

(2) to the extent that they did not, an explanation of the reasons why any critical need (apart from the ones under subsection (b)(3)) was not successfully addressed; and

(3) recommendations for how the Administration could address any remaining critical need and could prevent those that have been addressed from recurring.

(i) The budget request for the Administration for the first fiscal year beginning after the date of enactment of this chapter and for each fiscal year thereafter shall include a statement of the total amount of appropriations requested for such fiscal year to carry out this chapter.

(Added Pub. L. 108–201, §3(a), Feb. 24, 2004, 118 Stat. 462.)

#### Editorial Notes

##### REFERENCES IN TEXT

The date of enactment of this chapter, referred to in subssecs. (h) and (i), is the date of enactment of Pub. L. 108–201, which was approved Feb. 24, 2004.

#### § 9803. Restrictions

(a) None of the workforce authorities made available under this chapter may be exercised with respect to any officer who is appointed by the President, by and with the advice and consent of the Senate.

(b) Unless specifically stated otherwise, all workforce authorities made available under this chapter shall be subject to section 5307.

(c)(1) None of the workforce authorities made available under section 9804, 9805, 9806, 9807, 9809, 9812, 9813, 9814, or 9815 may be exercised with respect to a political appointee.

(2) For purposes of this subsection, the term “political appointee” means an employee who holds—

(A) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character; or

(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined in section 3132(a)).

(Added Pub. L. 108–201, §3(a), Feb. 24, 2004, 118 Stat. 464.)

#### § 9804. Recruitment, redesignation, and relocation bonuses

(a) Notwithstanding section 5753, the Administrator may pay a bonus to an individual, in accordance with the workforce plan and subject to the limitations in this section, if—

(1) the Administrator determines that the Administration would be likely, in the absence of a bonus, to encounter difficulty in filling a position; and

(2) the individual—

(A) is newly appointed as an employee of the Federal Government;

(B) is currently employed by the Federal Government and is newly appointed to another position in the same geographic area; or

(C) is currently employed by the Federal Government and is required to relocate to a

different geographic area to accept a position with the Administration.

(b) If the position is described as addressing a critical need in the workforce plan under section 9802(b)(2)(A), the amount of a bonus may not exceed—

(1) 50 percent of the employee’s annual rate of basic pay (including comparability payments under sections 5304 and 5304a) as of the beginning of the service period multiplied by the service period specified under subsection (d)(1)(B)(i); or

(2) 100 percent of the employee’s annual rate of basic pay (including comparability payments under sections 5304 and 5304a) as of the beginning of the service period.

(c) If the position is not described as addressing a critical need in the workforce plan under section 9802(b)(2)(A), the amount of a bonus may not exceed 25 percent of the employee’s annual rate of basic pay (excluding comparability payments under sections 5304 and 5304a) as of the beginning of the service period.

(d)(1)(A) Payment of a bonus under this section shall be contingent upon the individual entering into a service agreement with the Administration.

(B) At a minimum, the service agreement shall include—

(i) the required service period;

(ii) the method of payment, including a payment schedule, which may include a lump-sum payment, installment payments, or a combination thereof;

(iii) the amount of the bonus and the basis for calculating that amount; and

(iv) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

(2) For purposes of determinations under subsections (b)(1) and (c)(1), the employee’s service period shall be expressed as the number equal to the full years and twelfth parts thereof, rounding the fractional part of a month to the nearest twelfth part of a year. The service period may not be less than 6 months and may not exceed 4 years.

(3) A bonus under this section may not be considered to be part of the basic pay of an employee.

(e) Before paying a bonus under this section, the Administration shall establish a plan for paying recruitment, redesignation, and relocation bonuses, subject to approval by the Office of Personnel Management.

(f) No more than 25 percent of the total amount in bonuses awarded under subsection (a) in any year may be awarded to supervisors or management officials.

(Added Pub. L. 108–201, §3(a), Feb. 24, 2004, 118 Stat. 464.)

#### § 9805. Retention bonuses

(a) Notwithstanding section 5754, the Administrator may pay a bonus to an employee, in accordance with the workforce plan and subject to the limitations in this section, if the Administrator determines that—