

**SUBJECT: LIMITED CHANGE TO DOE O 329.1A, *EXCEPTED SERVICE AUTHORITIES*
FOR EJ AND EK PAY PLANS**

1. EXPLANATION OF CHANGES. These changes were made to align the Order with recent Federal guidance, update the approval process for EJ/EK authorities, and meet the continuously evolving needs of the Department.
2. LOCATIONS OF CHANGES:

Page	Paragraph	Changed	To
	Throughout	Executive Level I	Executive Schedule (EX) Level I (EX-I)
	Throughout	Indefinite	Permanent
	Throughout	Temporary	Term
	Throughout	Time-Limited	Term
2	3.c.	Requests for exemptions must be forwarded to the Senior Management Review Board (SMRB) as delegated by the Chair, Executive Resources Board (ERB) or designee. The request must be submitted to the Office of Corporate Executive Management (OCEM), and include the basis for the exemption, identify the key requirement for which the exemption is sought, and request a timeframe, as applicable.	Requests for exemptions must be approved by the Executive Resources Board (ERB). The request must be submitted to the Office of Corporate Executive Management (OCEM) and must include the basis for the exemption, identify the key requirement for which the exemption is sought, and request a timeframe, as applicable.
2	4.a.(1) Para. 2	The use of the EJ authority is limited to 200 scientific, engineering, professional and administrative positions and may be used for time-limited and indefinite appointments.	The EJ authority may be used for term and permanent appointments.
2	4.a.(2)	The EK authority and renewals may be used to enhance the Department's recruitment and retention of highly qualified scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department. Appointments made under this authority may be made without regard to the civil service laws and are excepted from the provisions of Title V, United States Code.	The EK authority and renewals may be used to enhance the Department's recruitment and retention of highly qualified scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department. The EK authority is time-limited by law and must be renewed by Congress. Appointments made under this authority may be made without regard to the civil service laws and are excepted from the

Page	Paragraph	Changed	To
		<p>The use of the EK authority is limited to 200 scientific, engineering, technical positions and may be used for time-limited and indefinite appointments.</p> <p>The EK authority is time-limited by law and must be renewed; however, appointments may be time-limited or indefinite. Current EK employees are not affected; however, a freeze on hiring is implemented if the authority expires prior to extension.</p>	<p>provisions of Title V, United States Code.</p> <p>The EK authority may be used for term and permanent appointments. Current EK employees are not affected if the authority expires prior to extension; however, a freeze on new appointments will be implemented.</p>
2	4.a.(4)(a) <u>1</u>	Recruitment difficulties: Potential recruitment difficulties have been or are expected to significantly delay the timely filling of positions when there is a demonstrated mission-driven need to fill a key position in a timely manner with a highly qualified candidate (e.g., position offer/acceptance rates, proportion of similar positions filled, length of time required to fill similar positions, number of highly qualified candidates applying for vacancies.	Recruitment difficulties: Potential recruitment difficulties have delayed or are expected to significantly delay the timely filling of positions when there is a demonstrated mission-driven need to fill a key position in a timely manner with a highly qualified candidate (e.g., position offer/acceptance rates, proportion of similar positions filled, length of time required to fill similar positions, number of highly qualified candidates applying for vacancies.
3	4.b.(2)	Time-limited appointments may be made for a period of up to 4 years.	Term appointments under these authorities may be made for a period of up to 4 years.
3	4.c.(1)	Classification materials applicable to other comparable Federal positions, (e.g., classification standards and guides applicable to General Schedule position) shall be used as guidelines for application to positions requested under this authority.	OPM Classification Standards materials may be used as guidance in determining the proper occupational series and pay band for positions requested under this authority.
3	4.c.(2)	Added	OPM prescribed titling for EJ and EK positions is not required. Individual occupational series may be titled at the Department's discretion. General OPM titling provisions should be adhered to, in that the title prescribed should be short, meaningful, and generally descriptive of the work performed and not be a title prescribed by OPM to another occupational series (e.g., Human Resources Specialist series 0201).

Page	Paragraph	Changed	To
3-4	4.c.(2)- 4.c.(5)	Renumbered.	4.c.(3)- 4.c.(6)
3	4.c.(3)	Positions under the EJ authority shall be coded with the prefix "EJ" followed by the appropriate occupational series and corresponding difficulty level (e.g., EJ-510-IV) for positions which meet the series definition for the specific position at a level comparable to a GS-14 or GS-15.	Positions under the EJ authority shall be coded with the prefix "EJ" followed by the appropriate occupational series and corresponding difficulty level (e.g., EJ-510-IV) for positions at a level comparable to a GS-14 or GS-15.
4	4.c.(5)	Positions under the EK authority shall be coded with the prefix "EK" followed by the appropriate occupational series and corresponding difficulty level (e.g., EK-840-IV) for positions which meet the series definition for the specific position at a level comparable to a GS-14 or GS-15.	Positions under the EK authority shall be coded with the prefix "EK" followed by the appropriate occupational series and corresponding difficulty level (e.g., EK-840-IV) for positions at a level comparable to a GS-14 or GS-15.
4	4.c.(5)(a)	Pay Band I: Level of duties: equivalent to grade levels GS-5 through GS-7 of the General Schedule. 1 Pay Range GS-5, step 1 through GS-9, step 5.	Pay Band I: Level of duties: equivalent to grade levels GS-5 through GS-7 of the General Schedule
4	4.c.(5)(b)	Pay Band II: Level of duties: equivalent to grade levels GS-9 through GS-11 of the General Schedule. 1 Pay Range GS-9, step 1 through GS-12, step 5	Pay Band II: Level of duties: equivalent to grade levels GS-9 through GS-11 of the General Schedule
4	4.c.(5)(c)	Pay Band III: Level of duties: equivalent to grade levels GS-12 through GS-13 of the General Schedule. 1 Pay Range GS-12, step 1 through GS-14, step 5.	Pay Band III: Level of duties: equivalent to grade levels GS-12 through GS-13 of the General Schedule
4	4.c.(5)(d)	Pay Band IV: Level of duties: equivalent to the grade levels GS-14 through GS-15 of the General Schedule. 1 Pay Range GS-14, step 1 through 103 % of GS-15, step 10. 2 Grandfathered 14, step 1 to 136% of 15, step 1.*	Pay Band IV: Level of duties: equivalent to the grade levels GS-14 and GS-15
4	4.c.(5)(e)	*Employees on Pay Band IV prior to March 30, 2012, through appointment, conversion or hire will continue to use the pay range that was previously in effect providing that they remain	Removed.

Page	Paragraph	Changed	To
		employed on a continuous basis at Pay Band IV. If an employee leaves Pay Band IV with the higher pay range, they will no longer be grandfathered at the higher pay range if they later return to Pay Band IV.	
4	4.c.(5)(e)	Pay Band V: Level of duties: above the GS-15 grade level of the General Schedule. <u>1</u> Pay Range EX-V through EX-III.	Was 4.c.(5)(f). Pay Band V: Level of duties: above the GS-15 grade level of the General Schedule; however, it does not meet the classification level for an SES, SL or ST.
4	4.c.(6)	The position descriptions established will be recorded at a minimum, using the following format.	The position descriptions established will be recorded at a minimum, using the following standard format.
5	4.e.(1)(a)	All new EJ and EK positions require SMRB approval prior to filling the position through competitive or non-competitive recruitment methods.	All new and previously established EJ and EK positions require ERB approval prior to filling the position through competitive or non-competitive recruitment methods.
5	4.e.(1)(b)	Previously established EJ and EK positions that have been vacant 365 days or less (i.e., backfill requests) require approval by the Head of the Departmental Element, with Under Secretary concurrence, if applicable and required. <u>1</u> SMRB approval of EJ and EK positions is required if vacancies extends beyond 365 days. <u>2</u> The position is considered vacant even if it is encumbered by a detailee.	Deleted.
5	4.e.(1)(c)	The type of recruitment method must be indicated in the SMRB package with the applicable justification, if required.	Renumbered to 4.e.(1)(b) The type of recruitment method must be indicated in the ERB package, if applicable.
6	4.e.(2)(a)	SMRB approval is required for the appointment of all proposed non-competitive candidates to EJ and EK positions, regardless of the allocation type (i.e., newly established position or backfill request). <u>1</u> If requesting a newly established limited-term EJ or EK position with a non-competitive appointment, the	ERB approval is required for the appointment of all proposed non-competitive candidates to EJ and EK positions, regardless of the allocation type (i.e., newly established position or backfill request). Requests for the allocation and non-competitive appointment can be done simultaneously.

Page	Paragraph	Changed	To
		request for the allocation and non-competitive appointment can be done simultaneously. <u>2</u> SMRB approval is required for the establishment of permanent EJ or EK positions prior to requesting approval for the proposed non-competitive candidate. After SMRB approval is received to establish the position, a subsequent package must be submitted for approval of the proposed non-competitive candidate	
5	4.e.(2)(b)	Added.	Prior to submitting for ERB approval, selections require approval by the Head of the Departmental Element with Under Secretary concurrence, if applicable and required
5	4.e.(2)(b)- 4.e.(2)(f)	Renumbered.	4.e.(2)(c)- 4.e.(2)(g)
5	4.e.(2)(c)	All non-competitive selections in the administrative field (e.g. GS-301-series equivalent) must have prior concurrence of the Office of General Counsel (GC), Assistant General Counsel for General Law.	Prior to submitting for ERB approval, selections in the administrative field (i.e., GS-301-series equivalent) must have concurrence from the Office of General Counsel (GC), Assistant General Counsel for General Law, prior to going to the ERB for review.
5	4.e.(2)(d)	No formal vacancy announcement is issued; veterans' preference does not apply.	No formal vacancy announcement needs to be issued; veterans' preference does not apply.
5	4.e.(2)(f)	Overview of the review and selection process used by the Selecting Official must be provided.	An overview of the review and selection process (e.g. was a vacancy announcement posted, were interviews conducted) used by the Selecting Official must be provided.
5	4.e.(2)(g)	Reference checks are required if candidate is outside of the Departmental Element; must be documented in writing.	Reference checks must be conducted in accordance with the current ERB procedures and, if applicable, documented in writing.
5	4.e.(3)(a)	External Recruitment Process (Area of Consideration in USAJobs: Open to "All Qualified" candidates) .	ERB approval is required for the selection of all proposed competitive candidates to EJ and EK positions
5	4.e.(3)(a) <u>1</u> - 4.e.(3)(a) <u>2</u>	<u>1</u> Candidates selected through competitive recruitment methods do not require SMRB approval of the selection for appointment.	Renumbered to 4.e.(3)(b) Prior to submitting for ERB approval, candidates selected through competitive recruitment methods require approval by

Page	Paragraph	Changed	To
		<u>2</u> The Head of the Departmental Element with Under Secretary concurrence, if applicable and required, approves the selection for appointment	the Head of the Departmental Element with Under Secretary concurrence, if applicable and required.
5	4.e.(3)(a) <u>3</u>	OCEM review of the selection package is required prior to effecting the action.	Removed.
6	4.e.(3)(a) <u>4</u>	Veteran's preference applies. DOE applies Category Rating to rate and rank applicants. Acceptance and evaluation of applications for the selection and appointment of candidates for positions covered by these authorities shall be in accordance with the policies and procedures outlined in 5 CFR, Part 302, and 5 U.S.C. 2108.	Renumbered to 4.e.(3)(c) For vacancy announcements whose area of consideration is "All Qualified" candidates, veterans' preference applies. DOE applies Category Rating to rate and rank applicants. Acceptance and evaluation of applications for the selection and appointment of candidates for positions covered by these authorities shall be in accordance with the policies and procedures outlined in 5 CFR Part 302 and 5 U.S.C. 2108.
6	4.e.(3)(d)	Added.	For vacancy announcements whose area of consideration is "Federal employees only," procedures similar to agency merit promotion procedures apply. Acceptance and evaluation of applications for the selection and appointment of candidates are done within a limited area of consideration (e.g., DOE Headquarters Federal employees, local commuting area or Government-wide Federal employees only).
6	4.e.(3)(a) <u>5</u>	Renumbered.	4.e.(3)(e)
6	4.e.(3)(a) <u>6</u>	Reference checks are required if candidate is outside of the Departmental Element; must be documented in writing.	Renumbered to 4.e.(3)(f) Reference checks must be conducted in accordance with the current ERB procedures and, if applicable, documented in writing.
6	4.e.(3)(b)	External Recruitment Process (Area of consideration in USAJobs: federal employees only) <u>1</u> Candidates selected through competitive recruitment methods do not require SMRB approval of the selection for appointment.	Removed.

Page	Paragraph	Changed	To
		<p><u>2</u> The Head of the Departmental Element with Under Secretary concurrence, if applicable and required, approves the selection for appointment.</p> <p><u>3</u> OCEM review of the selection package is required prior to effecting the action.</p> <p><u>4</u> Acceptance and evaluation of applications for the selection and appointment of candidates is done within a limited area of consideration (e.g., DOE-Headquarters federal employees, local commuting area or Government-wide federal employees only). Agency merit promotion procedures apply.</p> <p><u>5</u> The minimum length of the vacancy announcement period must be 5 business days.</p> <p><u>6</u> Reference checks are required if candidate is outside of the Departmental Element; must be documented in writing</p>	
6	4.e.(4)(b)	<p>All details of DOE employees to EJ or EK positions require approval by the Head of the Departmental Element with Under Secretary concurrence, if applicable and required.</p> <p><u>1</u> If applicable, the losing Departmental Element (supervisory level at a minimum) must concur on the detail prior to effecting the action, regardless of the length.</p> <p><u>2</u> OCEM review of the detail package is required prior to effecting the action.</p>	A detail to the competitive service requires OPM approval unless the employee has prior competitive service (e.g., career, career-conditional, interchange agreement).
6	4.e.(4)(c)	<p>All details of EJ/EK employees to other positions require approval by the Head of the Departmental Element with Under Secretary concurrence, if applicable and required.</p> <p><u>1</u> If applicable, the losing Departmental Element (supervisory level at a minimum) must concur on the detail</p>	<p>ERB approval is required for EJ and EK details. This includes:</p> <p><u>1</u> Details of DOE employees to EJ or EK positions;</p> <p><u>2</u> Details of EJ or EK employees to other positions;</p> <p><u>3</u> Details of non-DOE employees to EJ or EK positions; and</p>

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		<p>prior to effecting the action, regardless of the length.</p> <p><u>2</u> OCEM review of the detail package is required prior to effecting the action.</p>	<p><u>4</u> Details of EJ or EK employees to outside assignments.</p>
6	4.e.(4)(d)	All details of non-DOE employees to EJ or EK positions require approval by the Director, Office of Human Capital Management prior to effecting the action, regardless of the length, and are routed through OCEM and the appropriate program offices (i.e., GC, etc.) for review.	Prior to ERB approval, all details require approval by the Head of the Departmental Element with Under Secretary concurrence, if applicable and required.
7	4.e.(4)(e)	All details of EJ/EK employees to outside assignments require approval by the Director, Office of Human Capital Management prior to effecting the action, regardless of length, and are routed through OCEM and the appropriate program offices (i.e., GC, etc.) for review.	An internal DOE detail requires the losing Departmental Element (supervisory level at a minimum) to concur on the detail prior to submitting the action to the ERB, regardless of the length.
7	4.e.(4)(f)- 4.e.(4)(g)	Added.	<p>(f) Interagency details are processed in accordance with current ERB procedures.</p> <p>(g) As applicable, OCEM will route the package to the appropriate program offices (i.e., GC) for review.</p>
7	4.f.	<p>...All non-performance-based awards (e.g., Special Act) and other awards for EJ and EK employees may be approved by the Head of the Departmental Element, with Under Secretary concurrence, if applicable and required, in accordance with award limitations as outlined in DOE Order 331.1C, <i>Employee Performance Management and Recognition Program</i>. For EJ and EK employees, the NNSA Administrator approval authority limitation is equivalent to the Heads of the Departmental Elements approval authority limitation. OCEM review is required for all non-performance based awards prior to granting.</p> <p>All performance-based awards may be approved by the Head of the Departmental Element.</p>	<p>...All non-performance-based awards (e.g., Special Act) and other awards for EJ and EK employees may be approved by the Head of the Departmental Element, with Under Secretary concurrence, if applicable and required, in accordance with award limitations as outlined in DOE Order 331.1D, <i>Employee Performance Management and Recognition Program</i>. OCEM review is required for all non-performance-based awards prior to granting.</p> <p>For EJ and EK employees assigned to NNSA, the Administrator's (NNSA) approval authority limitation is equivalent to the Heads of the Departmental Elements approval authority limitation. In addition, they are</p>

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		All performance-based pay adjustments may be approved by the Head of the Departmental Element with OCEM review. Performance-based pay increases are typically in alignment with the maximum pay increase that is being authorized for SES members unless DOE is restricted in providing such pay adjustments. The OCEM review process also includes notifying the Office of General Counsel (GC) of proposed pay increases review to determine if there will be a potential impact as it relates to additional post-employment restrictions. EJ or EK employees whose rate of base pay is at or above 86.5% of the rate of EX-II are considered “senior” employees and have additional post-employment restrictions.	eligible for “conversion-like” bonuses unique to NNSA. All performance-based awards may be approved by the Head of the Departmental Element. All performance-based pay adjustments may be approved by the Head of the Departmental Element with OCEM review. Performance-based pay adjustments are typically in alignment with the maximum pay increase that is being authorized for SES members unless DOE is restricted in providing such pay adjustments.
7	4.f.(1)(b)	At least two progress reviews must be completed during the appraisal period.	At least one progress review must be completed during the appraisal period.
8	4.f.(2)(b)	...If authorized, the pay increase would typically be effective the first full pay period in January.	... If authorized, the pay adjustment would typically be effective the first full pay period in January.
8	4.f.(2)(c)	To be eligible for a discretionary performance-based pay adjustment, EJ and EK employees cannot have received a pay increase in the past 12 months (on or after the anticipated effective date of the performance-based pay increase) based upon initial appointment, reinstatement, conversion, reassignment or transfer.	To be eligible for a discretionary performance-based pay adjustment, EJ and EK employees cannot have received a pay increase in the past 12 months (on or after the anticipated effective date of the performance-based pay increase) based upon initial appointment, promotion, reinstatement, conversion, reassignment or transfer. Requests for exceptions require ERB approval.
8	4.f.(2)(d)	Discretionary performance-based pay adjustments require approval by the Head of the Departmental Element and OCEM review prior to granting.	Discretionary performance-based pay adjustments require approval by the Head of the Departmental Element and OCEM review prior to granting. The OCEM review process also includes notifying GC of proposed pay increases to determine if there will be a potential impact as it relates to additional post-employment restrictions. EJ or EK employees whose rate of base pay is at or above 86.5% of the rate of EX-II are considered “senior” employees and have additional post-employment restrictions.

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9	4.f.(4)(b)	Non-performance based awards for consideration includes: Special Act or Service, On-the-Spot Monetary Award, Time Off Awards, Certificate of Appreciation, Equal Employment Opportunity Award, and Departmental Honorary Awards	Non-performance-based awards for consideration include: Special Act or Service Awards, On-the-Spot Monetary Awards, Time-Off Awards, Certificates of Appreciation, and Departmental Honorary Awards
9	4.f.(4)(c)	A non-performance based award cannot be a duplication of an accomplishment documented in the performance plan.	Removed.
9	4.f.(4)(d)-4.f.(4)(g)	Renumbered.	4.f.(4)(c)-4.f.(4)(f)
9	4.f.(4)(c)	Monetary awards up to \$7,500 require approval by the Head of the Departmental Element and OCEM review	4.f.(4)(c) Monetary awards up to \$7,500 require approval by the Head of the Departmental Element with Under Secretary concurrence, if applicable and required, and OCEM review
9	4.f.(4)(d)	Awards in excess of \$7,500 and up to \$10,000 require approval by the SMRB.	Awards in excess of \$7,500 and up to \$10,000 require approval by the ERB.
9	4.f.(4)(e)	Time-off awards require approval by the Head of the Departmental Element and OCEM review not to exceed 80 hours in a 12-month period.	Time-off awards (performance and non-performance based), require approval by the Head of the Departmental Element with Under Secretary concurrence, if applicable and required, and OCEM review.
9	4.g.(1)	Pay Setting Upon Initial Appointment (See Appendix I for pay setting examples).	Pay Setting Upon Initial Appointment.
9	4.g.(1)(a)	Compensation for an EJ or EK must reflect the salary paid in the labor market for comparable positions, commensurate with the individual's skills, professional and educational accomplishments and the complexity of work being asked to perform.	Compensation for an EJ or EK employee must reflect the salary paid in the labor market for comparable positions, commensurate with the individual's skills and professional and educational accomplishments, and the complexity of work the individual will be asked to perform.
	4.g.(1)(b)	Initial basic pay (base pay and locality) for an EJ or EK may be set at any point in the applicable pay band based on consideration of such factors as:	Initial basic pay (base pay and locality) for an EJ or EK employee may be set at any point in the applicable pay band based on consideration of such factors as:
9	4.g.(1)(c)	A broad-banding pay system of 5 levels has been established and basic pay ranges for the 5 levels are as follows:	A broad-banding pay system of five levels has been established and basic pay ranges for the five levels is provided

Page	Paragraph	Changed	To
			in the table below. The Pay Band IV (Grandfathered/Supervisory) is reserved for:
10	4.g.(1)(c) <u>1</u> - 4.g.(1)(c) <u>2</u>	Added.	<p><u>1</u> Employees who were in Pay Band IV prior to March 30, 2012, through appointment, conversion, or hire, providing that they remain employed on a continuous basis in this band. If such an employee leaves Pay Band IV (Grandfathered/Supervisory), he/she will not be grandfathered at the higher pay range if he/she later returns to a Pay Band IV position that is not designated as supervisory; and</p> <p><u>2</u> Pay Band IV classified positions that have a supervisory code of 2 or 4. If a Pay Band IV employee leaves a classified position with a supervisory code of 2 or 4 for a classified non-supervisory position in Pay Band IV, he/she will not be eligible for the maximum pay in Pay Band IV (Grandfathered/Supervisory). However, he/she may maintain the higher pay if it can be matched in the non-grandfathered/supervisory pay band. Exceptions may apply if the employee is in a supervisory probationary period.</p>
10	4.g.(3)	<u>Locality Pay Increases</u> . OPM locality rates will be applied to the above basic pay bands with total compensation not to exceed Executive Schedule III.	<u>Locality Pay Increases</u> . OPM locality rates will be used to determine the above basic pay bands with total compensation not to exceed EX-III.
11	4.g.(5)	(a) A promotion is defined as movement from a position in one pay band to another position in a higher pay band. A promotion may result in a pay increase up to six percent (6%) not to exceed the top of the new pay band. The Head of the Departmental Element has the option to offer less than six percent (6%) as applicable; however, the adjusted salary may not be less than the minimum salary established for the band to which the individual is promoted.	<p>A promotion is defined as movement from a position in one pay band to another position in a higher pay band.</p> <p>A promotion may result in a pay increase up to 6%, not to exceed the top of the new pay band. Pay increases more than 6% require justification (e.g., employee possessing unique knowledge, skill, or ability required to perform in the position). The Head of the Departmental Element has the option to offer less than 6% as applicable; however, the adjusted salary may not be less than the minimum salary established</p>

Page	Paragraph	Changed	To
		<p>(b) Promotions require approval by the Head of the Departmental Element with Under Secretary concurrence, if applicable and required.</p> <p>(c) OCEM review of the promotion package is required prior to effecting the action.</p> <p>(d) Typically, positions under these authorities are established at the full performance level. A revised or new position description must accompany the promotion request.</p> <p>(e) Employees will not receive more than one promotion in a 12-month period except as provided under a career development program.</p>	<p>for the band to which the employee is promoted.</p> <p>A promotion is considered a pay increase; therefore, an employee is ineligible for a discretionary performance-based pay adjustment if a promotion has been received in the past 12 months. Exceptions require ERB approval.</p> <p>ERB approval is required for EJ and EK promotions and any pay increase requests.</p> <p>Prior to ERB approval, promotions require approval by the Head of the Departmental Element with Under Secretary concurrence, if applicable and required.</p> <p>Typically, positions under these authorities are established at the full performance level. A new classified position description must accompany the promotion request.</p> <p>Typically, employees may not receive more than one promotion in a 12-month period</p>
11	4.g.(6)	<p>(a) A reassignment is defined as movement from one position to another position in the same pay band. A reassignment to a position in an equivalent pay band with substantially greater responsibility may result in an increase up to six percent (6%) not to exceed the top of the pay band.</p> <p>(b) A pay increase generally applies to an employee being reassigned from a nonsupervisory position to a supervisory position. An employee cannot be placed in a supervisory position without competition unless the employee currently occupies a supervisory position or previously held a supervisory position in the federal civil service.</p> <p>(c) Reassignments require approval by the Head of the Departmental Element with Under Secretary</p>	<p>A reassignment is defined as movement from one position to another position in the same pay band.</p> <p>A reassignment to a position with substantially greater responsibility may result in an increase up to 6%, not to exceed the top of the pay band. Pay increases of more than 6% require additional justification.</p> <p>A reassignment that results in a salary increase, regardless of the percentage, is considered a pay increase; therefore, an employee is ineligible for a discretionary performance-based pay adjustment if a salary increase has been received in the past 12 months. Exceptions require ERB approval.</p> <p>ERB approval is required for EJ and EK reassignments and any pay increase requests.</p>

Page	Paragraph	Changed	To
		<p>concurrence, if applicable and required.</p> <p>(d) OCEM review of the promotion package is required prior to effecting the action.</p>	<p>Prior to ERB approval, reassignments and any pay increase requests require approval by the Head of the Departmental Element with Under Secretary concurrence, if applicable and required</p>
12	4.g.(7)	<p>When moving to a position of greater responsibility and scope, an employee may receive a pay increase up to six (6%), not to exceed the top of the applicable pay band, when transitioning from another pay system into the EJ/EK pay band (e.g., GS to EJ). This applies even if the GS position is equivalent to the EJ or EK pay band (e.g. GS-14 or 15 to Pay Band IV). The pay must be set at least at the minimum of the applicable EJ/EK pay band.</p>	<p>When moving to a position of greater responsibility and scope and converting from another pay system into the EJ/EK pay band (e.g., GS to EJ), an employee may receive a pay increase up to 6%, not to exceed the top of the applicable pay band. This applies even if the GS position is equivalent to the EJ or EK pay band (e.g., GS-14 or 15 to Pay Band IV). The pay cannot be set lower than the minimum of the applicable EJ/EK pay band.</p>
12	4.g.(8)	<p>Employees moving out of the excepted service pay band into the General Schedule (GS) or other pay plan are only entitled to highest previous rate and not the GS two-step promotion rule</p>	<p>Employees moving out of the excepted service pay band into the General Schedule (GS) or other pay plan are only entitled to highest previous rate and not the GS two-step promotion rule</p>
12	4.g.(9)	<p>Employees, whose official worksite is changed to a new duty location upon a pay setting action (e.g. promotion, reassignment, etc.), must be converted to the applicable pay schedule, the rate of base pay, and appropriate locality rate set for the new official worksite prior to processing the new pay-setting action. .</p>	<p>Employees whose official worksite is changed to a new duty location upon a pay setting action (e.g., promotion, reassignment), must be converted to the applicable pay schedule, the rate of base pay, and the appropriate locality rate set for the new official worksite prior to processing the new pay-setting action. This also applies to an employee's initial eligibility for pay retention if a change in duty station occurs simultaneously. If the employee is on pay retention at the time of the change in duty station, an eligibility determination to stop or continue is made in accordance with pay rules (e.g., if the retained pay can be matched in the pay band under the new duty station).</p>
12	4.g.(10)(c)	<p>Added.</p>	<p>ERB approval is required for these incentives.</p>
12	4.g.(10)(d)	<p>Incentives may be approved by the Head of Departmental Element approval with Under Secretary concurrence, if applicable and required.</p>	<p>Was 4.g.(10)(c).</p> <p>Prior to ERB approval, incentives must be approved by the Head of the Departmental Element with Under</p>

Page	Paragraph	Changed	To
			Secretary concurrence, if applicable and required.
12	Previous 4.g.(10)(d)	OCEM review of the incentive package is required prior to effecting the action.	Removed.
13	4.g.(11)	EJ and EK employees in Pay Band V have been approved by OPM to receive 8 hours of annual leave upon entrance on duty or conversion regardless of the years of federal service. The maximum annual leave carry-over is 240 hours. EJ and EK employees in Pay Band I through IV will receive the annual leave accrual that is applicable to other federal employees based upon creditable federal service.	EJ and EK employees in Pay Band V will receive 8 hours of annual leave upon entrance on duty or conversion, regardless of the years of Federal service. The maximum annual leave carry-over remains at 240 hours. EJ and EK employees in Pay Band I through IV will receive the annual leave accrual that is applicable to other Federal employees, based upon creditable Federal service.
13	4.g.(13)	Added.	<u>Overtime</u> . Employees under these authorities may earn overtime in accordance with DOE O 322.1C, <i>Pay and Leave Administration and Hours of Duty</i> .
13	4.h.(1)(a)	Employees (DOE or non-DOE) who voluntarily convert from the competitive service, SES, or other pay systems to a non-time limited appointment under these authorities are not afforded “fallback rights” to the pay system previously assigned prior to the conversion. .	Employees (DOE or non-DOE) who voluntarily convert from the competitive service, SES, or other pay systems to a permanent EJ or EK appointment under these authorities are not afforded “fallback rights” to the pay system previously assigned prior to the conversion. If applicable, the employee may be eligible for reinstatement to another appointment; however, it is not an entitlement.
13	4.h.(1)(b)	Employees who are placed in a time-limited EJ or EK appointment but were serving on one of the types of appointments listed below in DOE, immediately prior to receiving the time-limited appointment, must be placed in their former position or a position of like status, tenure and grade up termination of the time-limited appointment. The termination of the time-limited appointment must have been for reasons other than misconduct, neglect of duty, malfeasance or performance. The types of appointments are:	Employees who are converted to a term EJ or EK appointment but were serving on one of the types of appointments listed below in DOE immediately prior to receiving the term appointment, must be placed in their former position or a position of like status, tenure, and grade upon termination of the term appointment. The termination of the term appointment must have been for reasons other than misconduct, neglect of duty, malfeasance or performance. The types of appointments are:

Page	Paragraph	Changed	To
13	4.h.(1)(b) <u>1</u>	An appointment without time limitation in the excepted service;	An appointment without time limitation in the excepted service, excluding Schedule C:
14	4.h.(2)	When provisions of a local collective bargaining agreement with the employees' exclusive representative are in conflict with the provisions of this policy with regard to bargaining unit positions, the provisions of the local agreement will govern.	When provisions of a local collective bargaining agreement with the employees' exclusive representative are in conflict with the provisions of this policy with regard to bargaining unit positions, the provisions of the local agreement will govern. However, the Secretary of Energy has the authority to set pay notwithstanding Chapter 71 of Title 5 of the United States Code.
14	4.h.(3)	EJ and EK appointment authorities do not confer career-conditional or career tenure status. An employee must compete with other applicants in open competition to meet requirements for a federal competitive position, unless they meet the requirements for reinstatement.	An EJ or EK appointment does not confer career-conditional or career tenure status (competitive status). An employee appointed under the EJ or EK authority must compete with other applicants in open competition (e.g., All Qualified) to meet the requirements for a Federal civil service competitive position, unless they meet the requirements for reinstatement.
14	4.h.(4)	Renumbered.	Was 4.h.(6).
14	4.h.(5)	<u>Trial Period/Supervisory Probationary Period.</u> (a) A trial period of one year for the purpose of assessing the ability of an individual to adequately perform in his or her assigned position will be established for appointments under these authorities unless the employee has already completed a trial period under a different excepted service authority or a probationary period under a career or career-conditional appointment. (b) Employees separated within their trial periods will be provided the same rights as competitive service employees who are involuntarily separated during the probationary period.	Split into 4.h.(5) and 4.h.(7). <u>Trial Period.</u> A trial period of up to 2 years for the purpose of assessing the ability of an individual to adequately perform in his or her assigned position will be established for appointments under these authorities. Non preference eligible appointees are subject to a 2-year trial period. Preference eligible appointees are subject to a 1-year trial period. The trial period will be served regardless of a previously completed probationary or trial period. Separations during the trial period are covered by section (8) below.

Page	Paragraph	Changed	To
		(c) All employees selected for an initial supervisory position must complete a one year probationary period. A supervisor who does not complete his or her probationary period shall be returned to either the former position or a position of no lower grade and pay than the position from which transferred, assigned or promoted.	
14	4.h.(6)	Renumbered.	Was 4.h.(4).
15	4.h.(6)(c)	An EJ or EK Pay Band IV and below position can report to an equivalent or higher grade level, as illustrated in the pay ranges on pay.	An EJ or EK Pay Band IV and below position can report to an equivalent or higher grade level, as illustrated in the pay band chart on page 10.
15	4.h.(7)	Was 4.h.(5)(c). All employees selected for an initial supervisory position must complete a one year probationary period. A supervisor who does not complete his or her probationary period shall be returned to either the former position or a position of no lower grade and pay than the position from which transferred, assigned or promoted.	<u>Supervisory Probation Period.</u> All employees selected for an initial supervisory position must complete a 1-year probationary period. A supervisor who does not complete his or her probationary period shall be returned to either the former position or a position of no lower grade and pay than the position from which transferred, assigned or promoted.
15	4.h.(8)	Renumbered.	Was 4.h.(9).
15	4.h.(8)(a)	Employees separated within their trial periods will be provided the same rights as competitive service employees who are involuntarily separated during a probationary period.	Appointees separated within their trial periods will be provided the same rights as competitive service appointees who are involuntarily separated during a probationary period in accordance with their employment status, as defined in 5 U.S.C. 7511(a)(1)(B) or (C).
15	4.h.(9)	Renumbered.	Was 4.h.(10).
15	4.h.(9)	<u>Time-Limited Appointments.</u> (a) Termination of a time-limited appointment at the expiration of the appointment is not grievable or appealable. (b) Termination of a time-limited appointment under this authority prior to the expiration of the appointment is subject to limited appeal rights.	<u>Term Appointments.</u> (a) Termination of a term appointment at the expiration of the appointment is not grievable or appealable. (b) Termination of a term appointment under this authority prior to the expiration of the appointment is subject to limited appeal rights.

Page	Paragraph	Changed	To
15-16	4.h.(10)- 4.h.(14)	Renumbered.	Was 4.h.(11)-4.h.(15).
16	4.h.(12)	<u>Grievance Rights.</u> Employees under these authorities will be covered by the locally applicable Administrative or Negotiated Grievance Procedures in DOE O 342.1.	<u>Grievance Rights.</u> Employees under these authorities will be covered by either negotiated grievance rights in the local Collective Bargaining Agreement or administrative procedures in DOE O 342.1, <i>Agency Administrative Grievance Policy and Procedures</i> , current version.
16	4.h.(14)	<u>SMRB and ERB Review.</u> EJ and EK delegated approval authorities and actions may be referred to the SMRB and/or the ERB as deemed necessary by the Director, OCEM and/or SMRB. The affected Head of the Departmental Element will be provided prior notification before sending an action to the ERB and/or SMRB.	<u>ERB Review.</u> EJ and EK delegated approval authorities and actions may be referred to the ERB as necessary by the Director, OCEM. The affected Head of the Departmental Element will be provided prior notification before sending an action to the ERB.
16	4.h.(15)	Was 4.h.(7). <u>Public Financial Disclosure Report.</u> Employees under these authorities may be required to complete a confidential or public financial disclosure statement and receive conflict of interest clearance from the Office of General Counsel (GC) prior to initial appointment. Confidential financial disclosure reports are due annually on February 15. Employees required to complete the public financial disclosure report must do so annually on May 15 of every year, and upon termination of a position that requires an employee to file. Public financial disclosure report filers also have to file periodic transaction reports as necessary.	<u>Public Financial Disclosure Reports.</u> Employees under these authorities may be required to complete either a Confidential Financial Disclosure Report (OGE Form 450) or a Public Financial Disclosure Report (OGE Form 278e) and receive conflict-of-interest clearance from GC prior to initial appointment. Confidential Financial Disclosure Reports are generally due annually on February 15. Employees required to complete the Public Financial Disclosure Report must do so annually, generally on May 15 of every year, and upon termination of a position that requires an employee to file. Public Financial Disclosure Report filers also have to file Periodic Transaction Reports as necessary.
16	4.h.(16)	Renumbered.	Was 4.h.(8).
17	5.a.	<u>SMRB as delegated by the ERB.</u> (1) Manage and assign all EJ and EK allocations throughout the Department, including NNSA, to include requests to transfer positions and reorganizations; (2) Approve establishments of new positions and previously established	<u>ERB.</u> (1) Approve all actions for EJ and EK positions throughout the Department, including NNSA, as identified in the ERB Charter, unless delegated or otherwise specified in communications to the Heads of Departmental Elements;

Page	Paragraph	Changed	To
		<p>positions if vacant for more than 365 days;</p> <p>(3) Approve non-competitive selections into EJ and EK positions;</p> <p>(4) Approve phased retirement requests;</p> <p>(5) Approve proposals to grant non-performance based awards in excess of \$7,500 and up to \$10,000;</p> <p>(6) Approve priority consideration for surplus employees affected by a Reduction-in-Force (RIF); and</p> <p>(7) Approve exemptions to the policy, as applicable.</p>	<p>(2) Approve proposals to grant non-performance-based awards in excess of \$7,500 and up to \$10,000;</p> <p>(3) Approve requests from the Heads of Departmental Elements (and other field organizations with personnel authority) to request national interest determinations from the Secretary of State when details and transfers to public international organizations will last more than 5 years; and</p> <p>(4) Approve exemptions to the policy, as applicable.</p>
17	5.b.	<p><u>Director, Office of Human Capital Management.</u></p> <p>(1) Approve assignments (detail, transfer to International Organizations, etc.) of any EJ or EK employee outside of the Department;</p> <p>(2) Approve details of non-DOE employees to EJ and EK positions;</p> <p>(3) Approve all Intergovernmental Personnel Act assignments;</p> <p>(4) Approve all dual waiver compensation waivers in accordance with Section 1122 of the National Defense authorization Act for Fiscal Year 2010, Public Law 111-84 (Pub.L.111-84) and renewals; and</p> <p>(5) Approve requests from Head of Departmental Elements (and other field organizations with personnel authority) to request national interest determinations from the Secretary of State when details and transfers to public international organizations will last more than five years.</p>	Removed.
17-19	5.c.-5.g.	Renumbered.	5.b.-5.f.
17	5.b.	<p>(1) Approve all new EJ/EK allocation requests prior to submission to the SMRB;</p> <p>(2) Approve EJ or EK backfill requests for those positions that are vacant for less than 365 days;</p>	<p>(1) Approve all requests prior to submission to the ERB;</p> <p>(2) Approve any actions for EJ and EK positions as delegated by the ERB Chair;</p>

Page	Paragraph	Changed	To
		<ul style="list-style-type: none"> (3) Approve competitive selections for appointment; (4) Approve reassignment and promotion requests; (5) Approve details of DOE employees into EJ and EK positions; (6) Approve details of EJ/EK employees into other DOE positions; (7) Approve recruitment/relocation/retention incentives; (8) Approve performance-based pay adjustments and awards; (9) Approve non-performance based awards up to \$7,500 and Time-Off awards up to 80 hours (maximum allowed in a 12-month period); (10) Obtain Under Secretary concurrence, if applicable and required; and (11) OCEM review as required. 	<ul style="list-style-type: none"> (3) Approve performance-based pay adjustments and awards; (4) Approve non-performance-based awards up to \$7,500 and Time-Off Awards up to the maximum allowed in a 12-month period; (5) Obtain Under Secretary concurrence, if applicable and required, and OCEM review as required.
18	5.e.(4)	Provide advice and technical assistance to Departmental Elements prior to final approval of all personnel actions that are forwarded to the ERB and/or SMRB for consideration; and	Provide advice and technical assistance to Departmental Elements prior to final approval of all personnel actions that are forwarded to the ERB for consideration; and
18	5.f.	<ul style="list-style-type: none"> (1) Provide legal support to extend EK authority, as applicable; (2) Review performance-based pay increases; and (3) Concur in use of selection without competition of personnel classified under GS-301-series equivalent utilizing the EJ authority. 	<ul style="list-style-type: none"> (1) Provide legal support for EJ and EK authorities, as applicable; (2) Review performance-based pay increases; (3) Concur in the use of selection without competition of personnel classified under GS-301-series equivalent utilizing the EJ authority; (4) Perform conflict-of-interest reviews for EJ and EK employees; and (5) Review and concur on applicable EJ or EK intra-agency details.
19	6.	References updated as appropriate.	
Appendix 1		Setting Pay	Removed.