SENIOR EXECUTIVE SERVICE PAY SETTING AND REASSIGNMENTS:

EXPECTATIONS VS. REALITY

A Report to the
President and the
Congress of the United States
by the U.S. Merit Systems
Protection Board

A SPECIAL STUDY

THE CHAIRMAN

U.S. MERIT SYSTEMS PROTECTION BOARD
1120 Vermont Avenue, N W.
Washington, D C 20419

October 1990

Sirs:

In accordance with the Civil Service Reform Act of 1978, it is my honor to submit this U.S. Merit Systems Protection Board report titled "Senior Executive Service Pay Setting and Reassignments: Expectations vs. Reality." The Senior Executive Service (SES) was created, in large measure, to provide Federal agencies with increased flexibilities regarding executive pay and executive reassignments in order to improve the administration of Government.

This report examines how those flexibilities, often referred to as the SES's rank-in-person system, have been used by the major Federal departments and agencies. As the legislative and executive branches of Government consider matters concerning the future administration of the SES, we believe that this study will provide a useful context within which decisions can be made.

Respectfully,

Daniel R. Levinson

The President
The President of the Senate
The Speaker of the House of Representatives

Washington, DC

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OVERVIEW

One of the major provisions of the Civil Service Reform Act of 1978 was to create a Senior Executive Service (SES) for the approximately 8,000 top managers within the executive branch. Moving from a "rank-in-position" toward a modified "rank-in-person" concept, the SES was intended to provide needed flexibilities to Federal agencies to allow them to more easily reassign executives as needed and to give greater consideration to their qualifications and performance in determining their pay level. This report examines how those flexibilities have been used within the major Federal departments and agencies. It suggests that these flexibilities have not been used to their greatest potential but that recent events create an opportune time to reexamine this issue.

Prior to the Civil Service Reform Act of 1978 (CSRA), the pay of the Government's senior execu tives--those at the GS-16 through GS-18 grade levels--was tied to the grade of their position. Thi "rank-in-position" system severely limited an agency's flexibility in the use made of these key managers and in determining their level of compensation. For example, a GS-17 level executive could not be reassigned to a GS-16 or a GS-18 level position without undergoing formal adverse action or competitive promotion procedures, respectively.

The CSRA eliminated grade levels for senior executives by placing them all in a Senior Executive Service (SES). Each executive is assigned one of six SES pay levels, a level that need not be solel or even primarily determined by the individual's particular duties and responsibilities. Since senior executives can be reassigned to different senior level positions with relative ease and without regard to their pay *levels,* the SES gives agencies greater flexibility in making use of these executives and also allows agencies to give *greater* weight to individual qualifications and performance in setting their pay.

The U.S. Merit Systems Protection Board (MSPB) examined the use that has been made of these flexibilities by the major Federal departments and agencies in order to provide a useful context for decisions concerning the future of the SES. Among the major findings of this review are the following:

- The common reference to the Senior Executive Service as a "rank-in-person" system may be misleading in that, unlike the military and the Foreign Service, the SES does not have a defined career ladder nor established ranks which distinguish among the different SES members. Although there is a tendency to use the different pay levels to "rank" SES members, the distribution of pay levels varies widely from agency to agency and there is no required correlation between SES pay level and relative position in the organizational hierarchy.
- Federal agencies have made significant use of the reassignment flexibilities of the SES system to move SES members to different executive positions within each agency but there are relatively few transfers of SES members between agencies. Further, agencies too seldom use SES reassignments for the purpose of career enhancement or skills development.
- Little use has been made of SES pay flexibilities to *recognize* differences in personal qualifications and contributions to the employing agency. In part, this is the result of pay compression which has provided a relatively narrow pay range among the six SES pay levels. As a result:

-- When charter members of the SES were converted from their "supergrade" positions in 1979, approximately 90 percent had their salaries set at the maximum level in order to match their previous Federal pay.

-- Over half (55 percent) of all career senior executives are paid at SES level 4. Most agencies restrict the percentage of SES members who can receive the highest level pay (5 and 6) and typically assign these members to the highest positions in the management hierarchy.

– Still, SES pay practices vary widely among the agencies. For example, among agencies that employ 50 or more career senior executives, the percentage of these members paid at level 4 or above varies from a low of 50 percent to a high of 96 percent.

- An expected increase in January 1991 will raise level 6 pay from $83,600 to $108,300. Level 1 pay will increase to $87,000. This will create the largest and most meaningful difference--$21,300–between the lowest and highest SES pay levels since creation of the SES. Correspondingly, this also creates an opportune time to reexamine SES pay-setting and reassignment policies. For example, should the SES move toward a "graded" system which institutionalizes what most agencies attempt to do in practice--pay the highest salaries only to those senior executives in the most influential and demanding positions in their agencies?

Recommendations

- Assuming that the expected increase in SES pay occurs, MSPB recommends that the existing flexibilities in reassignments and SES pay setting be retained and their use be monitored over the next 2 to 3 years to determine if, as the framers of the CSRA hoped, they are being used to improve the administration of Government.
- Federal agency heads and directors of personnel should use the expected increase in SES pay to reexamine their past agency pay-setting practices. Agencies with a high percentage of positions at the higher pay levels, for example, may want to consider assigning pay levels to newly appointed SES members that reflect a greater distribution among all pay levels. Such a distribution may more accurately reflect actual differences in the qualifications and likely organizational impact of these members.
- Federal agencies should also assure that they make maximum use of SES reassignments to provide career enhancement and to further the goals of executive development and training.
- With the coordination and encouragement of the Office of Personnel Management, greater consideration should be given to the use of transfers of senior executives between agencies, where feasible. This could enhance mission accomplishment within each agency through the infusion of new ideas and perspectives while also providing an energizing and broadening "change of pace" for the executives involved.

INTRODUCTION

The Civil Service Reform Act of 1978 established the Senior Executive Service as a separate personnel system covering a majority of the top managerial, supervisory, and policy-making positions in the executive branch of the Federal Government. A key feature of this new personne system was that pay levels were to be determined more by the qualifications of the individual filling a position than by particular aspects of the position to be filled (as is the case with most other Federal personnel systems). Because of this, the new system gave individual agencies a substantia degree of flexibility in establishing pay levels for their senior executives. Another key feature was that agencies were given a substantially greater ability to reassign senior managers and supervisors into different positions.

In 1989, Congress considered, but did not enact, legislation which would have significantly restricted the agency SES pay flexibilities contained in the CSRA.[1] This legislation was proposed in response to the then current speculation that individual agencies were intending to use their pay flexibilities, had there been an expected 50-percent increase in the SES pay rates Governmentwide, to generally *reduce* rates of pay of thei senior executives in order to save money. This speculation arose when Congress began considering legislation to increase the compensation of Federal judges and executive level appointees by approximately 50 percent and, it was assumed that, had such legislation been enacted, there would be a similar increase in SES compensation. However, because of the Federal deficit, it was widely felt that it was not likely that agencies would be given additional monies to fund any SES pay increases, a fear that led to the speculation about agencies making wholesale reductions in SES pay levels in order to save money.

The legislation proposed in response to that speculation barred the U.S. Office of Personnel Management (OPM) from establishing any rule allowing factors other than performance to *be* considered in the setting or adjusting of SES pay levels.' It also limited agencies' ability to lower SES pay levels except for poor performance or misconduct. While the legislation was not enacted, one 1990 appropriations provision incorporated the following limited restriction on the SES pay flexibilities: "[n]one of the funds in this Act may be used to reduce the rank or rate of pay of a career appointee in the Senior Executive Service upon reassignment or transfer.'"

In this report, the U.S. Merit Systems Protection Board examines how agencies have used the discretionary pay-establishing and reassignment authorities given to them by the CSRA. Our purpose is to provide a useful context within which agencies and Congress can make decisions concerning the future administration of the Senior Executive Service.[4] This analysis should be particularly useful in the deliberations on whether to limit discretionary pay-establishing authorities and the current debate on whether agencies are properly using their SES reassignment flexibilities.

'Treasury, Postal Service and General Government Appropriations Act, 1990, H.R. 2989, *sec.* 622, 101st Cong., 1st sess. (1989).

[2]In a memorandum dated Jan. 19, 1989, the Director of OPM, responding to the same speculation, had previously advised agency and department heads to fully implement the increases rather than attempting to effect *minor* budgetary savings at *the* expense of SES morale.

[3] Treasury, Postal Service and General Government Appropriations Act, 1990, Public Law 101-136, sec. 625(c), 103 Stat. 783, 823 (1989).

'This report presents data derived from the responses to (1) a set of questions ("interrogatories") MSPB sent to the 26 executive branch agencies employing 50 or more senior executives (a list of those agencies together with their population of career and noncareer senior executives is set forth in the appendix), and (2) another set of questions we sent to OPM. Of the 26 agencies, 25 responded (the Office of Management and Budget did not reply). The responding agencies employ 91 percent of the Government's senior executives (career and noncareer).

BACKGROUND

Key CSRA Features Affecting SES Pay and Reassignments

The 1978 Civil Service Reform Act exempted Senior Executive Service positions from coverage by the Government's classification laws. Generally, in the civil service, classification is used to determine employees' base pay. Statutes describe the complexity and degrees of difficulty of positions to be assigned to each General Schedule (GS) level. Using standards derived from those statutory descriptions as a measurement tool, position classification specialists analyze the duties and responsibilities of positions in order to determine at which grade the positions should be classified. Most of the Senior Executive Service positions had been classified at grade levels 16 through 18 under the General Schedule and had been known as "supergrade" positions.

The elimination of grade distinctions in the SES was a key feature of the new Service. As explained below, a major impetus for their elimination was the difficulty grade distinctions had caused agency officials who wanted to move supergrade personnel to different positions. Officials could not simply place a supergrade into a different position. If the new position was at a higher grade than the current position, moving the supergrade would be a promotion and the agency would have to allow for competition. If the grade was lower, the action would be a demotion which the supergrade could appeal. Even if the grade was the same, prior approval of the Civil Service Commission, which administered the supergrade authorities, was still required to ensure that qualifications standards were met. And, agencies had to ensure that the reassignment did not adversely affect the supergrade's status. A loss in status was perceived as a reduction in rank, which was an appealable action prior to passage of the Reform Act.

In discussing the problems caused by these limitations on management's ability to move executives to different jobs, the Senate Committee on Governmental Affairs, reporting on the Reform Act, said the "current rank-in-position system of classifying jobs limits rotation and reassignment opportunities for career employees and prevents the best use of executive talent."[5] Therefore, to enable management to reassign top executives more freely, the CSRA eliminated classification distinctions in the SES. In addition, it removed reductions in rank--perceived and actual--from the category of appealable actions for all Federal employees. Indicating the importance of these changes to the SES, one of the 14 statutory objectives for SES administration is that the new Service is to be administered so as "to enable the head of an agency to reassign senior executives to best accomplish the agency's mission."[6]

While grade distinctions were eliminated by the CSRA, pay distinctions were not. Supergrades were compensated at any of 15 different pay levels. Movement through the various pay steps at the GS-16 and GS-17 levels was primarily based on longevity (there was only one step at the GS-18 level) and, even when compensation changed as a result of a promotion, the new pay level was determined by established rules. The Reform Act reduces the number of pay levels and provides that SES members are to be paid at any of at least five different basic pay levels, and, from the beginning, the Service has been divided into six pay levels, ES-1 through ES-6. In addition, because pay flexibility was another major feature of the new Senior Executive Service, agencies were given broad discretionary authority to set and adjust individual rates of pay in the SES.

[5] "Legislative History of the Civil Service Reform Act of 1978," House Committee on Post Office and Civil Service, Committee Print No. 96-2, 96th Cong., 1st sess. (1979), p. 1474.

[6] 5 U.S.C. 3131.

The discretion granted to agency heads was subject to several minimal statutory limitations. The pay level of a charter member could not be less than the member's most recent pre-SES Federal salary. A senior executive's pay level could be adjusted only once a year. Also, a career senior executive's pay level could not be lowered without 15 days' notice of the impending action being provided to the executive. Otherwise, the law freed appointing authorities to set and adjust SES salaries as they saw fit, unless OPM established controlling criteria restricting that discretionary authority. And, with one exception, OPM has elected not to restrict the pay flexibilities granted to appointing authorities. The only regulatory limitation OPM has established precludes agencies from lowering a senior executive's compensation by more than one pay level in any 12-month period.' OPM has, however, in an Operations Handbook for the Senior Executive Service, issued guidance to agencies offering nonbinding advice on how the pay flexibilities *contained* in the Reform Act might be used.8

Is the SES a Rank-in-Person System?

Because of the pay flexibility built into the SES and the elimination of grades in the Service, it is very commonly said that the SES is a rank-in-person system. However, the words "rank in person" are not contained in the Civil Service Reform Act or its legislative history. Moreover, they have never been used in any SES-related rule or regulation promulgated by OPM.

It is important that the SES be characterized accurately in the current debate concerning changes to the SES pay-setting and reassignment authorities. Therefore, it should be useful if we look at the rank-in-person question at more length, noting first that the pay system and single "grade" structure utilized in the SES are not consistent with the generally assumed definition of the phrase "rank in person." While the phrase does not have a single meaning, it generally refers to a system that uses multiple pay and grade levels and that bases pay and grade solely upon the employee's qualifications and performance. Additionally, "rank in person" connotes a system that does not base pay and grade determinations on the duties and responsibilities of the particular position.

The reason these definitions don't apply to the SES is that there are no "grades" in the SES except that of "senior executive." All senior executives are members of an ungraded system, although they are not necessarily at the same pay level. No matter how many additional qualifications an employee acquires, and no matter how well the employee performs, the employee's senior executive status remains the same.

Moreover, there is nothing in the CSRA that requires qualifications and performance to be considered in the setting or adjusting of SES pay levels. In fact, OPM advises agencies to consider a wide range of factors in setting and adjusting SES pay levels. In addition to performance and qualifications, OPM advises agencies to consider the "appropriate" distribution of senior executives among the SES pay rates and such elements as "the scarcity of qualified personnel, pay for comparable private sector personnel, and geographic location, as well as the duties and responsibilities of the executive's position and its organizational location.'"

Rank in person system thus is a misnomer when applied to the SES. It is more appropriate to say that the SES is an ungraded system which allows management a comparatively free hand to place executives in the positions in which they are needed. And it is more appropriate to say that in the SES an executive's pay level is not necessarily determined by his or her duties and responsibilities because management has been given broad discretionary authorities to consider a wide range of factors when setting and adjusting individual rates of pay."

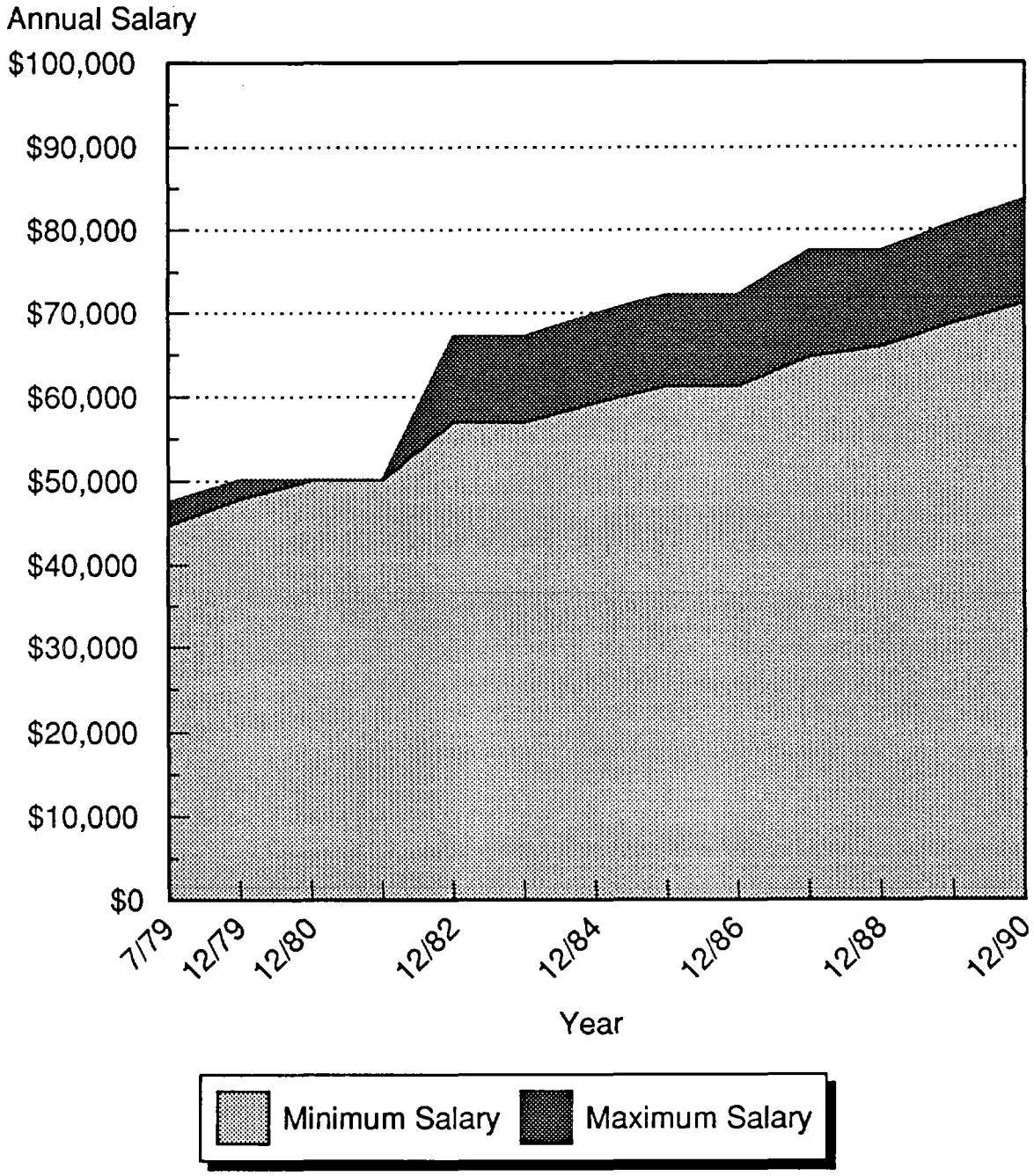
'5 CFR 534.401.

'Operations Handbook for the Senior Executive Service, Subchapter S6, "Pay," FPM Supplement 920-1, October 1989 (hereinafter termed Handbook).

'Handbook, p. 6-3.

[10] Possible operation of the SES as a true rank-in-person system is discussed near the end *of* this report.

Figure 1. Minimum and Maximum SES Salaries, by Year



Note: These figures do not reflect the higher pre-1982 salaries of those who had held Executive Level IV positions. Nor do they include those pre-1982 retroactive revisions that were court ordered in 1984.

HOW AGENCIES HAVE USED THE SES PAY FLEXIBILITIES

Governmentwide Use of the SES Pay Flexibilities

Agencies have not made the maximum use of their SES pay flexibilities nor have they routinely considered most of the factors suggested by OPM in setting and adjusting the base pay of senior executives. In part, this is because there has never been a significant monetary difference between the minimum and maximum salaries for ES levels. In fact, because of appropriations restrictions, there was a 15-month period in 1980 and 1981 when the highest and lowest payable SES salaries were identical. Figure 1 shows the narrowness of the range between the allowable minimum and maximum SES pay levels over time.

In 1979, the formula for setting SES salaries, when coupled with a pay freeze imposed by Congress, effectively limited the permissible difference between the minimum and maximum salaries for all but a few members of the SES to $2,744.[11] While the difference has increased over time, there is still a compressed pay range in the SES and the difference between the minimum and maximum, in 1990, is limited to $12,400. In January 1991, however, the range will be enlarged and the permissible difference is expected to increase to $21,300.[12]

In addition, agencies have not set initial pay rates at the ES-1 and ES-2 levels for many senior executives because the pre-SES salary of most new appointees exceeded those pay rates. When the SES was created, incumbents of SES-designated positions were guaranteed that their salaries would not be lowered as a result of their conversion to SES. Pay *freezes* had crowded most supergrades at the maximum payable GS rate. Therefore, when 98 percent (6,836) of the eligible supergrades and Presidential appointees converted to SES status, 90 percent of them were already receiving salaries equal to the highest payable ES rate, which was $47,500.[13] Because of pay compression, that was the payable amount at ES levels 3 through 6; thus, so their previous salaries could be matched, 90 percent of the initial group of senior executives entered the SES at the ES-3 level or above.

And, while agencies were not required to do so, in response to MSPB interrogatories, they indicated that they have also set the pay rate for most subsequent SES appointees at the ES-3 level or above in order to match previous salaries. Appointees' pre-SES salaries frequently exceeded the ES-1 and ES-2 levels because maximum salaries payable at the GS-15 level under the General Schedule were greater than minimum SES salaries and most new appointees entered the SES from General Schedule positions."

"The Reform Act provided that the lowest pay rate, ES-I, could not be lower than the minimum rate of basic pay for a GS-16 employee. When the SES became operational in July 1979, the minimum rate of GS-16 pay was $44,756. ES-1 was set at that amount. The Reform Act also prohibited any ES level from exceeding the basic rate of pay for level IV executive appointees. Executive Level IV positions--e.g., General Counsels or Assistant Secretaries at some executive agencies--are now generally positions filled by the President with the advice and consent of the Senate. The Executive Level IV positions which, prior to 1979, did not need Senate confirmation were transferred into the SES by the Reform Act. In July 1979, the pay level for an Executive Schedule Level IV Presidential appointee was $50,000. Those transferring to the SES directly from Executive Level IV positions could receive that amount. The pay freeze limited all others to a maximum SES salary of $47,500.

[11] Legislation has been enacted under which Executive Level IV compensation will rise to over $100,000 in January 1991. The President can, at that time, establish new SES pay rates by Executive order. Based upon an attachment to the Alternative Plan for the General Schedule, submitted to Congress on Aug. 24, 1990, the President has indicated that he expects to set the ES-1 level at $87,000 and the ES-6 level at $108,300 in January 1991.

" ES rates exceeding that amount had been established by the President but could not be paid because of appropriations restrictions. " Unless a Presidential certification allows a different percentage, 70 percent of authorized SES positions governmentwide must be filled by civil service employees with at least 5 years of current continuous service. 5 U.S.C. 3392.

Moreover, agencies have voluntarily adopted policies which limit the availability of the ES-5 and ES-6 pay rates to a small percentage of senior executives or to executives occupying positions at the top of agency organizational charts." These policies have made it practically impossible for most senior executives, regardless of their performance or any other nonhierarchical factor, to be considered for upward pay adjustments beyond the ES-4 level.

In sum, it is accurate to say that most agencies have followed OPM's advice and adopted policies which provide for the consideration of a wide range of OPM-recommended factors when setting and adjusting SES pay rates. However, in actuality, matching previous pay has been the most important factor considered when initial rates of pay are set. This is because of the small difference between the highest and lowest SES pay rates coupled with the fact that the highest General Schedule salary at the GS-15 level has always exceeded that of the ES-2 level. And, even though all reporting agencies indicated that their policy is to consider performance in adjusting pay rates, pay or position management considerations have become the most important factor in adjusting pay rates. This is because most executives are already at a high ES level and most agencies have placed constraints on the use of the two highest ES levels.

Comparisons in the Use of the SES Pay Flexibilities

There have been differences in agency usage of the SES pay flexibilities which will be of particular interest to senior executives and those who administer the Service. This section details some of those differences, focusing on how career and noncareer executives are distributed among the six SES pay rates and on how agencies have set and adjusted individual rates of pay.

Pay Rate Distribution in the Career and Noncareer SES

OPM strongly recommends, in the Handbook for the Senior Executive Service, that agencies distribute pay rates so that the greatest concentration of senior executives is near the middle of the pay scale. Specifically, OPM suggests the following rate distribution:

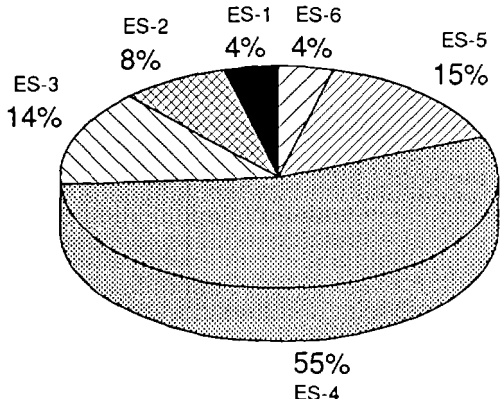
Percentage of all senior executives to be paid at each ES level--

6-12%	ES-1
6-12%	ES-2
25-45%	ES-3
25-45%	ES-4
5-12%	ES-5

FS-A

Figure 2. Percentage Distribution of Career SES, by Pay Level

(September 30, 1989)



[5] Only two agencies reported that they had no such policy; the Department of Education, where 19 percent of the senior executives are compensated at the ES-5 and ES-6 levels (as of Sept. 30, 1989), and the General Services Administration, where 26 percent of the senior executives are compensated at those levels.

TABLE--PAY RATES OF CAREER SES MEMBERS, BY AGENCY*

*26 AGENCIES EMPLOYING
THE MOST SENIOR EXECUTIVES

NUMBER OF CAREER SES

AGENCY	**% AT PAY RATES** ES 4-6	ES-1	ES-2	ES-3	ES-4	ES-5	ES-6	TOTAL 9/30/89
NLRB	96%	0	0	2	14	39	2	57
ARMY	91%	2	12	13	235	45	11	318
TRANSPORTATION	90%	9	4	21	232	55	6	327
NSF	88%	1	4	6	53	17	12	93
NASA	85%	11	16	45	266	122	39	499
GSA	82%	2	4	11	53	15	11	96
ENERGY	81%	9	21	44	272	48	9	403
STATE	81%	7	3	7	59	12	0	88
INTERIOR	80%	7	10	28	115	52	14	226
SEC	80%	5	3	2	24	9	7	50
SEC. OF DEFENSE	78%	5	21	33	157	44	13	273
LABOR	76%	9	14	13	97	15	2	150
AIR FORCE	75%	13	13	21	129	8	4	188
HUD	73%	1	9	11	45	12	1	79
JUSTICE	73%	10	17	27	128	17	8	207
NAVY	73%	21	30	65	263	52	10	441
NRC	72%	6	15	38	84	43	27	213
COMMERCE	69%	15	24	66	170	69	5	349
HHS	69%	22	52	87	305	43	5	514
VA	69%	13	31	43	169	27	4	287
AGRICULTURE	68%	14	29	50	115	72	11	291
OPM	66%	1	4	10	16	10	4	45
EDUCATION	61%	10	8	3	22	8	3	54
TREASURY	54%	40	62	116	244	13	4	479
EPA	53%	16	20	72	89	30	5	232
OMB	50%	8	14	11	25	8	0	66

Note: Full agency names are set forth in app. 1.

Even though pay distinctions were limited or, at times, nonexistent, most agencies have roughly complied with this rate distribution guidance. Figure 2 shows the actual rate distribution for career senior executives in the SES as of September 30, 1989.

As figure 2 shows, 74 percent of career senior executives Governmentwide are compensated at the ES-4 through ES-6 levels. However, the table shows that the rate distribution varies greatly among agencies which employ 50 or more senior executives (the agencies MSPB surveyed for this study). For example, only 50 percent of career executives at the Office of Management and Budget, 53 percent at the Environmental Protection Agency, and 54 percent at the Department of the Treasury are compensated at ES-4, ES-5, or ES-6 pay rates. But, 90 percent or more of the career executives at the Department of the Army, the National Labor Relations Board, and the Department of Transportation are. Even more striking, 96 percent of the career executives at the National Labor Relations Board are compensated at the ES-4, ES-5, or ES-6 pay level.

Disparities also exist among agencies when each of the three highest SES pay levels are considered separately. Among the agencies listed in the table, the Department of the Army pays the greatest percentage of its career executives at the ES-4 level (75 percent), and the National Labor Relations Board pays the lowest percentage (25 percent). At 25 of the agencies which employ 50 or more senior executives, the percentage of career executives at the ES-5 pay rate ranges from 3 percent (Department of the Treasury) to 24 percent (Department of Agriculture and NASA). However, the 26th agency–the National Labor Relations Board–compensates the majority (68 percent) of its career executives at that level. And, at the Nuclear Regulatory Commission, 13 percent of the career executives are compensated at the ES-6 level while none are at the Office of Management and Budget and only 1 percent are at the Department of Health and Human Services. However, because monetary differences between the six SES pay levels have not, to date, been significant, dissimilarities in how agencies have distributed their career executives through the SES pay levels have had only a modest effect on the earnings of career executives. But if, as anticipated, the salaries at each of the pay levels are increased in 1991, so that the difference between the highest and lowest ES levels exceeds $20,000 (with a $5,200 difference between the ES-3 and ES-4 levels), this will no longer be true.

Seven percent of the SES, as of September 30, 1989, were noncareer executives, and their pay rate distribution differs from that of career executives. Specifically, noncareer executives are more proportionally divided among the six pay levels. Figure 3 shows the fairly even pay rate distribution of noncareer senior executives.

Figure 3. Percentage Distribution of Noncareer SES, by Pay Level

(September 30, 1989)

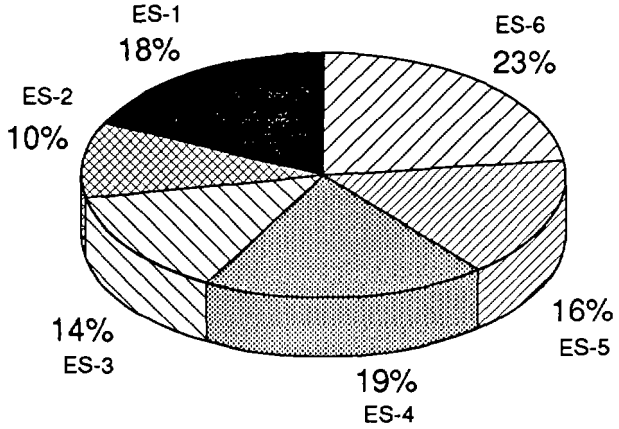


Figure 4. Percent of Each SES Pay Level Filled By Career and Noncareer Executives

(September 30, 1989)

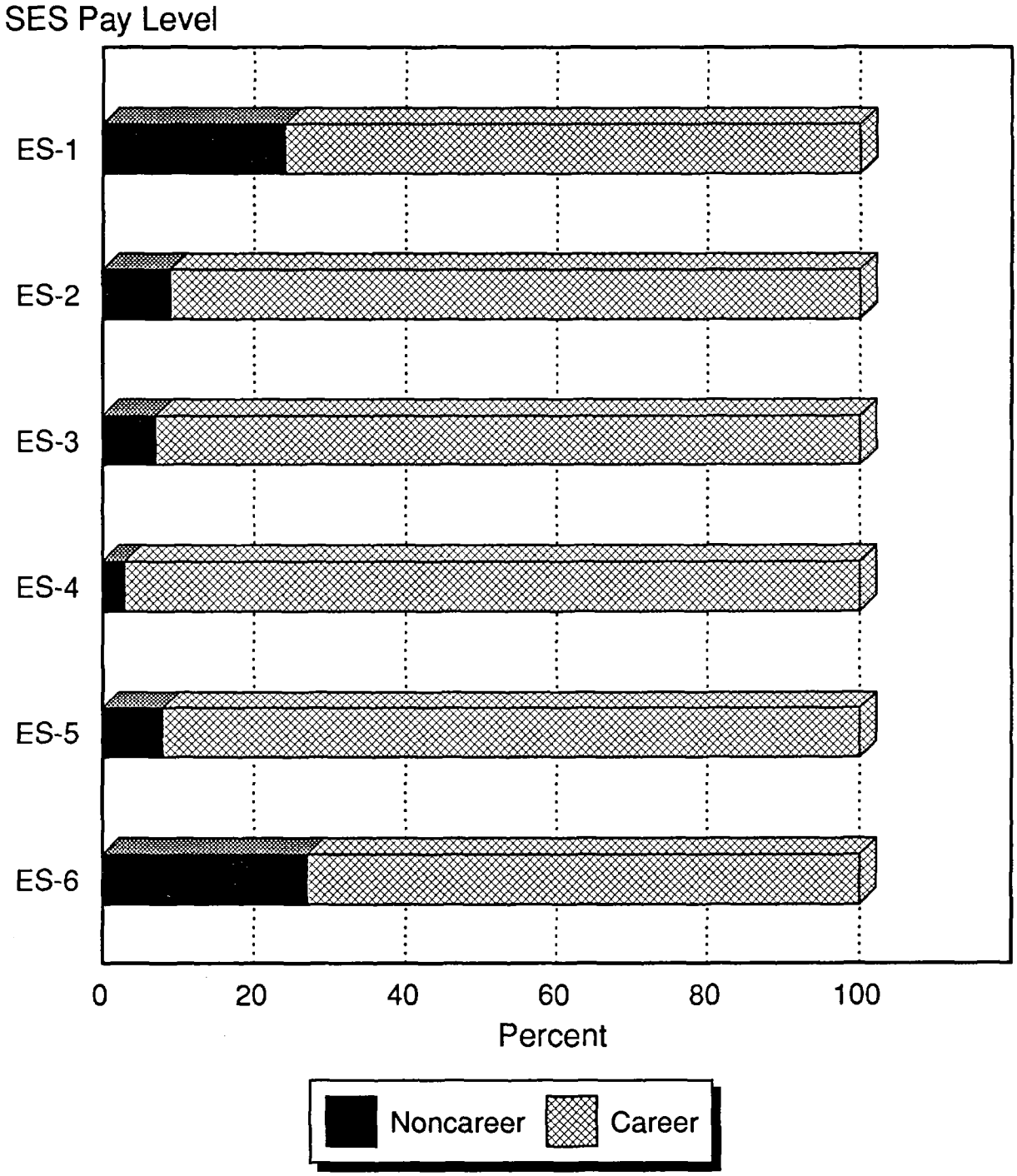


Figure 4 shows that noncareerists represent a significantly higher percentage of the total number of executives at the highest and lowest pay rates (e.g., 24 percent of all executives at the ES-1 level are noncareerists). This is in part a function of the uneven distribution of career executives among the pay levels. The 119 noncareer executives compensated at the ES-6 level constitute 27 percent of the total number of senior executives at that pay rate only because a mere 4 percent of the career executives are compensated at that level. The similar number of noncareer executives compensated at the ES-4 level (102) constitutes jus 3 percent of the total number of executives at that level because there are 3,664 (55 percent) career executives paid at that rate.16

Differences among the reporting agencies in the percentages of noncareer executives at each pay level are not significant because there are so few noncareer executives at many of those agencies. For example, there is only 1 noncareer executive at the Nuclear Regulatory Commission, and 6 of the 26 agencies which employ the most senior executives (Department of the Air Force, NASA, Department of the Navy, National Labor Relations Board, National Science Foundation, and Securities and Exchange Commission) employ 5 or fewer noncareer executives. Noncareer executives are proportionally divided among the six pay levels at the Department of Commerce, which employs the most noncareer executives (57) in Government, and at each of the four other agencies which employ 35 or more noncareer executives--Department of Agriculture (38), Department of Health and Human Services (37), Department of the Interior (36), and Department of Justice (35).

Procedures for Setting and Adjusting SES Pay

Some heads of agencies have reserved the authority to set initial rates of pay in the SES. However, 11 agencies report the complete or partial delegation of this authority. Four agency heads have delegated it to their Executive Resources Board for all appointees to the SES (the Departments of the Air Force, the Interior, and State and the Securities and Exchange Commission). At some agencies, initial pay-setting authority for all SES positions has been delegated to the occupants of specific positions--i.e., Assistant Secretaries at the Department of Agriculture, the Deputy Director and the Chairman of the Executive Resources Board at the National Science Foundation, and appointing authorities at the Department of the Army. At others, the authority to set initial pay has been delegated only for appointees to be compensated at the ES-4 level or below. This limited authority has been delegated to appointing authorities at the Department of Commerce, to Center Directors at NASA, and to Bureau Heads at the Department of the Treasury.

Some heads of agencies have also reserved the authority to adjust rates of pay in the SES. However, 11 of the reporting agencies said the authority to adjust pay rates has been delegated, either partially or completely, at their agencies. The authority for adjustments to all ES levels has been delegated to Executive Resources Boards at the National Science Foundation and the Departments of the Army, the Interior, and State; to the Assistant Secretary for Administration at the Department of Commerce; and to the Under Secretary at the Department of Education. At other agencies, it has been delegated only for adjustments at specific ES levels. It has been delegated for adjustments up to the ES-5 level at NASA and for adjustments up to the ES-4 level at the Department of the Treasury. At the Department of Transportation, the delegation of the authority to make adjustments up to the ES-5 level extends only to adjustments to career executives' pay.

The National Labor Relations Board and the Department of Labor have incorporated unique features into their pay level adjustment provisions. At the National Labor Relations Board, where pay ranges have been established for each SES position, ES-3 is the lowest pay rate established for any positions. In fact, no senior executive at the National Labor Relations Board is currently compensated below that level. In addition, the Board has incorporated longevity increase concepts into its SES pay rate administration by

"In comparing the pay rates of career and noncareer executives, it should be remembered that the total compensation of career executives can be significantly higher than the total compensation of noncareer executives paid at the same ES level because career executives can receive performance bonuses and Presidential rank awards and noncareer executives cannot.

establishing what the pay rates should be after incumbents have held their positions for 2, 4, and 6 years.

At the Department of Labor, recommendations for pay level adjustments are only considered as part of a comprehensive set of annual compensation plans that the Department of Labor's agency heads submit for Performance Review Board review and Secretarial approval. These plans are submitted after all senior executives in the agency have had their performance appraised, so the plans can not only reflect individual performance but also be consistent with overall performance appraisal results *for* the agency. The plans contain prioritized recommendations for pay level adjustments, as well as bonus and rank award recommendations where applicable, for all of the senior executives under the supervision of the head of a Department of Labor component agency. The plans also contain backup recommendations in case initial recommendations are not approved. Additionally, they contain contingency recommendations because of the Department of Labor's policy that career executives can be nominated for several forms of monetary recognition but can only receive one (i.e., a pay rate adjustment or a bonus or a rank award) in any calendar year.

SES Rate Adjustments, 1988 and 1989

In addition to setting ES levels for entrants into the SES, the reporting agencies made more than 1,500 upward SES pay level adjustments during calendar years 1988 and 1989, compared with only 5 downward pay adjustments. Of the five downward adjustments, two *occurred* at the General Services Administration and one each at the Departments of Justice, the Navy, and Veterans Affairs. None of them were for performance reasons. The General Services Administration reported that it lowered the rate of pay for two of its senior executives because of a "realignment of managerial positions relative to responsibilities assigned and the level of work performed." The Department of Veterans Affairs reported that it lowered the rate of pay of one senior executive, with an outstanding rating, because the executive transferred to a position with less responsibility. At the Department of the Navy, the senior executive whose rate of pay was lowered also had an outstanding rating. He had received a voluntary reassignment to a position which the Department of the Navy described as being lower in stature. At the Department of Justice, the downward rate adjustment was made when the executive sought voluntary reassignment.

During 1988 and 1989, senior executives at the following agencies were least likely to *receive* an upward adjustment: General Services Administration--one upward pay rate adjustment during the 2-year period for every 12 senior executives; and NASA and the Departments of Commerce and Education--1 for every 11 senior executives.

During the same period, senior executives at the following agencies were the most likely to receive upward rate adjustments: the Office of Personnel Management--one upward adjustment for every 3.3 senior executives; and the Nuclear Regulatory Commission and the Department of Housing and Urban Development--one for every five senior executives. In general, senior executives at agencies which set compensation for new appointees at the lowest rates had the greatest chance of receiving an upward pay adjustment during the 2-year period.

Limits exist on the number of ES-5 and ES-6 pay rates that most of the reporting agencies will authorize. In the military departments, no more than 22 percent of senior executives can be awarded ES-5 and ES-6 rates. Other reporting agencies do not use numerical limits but have policies under which those levels can be granted only to senior executives occupying their "top," "most senior," or "significant" positions at the "highest organizational levels" (Departments of Energy, the Interior, and Veterans Affairs and the National Science Foundation). Some reporting agencies take a "conservative view" to granting those pay rates (Department of Justice) or follow the OPM guidance limiting the percentage of executives at those levels (Department of Health and Human Services).

In addition, seven of the reporting agencies have limited the availability of ES-5 and ES-6 pay rates by incorporating hierarchical concepts explicitly into their SES pay administration policies. Each of those agencies--the Environmental Protection Agency, the Department of Housing and Urban Development, NASA, the National Labor Relations Board, OPM, the Securities and Exchange Commission, and the Department of Transportation--assign different ranges of permissible pay rates to SES positions depending upon how high up they are on the agency's organizational chart.

The Department of Transportation has a more detailed rate distribution policy than any other reporting agency. SES positions there are "designated" into four groups based on their organizational level and the significance of their assigned responsibilities. The Department of Transportation Personnel Manual identifies the positions at each of the designations and provides a full performance pay rate range for each designation. For example, the highest designation, "Level A," is limited to Administrators, Assistant Secretaries, and Deputy Administrators. Its pay range is ES-5 to ES-6. The lowest designation, "Level D," consists of Assistant Division Chiefs, Technical Advisors, and Regional Representatives. Its pay range is ES-1 to ES-3. The manual contains a chart depicting the normal relationship between performance ratings and pay rates for each of the four designations. It provides, for example, that Level D senior executives compensated at the ES-1 level should be awarded adjustments to the ES-2 level for Fully Successful ratings and to the ES-3 level for Outstanding ratings. The fact that most senior executives have entered the SES at the ES-3 level or above has, however, often made these manual provisions superfluous.

HOW AGENCIES HAVE USED THE SES REASSIGNMENT FLEXIBILITIES

It was expected that the CSRA's elimination of grade distinctions and reduction-in-rank appeals would lead to a marked increase in agency reassignments of top officials. However, no marked increase appears to have occurred, although differences in record-keeping methods make direct comparisons between supergrade movement and SES reassignments impossible."

Even though the rate of reassignments for top officials may not be significantly greater now than before passage of the Reform Act, approximately 10,000 SES reassignments have occurred since that Act was passed. And, agencies have been able to effect each of them without having to obtain prior approval from a central personnel agency and without initiating promotion or demotion proceedings. To that degree, the reassignment flexibilities have been a successful innovation. Making it easy for agencies to move their top executives to different positions--a major goal of the Civil Service Reform Act--has been accomplished simply by eliminating impediments that had made such moves difficult.

It is less clear that the more important objective of improving the administration of Government–by making it easy to reassign senior officials--has also been achieved. Giving management virtually unfettered discretion to place senior employees where they are most needed should logically have enabled management to improve the administration of Government. However, the Nation's senior executives appear to believe that this objective is not being met. In response to the Board's most recent survey of Federal employees, only 32 percent of the senior executives felt that agencies were successfully using the SES reassignment flexibilities to help

17In "A Profile of the Senior Executive Service," June 1989, p. E-1, OPM reports that the yearly average percentage of reassignments of top officials within an agency has risen from 7.5 percent before passage of the CSRA to 14.1 percent after passage. However, OPM's pre-Reform Act percentage figure does not include supergrade promotions and its post-Reform Act figure indudes some position redescriptions which were not actual reassignments to new positions. (Such redescriptions accounted for approximately 10 percent of the SES reassignments during 1988 and 1989 based upon agency responses.) *In* addition, OPM reports that the percentage of transfers between agencies has actually declined slightly (from 1.5 to 1.3 percent).

them accomplish their missions (32 percent felt they were not being successfully used and 20 percent believed they were being used neither successfully or unsuccessfully).[18]

In addition, other MSPB survey data lead us to conclude that most agencies are not sufficiently using their reassignment flexibilities to reduce the serious problem of job dissatisfaction in the SES.19 A recent survey of former senior executives who left the Service during 1983-88 revealed that more than 40 percent of respondents had left, in part, because they didn't enjoy their work and/or because their skills were not being used appropriately.2[0] MSPB has urged agencies to combat SES job dissatisfaction by creating senior executive career plans which stress the development and growth, through training and assignments, of each executive, and we reiterate here the importance of such efforts.

Two agencies have undertaken to use their reassignment flexibilities this way by encouraging the use of voluntary reassignments to enhance careers. The Nuclear Regulatory Commission has an Executive Leadership Development Program designed to enhance the knowledge, skills, and abilities of senior executives, and to prepare them for other leadership positions in the Commission. The program emphasizes rotational assignments, cutting across organizational and geographical lines, as part of an executive's development.

The Environmental Protection Agency prepares Individual Development Plans for all career senior executives, and executives are encouraged to accept rotational developmental assignments of several months' duration early in their SES careers.[21] In addition, this agency surveys senior executives to identify those interested in voluntary reassignments and, prior to posting SES positions, provides selecting officials with biographical data regarding interested senior executives. The Environmental Protection Agency has also used special SES mobility announcements in order to give their own senior executives the opportunity to be considered before all others for vacant SES positions.

In summary, the CSRA's reassignment flexibilities have allowed agencies to order thousands of SES reassignments in an unfettered fashion. Whether these flexibilities have also led to improved administration of Government, however, remains an open question. And, agencies have made only a limited use of these flexibilities for career development purposes or to fight SES job dissatisfaction.

18U.S. Merit Systems Protection Board, "Working for America: A Federal Employee Survey," June 1990, p. 23.

[19] There was, originally, considerable apprehension that SES dissatisfaction would be caused by agencies using their new reassignment flexibilities to order unwanted geographic reassignments. The possibility of unwanted geographic reassignments does not appear to have become a major source of dissatisfaction despite the fact that geographic reassignments occur at the approximate annual rate of 1 for every 50 executives and despite the fact that approximately 1,500 SES geographic reassignments have occurred since passage of the Reform *Act. However, unwanted* geographic reassignments were still a matter of concern for 14 percent of the respondents to a 1988 MSPB survey of former senior executives. They listed the possibility of such reassignments as one of their reasons for leaving the Service. U.S. Merit Systems Protection Board, "The Senior Executive Service: Views of Former Federal Executives," October 1989, p. 30.

[20] US. Merit Systems Protection Board, "The Senior Executive Service: Views of Former Federal Executives," October 1989, p. 25.

[21] Three agencies have experimented with mandatory rotation programs. (For general information see the U.S. Government Accounting Office, "Senior Executive Service: Agencies with a Senior Executive Rotation Program," December 1986.) The Department of the Interior's program operated for just 10 months before it was eliminated by a new Secretary. The Department of the Navy's program--which lasted more than 4 years--required reassignments of career senior executives every 5 years. There was substantial senior executive dissatisfaction with the program, which was replaced in November 1989 with a policy of encouraging reassignments but only after full consideration *of* executives' *preferences* and personal circumstances. The Defense Contract Audit Agency's program--in place since May 1982--of requiring rotations every 5 to 7 years for regional directors and two of the agency's Assistant Directors was created to prevent conflicts in the agency's conduct of contract audits and to assist the agency in maintaining its professional independence and objectivity.

HOW ELSE MIGHT THE SES BE OPERATED?

This is an appropriate time to consider how else the SES might be operated since the pay raise expected in January 1991 will finally create a meaningful salary range for senior executives. One option is to create a true rank-in-person system in which qualifications and performance are the only determinants of base salary. Under such a rank-in-person system, every senior executive who consistently performed in an outstanding manner would be eligible to receive the maximum SES salary.

However, despite its inherent fairness, this approach entails problems. For one thing, it has the potential of being costly. In 1989, 91 percent of senior executives received performance ratings above Fully Successful. Given such high ratings, it is not unlikely that most senior executives would ultimately be compensated at the highest SES rate if a true rank-in-person system were adopted and no significant changes occurred in the way performances are evaluated.

For another, it has the potential of being considered unfair by senior executives in the most difficult and demanding SES positions. A true rank-in-person system in a single-graded system assumes that all SES positions are equally difficult and demanding--an assumption that many would argue is not well-founded. Some senior executives are deputy or assistant office heads reporting to office heads who are frequently senior executives too. Those senior executive office heads occupy positions which are recognized as being more difficult and entailing greater responsibility and risk than the positions held by their assistants and deputies. In addition, comparably titled SES positions in different agencies are not equally demanding. Senior executives in the most difficult positions with the greatest responsibility, feeling that they should receive the highest salaries, might well see a true rank-in-person system as inequitable.

Furthermore, it is unnecessary to create a true rank-in-person system in order to reward good performance. In addition to providing for upward pay adjustments, the Civil Service Reform Act created two other monetary methods of recognizing outstanding performance. Career executives are eligible for substantial performance bonuses and for Meritorious and Distinguished rank awards While these honors were designed solely to recognize performance, it is possible that they have been used, in part, to make up for the narrowness of the SES salary range. As figures 5 and 6 show, in 1989 there was a relationship between these bonuses/awards and pay rates, with greater percentages of executives at the higher pay rates receiving them.

If crafting a true rank-in-person system poses problems, what about chosing a different option and building a formal grade structure into the SES? This would lead to a system in which compensation, at least for some executives, is based upon the duties and responsibilities of the position. Clearly, such a step would be inconsistent with rank-in-person principles. However, it would not be inconsistent with the current practice of most agencies which have chosen to imbue the existing ES-5 and ES-6 pay rates with classification attributes and to limit the availability of those pay rates to executives at the highest organizational levels.23

[n] In FY 1989, the last year for which reported data are available, 40 percent of career executives received performance bonuses, averaging $5,478; 4.5 percent received Meritorious rank awards of $10,000, and 1 percent received Distinguished rank awards of $20,000.23

Moreover, other rank-in-person systems in the military, State Department, and Department of Veterans Affairs recognize grade distinctions for different covered positions and take position management considerations into account when awarding higher grades. While every military officer can aspire to be a General, statues limit the number of Generals, Majors, etc., who may be appointed at any one time. Similarly, Foreign Service officers compete among themselves for promotions to a limited and predetermined number of senior positions. And, in the Department of Veterans Affairs' Department of Medicine and Surgery, the eligibility of professionals for the highest grades is determined by the difficulty and importance of their positions.

Figure 5. Percent of Career SES Receiving Performance Bonuses in 1989, by SES Pay Level

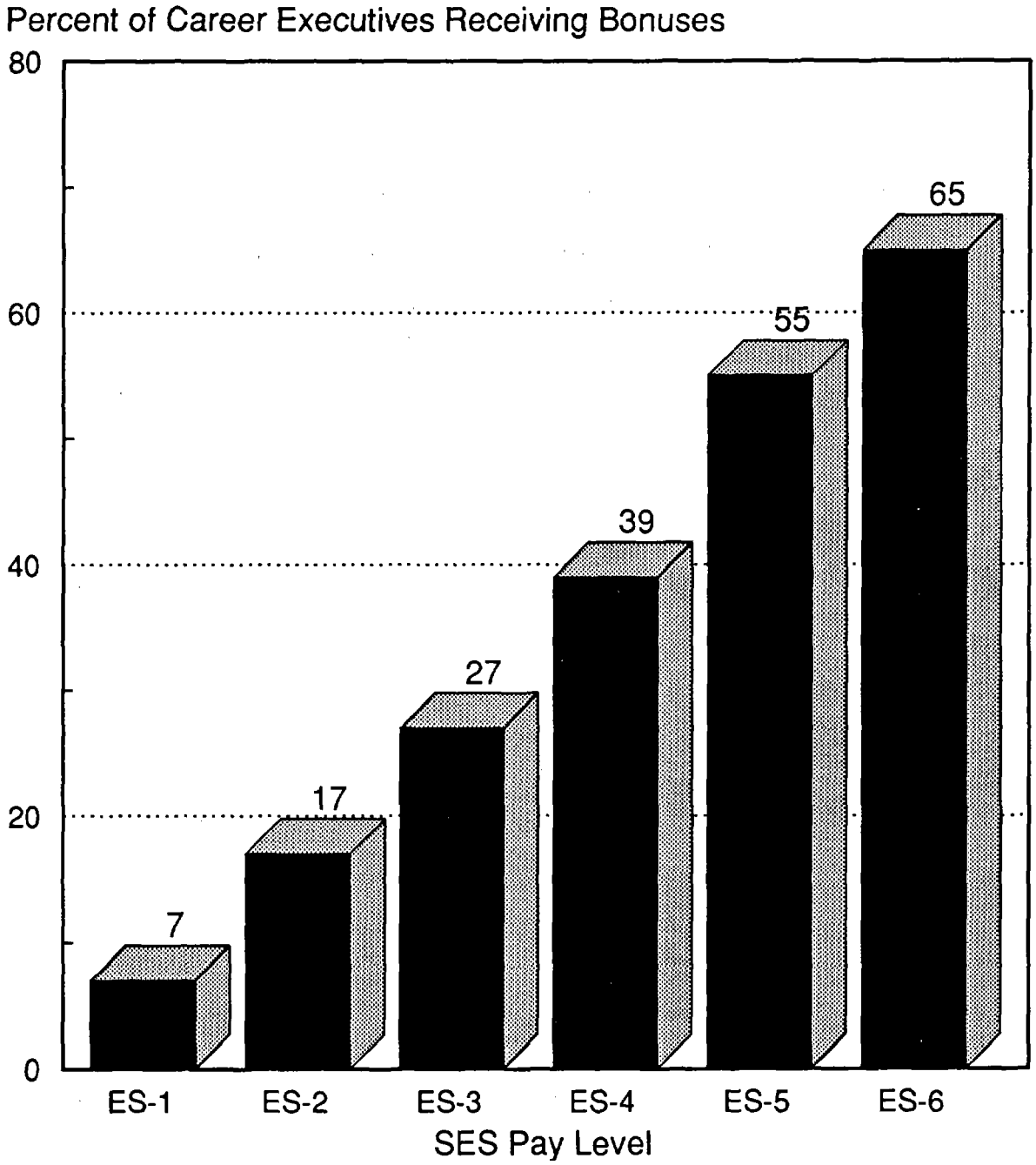
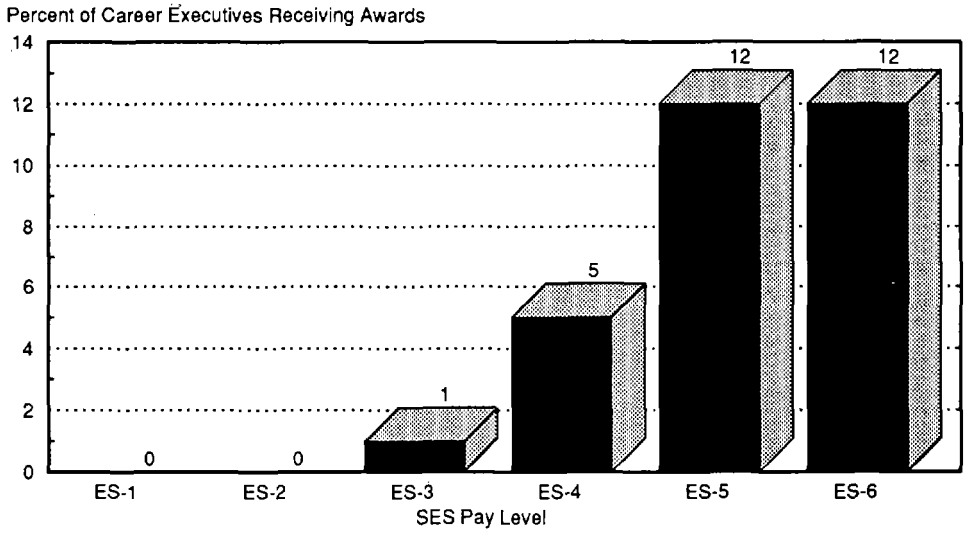


Figure 6. Percent of Career SES Receiving Rank Awards in 1989, by SES Pay Level



But creating SES grades would have an adverse effect, unless other changes were instituted, on agencies' ability to use the CSRA's pay and reassignment flexibilities to improve Government administration. Specifically, limiting the use of these flexibilities would make it more difficult for agencies to use them to fulfill their missions or to attract and retain competent executives. However, it is possible to have a graded SES system which, as a result of other statutory changes, still provides agencies with significant pay and reassignment flexibilities.[24]

USING THE PRESENT SYSTEM TO IMPROVE GOVERNMENT ADMINISTRATION

While it is possible to recraft the SES into a true rank-in-person system or to create a graded SES, it is preferable to keep the current system unchanged for a reasonable period of time under apay situation that provides meaningful distinctions in the six SES pay levels. Retaining the current SES system will give agencies more time to determine if using the existing reassignment and pay flexibilities can be as helpful in improving the administration of Government as the framers of the Civil Service Reform Act hoped.

However, to succeed here, agencies will have to make more effective use of their reassignment flexibilities. They should allow and encourage voluntary SES reassignments for career enhancement purposes, steps that can help agencies achieve their missions while also helping reduce the level of discontent among senior executives who, as a group, serve in what should be the Government's most challenging and satisfying jobs. Agencies should also use reassignments, as well as interagency details and sabbaticals, to improve the skills of senior executives, a benefit that will both improve executives' morale and assist in agency mission accomplishment. In addition, they should use rotational assignments

[24] There are many ways such a system might be set up. Under one model, the SES could have two grades with positions allocated between them based upon classification considerations. In addition, agencies could be authorized to award a limited number of the higher grades based upon performance or longevity factors. Each of the two grades might contain several pay levels, and pay level adjustments could be based upon performance. To allow agencies the discretionary right to transfer executives, promotions could be done without competition, and demotions, with saved pay, would not be appealable.

to prepare at least some senior executives to assume the highest positions in their agencies.25 The SES corps is a pool of managerial and *executive* talent which can and should be regularly tapped by agencies to meet their foreseeable needs. Moreover, OPM should strongly encourage use of the SES as a Governmentwide source of talent by strengthening its SES Mobility Assistance Program.26

If current agency pay flexibilities are retained, OPM should perform periodic analyses of agencies' pay setting and adjusting practices, particularly if the expected 1991 rate increase takes effect. This analysis should look at the consideration agencies give to a range of factors in setting and adjusting SES pay, including performance, expertise brought to the position, qualifications required, scarcity of qualified personnel, pay for comparable private sector personnel, and geographic location of the position, as well as the position's duties and responsibilities and its organ. izational location. Such periodic analysis will also need to examine and report on disparities in pay rate distribution among agencies if the 1991 expected increases occur. The analyses we recommend here will provide a basis for deciding whether the flexibilities have actually been used, for determining whether they have allowed agencies to manage more effectively, and for examining whether they have helped agencies attract and retain senior executives. Moreover, senior executives, who are a highly valuable civil service asset, are entitled to know of disparities in agency SES compensation practices and to comment on their wisdom and effect on SES morale.

In addition, if the existing pay and reassignment system is retained, OPM should continue to issue the cumulative data it is now publishing and should start to publish comparative data on the use of pay and reassignment flexibilities in the Senior Executive Service. OPM's publications on these subjects should be part of an overall plan, which could include lectures and symposia, through which OPM keeps agencies informed of the variety of methods that agencies have adopted to administer the SES. Agencies need this information if they are to make informed choices regarding the most productive ways to use the pay and reassignment flexibilities provided in the current SES system.

25Not every senior executive can or should be groomed for an ever higher position. To begin with, the SES is not a rank-in-person system which includes a large member of junior officers from whom a small number of senior officers will emerge. Senior executives, who comprise barely .003 percent of the Government's white-collar workers, are already the Nation's most senior Federal civilian employees. In addition, many of them, because of their expertise and professional skills, are exactly where they should be to best serve the Government's needs.

26OPM's existing guidance to agencies concerning SES mobility and OPM's placement assistance can be found on pp. 5-3 and 11-5 of the Handbook.

A Report by the U.S. Merit Systems Protection Board

APPENDIX--EXECUTIVE AGENCIES WHICH EMPLOY 50 OR MORE SENIOR EXECUTIVES, AS OF SEPTEMBER 30, 1989

AGENCY	CAREER SES	NONCAREER SES	TOTAL
Department of Health and Human Services	514	37	**551**
Department of Treasury	479	21	**510**
NASA	499	4	**503**
Department of the Navy	441	4	**445**
Department of Energy	403	**22**	**425**
Department of Commerce	349	57	**406**
Department of Transportation	327	27	**354**
Department of Agriculture	291	38	**329**
Department of the Army	318	7	**325**
Office of the Secretary of Defense	273	31	**304**
Department of Veterans Affairs	287	6	**293**
Department of the Interior	226	32	**258**
Environmental Protection Agency	232	16	**248**
Department of Justice	207	35	**242**
Nuclear Regulatory Commission	213	2	**215**
Department of the Air Force	188	5	**193**
Department of Labor	150	15	**165**
General Services Administration	96	22	**118**
Department of State	88	18	**106**
Department of Housing and Urban Development	79	19	**98**
National *Science* Foundation	93	4	**97**
Office of Management and Budget	66	6	**72**
Department of Education	54	13	**67**
National Labor Relations Board	57	3	**60**
Office of Personnel Management	45	8	**53**
Securities and Exchange Commission	50	2	**52**

A Report to the
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Protection Board