



Agency Guidance

Biennial Review Submission for Executive Allocations For FY 2020-2021

April 2019

Background

Every two years, in accordance with 5 U.S.C. § 3133(c), the U.S. Office of Personnel Management (OPM) reviews the request of each agency for SES allocations, in consultation with the Office of Management and Budget (OMB), and authorizes for each of the two subsequent fiscal years a specific number of SES positions for each agency. OPM follows a similar process with respect to agency requests for SL and ST positions and authorizations. This biennial allocation process enables OPM to review organizational missions, plans, and structures, and to assess agencies' effective and efficient use of executive resources.

OPM expects agencies to take a comprehensive review of their current resources in conjunction with the agency's strategic plan and critical needs. As a part of their analysis, they should prioritize their current and requested allocations to the relative contribution to their agency's mission. Agency assessments of allocations should also include a thorough evaluation of current positions to ensure effective utilization of all existing allocations.

The Revised Biennial Review Process

Beginning with the FY 2020-2021 Biennial Cycle, OPM is streamlining the process and incorporating the following changes:

- Simplifying the templates;
- Eliminating the requirement to provide position descriptions, as well as detailed outcomes of each position (position titles will still be required); and
- Eliminating the requirement to prioritize all positions.

While OPM has taken steps to reduce agency burden in requesting allocations, by removing some of the specific position level detail, OPM still requires agencies to address vacancy rates at or above 8 percent. Additionally, OPM now requires agencies to submit requests using the templates provided (available on OMB Max at www.max.gov and issued via the Listserv; see "Submission Templates" section below).

Information Required for FY 2020-2021 Executive Resources Biennial Allocation Process

(1) Initial Written Request for Changes to Allocations

In a memorandum issued December 14, 2018 ("Call for Biennial Review Submission for Executive Allocations for Fiscal Years 2020 and 2021 (Part I)"), OPM required agencies, by December 31, 2018, to submit a written request of its intent to maintain, increase, decrease or otherwise change their established executive resource allocations for FY 2020 and 2021. Due to a lapse in appropriations that occurred December 21, 2018, and the partial government shut-down that ensued, however, OPM accommodated extensions to that deadline on an individual agency basis. Agencies who still have questions about this requirement should contact OPM directly at SERS@opm.gov.

(2) Required Documentation for Requests for Changes to Allocations

Within 60 days of the issuance date of the “Call for Biennial Review Submission for Executive Allocations for Fiscal Years 2020 and 2021 (Part II)” memorandum, each agency must provide a written request, along with associated rationale, using the templates provided (see below for additional information on completing the templates).

Submission Templates

In order to promote consistency and transparency in the submission and review process, these templates are required for agency use. Please utilize the templates that pertain to your request:

- FY 2020-2021 Biennial Review SES/SL/ST Allocations Agency Cover Page (**Required for ALL requests**)
- FY 2020-2021 Biennial Review SES/SL/ST New Allocation Request Template*
- FY 2020-2021 Biennial Review SES/SL/ST Conversion Request Template*
- FY 2020-2021 Biennial Review SES Position Redesignation Template*

** Agencies that encounter specific issues with using these templates should contact OPM directly at SERS@opm.gov.*

Guidance for Completing the Submission Templates

a. Completing the FY 2020-2021 Biennial Review SES/SL/ST Allocations Agency Cover Page.

This form must be completed regardless of what type of allocation request you are making (i.e., a new allocation request, a request to convert an existing allocation, or a request to redesignate an allocation from Career Reserved to General or vice versa). The form addresses four basic topics – the type of change to allocations being requested, the agency’s current number of allocations by type, information about the agency’s vacancy rate for allocations already approved, and budget considerations.

OPM is providing additional information on the following two topics: vacancy rates and funding.

Vacancy Rates:

If an agency is requesting additional allocation(s), OPM expects the agency to first analyze and address why current allocations are not being redeployed to meet critical mission needs before requesting additional allocations. Therefore, agencies should explain, for any rates at or exceeding 8 percent, (1) *how long the allocation has been vacant*, (2) *why it is still vacant*; (3) *if relevant, what steps the agency has taken to fill the vacancy*, and (4) *where in the recruitment process the vacant allocation is*.

Agencies should ensure that their allocations and positions data in the Executive and Schedule C System (ESCS) is current and accurate before submitting their biennial review submission. Even if the agency’s allocations are not changing and the agency will not be submitting a request, OPM

asks that agencies take this opportunity to verify and update agency allocations and positions data in ESCS, as appropriate. Agencies with questions regarding how to address this data should contact OPM at SERS@opm.gov.

Funding

Regarding budgetary and funding considerations, in submitting allocation requests to OPM, agencies should understand that approval of an allocation by OPM does not mean that the associated budget and funding implications have been approved by OMB. Accordingly, OPM requires agencies to certify on the form that the source of funding to support the new or expanded initiative(s) have been or will be addressed with the appropriate offices within the agency, such as human capital, financial, and operational executives.

b. Completing the New Allocation Request Template

Agencies requesting additional resources during the biennial review must provide justification that is based on a comprehensive, agency-wide assessment of their executive resources needs. This assessment should include all vacant allocations and the intent to effectively utilize those allocations to support mission requirements. OPM asks for vacancy rate information both on an aggregate level, on the “Agency Cover Page,” as well as on the individual position or allocation requested because of the importance of this factor in the process.

In deciding whether an SES allocation must be designated as Career Reserved (CR), agencies should review the criteria at CFR 214.401. If an agency finds that the position does not require the elements described at 214.401 (e.g., ensuring the impartiality, or the public’s confidence in the impartiality, of the Government), it may designate the position as General, which may be filled by a career, non-career, or limited appointee, assuming applicable criteria are met, e.g., criteria for an SES limited term or limited emergency appointment. However, a Career Reserved position *must* be filled by a career appointee.

The New Allocation Request Template also requires agencies to submit applicable organizational charts. Charts should be submitted that show all current executive positions as well as the proposed SES, SL, or ST position. They should reflect both the immediate location of the proposed allocation, as well as where it fits in the larger organization.

Finally, in the “justification” block of this form, agencies must specifically identify the underlying rationale for the allocation request. Provide further details relating to the reason(s) selected results in the requirement for a new allocation (i.e., legislative mandate, Executive Order, reclassification, GAO report, new agency mission, program expansion, etc.). Details of the explanations may also include, if appropriate, number of staff supervised, budget amount managed, anticipated outputs and/or outcomes from the new position, and why a current allocation or position cannot be used.

To reinforce our emphasis on the importance of agencies’ responsibility and accountability for their own resource management decisions, we will not make allocation decisions by evaluating positions individually, in terms of classification factors, to determine whether a specific position exceeds the GS-15 level and should be placed in the SES, SL, or ST systems. Rather, each agency is responsible for making its own classification decisions and for conducting an agencywide assessment of its priorities to determine how its pool of SES/SL/ST spaces should be distributed.

See Appendix A for information on identifying and differentiating among SES, SL, and ST positions, as well as references to the associated laws.

c. Completing the Conversion Request Template

As with the request for a new allocation, agencies seeking to convert any of its existing SES, SL, and/or ST allocations must explain the underlying basis for the change, and complete the block for the applicable type of conversion as indicated in the form. For conversions from either SL or ST to the SES, agencies must provide the associated rationale (see instructions on the “justification” block in Section b - Completing the New Allocation Request Template).

d. Completing the Position Redesignation Template

Agencies seeking to change position designations (e.g. Career Reserved (CR) designation to General, or vice versa), should refer to CFR 214.402 for specific criteria and considerations for their analysis. OPM’s primary concerns with respect to position designations is for requests to convert from Career Reserved (CR) designation to General, that agencies (1) maintain the required minimum CR positions (i.e., their “career floor”); and (2) ensure the work of the position does not have responsibilities as described in CFR 214.402 requiring CR designation. For example, certain positions must be filled by a career appointee to ensure impartiality, or the public's confidence in the impartiality, of the Government. Periodically, OPM may review an agency’s designation of an SES allocation to ensure appropriate designation.

The revised biennial review process reduces agency burden and streamlines the process. Additionally, agencies retain their flexibility for position management without having to provide position descriptions and outcomes to OPM. Please feel free to provide input to help OPM continue to improve the process.

If you have any questions or comments, please contact Phyllis Proctor, OPM Biennial Coordinator by telephone at (202) 606-2683 or by e-mail at Phyllis.Proctor@opm.gov and SERS@opm.gov or Tommy Hwang, SERS Manager at Tommy.Hwang@opm.gov.

Appendix A: Identifying SES, SL, and ST Positions

Agencies are responsible for deciding how to organize functions and structure senior positions in the best way to meet mission requirements. This includes deciding whether positions meet the Senior Executive Service (SES), Senior Level (SL), or Scientific and Professional (ST) criteria and establishing positions within authorized allocations.

The law and OPM regulations clearly specify that SES, SL, and ST positions must be classifiable above the GS-15 level. This provides general guidance to help establish cross-Agency consistency in identifying SES, SL, and ST positions.

SES Functional Criteria

The SES was intended to be a corps of executives—not technical experts. The law at 5 U.S.C. 3132(a)(2) sets forth the criteria that characterize SES positions. Determining whether a position meets the criteria for placement in the SES cannot be done mechanically.

The position must be classifiable above GS-15, or equivalent, based on the level of duties, responsibilities, and qualifications required by the job. The Agency needs to evaluate the position as a whole and determine if it functions as a part of the management team, or as an independent advisor or technical expert. In borderline cases, particular attention should be given to the position's qualification requirements and the impact these qualifications have on the position's duties and responsibilities. For example, a staff assistant should be placed in the SES if executive qualifications are critical to successful performance of the position's duties and responsibilities.

Additionally, the incumbent must engage in any of the following five italicized activities. The five activities are followed by clarifying descriptions of what the activity involves.

(1) Directing the work of an organizational unit

- Assessing policy, program, and project feasibility;
- Determining program goals and developing implementation plans;
- Designing an organizational structure to promote effective work accomplishment; and
- Setting effectiveness, efficiency, productivity, and management/internal control standards.

(2) Accountability for the success of a program or project

- Obtaining the resources necessary to accomplish the program or project goals and assuming responsibility for their effective use; and
- Dealing with key officials from within and/or outside the agency to gain understanding and support for the program or project.

(3) Monitoring progress toward organizational goals and making appropriate adjustments to such goals

- Monitoring work status through formal and informal means to evaluate progress toward objectives;

- Assessing overall effectiveness, efficiency, and productivity of the organization; and
- Identifying, diagnosing, and consulting on problem areas related to implementation and goal achievement; and making decisions on alternative courses of action.

(4) Supervising the work of employees

- Meeting minimum requirements for coverage under OPM's *General Schedule Supervisory Guide* (April 1998);
- Requiring accomplishment of work through combined technical and administrative direction of others;
- Constituting a major duty occupying at least 25 percent of the position time; and
- Meeting at least the lowest level of Factor 3 in the *General Schedule Supervisory Guide* based on supervision of non-contractor personnel.

(5) Policy-making or policy-determining functions

- Reviewing staff recommendations on policies developed to affect the organization's mission;
- Considering political, social, economic, technical, and administrative factors with potential impact on recommended policies; and
- Approving policies affecting the organization's mission.

Distinguishing between SES and SL/ST positions

Positions that are classifiable above the GS-15 level, but do not meet the SES functional criteria are placed in the Senior-Level (SL) system in accordance with 5 U.S.C. 3324, or in the Scientific and Professional (ST) system in accordance with 5 U.S.C. 3104, depending on the nature of the work.

Senior-Level Positions (SL)

Positions in the SL system are classified above GS-15, but do not meet the executive criteria characteristic of the SES nor do they involve the fundamental research and development responsibilities that are characteristic of the ST pay system. (Note: Some SL positions meet SES executive criteria in certain Agencies that are excluded from the SES.) SL positions may be in either the competitive or excepted service.

Scientific and Professional Positions (ST)

Positions that are classifiable above the GS-15 level, but do not meet the SES functional criteria are appropriately placed in the ST system if they involve performance of high-level research and development in the physical, biological, medical or engineering sciences, or a closely-related field. All ST positions are in the competitive service.

Research and development positions are characterized by the following features:

- Systematic investigation of theory, experimentation, or simulation of experiments;

- Application of the scientific method including exploring and defining problems, planning the approach and sequence of steps, executing experiments or studies, interpreting findings, and documenting or reporting findings; and
- Exercise of creativity and critical judgment, the variation in which may materially affect the nature of the end product.

The qualifications, stature, and contributions of an individual involved in research and development have a direct and major impact on the level of difficulty and responsibility for the work performed. ST incumbents would be expected to possess a graduate degree, significant research experience, and national or international reputation in their field. Typically, the incumbent of a ST position—

- Has authored fundamental papers in the field of expertise that are widely used and cited;
- Has received significant honors from major organizations for his/her accomplishments and contributions; and
- Is sought as an advisor and consultant on scientific and technological problems that extend beyond his/her specialty.