

Appendix H

Recertification of Department of Transportation Senior Executive Service Career Members

A. AUTHORITY

Under Sec. 506 of the Ethics Reform Act of 1989 (Public Law 101-194, November 30, 1989), Senior Executive Service (SES) career appointees are subject to recertification by their agencies. [Title 5 U.S.C. 3393a] [5 CFR 213, 317, 359, 842]

B. OBJECTIVE

SES recertification ensures that the performance of career appointees demonstrates the excellence needed to meet the goals of the SES.

C. RELATIONSHIP TO ANNUAL PERFORMANCE APPRAISAL PROCESS

The SES recertification process and the Department of Transportation (DOT) Executive Performance Appraisal System are complementary but separate. While the annual appraisal documents how well the executive has met the specific standards for his or her position for the year, the recertification process looks at the executive's performance over a period of 3 years. At the highest levels of Government management occupied by SES members, it often is not possible to fully judge the performance of an individual in as short a time span as 1 year since the impact of an executive's activities may not be evidenced until a later time.

D. COVERAGE

1. SES career employees who have been continuously employed in the SES for 156 weeks preceding the end of the recertification period are subject to recertification. This period includes any service as an SES noncareer or limited appointee. It also includes service in any agency. If the appointee does not have 156 weeks of continuous SES service, he or she will not be subject to recertification until the end of the next recertification period.

2. One or more breaks in SES service of a total of 6 months or less do not interrupt the 156 weeks of continuous employment. A break is defined as a time period during which the SES career employee was not being officially counted against the agency's SES position allocation.
3. SES career appointees who are on extended assignment or absence from their positions at the time of recertification are subject to recertification, generally, as long as they are officially occupying an SES position at the end of the recertification period as a career appointee and meet the 156 week length of service requirement.
4. This recertification plan does not apply to SES noncareer or limited appointees, nor does it apply to former SES career appointees who took Presidential appointments at Executive Level V or higher with Senate confirmation and elected to retain SES benefits.

E. RECERTIFICATION PERIOD

1. The initial recertification period shall end on September 30, 1991, coincident with the end of the annual performance appraisal period. Subsequent recertification shall take place every third calendar year thereafter. September 30 shall serve as the date for calculating the 156 week employment period.
2. If an individual is recertified in another agency and then transfers to DOT during the calendar year, the individual is not subject to recertification in the Department.
3. If an individual transfers from another agency during the calendar year and no recertification decision was made in that agency, a recertification decision must be made in DOT. All necessary relevant information on the executive's performance during the recertification period, in addition to performance ratings completed, will be requested of the executive's previous agency.

F. STANDARD FOR RECERTIFICATION

1. The career appointee must perform at the level of excellence expected of a senior executive. Excellence means that the executive has demonstrated, over the recertification period, that he or she has achieved excellence in:
 - a. planning for, substantially advancing, and attaining Presidential, agency, or organizational goals and objectives that required a sustained superior effort;

- b. taking specific initiatives that advanced a major policy and/or significantly improved delivery of services;
 - c. taking the necessary actions to ensure the achievement of a quality product in a timely manner; and
 - d. making significant technical, scientific, or professional contributions.
2. Also, if applicable to the responsibilities of the senior executive, excellence is demonstrated by:
- a. achieving substantial savings in the execution of programs under his or her direction;
 - b. maintaining the high quality and effectiveness of programs under his or her direction with reduced resources; and/or
 - c. providing strong leadership to enhance the development, utilization, and achievements of subordinate personnel, including achievement of equal employment opportunity goals.

G. RECERTIFICATION RECOMMENDATION AND DETERMINATION PROCEDURES

1. Recommendation by the Supervising Official.

- a. The supervising official (i.e., the senior executive's first-level supervisor) of the career appointee shall submit to the Performance Review Board (PRB), a recommendation, on the form provided in Appendix I, as to whether the career appointee's performance justifies recertification as a senior executive. The recommendation shall be based on the executive's overall performance during the recertification period in relation to the standard for recertification in paragraph F, including consideration of such factors as the following.
 - (1) The appointee's SES performance ratings for the 3 preceding years, which must include the rating for the appraisal period that ends concurrently with the present recertification period. SES career appointees do not necessarily have to have received annual performance ratings above Fully Successful to be recertified, nor do Fully Successful ratings guarantee recertification.

- (2) Any award or other recognition received by the appointee. These include awards from both inside the Government (e.g., Presidential Rank Awards and Superior Accomplishment Incentive Awards) and outside the Government. Awards recognizing performance over a period of years that are received during the recertification period even though some of the achievements recognized may have occurred before the recertification period are included. Also included are awards received after the recertification period, but before the recertification determination, if the award recognizes performance that took place during the recertification period.
 - (3) Any developmental activities of the appointee. These include professional, educational, or self-developmental activities. Supervising officials should consider funding availability and the stage of the executive's career; that is, long term executive vs. newly appointed executive, when evaluating the extent to which an executive participates in developmental activities.
 - (4) Other relevant qualitative factors. These may include significant accomplishments on task forces or boards outside of program responsibilities; reputation in field of expertise as reflected by speaking engagements and publications; and SES pay increases when they are specifically related to performance.
- b. The factors identified above should be used as a measure of whether the standard for recertification has been met in relation to the written performance requirements for the career appointee's senior executive position. Supervising officials may not make a recommendation solely on the basis of performance ratings.
 - c. There is no specific length of time that an official must serve as an executive's supervisor before making a recertification determination. If the supervising official has not supervised the executive for the full 156 weeks, he or she shall make a reasonable effort to obtain relevant information about the executive's overall performance during the recertification period.
 - d. Prior to making a recommendation, supervising officials may request a written statement of accomplishments from the executive in relation to the standard for recertification and the factors in paragraph G.1.a.(1), (2), (3) and (4).

- e. If the supervising official recommends recertification, no written justification is required. However, a recommendation proposing conditional recertification or no recertification shall include a narrative justification. The narrative should specify those aspects of the standard for recertification that have not been met. Supervising officials should contact their servicing personnel office for technical advice and assistance prior to preparing such a narrative.
 - f. The Head of an Operating Administration (OA) or Departmental Officer (DO) should review all recertification determinations under his or her jurisdiction. However, there shall not be any prescribed distribution of how many or what percentage of executives will be recertified, conditionally recertified, or not recertified.
 - g. The appointee shall be given a copy of the recommendation provided on the form in Appendix I. He/she shall be requested to acknowledge receipt of the form, and advised of the right to submit to the PRB a statement of accomplishments and other documentation giving evidence of the quality of the appointee's performance in relation to the standards set forth in paragraph F. The statement of accomplishments provided to the PRB may be the same as that provided in paragraph G.1.d., or amended at the executive's discretion. The appointee shall be given a reasonable amount of time to prepare this statement before the PRB is convened.
 - h. The recertification form and any appropriate written documentation (i.e., the executive's statement of accomplishments if provided to the supervising official; a narrative justification for a recommendation other than to recertify) shall be forwarded to the PRB, along with the annual performance appraisal, no later than October 31.
2. Recommendation by the Performance Review Board.
- a. Each Operating Administration PRB, including the Office of the Secretary and the Office of Inspector General PRB, as a continuation of its responsibilities under the DOT Executive Performance Appraisal System (DPM Letter 430-1), will review the supervising official's recertification determination

and make a recommendation to the Executive Resources Review Committee (ERRC). More than one-half of the members of the Board shall consist of SES career appointees. Board members may not take part in any deliberations or actions regarding recommendations on their own recertification.

- b. After receiving the recommendation of the supervising official and any information provided by the career appointee under paragraph G.1.d. or G.1.g., the Board shall submit to the ERRC a recommendation, on the form provided in Appendix I, whether the appointee should be recertified, conditionally recertified, or not recertified.
- c. If the PRB needs more information to make its recommendation, it may request additional documentation from the supervising official or request that he/she appear before the Board. The Board also may request additional information from the career appointee.
- d. If the Board proposes to recommend conditional recertification or no recertification, the appointee shall:
 - (1) be notified in writing, specifying the Board's rationale in sufficient detail for its proposed recommendation. If the PRB chooses to use the same rationale as provided by the supervising official, it need only indicate its concurrence on the supervising official's justification; and,
 - (2) have the opportunity to appear before the Board prior to the forwarding of the recommendation to the ERRC. The appointee shall be given 7 calendar days advance notice of the proposed scheduled appearance. If the appointee requests, he/she may be given a reasonable amount of official time to prepare for his/her appearance.
- e. If the Board recommends recertification, it may also recommend that the appointee's rate of basic pay be increased to a higher ES pay rate. If the Board recommends conditional recertification, it may also recommend that the appointee's rate of basic pay be reduced to the next lower ES pay rate. These recommendations must be documented on the recertification determination form.

- f. In addition to its recommendation, the Board shall provide the ERRC with the recommendation from the supervising official and any information received from the appointee under paragraph G.1.d., 1.g., 2.c., or 2.d.
 - g. A copy of the recertification determination form reflecting the Board's final recommendation shall be forwarded to the appointee.
3. Determination by the Appointing Authority.
- a. The ERRC, which serves as the appointing authority, is delegated the authority to determine whether the appointee shall be recertified, conditionally recertified, or not recertified in accordance with the provisions of this plan. The Deputy Secretary shall serve as Chair of the ERRC. The responsibilities and composition of the ERRC are contained in Subchapter 2 of DPM Supplement 920-1.
 - b. Each Head of an OA/DO will provide the Departmental Office of Personnel, by November 15, a copy of the recertification determination form and any supporting documentation for each career executive who was subject to recertification and an alphabetical listing of all career executives who were officially occupying an SES position at the end of the recertification period. The list should include the following information:
 - (1) the executive's position title and pay level;
 - (2) the executive's recertification recommendation (i.e., recertified, conditionally recertified, or not recertified); and,
 - (3) if applicable, the reason a recertification recommendation was not made.
 - c. If the ERRC determines that the appointee's performance warrants recertification, it will record the decision on the recertification determination form along with the appropriate annotation if a positive pay rate change is decided upon.
 - d. Written reasons must be provided for any recommendation or decision to conditionally recertify or to not recertify a career appointee. The reasons must be specific enough so that the executive will be able to understand why the action was taken and

adequate to support a case if the executive appeals a removal action. The ERRC may concur without providing additional reasons if it agrees with the reasons provided by the supervising official and/or the PRB and deems the reasons provided by the recommending official(s) sufficient.

- e. Determinations will not be based on a prescribed distribution of how many or what percentage of executives will be recertified, conditionally recertified, or not recertified.

H. RECERTIFICATION DETERMINATIONS

1. Decision to Recertify.

- a. If the ERRC determines that the appointee's performance warrants recertification, the appointee shall continue in the SES. A copy of the completed recertification form shall be provided to the appointee.
- b. The appointee's rate of basic pay may not be reduced at the time of recertification.
- c. If the decision is made to increase the appointee's rate of basic pay, the statutory restriction that an SES member's pay level may be changed only once in a 12 month period remains applicable. Decisions regarding increasing pay should be consistent with the pay level parameters contained in Subchapter S6 and Appendix G of DPM Supplement 920-1.

2. Decision to Conditionally Recertify.

- a. If the ERRC determines that the appointee's performance warrants conditional recertification, the appointee:
 - (1) shall be notified in writing enclosing the completed recertification determination form and necessary supporting documentation;
 - (2) shall remain a career appointee in the SES;
 - (3) shall be subject to continuing close review of the appointee's performance by the supervising official in coordination with the ERRC;
 - (4) shall be subject to performance improvement plan developed by the supervising official, subject

to the approval of the ERRC, and provided to the appointee within 60 calendar days of his/her notification of conditional recertification. The performance improvement plan should include a description of the deficiencies in the executive's performance, what constitutes satisfactory completion of the plan, a statement of the support and assistance to be provided by the supervising official, and any training initiatives planned. It shall conform with performance standards the executive is required to attain during the period;

- (5) may, if the ERRC so determines, be reduced to the next lower ES pay rate, once 12 months have elapsed since the appointee's last pay adjustment; and,
- (6) may not appeal to the Merit Systems Protection Board, as the law does not provide such a right.

b. At the end of the 12 months following conditional recertification, the agency shall make a new recertification determination. The process for making the new determination shall be the same as for the initial recertification decision, including review and recommendation by a PRB.

- (1) The individual shall be retained in the SES if recertified and shall have any reduction in ES pay level made under paragraph H.2.a.(5) restored as of the beginning of the first pay period following recertification when 12 months have elapsed since the pay reduction.
- (2) The individual shall be removed from the SES if not recertified at the end of the 12 month period following the conditional recertification. Any removal action shall be in accordance with applicable law and regulation (5 CFR 359).

3. Decision Not to Recertify.

- a. If the ERRC determines that the appointee's performance does not warrant recertification or conditional recertification, the appointee shall be removed from the SES in accordance with applicable law and regulation (5 CFR 359).

- b. The appointee shall be notified in writing before the effective date of the action. If the appointee has completed the SES probationary period, or was not required to serve a probationary period, the notice shall be at least 30 calendar days before the effective date of the removal from the SES.
- c. The notice shall include the completed recertification determination form and advise the appointee of:
 - (1) the basis for the action;
 - (2) the appointee's placement rights provided under 5 CFR 359.701-705. The position to which the appointee will be assigned shall be identified either in the advance notice or in a supplementary notice issued no later than 10 calendar days before the effective date of the action;
 - (3) the appointee's right to appeal to the Merit Systems Protection Board, including the time limit for appeal, the office to which an appeal should be sent, and that there is no provision for a stay in the removal action pending the appeal process;
 - (4) the effective date of the removal from the SES; and,
 - (5) when applicable, the appointee's eligibility for immediate discontinued service retirement, in lieu of placement rights, with no annuity reduction based on age (CSRS) and eligibility for an annuity supplement regardless of age (FERS).
- d. Removal from the SES as a result of not being recertified may not be made effective within 120 days after:
 - (1) the appointment of a new agency head; or
 - (2) the appointment in the agency of the career appointee's most immediate supervisor who is a noncareer appointee and has the authority to remove the career appointee.

I. RECERTIFICATION PLAN CONSULTATION, APPROVAL, AND DISTRIBUTION

1. Recertification procedures shall be developed in consultation with DOT SES career appointees.
2. This plan is not effective until approved by the Office of Personnel Management (OPM).
3. Copies of the approved plan, and any subsequent changes, will be provided to all DOT SES career appointees.

J. TRAINING

Before the beginning of each recertification determination process, executives who supervise career SES appointees, and PRB members, will be given training on the objectives and procedures of the recertification process. Also, during this same time period, the agency will inform SES career appointees about the agency's recertification plan provisions.

K. RECORDS

Operating Administrations and the Office of the Secretary must maintain recertification documentation in the appointee's Employee Performance Folder (EPF) for 5 years from the date of the recertification determination. (If an individual is conditionally recertified, documentation for the final recertification determination shall be maintained for 5 years from the date of the conditional recertification.) Information contained in the EPF is protected under the provisions of the Privacy Act.

L. REPORTS AND EVALUATION

The Department will report to OPM such information, and take such corrective action as OPM may direct as a result of its oversight and evaluation responsibilities.



U.S. Department of
Transportation



SENIOR EXECUTIVE SERVICE (SES) RECERTIFICATION CY _____

Name of Executive: _____

Position Title: _____

Administration/Office: _____

Current Pay Rate: ES-

Recertification Period From: _____

To: _____

STANDARD FOR RECERTIFICATION

1. The career appointee must perform at the level of excellence expected of a senior executive. Excellence means that the executive has demonstrated over the recertification period that he or she has achieved excellence in:
 - a. Planning for, substantially advancing, and attaining Presidential, agency, or organizational goals and objectives that required a sustained superior effort.
 - b. Taking specific initiatives that advanced a major policy and/or significantly improved delivery of services.
 - c. Taking the necessary actions to ensure the achievement of a quality product in a timely manner.
 - d. Making significant technical, scientific, or professional contributions.
2. Also, if applicable to the responsibilities of the senior executive, excellence is demonstrated by:
 - a. Achieving substantial savings in the execution of programs under his or her direction.
 - b. Maintaining the high quality and effectiveness of programs under his or her direction with reduced resources.
 - c. Providing strong leadership to enhance the development, utilization, and achievements of subordinate personnel, including achievement of equal employment opportunity goals.

Annual SES Performance Ratings:

19____ Performance Rating Level

19____ Performance Rating Level

19____ Performance Rating Level

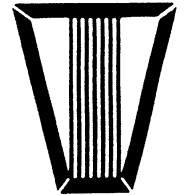
Awards and Other Recognition:

Developmental Activities:

Other Relevant Qualitative Factors:



Department of Transportation



The following recommendations/decision are based on an assessment of the executive's overall performance during the recertification period in relation to the Standard for Recertification stipulated in law, regulation, and Departmental written procedures and include consideration of the executive's performance ratings, awards and other recognition, developmental activities, and other relevant factors related to performance during the period. Please refer to Appendix 11 of DPM Supplement 920-1, if further guidance is required.

SUPERVISING OFFICIAL'S RECOMMENDATION:

- Recertify, Conditionally Recertify, Not Recertify

If the above recommendation is to conditionally recertify or not recertify, I have attached the required written justification specifying the standard for recertification not met and other relevant supporting documentation.

Supervising Official's Signature and Title Date

Administrator's/Departmental Officer's Signature (Optional) Date

EXECUTIVE'S ACKNOWLEDGEMENT OF SUPERVISING OFFICIAL'S RECOMMENDATION:

- I have received a copy of my supervising official's recommendation and wish to submit a statement of accomplishments to the Performance Review Board.
I have received a copy of my supervising official's recommendation and DO NOT wish to submit a statement of accomplishments to the Performance Review Board.

Executive's Signature Date

PERFORMANCE REVIEW BOARD (PRB) RECOMMENDATION:

- Recertify, Conditionally Recertify, Not Recertify

Appearance Before the PRB if Recommendation to Conditionally Recertify or Not Recertify

- Yes Date Declined appearance (documentation attached)

PRB Chairperson's Signature Date

EXECUTIVE RESOURCES REVIEW COMMITTEE (ERRC) DECISION:

- Recertify, Conditionally Recertify, Not Recertify

Pay rate adjustment to ES-

ERRC Chairperson's Signature Date