

Public Law 104-190
104th Congress

An Act

Aug. 20, 1996
[H.R. 3870]

To authorize the Agency for International Development to offer voluntary separation incentive payments to employees of that agency.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

5 USC 5597 note.

SECTION 1. VOLUNTARY SEPARATION INCENTIVES FOR EMPLOYEES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) **DEFINITIONS.**—For the purposes of this Act—

(1) the term “agency” means the Agency for International Development;

(2) the term “Administrator” means the Administrator, Agency for International Development; and

(3) the term “employee” means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the agency, is serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 12 months, but does not include—

(A) any employee who, upon separation and application, would then be eligible for an immediate annuity under subchapter III of chapter 83 (except for section 8336(d)(2)) or chapter 84 (except for section 8414(b)(1)(B)) of title 5, United States Code, or corresponding provisions of another retirement system for employees of the agency;

(B) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(C) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in subparagraph (A);

(D) an employee who is to be separated involuntarily for misconduct or unacceptable performance, and to whom specific notice has been given with respect to that separation;

(E) an employee who, upon completing an additional period of service, as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(F) an employee who has previously received any voluntary separation incentive payment by the Government of the United States under this Act or any other authority and has not repaid such payment;

(G) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(H) any employee who, during the 24-month period preceding the date of separation, received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the 12-month period preceding the date of separation, received a retention allowance under section 5754 of such title 5.

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL.—The Administrator, before obligating any resources for voluntary separation incentive payments under this Act, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this Act may be paid by the agency to not more than 100 employees of such agency and only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment under this Act—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section; or

(ii) an amount determined by the agency head not to exceed \$25,000;

(D) may not be made except in the case of any employee who voluntarily separates (whether by retirement or resignation) before February 1, 1997;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this Act.

(2) DEFINITION.—For the purpose of paragraph (1), the term “final basic pay”, with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee’s final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this Act and accepts any employment for compensation with the Government of the United States, or who works for any agency of the Government of the United States through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual’s first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this Act. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

(2) **ENFORCEMENT.**—The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met. President.

Approved August 20, 1996.

LEGISLATIVE HISTORY—H.R. 3870:

CONGRESSIONAL RECORD, Vol. 142 (1996):

July 29, considered and passed House.

Aug. 2, considered and passed Senate.