



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

Employee Services

November 25, 2019

MEMORANDUM FOR HUMAN RESOURCES DIRECTORS

FROM: MARK D. REINHOLD
ASSOCIATE DIRECTOR

Subject: Guidance on the Pay Differentiation Certification Criterion for Senior Executive Service (SES) and Senior-Level (SL) and Scientific or Professional (ST) Performance Appraisal Systems

The purpose of this memorandum is to provide agencies clarifying guidance regarding the pay differentiation certification criterion that must be met in order for an agency to be granted certification of its Senior Executive Service (SES) and Senior-Level (SL) and Scientific or Professional (ST) performance appraisal system(s).

The U.S. Office of Personnel Management (OPM) introduced greater flexibility for agencies to demonstrate pay differentiation using the combined total of a senior employee's rating-based pay adjustment(s) and rating-based award, referred to as annual performance-based compensation (APBC), as part of the revised certification process introduced in November 2018 (<https://www.chcoc.gov/content/senior-executive-service-ses-and-senior-level-sl-and-scientific-and-professional-st-1>). Alternatively, agencies may choose to continue demonstrating pay differentiation in the rating-based pay adjustment(s) and rating-based award, separately. The two methodologies (i.e., *APBC* and *separate*) to demonstrate pay differentiation are available to all agencies regardless of whether the request for certification is submitted using Certification 2.0 or through the SES/SL/ST Performance Appraisal Assessment Tool (PAAT). Moreover, all agencies requesting certification are expected to demonstrate pay differentiation across 100 percent of the applicable system's population and the pay differentiation criterion is met only when an agency's data demonstrates—

- every individual with a Level 5 rating must receive more than an individual with a Level 4 rating (i.e., All Level 5 > All Level 4; Any Level 4 ≠ Any Level 5), **and**
- every individual with a Level 4 rating must receive more than an individual with a Level 3 rating (i.e., All Level 4 > All Level 3; Any Level 3 ≠ Any Level 4).

Methodologies for Demonstrating Pay Differentiation

Agencies may demonstrate pay differentiation through one of two methodologies:

- *Separate*, in which each senior employee's rating-based award and rating-based pay adjustment(s) are evaluated independently of the other, or
- *APBC*, which is a combination (i.e., sum) of rating-based pay adjustment(s) and a rating-based award.

Agencies also have the flexibility to demonstrate pay differentiation agency-wide, by component/bureau, or pay tier, as specified in the agency's pay policy or closeout guidance.

OPM assesses an agency’s compliance with the pay differentiation criterion according to the methodology chosen by the agency, thereby giving an agency maximum flexibility with regard to how it compensates its highest performers.

Demonstrating Pay Differentiation Separately versus APBC

The table below describes and delineates the methodologies by which agencies may demonstrate compliance with the pay differentiation criterion:

<p style="text-align: center;">APBC <i>Rating-Based Pay Adjustment(s)* + Rating-Based Award</i></p>	<p style="text-align: center;">SEPARATE <i>Rating-Based Pay Adjustment(s)* and Rating-Based Award, separately</i></p>
<ul style="list-style-type: none"> • All senior employees rated Level 5 receive a combination (i.e., sum) of rating-based pay adjustment(s) and a rating-based award that is <i>more than</i> any senior employee rated at Level 4; • All senior employees rated Level 4 receive a combination of rating-based pay adjustment(s) and a rating-based award that is <i>more than</i> any senior employee rated at Level 3; and <ul style="list-style-type: none"> ○ If any senior employee is rated at Level 3, then all employees at Level 4 must receive a higher combination than all individuals at Level 3. <p><i>Senior employees rated below Level 3 are ineligible for rating-based pay adjustments or rating-based awards, and are not included in the pay differentiation review.</i></p>	<ul style="list-style-type: none"> • All senior employees rated Level 5 receive rating-based pay adjustment(s) and a rating-based award, separately, that are <i>more than</i> that distributed to those senior employees rated at Level 4; and • All senior employees rated Level 4 receive rating-based pay adjustment(s) and a rating-based award, separately, that is <i>more than</i> that distributed to any senior employee rated at Level 3. <ul style="list-style-type: none"> ○ If any senior employee is rated at Level 3, then all employees at Level 4 must receive a higher rating-based pay adjustment(s) and a rating-based award, separately than all individuals at Level 3. <p><i>Senior employees rated below Level 3 are ineligible for rating-based pay adjustments or rating-based awards, and are not included in the pay differentiation review.</i></p>
<ul style="list-style-type: none"> • No overlap of amounts distributed across rating levels (e.g., a Level 4 and a Level 3 cannot both receive APBC of \$0 or 0%) • May demonstrate pay differentiation using \$ amounts or %; however, agencies must use the same approach for both rating-based pay adjustments and rating-based awards • All senior employees rated at or above Level 3 are assessed for pay differentiation, including those with a salary at the pay/tier cap <ul style="list-style-type: none"> ○ Since career employees at a pay/tier cap may still receive a rating-based award, they are not excluded from the review of the agency’s pay differentiation under APBC 	<ul style="list-style-type: none"> • No overlap of rating-based pay adjustment(s) or rating-based award amounts distributed across rating levels • May demonstrate differentiation in \$ amounts or %, separately, in rating-based pay adjustments and rating-based awards • Senior employees with a salary at the pay/tier cap are not assessed for pay differentiation in the rating-based pay adjustment(s) review; however, they are assessed in the rating-based award review, if eligible to receive a rating-based award

* For the purpose of demonstrating pay differentiation in SES populations, a pay increase to maintain relative position (MRP) in the SES rate range is incorporated with the rating-based pay adjustment.

Lack of Pay Differentiation

An agency's performance appraisal system(s) must demonstrate compliance with all certification criteria to be eligible for certification. If an agency's appraisal system does not demonstrate compliance with the pay differentiation criterion, the system will be ineligible for certification until such time as the agency demonstrates compliance. Agencies must demonstrate pay differentiation as described in this guidance utilizing their available budgets. In other words, running out of funds is not an acceptable justification for showing a lack of pay differentiation. It is critical that agencies' SES and SL/ST performance appraisal systems and accompanying pay and awards policies reflect applicable statutory and regulatory requirements, as well as requirements for certification, when seeking certification of such systems. OPM encourages all agencies continue to engage with the OPM Executive Resources and Performance Management Group to ensure a full understanding of all certification criteria to avoid a lapse or suspension of certification.

Contribution-Based (non-performance) Awards

As explained in the July 12, 2019 memorandum entitled *Guidance on Awards for Employees and Agency Workforce Fund Plan* (M-19-24), agencies may grant contribution-based awards for contributions outside of normal job responsibilities (e.g., for a special project or task). Contribution-based awards are reviewed, annually; however, they are not considered as part of pay differentiation.

Additional Information

Human Resources Directors and/or Executive Resources Directors should contact Danielle Opalka, Manager, Executive Resources and Performance Management, in OPM's Senior Executive Services and Performance Management, at (202) 606-8046 or performance-management@opm.gov, for any questions regarding this guidance.

cc: Chief Human Capital Officers (CHCOs), Deputy CHCOs, Council of the Inspectors General on Integrity and Efficiency, Inspectors General, and Small Agency Council