



**PROLIFERATION OF SENIOR LEVEL PAY SYSTEMS
EQUIVALENT TO THE SES**

POSITIONS PAID ABOVE GS-15 (10)

Introduction: On July 1, 2010, in response to a letter from SEA, OPM Director Berry agreed that “we believe it is important to address the balkanization of systems that cover so many of our Senior positions.” As Director Berry acknowledged, “the fragmentation of senior level positions into a myriad of separate HR systems across Government makes it difficult to manage these positions effectively as a cohesive Governmentwide corps.” SEA has sought information so it could address this problem on a number of occasions:

• **In 1996, OPM advised SEA that at that time, there were 31 Senior Level Pay Plans [paying above GS-15(10)], encompassing 15,019 employees.**

• **In 2010, asked the same question by SEA, OPM advised that as of December 2009, there were 82 Senior Level Pay Plans, encompassing 51,431¹ employees. Fragmentation continues, unabated.**

It is virtually impossible to keep track of these separate systems², though in most cases we have able to determine their dates of origin and numbers of occupants. We have broken them down into six groupings:

I. SES and SES Look-Alikes:

<u>OPM Pay Code</u>	<u>Date of Authoriz., or Implementation</u>	<u># in system 12/09</u>	<u>Name of system, Statutory Basis Features, etc.</u>
1. ES	1979	6563	Senior Executive Service.

¹ In 2010, Congress abolished the National Security Personnel System (NSPS) which encompassed 4277 of these senior level pay plan employees; they were moved back into the GS system and given “retained pay.” Subtracting that number from the 51,431 leaves 47,154, still a 300% increase from 1996.

² *Caveat:* This listing should not be considered authoritative. There are very likely scattered inaccuracies in it due to multiplicity of systems and lack of a centralized source of authoritative information, as well as SEA’s limited resources for seeking the information. OPM has from time to time issued studies on alternative personnel systems generally, with an emphasis on performance management rather than levels of compensation. See, e.g., “*Alternative Personnel Systems in the Federal Government*, Dec. 2007.

5 USC 3132. Most Federal depts and agencies. Single broad pay band (except where are tiers). OPM monitors and certifies systems.

2. IE	2004	56	PL 97-89. ³ Senior Intelligence Executive Service. DOD, Army, Navy, A.F. Excepted service.
3. IP	Unknown (1990?)	91	Senior Intell. Professionals (See IE)
4. SL	1990	562	Senior Level Positions. 5 USC 3104. Execs with supervisory duties less than 25%. Also agencies not authorized to have SES: e.g. PBGC, Fed. Election Commission, etc.. Brought under SES pay system by PL 110-372 (2008).
5. ST	1990	333	Scientific and Professional. (world-class scientists.) 5 USC 3104. Brought under SES pay system by PL 110-372 (2008).
6. IA	1996	165	10 USC Ch. 83. Defense Civilian Intelligence Personnel System. DOD Intell. components (NSA, DIA, NGIA). 5 pay bands.

II. Judges

1. AL	1966	1203	Administrative Law Judges. 5 USC 5372 In 22 agencies: NLRB, EPA, SSA, etc. 3 Levels of basic pay: AL1 thru 3. (Min: 65% of EL IV; Max: EL IV). Also get locality pay.
2. AJ	1993	18	Administrative Judges. (NRC only) ⁴ PL 93-438
3. CA	1978	35	Bd. of Contract Appeals Judges. (BCAJ) 41 USC 601-613; 5 USC 5372(a). Separate agencies combined into GSA

³ This authorization has gone through several iterations. E.g. 10 USC 1601(2004).

⁴ Although the OPM Code list indicates that the AJ designation is for NRC only, a recent document issued by MSPB represents that that organization employs 60 career AJs to hear employee appeals.

Civilian Bd of Contract Appeals '07;
Armed Services Bd of Contract Appeals
remains separate, under DOD.

4. IJ	1996	215	PL 104-208, sec. 371. Immigration Judges - Dept of Justice.
5. AA	2001	32	Administrative Appeals Judges. 5 USC 5372(b) Review ALJ Decisions. Pay: AA-1 thru 6, based on AL scale: Min: AL-3A; Max: AL-3F.

III. Generic (may or may not be limited to single agency), but generally tied to occupation and established by particular legislation.

1. AD	Various	12,061	Administratively Determined Rates Not Elsewhere Specified.. Eg.:PTO, AID, etc.
2. IG	1978, 2008	22	Inspectors General. PL 95-452, amended PL 110-409. Basic Pay = EL III plus 3%.
3. GS	1949	184	Title 5 USC, Ch. 53. Location of employees and legislative authority to pay above EL IV, (including locality pay), unknown. [Perhaps on retained pay from NSPS?]
4. RS	1990	156	Senior Biomedical Research Service. PL 101-509. Public Health Service (HHS.) Pay between GS-15(1) and EL I. Single ungraded pay band.
5. RA	2002	11	Dept of Ag. Sr. Scientific Research Service PL 107-171. Pay range same as RS
6. NP	1999	11	Naval Research Lab. Scientific and Engineering Professionals. Performance-based compensation.
7. FE ⁵	1980	217	Senior Foreign Service. PL 96-465, sec

⁵ FEs, FOs, and FPs are distinguishable from the Foreign Service Officers employed directly by the Department of State. OPM did not include the latter in its chart of senior level pay systems. While we have learned independently that State does utilize the FE and FO pay codes, as well as FA, it does not report

			103(3). AID, parts of AG, DHS, BBG, Commerce (ITA) and Peace Corps
8. FO	1980	160	Foreign Service Officers. PL 96-465, sec. 103(4). Same agencies as FE.
9. FP	1980	72	Foreign Service Personnel. PL 96-465, sec. 103(5). Same agencies as FE.

IV. Demonstration Projects

1. DB	1995	19	10 USC 2358. Demonstration Engineers and Scientists (DOD, Army, Navy, AF) Title V rules waived. Pay bands. “Contribution-based” compensation.
2. ND	1995	6	10 USC 2358 Demonstration Scientific and Engineering. (Navy) 5-6 pay bands.
3. PD	1999	27	PL 105-277 (Title I, Div. C, sec. 102) Treasury Demonstration Projects (TTB), but also DOJ (ATF- transferred to DOJ), and DHS (CBP and Secret Service}

V. Limited to One Agency (non generic)

A. Department of Commerce (DOC)

1. ZA	1988	3	PL 99-574 NIST. Administrative. Career Paths and Pay Banding
2. ZP	1988	23	Same as ZA. Scientific Engineering Professional

B. Commodity Futures Trading Commission (CFTC)

1. CT	2006	187	CFTC Positions “previously defined under four other pay codes.”
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C. Corporation for Nat’l and Community Service (CNCS)

1. NX	1993	11	PL 103-82, subtitle G, sec. 195(b). Executive Level and Managerial Positions
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these to the OPM database. Some of these are Ambassadors and Chiefs of Mission who are paid at EX levels

D. Defense Nuclear Facility Safety Board (DNFSB)

1. DN 1990 34 PL 101-510. DNFSB Excepted Service.

E. Department of Energy (DOE)

1. EJ 2002 101 DOE Organization Act Excepted Service (Also used by a part of DHS)

2. EK 1995 40 Nat'l Def. Auth. Act Excepted Service

3. EN 2002 115 PL 106-65, sec.3241 National Nuclear Security Admin. (NNSA) Excepted Service.

4. NQ 2002 38 NNSA Professional, Technical and Admin. Career Path

5. NN 2002 33 NNSA Engineering and Scientific Career Path

F. Federal Aviation Administration (DOT-FAA)

1. AT 1996 3755 Air Traffic Controller Compensation Plan. PL 104-50, sec. 347 (1995), removing FAA from most parts of Title V.

2. EV 1996 183 Executive Compensation Plan. EV 1-3, w/ locality pay. Cap: \$179,700 (2010). No *aggregate* limit on compensation.

3. FG 1996 2 Similar to the General Schedule

4. FV 1996 997 Core Compensation Plan

G. Farm Credit Administration (FCA)

1. VH Unknown 54 Farm Credit Act of 1971, as amended. Prof, Admin, and Managerial (used also by Farm Credit Insurance Corp)

H. Federal Deposit Insurance Corporation (FDIC)⁶

1. CG	1989	480	Corporate Graded. Max: \$178,648 ('09) ⁷
2. CM	1989	310	Supervisory and Managerial Positions Below Executive Level. Max: \$196,150('09)
3. CX	1989	2	Senior Expert Positions. Max: \$269,779('09)
4. EM	1989	104	Executive-Level Positions. Max:\$269,779('09)

I. Government Printing Office (GPO)

1. GE	Unknown	19	GPO Employees formerly under SL
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J. TSA- Department of Homeland Security (DHS)

1. SV	2006	344	TSA employees other than executives.
2, SW	2006	101	TSA executives. Cap = EL II. TSA (not OPM) certifies its own pay system.

K. Department of Housing and Urban Development (HUD)

1. OE	1992	32	Execs of Fed. Housing Enterprise Oversight (folded into Fed. Housing Finance Agency 2008)
2. OF	1992	97	Office of FHEO
3. TF	1995	21	Fed. Housing Finance Board Exec
4. TM	1995	33	Fed. Housing Finance Board Merit Pay

M. Millennium Challenge Corporation

1. MC	2004	52	Employees appointed under PL 108-199.
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⁶ These FDIC positions were established by the Financial Institutions Reform, Recovery and Enforcement Act of 1989. PL 101-73. Several other agencies' similar systems, such as that at NCUA, also stemmed from the so-called "FIRREA" Act.

⁷ Despite the above "maximums" set forth in FDIC's 2009 published "salary structures," it is stated in a footnote. that "the salary cap for CG and CM positions, including locality pay, is \$227,300; the salary cap for most CX and EM positions, including locality pay, is \$240,000."

N. National Credit Union Administration (NCUA)

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| 1. CU | 1989 | 75 | Credit Union Employees (FIRREA system.) |
| 2. SS | 1989 | 34 | Senior Staff Positions. (FIRREA system.) In 2006, Exec. Dir. paid \$250,768 base, and \$283,042 including locality pay. |

O. Nuclear Regulatory Commission (NRC)

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| 1. SN | 1996 | 85 | Senior Level System |
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P. Securities and Exchange Commission (SEC)

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| 1. SK | 2002 | 1753 | Employees formerly under GS, GM, and EZ pay plans |
| 2. SO | 2002 | 107 | Employees formerly under ES pay plan |

Q. Department of the Treasury

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| 1. NB | 2001 | 701 | Office of the Comptroller of the Currency |
| 2. TG | 1989 | 207 | Office of Thrift Supervision Salary Schedule (FIRREA) |

R. Department of Veterans Affairs (VA)⁸

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|-------|---------|-------|--------------------|
| 1. VM | Unknown | 11408 | Medical and Dental |
| 2. VN | Unknown | 63 | Nursing |

⁸ There is a disconnect between OPM's description (and indicated statutory origins) of its codes for VA senior level pay plans and what the responsible official at VA told us is the reality. She says that, except for SES, SLs and STs, VA's only senior level executives are a handful of Directors employed in the office of the Secretary, paid under 38 USC 7306. Their pay and pay cap are set periodically by an Executive Order, and in November 2010 the cap will go up to \$179,000, the SES cap. Appointments are for 4 years and can be renewed. I find no corresponding OPM Code for them. On the other hand, she advises that VA has approximately 20,000 physicians "and they probably all receive over the GS 15(10). Nurses (VN) do not." She says nurses are capped at EL IV. The physicians' and dentists' pay systems are authorized under 38 USC 7431, and are market-based. VA does not consider market based pay to be senior level pay, but OPM does, since it's over GS 15(10). The VA official says that Codes GP-GS, GR-GM, VM, VN cover the same groups of employees.

3. GP-GS	1998	1347	GS physicians and dentists paid market pay under 38 USC 7431(c)
4. GR-GM	1998	19	GM (managerial) physicians and Dentists. Market pay. Under 38 U.S.C. 7431(c)
5. SQ	1998	3	Physicians and Dentists paid under ST pay system, receiving market pay. 38 USC 7431(c)

VI. Miscellaneous Pay Plans

1. ED	1946	7	Experts Appointed under 5 USC 3109
2. EE	1946	192	Experts appointed under any authority <i>similar</i> to 5 USC 3109 (i.e. no competitive exam or job classification)
3. EF	1946	10	Consultants Appointed under 5 USC 3109
4. EG	1946	83	Consultants appointed under any authority <i>similar</i> to 5 USC 3109. See EE
5. EX	1980	164 ⁹	Executive Pay. 5 USC (II, 5311) Includes President, VP, and 5 Levels \$145,700 to \$199,700.
6. EI	1972	40	Members of Advisory Committees. PL 92-463
7. GM	1993	2	GM Employees covered by PMRS Termination Provisions. PL 103-89
8. SR	Various	125	Statutory rates not elsewhere specified
9. TP	1994	1	Teaching Positions, DOD Education Activity only
10. WM	1972	149	Maritime Pay Schedules. 5 USC 5348

⁹ It is common knowledge that there are considerably more than 164 Presidential Appointees Subject to Senate Confirmation, whose compensation is based on the Executive Schedule. In fact, OPM's Central Personnel database lists 434 in all agencies paid under the EX pay code. We are unable to reconcile this with the figure of 164 given us by OPM.

VII. NSPS Employees Paid above GS 15(10) as of
Dec. 2009 (abolished 2010)

Note: All employed by DOD only, including Army, AF, Navy)

1. YA – 1192 Standard Career Group: Professional and Analytical
2. YB – 1 Standard Career Group: Technician/Support Pay Schedule
3. YC – 2070 Standard Career Group: Supervisor/Manager Pay Schedule
4. YD – 722 Scientific & Engineering Career Group: Professional Pay Schedule
5. YF – 853 Scientific & Engineering Career Group: Supervisor/Manager Pay Schedule
6. YG – 510 Medical Career Group: Physician/Dentist Pay Schedule
7. YH – 3 Medical Career Group: Professional Pay Schedule
8. YJ – 109 Medical Career Group: Supervisor/Manager Pay Schedule
9. YK – 1 Investigative and Protective Career Group: Investigative Pay Schedule
10. YN – 5 Investigative and Protective Career Group: Investigative Pay Schedule

Note: All these have been put back in GS system with “retained pay.”

Note: There are numerous other Federal employees paid above GS-15(10) not accounted for by these OPM pay codes, and which SEA is only aware of to a very limited extent. For example, CIA executives; IRS Special Hires for “Critical” Positions, authorized by IRS Restructuring Act of 1996 (paid up to VP’s salary); Dept of Education PBO executives, established 1998 (5 estimated appointments exempt from Title 5 and with bonuses of 25-50% of salary; Defense Advanced Research Program Agency (“DARPA”) hires, 40 “super” slots with salary ranging up to VP’s salary; Patent and Trademark PTO executives, Intellectual Property Reform Act of 1999, 40 authorized positions; “Title 42” scientists, hired by HHS under 42 USC 7404, sec. 209(f-h), allegedly no statutory limit, but HHS says pay should be “no higher than necessary,” up to EL I. (in 2010, \$199,700); and, since 2004, special pay authority hires at NASA, for employees “deemed critical.” There are undoubtedly others.