

III, §306(a), Nov. 8, 1984, 98 Stat. 3219, directed Office of Personnel Management to submit reports to Congress relating to Senior Executive Service.

§ 3136. Regulations

The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.

(Added Pub. L. 95-454, title IV, §402(a), Oct. 13, 1978, 92 Stat. 1160.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415(a)(1), (b), of Pub. L. 95-454, set out as a note under section 3131 of this title.

SUBCHAPTER III—THE FEDERAL BUREAU OF INVESTIGATION AND DRUG ENFORCEMENT ADMINISTRATION SENIOR EXECUTIVE SERVICE

§ 3151. The Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service

(a) The Attorney General may by regulation establish a personnel system for senior personnel within the Federal Bureau of Investigation and the Drug Enforcement Administration to be known as the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service (hereinafter in this subchapter referred to as the “FBI-DEA Senior Executive Service”). The regulations establishing the FBI-DEA Senior Executive Service shall—

(1) meet the requirements set forth in section 3131 for the Senior Executive Service;

(2) provide that positions in the FBI-DEA Senior Executive Service meet requirements that are consistent with the provisions of section 3132(a)(2);

(3) provide rates of pay for the FBI-DEA Senior Executive Service that are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 and that are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

(4) provide a performance appraisal system for the FBI-DEA Senior Executive Service that conforms to the provisions of subchapter II of chapter 43;

(5) provide for—

(A) removal consistent with section 3592;

(B) reduction-in-force procedures consistent with section 3595(a), together with measures to ensure that a member of the FBI-DEA Senior Executive Service may not be removed due to a reduction in force unless reasonable efforts to place such member in another such position are first taken;

(C) procedures in accordance with which any furlough affecting the FBI-DEA Senior Executive Service shall be carried out;

(D) removal or suspension consistent with subsections (a), (b), and (c) of section 7543 (except that any hearing or appeal to which a member of the FBI-DEA Senior Executive

Service is entitled shall be held or decided pursuant to procedures established by regulations of the Attorney General); and

(E) recertification consistent with section 3393a;¹

(6) permit the payment of performance awards to members of the FBI-DEA Senior Executive Service consistent with the provisions applicable to performance awards under section 5384; and

(7) provide that members of the FBI-DEA Senior Executive Service may be granted sabbatical leaves consistent with the provisions of section 3396(c).

(b) Except as provided in subsection (a), the Attorney General may—

(1) make applicable to the FBI-DEA Senior Executive Service any of the provisions of this title applicable to applicants for or members of the Senior Executive Service; and

(2) appoint, promote, and assign individuals to positions established within the FBI-DEA Senior Executive Service without regard to the provisions of this title governing appointments and other personnel actions in the competitive service.

(c) The President, based on the recommendations of the Attorney General, may award ranks to members of the FBI-DEA Senior Executive Service in a manner consistent with the provisions of section 4507.

(d) Notwithstanding any other provision of this section, the Attorney General may detail or assign any member of the FBI-DEA Senior Executive Service to serve in a position outside the Federal Bureau of Investigation or the Drug Enforcement Administration (as the case may be) in which the member's expertise and experience may be of benefit to the Federal Bureau of Investigation or the Drug Enforcement Administration (as the case may be) or another Government agency. Any such member shall not by reason of such detail or assignment lose any entitlement or status associated with membership in the FBI-DEA Senior Executive Service.

(e) The Attorney General shall each year submit to Congress, at the time the budget is submitted by the President to the Congress for the next fiscal year, a report on the FBI-DEA Senior Executive Service. The report shall include, in the aggregate and by agency—

(1) the number of FBI-DEA Senior Executive Service positions established as of the end of the preceding fiscal year;

(2) the number of individuals being paid at each rate of basic pay for the FBI-DEA Senior Executive Service as of the end of the preceding fiscal year;

(3) the number, distribution, and amount of awards paid to members of the FBI-DEA Senior Executive Service during the preceding fiscal year; and

(4) the number of individuals removed from the FBI-DEA Senior Executive Service during the preceding fiscal year—

(A) for less than fully successful performance;

(B) due to a reduction in force; or

¹ See References in Text note below.

(C) for any other reason.

(Added Pub. L. 100-325, §1(a), May 30, 1988, 102 Stat. 579; amended Pub. L. 101-194, title V, §506(b)(1), Nov. 30, 1989, 103 Stat. 1758; Pub. L. 109-108, title I, §111, Nov. 22, 2005, 119 Stat. 2305.)

Editorial Notes

REFERENCES IN TEXT

Section 3393a, referred to in subsec. (a)(5)(E), was repealed by Pub. L. 107-296, title XIII, §1321(a)(1)(B), Nov. 25, 2002, 116 Stat. 2296.

Provisions of this title governing appointments and other personnel actions in the competitive service, referred to in subsec. (b)(2), are classified generally to section 3301 et seq. of this title.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109-108 struck out par. (1) designation before “Except as provided”, redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, and struck out former par. (2) which read as follows:

“(A) Notwithstanding any other provision of this section, an individual may not be selected for the FBI-DEA Senior Executive Service unless such individual is a career employee in the civil service.

“(B) For the purpose of subparagraph (A), ‘career employee in the civil service’ shall have such meaning as the Attorney General, in consultation with the Director of the Office of Personnel Management, by regulation prescribes.”

1989—Subsec. (a)(5)(E). Pub. L. 101-194 added subpar. (E).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-194, title V, §506(d), Nov. 30, 1989, 103 Stat. 1759, provided that: “The amendments made by this section [enacting section 3393a of this title and amending this section, sections 3393, 3592 to 3594, 7701, 8336, 8339, 8414, and 8421 of this title, section 1601 of Title 10, Armed Forces, section 3945 of Title 22, Foreign Relations and Intercourse, and section 3610 of Title 50, War and National Defense] shall take effect on January 1, 1991.”

§ 3152. Limitation on pay

Members of the FBI-DEA Senior Executive Service shall be subject to the limitation under section 5307.

(Added Pub. L. 100-325, §1(a), May 30, 1988, 102 Stat. 581; amended Pub. L. 102-378, §2(9), Oct. 2, 1992, 106 Stat. 1347.)

Editorial Notes

AMENDMENTS

1992—Pub. L. 102-378 amended section generally. Prior to amendment, section read as follows: “Nothing in this subchapter shall be construed to allow the aggregate amount payable to a member of the FBI-DEA Senior Executive Service under this subchapter during any fiscal year to exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such year. This section shall be applied in a manner consistent with paragraphs (1) and (2) of section 5383(b).”

SUBCHAPTER IV—TEMPORARY ORGANIZATIONS ESTABLISHED BY LAW OR EXECUTIVE ORDER

§ 3161. Employment and compensation of employees

(a) DEFINITION OF TEMPORARY ORGANIZATION.—For the purposes of this subchapter, the term

“temporary organization” means a commission, committee, board, or other organization that—

(1) is established by law or Executive order for a specific period not in excess of three years for the purpose of performing a specific study or other project; and

(2) is terminated upon the completion of the study or project or upon the occurrence of a condition related to the completion of the study or project.

(b) EMPLOYMENT AUTHORITY.—(1) Notwithstanding the provisions of chapter 51 of this title, the head of a temporary organization may appoint persons to positions of employment in a temporary organization in such numbers and with such skills as are necessary for the performance of the functions required of a temporary organization.

(2) The period of an appointment under paragraph (1) may not exceed three years, except that under regulations prescribed by the Office of Personnel Management the period of appointment may be extended for up to an additional two years.

(3) The positions of employment in a temporary organization are in the excepted service of the civil service.

(c) DETAIL AUTHORITY.—Upon the request of the head of a temporary organization, the head of any department or agency of the Government may detail, on a nonreimbursable basis, any personnel of the department or agency to that organization to assist in carrying out its duties.

(d) COMPENSATION.—(1) The rate of basic pay for an employee appointed under subsection (b) shall be established under regulations prescribed by the Office of Personnel Management without regard to the provisions of chapter 51 and subchapter III of chapter 53 of this title.

(2) The rate of basic pay for the chairman, a member, an executive director, a staff director, or another executive level position of a temporary organization may not exceed the maximum rate of basic pay established for the Senior Executive Service under section 5382 of this title.

(3) Except as provided in paragraph (4), the rate of basic pay for other positions in a temporary organization may not exceed the maximum rate of basic pay for grade GS-15 of the General Schedule under section 5332 of this title.

(4) The rate of basic pay for a senior staff position of a temporary organization may, in a case determined by the head of the temporary organization as exceptional, exceed the maximum rate of basic pay authorized under paragraph (3), but may not exceed the maximum rate of basic pay authorized for an executive level position under paragraph (2).

(5) In this subsection, the term “basic pay” includes locality pay provided for under section 5304 of this title.

(e) TRAVEL EXPENSES.—An employee of a temporary organization, whether employed on a full-time or part-time basis, may be allowed travel and transportation expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of this title, while traveling away from the employee’s regular place of business in the performance of services for the temporary organization.