

§ 430.403 System certification.

(a) The performance appraisal system(s) covering senior employees must be certified by OPM, with OMB concurrence, as making meaningful distinctions based on relative performance before an agency may apply a maximum annual rate of basic pay for senior executives equal to the rate for level II of the Executive Schedule or apply an annual aggregate limitation on payments to senior employees equal to the salary of the Vice President under 5 U.S.C. 5307(d)). OPM, with OMB concurrence, will certify an agency's appraisal system(s) only when a review of that system's design, application, and administration reveals that the agency meets the certification criteria established in § 430.404 and has followed the procedures for certifying agency appraisal systems in § 430.405.

(b) Except as provided in paragraph (c) of this section, agencies subject to 5 U.S.C. chapter 43 and 5 CFR part 430 seeking certification of their appraisal systems must submit systems that have been approved by OPM under § 430.312 or § 430.210, as applicable. In some agencies, the performance appraisal system(s) covers employees in many organizations and/or components, and their ability to meet the certification criteria in § 430.404 may vary significantly. In such cases, an agency may establish and/or submit separate performance appraisal systems for each of these distinct organizations and/or components to ensure timely certification of those performance appraisal system(s) that meet the criteria. New appraisal systems established under 5 CFR part 430, subpart B or C, as applicable based on the employees covered, must be approved by OPM.

(c) When an agency establishes a new appraisal system for the purpose of seeking certification under this subpart, the agency may submit that system for certification even if it has not yet been approved by OPM under § 430.312 or § 430.210, as applicable. OPM will certify, with OMB concurrence, only those systems that OPM determines meet the approval requirements of 5 CFR part 430, subpart B or C, as applicable.

(d) An agency must establish an appraisal system(s), as defined in § 430.402, for its senior professionals that meets the requirements of 5 CFR part 430, subpart B, and is separate from the system(s) established to cover its SES members under 5 CFR part 430, subpart C. For the purpose of certification under this subpart, such senior professional appraisal system(s) must meet the certification criteria set forth in § 430.404. At its discretion, an agency may include system features in its senior professional appraisal system(s) that are the same as, or similar to, the features of its SES appraisal system(s), as appropriate, including procedures that correspond to the higher level review procedures under § 430.308(b) and PRB reviews of summary ratings under § 430.308(c).

(e) For agencies subject to 5 U.S.C. chapter 43 and 5 CFR part 430, OPM approval of the agency performance appraisal system(s) is a prerequisite to certification. Agencies not subject to the appraisal provisions of 5 U.S.C. chapter 43 and 5 CFR part 430 and which are seeking certification of their appraisal system(s) under this subpart must submit appropriate documentation to demonstrate that each system complies with the appropriate legal authority that governs the establishment, application, and administration of that system.

§ 430.404 Certification criteria.

(a) To be certified, an agency's applicable appraisal system(s) for senior executives or senior professionals must make meaningful distinctions based on relative performance and meet the other requirements of 5 U.S.C. chapter 43, as applicable, in addition to the particular criterion cited here (*i.e.*, consultation). Such system(s) must provide for the following:

(1) Alignment, so that the performance expectations for individual senior employees derive from, and clearly link to, the agency's mission, GPRA strategic goals, program and policy objectives, and/or annual performance plans and budget priorities;

(2) Consultation, so that the performance expectations for senior employees meet the requirements of 5 CFR part 430, subparts B and C, as applicable,