE RECRUITMENT AND SELECTION. SES noncareer appointments to general SES positions can be made if the agency has obtained noncareer appointment authorization from OPM for each appointment. The appointing authority determines that the individual meets the qualifications requirements.

a. Consideration of Surplus Career Appointees. There may be instances when SES career appointees are designated as surplus employees based on reorganization, restructuring, budgetary cuts, or other reasons. In these cases, the organization may institute procedures for noncompetitive consideration of surplus employees as an exception to competitive merit staffing procedures. Personnel actions taken may include placement in a non-SES position or removal from the SES.

b. Use of Slates in Sourcing, Recruiting, and Selecting for Tier 2 and Tier 3 Positions. Where appropriate, the Defense Talent Management System is used to identify and provide slates of candidates for management consideration. Requests for slates are mandatory in filling Tier 2 and Tier 3 positions. Selection from the slate is not mandatory; however, justification for non-selection of available candidates from the slate is required. If a candidate is selected from the slate, compensation will be reviewed and movement within a tier or movement to a higher tier or lower tier position will be made.

ENCLOSURE 5

REASSIGNMENTS

1. CAREER APPOINTEE REASSIGNMENTS. To meet the challenges of creating and maintaining highly productive and efficient organizations, organizations must have flexibility in filling critical leadership positions. New SES appointees are informed of these challenges and, as a condition of employment, are required to sign a statement certifying their understanding of the potential for position mobility, within or outside of the local commuting area. Career appointees can be reassigned during the probationary period.

a. Non-Geographic Directed Reassignments. If the directed reassignment of an SES employee is within the local commuting area:

(1) The employing organization should consult with the appointee before giving the written notice.

(2) The employing organization must provide the career appointee with a written notice at least 15 calendar days before the effective date of the reassignment.

(3) The appointee may voluntarily waive the notice. The waiver must be in writing and be retained in the official personnel folder (OPF).

b. Geographic Directed Reassignments. If the directed reassignment of an SES member is outside of the local commuting area:

(1) The employing organization must first consult with the appointee on the reasons for and preferences for the proposed reassignment. The consultation must take into account the needs and objectives of the organization, the economic consequences of the move, and the individual's concerns about such matters (e.g., personal health and the health of family members).

(2) Following consultation, the employing organization must provide the SES member a written notice at least 60 calendar days before the effective date of the reassignment. The notice must include the reasons for the reassignment and be retained in the OPF. The SES member may voluntarily waive the notice. The waiver must be in writing and be retained in the OPF.

c. Failure to Accept a Directed Reassignment. If an individual fails to accept a directed reassignment, he or she is subject to removal under adverse action procedures. If separation is for failure to accept reassignment to a different commuting area, the individual is entitled to discontinued service retirement (if eligible) or severance pay (if eligible), unless a memorandum of understanding or other written agreement provides for such geographic reassignments.

d. Moratorium

(1) A DoD Forth Estate Component may not involuntarily reassign an SES career appointee within 120 days after the permanent appointment of:

(a) A new, permanent Secretary of Defense (not as Acting Secretary); or

(b) The member's most immediate supervisor, a noncareer SES with authority to make an initial appraisal of the career SES member's performance.

1. The 120-day restriction does not apply to realignment, which is the movement of an employee and the employee's position when a transfer of function or an organization change occurs within the same agency and there is no change in the employee's position.

2. The 120-day restriction does not preclude the abolishment of a position during the moratorium. For example, a position could be abolished, and the incumbent of the position could elect immediate discontinued service retirement or agree to an immediate voluntary reassignment. However, the incumbent could not be involuntarily reassigned until the 120 days have elapsed.

(2) The moratorium does not apply if the reassignment was issued before the action that initiated the moratorium. Reassignment notices may run concurrently with the moratorium.

e. Moratorium Waiver(s). A career SES may voluntarily waive the moratorium, but the waiver must be in writing and retained in the OPF.

2. NONCAREER AND LIMITED TERM APPOINTEE REASSIGNMENTS. Reassignment of a noncareer appointee must have the prior approval of OPM. Reassignment of a noncareer SES on a limited term appointment, provided the duration has not expired, may be made without the prior approval of OPM. However, the new position must meet the same criteria as the original position. Although not required by regulation, a 15-day advance notice of proposed reassignment should be provided to the noncareer or limited term SES member whenever possible.

ENCLOSURE 6

TRANSFERS

1. CAREER APPOINTEE TRANSFERS. This section applies to the movement of a career appointee between DoD agencies, i.e., coming into or leaving the DoD Fourth Estate to or from the Military Departments.

a. A career SES member may be transferred with the consent of the SES member and the gaining agency, except where there is a transfer of function between agencies. Transfers may be noncompetitive; however, the career SES member must meet the qualification requirements of the position to which they are transferred.

b. A career SES member affected by a transfer of function between agencies has rights comparable to a competitive service employee. The member is entitled to accompany his or her function if he or she would otherwise be removed from the SES. A career SES member who fails to accompany a transfer of function may be removed from the SES and the federal service. As an alternative to removal, the agency losing the function may reassign the member to another SES position in a different function.

2. NONCAREER OR LIMITED TERM APPOINTEE TRANSFERS. Transfer of a noncareer or limited term appointee to another agency may be made only to an SES general position for which the individual is qualified. OPM must provide prior approval of the appropriate appointment authority in the new agency. In a transfer of function between agencies, members on a limited term appointment authority may be offered transfers at the discretion of the agency. Agencies must get prior approval of OPM for the transfer of appointment authorities.

ENCLOSURE 7

DETAILS

1. DETAILS. Details may be within the employing organization or negotiated between organizations. Administratively, for purposes of pay and benefits, the employee continues to be the incumbent of the position from which he or she is detailed. Whether the detail is within or outside the employing organization, the provisions of this section apply.

a. Initial details and extensions within the DoD Fourth Estate must be made in accordance with section 3341 of Reference (e) and section 317.903(b)(1) of Reference (f), which authorize details in increments of no more than 120 days. Although this requirement does not apply to details to departments or agencies outside of DoD, such details should be reviewed periodically to ensure that they are still appropriate.

b. Only career SES members and career-type non-SES members may be detailed to a career reserved position. Any SES member or non-SES member may be detailed to a general position. A noncareer SES member may not be detailed to a competitive service position outside the SES.

c. Employing organizations cannot detail an SES member to unclassified duties for more than 240 days. For a longer detail, the organization must determine whether the duties are at the SES level. If the duties are at the SES level, the employing organization has the option to formally establish the position as an SES position. It is not appropriate to detail an SES member to a series of different positions with unclassified duties or at the General Schedule (GS-15) or equivalent level or below in order to “restart” the 240-day clock. This circumvents the purpose of the 240-day limit.

d. Competitive service merit promotion procedures must be observed when detailing non-SES members to an SES position for more than 240 days. However, competition is not required if the employee is certified by a QRB following successful completion of an SES CDP. OPM approval is required for a detail of more than 240 days if a non-SES member is being detailed to an SES position that supervises other SES positions, or if an SES member is being detailed to a position at GS-15 or below or an equivalent level.

e. In the absence of a specific statute authorizing non-reimbursable details, normally both intra-agency and inter-agency details between positions covered by different appropriations, must be made on a reimbursable basis.

2. DETAIL ASSIGNMENT FOR SES CAREER APPOINTEES. Details should not be used to circumvent the advance notice requirement for reassignments, or the 120-day moratorium on involuntary reassignments following the appointment of a new agency head or noncareer supervisor. Any detail during these periods should be made judiciously and only when there is a clear, *bona fide* need for the individual to serve in the position. The employing organization must document the reasons for the detail.

3. DETAIL ASSIGNMENT FOR NON-SES MEMBERS TO SES POSITIONS AND VICE VERSA. Details of non-SES members to SES positions and details of SES members to non-SES positions should be kept to an absolute minimum and strictly controlled. Detailing SES members to non-SES positions below the SES level are an inappropriate use of executive talent. For pay and benefits purposes, the detailed employee continues to encumber the position from which detailed.

a. The duties of a vacant SES position may be restructured temporarily to an appropriate level outside the SES when a non-SES member is to be detailed to an SES position. If that is not possible, an organization should ensure that the detail authority is used judiciously. If a position has to be filled on detail for an extended period, the agency may want to consider rotating qualified employees on the detail.

b. Details of non-SES members should not be used as a means of providing a specific employee the opportunity to acquire the qualifications required for entry into the SES (other than in accordance with an OPM-approved SES CDP).

4. DETAIL ASSIGNMENT FOR LIMITED TERM APPOINTEES

a. An employing organization may detail an SES limited term employee to an SES general position set of duties for up to 3 years, depending on the mission.

b. An employing organization may not detail an SES limited term member to a continuing SES position. The continuing duties do not satisfy the statutory conditions for a limited term appointment. The statutory basis for the SES limited term appointment authority would disappear and the SES limited term appointment authority would be terminated.

c. The employing organization may detail an SES limited term employee to a reasonable, temporary acting assignment, such as during the short term absence of another SES. However, the temporary acting assignment must not become the individual's new assignment or prevent his or her timely return to the SES position and completion of the tasks for which the limited term appointment authority was approved.

5. DETAIL MORATORIUM

a. In calculating the 120-day moratorium, any days (not to exceed a total of 60 days) during which the career SES member is serving on a detail or other temporary assignment apart from their regular position are not counted. The moratorium provision does not restrict the total length of a detail, which may exceed 60 days.

b. If a career SES member is detailed during the moratorium, or already on detail at the start of a moratorium, the first 60 days of the detail (or any combination of details) do not count against the 120 days. For example, if the SES member is placed on a 90-day detail, the first 60 days would be added to the 120 days, and the moratorium would last 180 days. Although there

is no limit on the total length of a detail during the moratorium, any detail during the moratorium must meet detail requirements. The detail should be made only when there is a clear, *bona fide* need.

6. REQUIRED DOCUMENTATION. Documentation of a personnel action on a Standard Form (SF)-50, "Notification of Personnel Action," or SF-52, "Request for Personnel Action Form," is not required if the detail is to an identical position or the detail is from one SES position to another and the occupational series and basic duties are the same as the detailee's current position. An SF-50 or 52 must be completed if the detail is:

- a. Expected to last 120 calendar days; or
- b. Over 30 days and is from a GS-15 or lower position (or equivalent) to an SES position.

ENCLOSURE 8

REINSTATEMENTS

1. REINSTATEMENT. Reinstatement is a noncompetitive appointment to an SES career position based on prior career service in the SES. Reinstatement eligibility acquired in the competitive service (GS-15) is not transferable to the SES.

2. REINSTATEMENT ELIGIBILITY. An appointee is determined eligible for reinstatement if the appointee:

- a. Has successfully completed an SES probationary period or been exempt from probation.
- b. Was not separated from the SES for poor performance, disciplinary reasons, a resignation in lieu of removal, or for national security reasons.
- c. Meets the qualifications requirements of the position to which he or she is reinstated, and a new QRB certification is not required.
- d. Was separated due to a failure to accept a directed geographic move, and there was no written mobility agreement.

3. OTHER CONDITIONS AND PROCEDURES

- a. There is no time limit after leaving the SES for reinstatement of an eligible appointee.
- b. Individuals should apply for reinstatement to the DoD Fourth Estate Component where the individual wants to work, not to OPM.
- c. Reinstatement actions are noncompetitive; application of merit staffing requirements is not required or necessary.
- d. If the reinstatement is of a reemployed annuitant, the SF-50 should indicate that the employee serves at the discretion of the appointing authority.

4. REINSTATEMENT AFTER PRESIDENTIAL APPOINTMENT. SES career appointees are encouraged to serve at the highest levels of the government, which broadens the pool from which the President can choose top managers. To that end, SES career appointees may elect to retain their SES benefits and are entitled to reinstatement to an SES career position upon completion of their Presidential appointment. To be eligible, there must be no break in service between the SES career appointment and the Presidential appointment. In order to retain SES benefits, the SES career appointee must make this election under section 3392(c) of Reference (e). It does not

matter whether the Presidential appointment was with Senate confirmation or at what level of the Executive Schedule. Reinstatement coverage also applies to individuals appointed by a Presidential designee pursuant to sections 107(a) and (b) of Title 3, U.S.C. (Reference (q)) to a position in the White House Office, Office of Policy Development, or Office of Administration.

5. REINSTATEMENT AFTER PRESIDENTIAL APPOINTMENT TO A POSITION OUTSIDE OF THE SES. The conditions for reinstatement of a former SES career appointee appointed by the President to a civil service position outside the SES, without a break in service from the career appointment, are:

- a. The former career SES left the Presidential appointment for reasons other than misconduct, neglect of duty, or malfeasance.
- b. Presidential appointment was with or without Senate confirmation and at any level of the Executive Schedule.
- c. The individual was appointed by a Presidential designee to a position in the White House Office, Office of Policy Development, or Office of Administration.
- d. The individual is entitled to be reinstated to the SES as a career appointee if he or she applies to OPM within 90 days after separation from the Presidential appointment. However, an individual may negotiate his or her own reinstatement directly with an agency.
- e. If the Presidential appointee resigns, voluntarily or upon request, the DoD Fourth Estate Component in which the Presidential appointment was held may give the individual a limited appointment (after OPM approval), pending reinstatement as an SES career appointee in that or another agency, to preclude a break in service.
- f. If an individual receives a subsequent Presidential appointment without a break in service, the individual continues to be entitled to reinstatement to the SES following termination of the second appointment.

6. REINSTATEMENT AFTER RESIGNATION OF A PRESIDENTIAL APPOINTMENT. A Presidential appointee may apply for reinstatement assistance from the OPM as soon as the appointee's resignation is requested or submitted, but not later than 90 days after separation.

- a. The application must be in writing and specify the position held immediately before the Presidential appointment. In addition, the executive's expressed geographic availability will be honored when possible.
- b. OPM will not begin placement assistance unless there is a specific effective date for the resignation or separation.

c. If practicable, OPM will direct reinstatement within 45 days of the date OPM receives the application for reinstatement or the date of separation from the Presidential appointment, whichever is later. In order of precedence, OPM will direct reinstatement by:

- (1) The agency in which the individual last served as an SES career appointee before accepting the Presidential appointment.
- (2) The successor agency in which the individual last served as an SES career appointee.
- (3) The agency or agencies in which the individual served as a Presidential appointee.
- (4) Any other agency in the Executive branch with SES positions.

d. The DoD Fourth Estate Component being directed to take the reinstatement action is responsible for assigning the individual to an SES position for which he or she meets the qualifications requirements. The Component must comply with an OPM order to reinstate within 5 workdays of the effective date of reinstatement, but not more than 30 calendar days from the date of the order. The notification should be sent to SEMO by e-mail or written correspondence. Individuals who decline the OPM-issued reinstatement order are not entitled to further OPM placement assistance.

7. MISCELLANEOUS ITEMS

a. If an individual who is eligible for placement in the SES following a Presidential appointment decides instead to separate from the federal service, the individual will be eligible for discontinued service retirement if otherwise covered.

b. An individual who was serving an SES probationary period at the time of Presidential appointment is required to complete the probationary period upon reinstatement.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

CDP	Candidate Development Program
DoDD	DoD Directive
ECQ	executive core qualification
EDP	executive development plan
EEP	executive evaluation panel
e-mail	electronic mail
ERB	Executive Resources Board
GS	General Schedule
HQE	highly qualified expert
HR	human resources
MSR	merit staffing review
OPF	official personnel folder
OPM	Office of Personnel Management
QRB	qualifications review board
SEMO	Senior Executive Management Office
SES	Senior Executive Service
SF	Standard Form
SL	senior level
ST	scientific and professional
U.S.C.	United States Code

PART II. DEFINITIONS

These terms and their definitions are for the purposes of this volume.

agency. Any major organizational DoD Component (including the DoD Fourth Estate, the Military Departments, and the Combatant Commands) or any major organization outside of DoD.

appointing authority. The individual, usually the agency head, who has the authority by law or by lawfully delegated authority to appoint individuals to SES positions, to set pay, and to assign final SES performance ratings.

break in service. The time when an employee is no longer on the payroll of an agency. In computing creditable service for benefits, a separation of 3 or fewer calendar days is not considered a break in service; a separation of 4 or more calendar days is considered a break in service.

career appointment. Selection by agency merit staffing process and approval of executive qualifications by a QRB run by OPM. Appointments may be to a general or career reserved position and the rights of the individual are the same in either case.

CDP. An OPM-approved program designed to prepare individuals through developmental assignments and formal training for career appointment authority to the SES. Participants are chosen through a competitive SES merit staffing process. Those who successfully complete the program are eligible for certification by a QRB and may receive an SES career appointment without further competition.

civil service. The body of employees in any government agency other than the military.

commuting area. The geographic area normally considered one area for employment purposes and includes any population center (or two or more neighboring ones) and the surrounding localities where people live and reasonably can be expected to travel back and forth daily to work.

consultant. A person who can provide valuable and pertinent advice generally drawn from a high degree of broad administrative, professional, or technical knowledge or experience.

Defense Intelligence SES. Managerial, supervisory, and policy positions that are equivalent to the SES positions and are established under section 1606 of Reference (i). These positions may be filled through permanent or nonpermanent appointments under the DCIPS appointing authority, section 1601 of Reference (i).

Defense Talent Management System. An automated DoD talent management and succession planning tool, used in support of the career life-cycle management of the SES in DoD.

detail. A temporary assignment of an employee to a different position for a specified period, with the employee returning to his or her regular duties at the end of the detail.

discontinued service retirement. Retirement based on involuntary separation against the will and without the consent of the employee, other than on charges of misconduct or delinquency. An employee who does not meet the age and service requirements for optional retirement at the time of separation may retire on discontinued service if he or she is age 50 with 20 years of creditable service or at any age with 25 years of creditable service, including 5 years of civilian service.

dual incumbency. Employment of two persons in the same position at the same time.

ECQs. The five main skills (leading change, leading people, results driven, business acumen, and building coalitions) considered necessary for effective performance in any SES position and the basis of a QRB certification for career appointment to the SES.

EDP. A plan of developmental assignments and formal training an employee will undertake to gain competency in the ECQs. Usually developed in conjunction with the employee's supervisor or a mentor who is (or has been) an SES member. Also known as an individual development plan.

EEP. An ad hoc panel composed of three or five SES members or their military equivalent (i.e., O7 level or higher or Defense Intelligence SES), including a chair, a member of the ERB, and a third member from outside the hiring component or supervisory chain assigned to evaluate the resume, technical qualifications statement, and ECQ statement for each candidate to determine the best qualified candidates who will be referred to the selecting official.

ERB. A panel of top agency executives responsible under the law for conducting the merit staffing process for career appointment to SES positions. Most ERBs are also responsible for setting policy on and overseeing such areas as SES position planning and executive development.

Executive Schedule. The highest-ranked appointed positions in the Executive branch of the U.S. Government, divided into five pay levels dependent upon the level of the position.

expert. A person who is specially qualified by education and experience to perform difficult and challenging tasks in a particular field beyond the usual range of achievement of competent persons in that field.

HQE. An individual who possesses uncommon and recognized knowledge, skills, and experience in an occupational field, and judgment that is accorded authority and status by peers or the public. An HQE has substantive experience or education, is generally credentialed, and has proven ability in a particular field or fields.

limited emergency appointment. Nonrenewable appointments for up to 18 months to an SES general position which must be filled urgently. Total number of limited and limited emergency appointments may not exceed 5 percent of SES position allocation government wide. Each agency has a pool equal to a percentage of its position allocation for making limited appointments of career or career-type employees from outside the SES.

limited term appointment. Nonrenewable appointment for up to 3 years to an SES general position which will expire because of the nature of the work (e.g., a special project).

noncareer appointment. Appointment authority allocated on individual case basis by OPM; authority reverts to OPM when the noncareer appointee leaves the position. Appointments may be made only to SES general positions and cannot exceed 25 percent of the agency's SES

position allocation; government wide, only 10 percent of SES position allocations may be used for noncareer appointment.

private sector temporary employee. Employees of a temporary help service firm who are supervised and paid by that firm and whom that firm assigns to various client organizations that have contracted for the temporary use of their skills when required.

QRB. A board comprising current members of the SES convened to certify the executive qualifications of individuals for initial career appointment to the SES. Through independent peer review, QRB members ensure that all new executives or SES CDP graduates have a broad perspective of government and solid executive skills. They focus attention that, in the SES, executive skill, not technical expertise, is paramount. A majority of QRB members must be SES career appointees.

qualification standards. Standards that describe the minimum qualification requirements (e.g., educational, medical, age, experience) for each occupational series or group of like positions.

reassignment. The change of an employee from one SES position to another position within the same agency, which includes movement to a position in a new occupational series, new location or office, or to another position within the same or different tier (may be higher or lower).

reinstatement. Noncompetitive reemployment in the competitive service as a career or career-conditional employee of a person formerly employed in the competitive service who had competitive status or was serving probation when separated.

SES career reserved. An SES position that may be filled only by an SES career appointee.

SES general. An SES position that may be filled through any type of SES appointment, i.e., career, noncareer, limited term, or limited emergency.

slate. A list of candidates for consideration for a position.

terminal leave. The remainder of accumulated leave a military member takes before separation or retirement from the military. Once they enter terminal leave status, military members are essentially separated from the military, but still collect a paycheck and other entitlements, such as basic allowance for housing, basic allowance for subsistence and medical coverage, until their official separation or retirement date.

tier structure. A three-level system that groups positions with common characteristics. Tier levels delineate the importance of different positions by placing emphasis on the characteristics of positions such as impact on mission, level of complexity, span of control, inherent authority, scope and breadth of responsibility and influence in joint and national security matters.

transfer. A change of an employee, without a break in service of 1 full workday, from a position in one agency to a position in another agency that can be filled under the same appointing

authority. Section 3395 of Reference (e) authorizes transfer of career and noncareer appointees in the SES to career and noncareer appointment in other agencies.

uniform guidelines in employee selection procedures. Guidelines that incorporate a single set of principles which are designed to assist employers, labor organizations, employment agencies, and licensing and certification boards to comply with requirements of federal law prohibiting employment practices which discriminate on grounds of race, color, religion, sex, and national origin. They are designed to provide a framework for determining the proper use of tests and other selection procedures.