

(f) SAVINGS PROVISIONS.—In the event that the Secretary terminates this program, in the case of an employee who, on the day before the termination of the program, is serving in a position pursuant to an appointment under this section—

(1) the termination of the program does not terminate the employee's employment in that position before the expiration of the lesser of—

(A) the period for which the employee was appointed; or

(B) the period to which the employee's service is limited under subsection (c), including any extension made under this section before the termination of the program; and

(2) the rate of basic pay prescribed for the position under this section may not be reduced as long as the employee continues to serve in the position without a break in service.

(Added Pub. L. 108-136, div. A, title XI, § 1101(a)(1), Nov. 24, 2003, 117 Stat. 1632; amended Pub. L. 112-81, div. A, title XI, § 1105, Dec. 31, 2011, 125 Stat. 1612.)

Editorial Notes

AMENDMENTS

2011—Subsec. (d)(2). Pub. L. 112-81, § 1105(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “An employee appointed under this section is not eligible for any bonus, monetary award, or other monetary incentive for service except for payments authorized under this section.”

Subsec. (d)(3). Pub. L. 112-81, § 1105(2), inserted at end “In computing an employee's total annual compensation for purposes of the preceding sentence, any payment referred to in paragraph (2)(B) shall be excluded.”

Statutory Notes and Related Subsidiaries

REFERENCES TO MAXIMUM RATE UNDER 5 U.S.C. 5376

For reference to maximum rate under section 5376 of this title, see section 2(d)(3) of Pub. L. 110-372, set out as an Effective Date of 2008 Amendment note under section 5376 of this title.

POLICY ON SENIOR MENTORS

Pub. L. 112-239, div. A, title XI, § 1105, Jan. 2, 2013, 126 Stat. 1973, provided that:

“(a) IN GENERAL.—The Secretary of Defense shall provide written notice to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] at least 60 days before implementing any change in the policy regarding senior mentors issued on or about April 1, 2010.

“(b) APPLICABILITY.—Changes implemented before the date of the enactment of this Act [Jan. 2, 2013] shall not be affected by this section.”

DISCLOSURE OF SENIOR MENTORS

Pub. L. 112-81, div. A, title XI, § 1124, Dec. 31, 2011, 125 Stat. 1618, provided that:

“(a) REQUIREMENT TO DISCLOSE NAMES OF SENIOR MENTORS.—The Secretary of Defense shall disclose the names of senior mentors serving in the Department of Defense by publishing a list of the names on the publicly available website of the Department of Defense. The list shall be updated at least quarterly.

“(b) SENIOR MENTOR DEFINED.—In this section, the term ‘senior mentor’ has the meaning provided in the memorandum from the Secretary of Defense relating to policy on senior mentors, dated April 1, 2010.”

REQUIREMENTS FOR DEPARTMENT OF DEFENSE SENIOR MENTORS

Pub. L. 111-383, div. A, title XI, § 1102, Jan. 7, 2011, 124 Stat. 4382, provided that:

“(a) IN GENERAL.—The Secretary of Defense shall issue appropriate policies and procedures to ensure that all senior mentors employed by the Department of Defense are—

“(1) hired as highly qualified experts under section 9903 of title 5, United States Code; and

“(2) required to comply with all applicable Federal laws and regulations on personnel and ethics matters.

“(b) SENIOR MENTOR DEFINED.—In this section, the term ‘senior mentor’ means a retired flag, general, or other military officer or retired senior civilian official who provides expert experience-based mentoring, teaching, training, advice, and recommendations to senior military officers, staffs, and students as they participate in war games, warfighting courses, operational planning, operational exercises, and decision-making exercises.”

§ 9904. Special pay and benefits for certain employees outside the United States

The Secretary may provide to certain civilian employees of the Department of Defense assigned to activities outside the United States as determined by the Secretary to be in support of Department of Defense activities abroad hazardous to life or health or so specialized because of security requirements as to be clearly distinguishable from normal Government employment—

(1) allowances and benefits—

(A) comparable to those provided by the Secretary of State to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (Public Law 96-465, 22 U.S.C. 4081 et seq.) or any other provision of law; or

(B) comparable to those provided by the Director of Central Intelligence to personnel of the Central Intelligence Agency; and

(2) special retirement accrual benefits and disability in the same manner provided for by the Central Intelligence Agency Retirement Act (50 U.S.C. 2001 et seq.) and in section 18 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403r).¹

(Added Pub. L. 108-136, div. A, title XI, § 1101(a)(1), Nov. 24, 2003, 117 Stat. 1633.)

Editorial Notes

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in par. (1)(A), is Pub. L. 96-465, Oct. 17, 1980, 94 Stat. 2071. Chapter 9 of title I of the Act is classified generally to subchapter IX (§ 4081 et seq.) of chapter 52 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

The Central Intelligence Agency Act of 1949, referred to in par. (2), is act June 20, 1949, ch. 227, 63 Stat. 208, which was formerly classified generally to section 403a et seq. of Title 50, War and National Defense, prior to editorial reclassification in Title 50, and is now classified generally to chapter 46 (§ 3501 et seq.) of Title 50. Section 18 of the Act is now classified to section 3518 of Title 50. For complete classification of this Act to the Code, see Tables.

¹ See References in Text note below.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 3001 of Title 50, War and National Defense.

§ 9905. Direct hire authority for certain personnel of the Department of Defense

(a) IN GENERAL.—The Secretary of Defense may appoint, without regard to the provisions of subchapter I of chapter 33 (other than sections 3303, 3307, and 3328 of such chapter), qualified candidates to any of the following positions in the competitive service in the Department of Defense:

(1) Any position involved with Department maintenance activities, including depot-level maintenance and repair.

(2) Any cyber workforce position.

(3) Any individual in the acquisition workforce that manages any services contracts necessary to the operation and maintenance of programs of the Department.

(4) Any science, technology, or engineering position, including any such position at the Major Range and Test Facilities Base, in order to allow development of new systems and provide for the maintenance of legacy systems.

(5) Any scientific, technical, engineering, or mathematics positions, including technicians, within the defense acquisition workforce, or any category of acquisition positions within the Department designated by the Secretary as a shortage or critical need category.

(6) Any scientific, technical, engineering, or mathematics position, except any such position within any defense Scientific and Technology Reinvention Laboratory, for which a qualified candidate is required to possess a bachelor's degree or an advanced degree, or for which a veteran candidate is being considered.

(7) Any category of medical or health professional positions within the Department designated by the Secretary as a shortage category or critical need occupation.

(8) Any childcare services position for which there is a critical hiring need and a shortage of childcare providers.

(9) Any financial management, accounting, auditing, actuarial, cost estimation, operational research, or business or business administration position for which a qualified candidate is required to possess a finance, accounting, management or actuarial science degree or a related degree, or a related degree of equivalent experience.

(10) Any position, as determined by the Secretary, for the purpose of assisting and facilitating the efforts of the Department in business transformation and management innovation.

(11) Any position in the military housing office of a military installation whose primary

function is supervision of military housing covered by subchapter IV of chapter 169 of title 10.

(12) Any position in support of aircraft operations for which the Secretary determines there is a critical hiring need or shortage of candidates.

(13) Any position in support of the safety of the public, law enforcement, or first response for which the Secretary determines there is a critical hiring need or shortage of candidates.

(14) Any position in support of Special Inspector General for Operation Atlantic Resolve for which the Secretary determines there is a critical hiring need and shortage of candidates.

(b) SUNSET.—

(1) IN GENERAL.—Except as provided in paragraph (2), effective on September 30, 2030, the authority provided under subsection (a) shall expire.

(2) EXCEPTION.—Paragraph (1) shall not apply to the authority provided under subsection (a) to make appointments to positions described under paragraph (5) of such subsection.

(c) SUSPENSION OF OTHER HIRING AUTHORITIES.—During the period beginning on the effective date of the regulations issued to carry out the hiring authority with respect to positions described in paragraphs (5) through (10) of subsection (a) and ending on the date described in subsection (b)(1), the Secretary of Defense may not exercise or otherwise use any hiring authority provided under the following provisions of law:

(1) Sections 1599c(a)(2) and 1705(h) of title 10.

(2) Sections 1112 and 1113 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 129 Stat. 1033).

(3) Sections 1110 and 1643(a)(3) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 130 Stat. 2450 and 2602).

(4) Sections 559 and 1101 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115-91; 131 Stat. 1406 and 1627).

(Added Pub. L. 115-232, div. A, title XI, § 1101(a), Aug. 13, 2018, 132 Stat. 2000; amended Pub. L. 116-92, div. A, title XI, § 1109(a), Dec. 20, 2019, 133 Stat. 1598; Pub. L. 116-283, div. A, title XI, § 1117, Jan. 1, 2021, 134 Stat. 3897; Pub. L. 118-31, div. A, title XI, § 1104, title XII, § 1250B(i), Dec. 22, 2023, 137 Stat. 427, 467.)

Editorial Notes

REFERENCES IN TEXT

Sections 1112 and 1113 of Pub. L. 114-92, referred to in subsec. (c)(2), are sections 1112 and 1113 of Pub. L. 114-92, div. A, title XI, Nov. 25, 2015, 129 Stat. 1033, which are set out as notes under section 1701 of Title 10, Armed Forces.

Sections 1110 and 1643(a)(3) of Pub. L. 114-328, referred to in subsec. (c)(3), are section 1110 of Pub. L. 114-328, div. A, title XI, Dec. 23, 2016, 130 Stat. 2450, which is set out as a note preceding section 1580 of Title 10, Armed Forces, and section 1643(a)(3) of Pub. L. 114-328, div. A, title XVI, Dec. 23, 2016, 130 Stat. 2602, which is set out in a note under section 1599f of Title 10.

Sections 559 and 1101 of Pub. L. 115-91, referred to in subsec. (c)(4), are section 559 of Pub. L. 115-91, div. A,