

(1) Individuals selecting employment in the civil service shall incur a service obligation of 1 year of service to the DoD upon graduation for each year or partial year of scholarship they receive, in addition to an internship, if applicable. Pursuant to the authority granted in 10 U.S.C. 2200a(g) and the Under Secretary of Defense for Personnel and Readiness Memorandum, “Implementation Authority to Employ Individuals Completing Department of Defense Scholarship or Fellow Programs,” April 5, 2010, DoD Components may appoint DoD IASP graduates to IT positions as members of the excepted service. Upon satisfactory completion of 2 years of substantially continuous service, DoD Components may then convert these individuals to career or career-conditional appointments without competition.

(2) Individuals enlisting or accepting a commission to serve on active duty in one of the Military Services shall incur a service obligation of a minimum of 4 years on active duty in that Service upon graduation. The Military Services may establish a service obligation longer than 4 years, depending on the occupational specialty and type of enlistment or commissioning program selected.

(g) Individuals in the recruitment program who fail to complete the degree program satisfactorily or to fulfill the service commitment upon graduation shall be required to reimburse the United States pursuant to 10 U.S.C. 2200a(e) for payments made to them through the DoD IASP unless a waiver, in whole or in part, is granted by the DoD IASP Executive Administrator.

## **PART 241—PILOT PROGRAM FOR TEMPORARY EXCHANGE OF INFORMATION TECHNOLOGY PERSONNEL**

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AUTHORITY: Pub. L. 111–84, sec. 1110, as amended.

SOURCE: 77 FR 36917, June 20, 2012, unless otherwise noted.

### **§ 241.1 Purpose.**

(a) The purpose of this part is to implement section 1110 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111–84), which authorizes DoD to implement a Pilot Program for the Temporary Exchange of Information Technology (IT) Personnel. This statute authorizes the temporary assignment of DoD IT employees to private sector organizations. This statute also gives DoD the authority to accept private sector IT employees assigned under the Pilot. This program is referred to as the Information Technology Exchange Program (ITEP) pilot.

(b) DoD Component authorized approving official may approve assignments as a mechanism for improving the DoD workforce’s competency in using IT to deliver government information and services. DoD Component authorized approving official may not make assignments under this part to circumvent personnel ceilings, or as a substitute for other more appropriate personnel decisions or actions. Approved assignments must meet the strategic program goals of the DoD Components. The benefits to the DoD Components and the private sector organizations are the primary considerations in initiating assignments; not the desires or personal needs of an individual employee.

### **§ 241.2 Definitions.**

In this part:

*Detail* means the assignment of a DoD employee to a private sector organization without a change of position; or the assignment of a private sector employee to a DoD Component without a change of position.

*DoD employee* means a Federal civilian employee of the DoD.

*Exceptional employee* means performance meets or exceeds all standards established at the fully successful level

or above and makes significant contributions towards achieving the organizational goals. Participating organizations should target highly motivated, disciplined employees.

*Information technology (IT)* as defined means use of computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources. IT includes the planning, organizing, staffing, directing, integrating, or controlling of information technology, including occupational specialty areas such as systems administration, IT project management, network services, operating systems, software application, cyber security, enterprise architecture, policy and planning, internet/web services, customer support, data management and systems analysis.

*Private sector organization* means non-public or commercial individuals and businesses, nonprofit organizations, academia, scholastic institutions, and nongovernmental organizations.

*Small business concern* means a business concern that satisfies the definitions and standards by the Administrator of the Small Business Administration (SBA) as defined by 5 U.S.C. 3703(e)(2)(A).

#### § 241.3 Assignment authority.

The Secretary of Defense may with the agreement, of the private sector organization concerned, arrange for the temporary assignment of a DoD employee to a private sector organization or accept a private sector employee from a private sector organization to a DoD Component.

#### § 241.4 Eligibility.

(a) To be eligible for an ITEP detail, a DoD or private sector employee must:

- (1) Work in the field of IT;
- (2) Be equivalent at the GS-11 level or above
- (3) Be considered an exceptional employee, meet or exceed successful performance levels and makes significant

contributions towards achieving organizational goals;

(4) Be expected to assume increased IT responsibilities in the future;

(5) Be currently employed by an organization interested in participating in the ITEP pilot; and

(6) Obtain supervisor and company approval before an employee can participate in an ITEP detail.

(b) In addition to meeting the requirements of paragraph (a) of this section, the DoD employee must be serving under a career or career-conditional appointment or an appointment of equivalent tenure in the excepted service.

(c) The private sector employee must meet citizenship requirements for Federal employment in accordance with 5 CFR 7.3 and 338.101, as well as any other statutory requirements. When a position requires a security clearance, the person must possess, or be able to obtain an appropriate security clearance.

(d) Proposed assignment meets applicable requirements of section 209(b) of the E-Government Act of 2002.

#### § 241.5 Written agreements.

(a) Before a detail begins, the DoD Component authorized approving official, private sector organization authorized approving official and the employee to be assigned to the ITEP detail must sign a three-party agreement. Prior to the agreement being signed the relevant legal office for the DoD Component shall review and approve the agreement. The agreement must include, but is not limited to the following elements:

(1) The duties to be performed and length of detail;

(2) Describe the core IT competencies and technical skills that the detailee will be expected to enhance or acquire;

(3) Identification of the supervisor of detailee.

(b) The agreement shall require DoD employees, upon completion of the assignment serve in the civil service for a period equal to the length of the detail; and

(c) Provide that if the employee of the DoD or of the private sector organization (as the case may be) fails to

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carry out the agreement, such employee shall be liable to the United States for payment of all expenses of the assignment, unless that failure was for good and sufficient reason as determined by the Secretary of Defense.

### § 241.6 Length of details.

(a) A detail shall be for a period of not less than 3 months and not more than 1 year, and may be extended in 3-month increments for a total of not more than 1 additional year by DoD Components and private sector organizations authorized approving officials.

(b) This extension may be granted in 3-month increments not to exceed 1 year. No assignment may commence after September 30, 2018.

[77 FR 36917, June 20, 2012, as amended at 79 FR 27488, May 14, 2014]

### § 241.7 Termination.

An assignment may, at any time and for any reason be terminated by the DoD or the private sector organization concerned.

### § 241.8 Terms and conditions.

(a) A DoD employee assigned under this part:

(1) Remains a Federal employee without loss of employee rights and benefits attached to that status. These include, but are not limited to:

(i) Consideration for promotion;

(ii) Leave accrual;

(iii) Continuation of retirement benefits and health, life, and long-term care insurance benefits; and

(iv) Pay increases the employee otherwise would have received if he or she had not been assigned;

(2) Remains covered for purposes of the Federal Tort Claims Act, and for purposes of injury compensation as described in 5 U.S.C. chapter 81; and

(3) Is subject to any action that may impact the employee's position while he or she is assigned.

(b) An employee of a private sector organization:

(1) May continue to receive pay and benefits from the private sector organization from which such employee is assigned;

(2) Is deemed to be an employee of the DoD for the purposes of:

(i) Chapter 73 of title 5, United States Code (Suitability, Security, and Conduct);

(ii) Sections 201 (Bribery of Public Officials and Witnesses), 203 (Compensation to Members of Congress, Officers and Employees Against and Other Matters Affecting the Government), 205 (Activities of Officers and Employees in Claims Against Other Matters Affecting the Government), 207 (Restrictions on Former Officers, Employees, and Elected Officials of the Executive and Legislative Branches), 208 (Acts Affecting a Personal Financial Interest), 209 (Salary of Government Officials and Employees Payable only by the United States), 603 (Making Political Contributions), 606 (Intimidation to Secure Political Contributions), 607, (Place of Solicitation), 643 (Accounting Generally for Public Money), 654 (Officer or Employee of the United States Converting Property of Another), 1905 (Disclosure of Confidential Information Generally), and 1913 (Lobbying with Appropriated Moneys) of title 18, United States Code;

(iii) Sections 1343, 1344, and 1349(b) of title 31, United States Code;

(iv) The Federal Tort Claims Act and any other Federal tort liability statute;

(v) The Ethics in Government Act of 1978;

(vi) Section 1043 of the Internal Revenue Code of 1986; and

(vii) Section 27 of the Office of Federal Procurement Policy Act; and

(3) May not have access to any trade secrets or to any other nonpublic information which is of commercial value to the private sector organization from which he or she is assigned;

(4) Is subject to such regulations as the President may prescribe;

(5) Is covered by 5 U.S.C. chapter 81, Compensation for Work Injuries; and

(6) Does not have any right or expectation for Federal employment solely on the basis of his or her assignment.

### § 241.9 Costs and reimbursements.

(a) *Payment of Salary and Allowances.* The lending organization (DoD or private sector organization) has full responsibility for payment of all salary and allowances to their employee participating in an ITEP pilot. Both DoD

and private sector employees participating in the ITEP pilot are entitled to all benefits afforded to similar employees of their respective lending organizations, including medical care, according to subscribed plans and Worker's Compensation for injuries sustained in the line of duty.

(b) *Business Training and Travel Expenses.* The engaging organization (recipient of the ITEP pilot participant) may pay for any business training and travel expenses incurred by the employee while participating in the ITEP pilot.

(c) *Prohibition.* A private sector organization may not charge the DoD or any agency of the Federal Government, as direct or indirect costs under a Federal contract, for the costs of pay or benefits paid by that organization to an employee assigned to a DoD Component.

#### **§ 241.10 Small business consideration.**

The DoD CIO on behalf of the Secretary of Defense shall:

(a) Ensure that, of the assignments made each year, at least 20 percent are from small business concerns (as defined by 5 U.S.C. 3703(e)(2)(A)).

(b) Take into consideration the questions of how assignments might be used to help meet the needs of the DoD with respect to the training of employees in IT.

#### **§ 241.11 Numerical limitation.**

The ITEP Pilot is an opportunity for the exchange of knowledge, experience and skills between DoD and the private sector. The DoD has the flexibility to send their employees to the private sector or receive private sector employees, or participate in a one-for-one exchange. In no event may more than 10 employees participate in assignments under this section at any given time.

#### **§ 241.12 Reporting requirements.**

(a) For each of fiscal years 2010 through 2018, the Secretary of Defense shall submit annual reports to the congressional defense committees, not later than 1 month after the end of the fiscal year involved, a report on any activities carried out during such fiscal

year, including the following information:

(1) Respective organizations to and from which an employee is assigned;

(2) Positions those employees held while they were so assigned;

(3) Description of the tasks they performed while they were so assigned; and

(4) Discussion of any actions that might be taken to improve the effectiveness of the Pilot program, including any proposed changes in the law.

(b) These reports will be prepared and submitted by DoD CIO in coordination with DoD Components participating in the Pilot, to the appropriate congressional committees.

[77 FR 36917, June 20, 2012, as amended at 79 FR 27488, May 14, 2014]

#### **§ 241.13 Implementation.**

The DoD CIO is responsible for administering, coordinating and implementing the Pilot Program for the Temporary Exchange of Information Personnel, referred to as the Information Technology Exchange Program (ITEP) pilot. The DoD CIO will coordinate with DoD Components.

### **PART 243—DEPARTMENT OF DEFENSE RATEMAKING PROCEDURES FOR CIVIL RESERVE AIR FLEET CONTRACTS**

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AUTHORITY: Section 366 National Defense Authorization Act for FY12 (Pub. L. 112-81)  
10 U.S.C. Chap 931, Section 9511a.

SOURCE: 80 FR 30358, May 28, 2015, unless otherwise noted.