

- (III) intelligence sources and methods; or
- (IV) intelligence cover mechanisms; and

(ii) meet the special requirements of work related to collection of foreign intelligence or other authorized activities of the Agency; and

(B) shall receive social security benefits based on the social security contributions made.

(2) Internal Revenue Service review

The Director of the Central Intelligence Agency shall establish procedures to carry out this subsection. The procedures shall be subject to periodic review by the Internal Revenue Service.

(i) Regulations

The Director of the Central Intelligence Agency shall prescribe regulations to carry out this section. The regulations shall ensure that the combination of salary, allowances, and benefits that an employee designated under this section may retain does not significantly exceed, except to the extent determined by the Director of the Central Intelligence Agency to be necessary to exercise the authority in subsection (b) of this section, the combination of salary, allowances, and benefits otherwise received by Federal employees not designated under this section.

(j) Finality of decisions

Any determinations authorized by this section to be made by the Director of the Central Intelligence Agency or the Director's designee shall be final and conclusive and shall not be subject to review by any court.

(k) Subsequently enacted laws

No law enacted after the effective date of this section shall affect the authorities and provisions of this section unless such law specifically refers to this section.

(June 20, 1949, ch. 227, §23, as added Pub. L. 108-487, title IV, §402, Dec. 23, 2004, 118 Stat. 3946.)

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (k), is the date of enactment of Pub. L. 108-487, which was approved December 23, 2004. See section 801 of Pub. L. 108-487, set out as an Effective Date of 2004 Amendments note under section 2656f of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

§ 403x. Separation pay program for voluntary separation from service

(a) Definitions

For purposes of this section—

(1) the term “Director” means the Director of the Central Intelligence Agency;¹

¹ So in original. Probably should be followed by “and”.

(2) the term “employee” means an employee of the Central Intelligence Agency, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months, except that such term does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5 or another retirement system for employees of the Government; or

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A).

(b) Establishment of program

In order to avoid or minimize the need for involuntary separations due to downsizing, reorganization, transfer of function, or other similar action, the Director may establish a program under which employees may be offered separation pay to separate from service voluntarily (whether by retirement or resignation). An employee who receives separation pay under such program may not be reemployed by the Central Intelligence Agency for the 12-month period beginning on the effective date of the employee's separation. An employee who receives separation pay under this section on the basis of a separation occurring on or after March 30, 1994, and accepts employment with the Government of the United States within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the Central Intelligence Agency. If the employment is with an Executive agency (as defined by section 105 of title 5), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(c) Bar on certain employment

(1) Bar

An employee may not be separated from service under this section unless the employee agrees that the employee will not—

(A) act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to the Central Intelligence Agency; or

(B) participate in any manner in the award, modification, extension, or perform-

ance of any contract for property or services with the Central Intelligence Agency, during the 12-month period beginning on the effective date of the employee's separation from service.

(2) Penalty

An employee who violates an agreement under this subsection shall be liable to the United States in the amount of the separation pay paid to the employee pursuant to this section times the proportion of the 12-month period during which the employee was in violation of the agreement.

(d) Limitations

Under this program, separation pay may be offered only—

- (1) with the prior approval of the Director; and
- (2) to employees within such occupational groups or geographic locations, or subject to such other similar limitations or conditions, as the Director may require.

(e) Amount and treatment for other purposes

Such separation pay—

- (1) shall be paid in a lump sum;
- (2) shall be equal to the lesser of—
 - (A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, if the employee were entitled to payment under such section; or
 - (B) \$25,000;
- (3) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and
- (4) shall not be taken into account for the purpose of determining the amount of any severance pay to which an individual may be entitled under section 5595 of title 5 based on any other separation.

(f) Regulations

The Director shall prescribe such regulations as may be necessary to carry out this section.

(g) Reporting requirements

(1) Offering notification

The Director may not make an offering of voluntary separation pay pursuant to this section until 30 days after submitting to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report describing the occupational groups or geographic locations, or other similar limitations or conditions, required by the Director under subsection (d) of this section.

(2) Annual report

At the end of each of the fiscal years 1993 through 1997, the Director shall submit to the President and the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report on the effectiveness and costs of carrying out this section.

(Pub. L. 103-36, §2, June 8, 1993, 107 Stat. 104; Pub. L. 103-226, §8(b), Mar. 30, 1994, 108 Stat. 118;

Pub. L. 104-93, title IV, §401, Jan. 6, 1996, 109 Stat. 968; Pub. L. 104-293, title IV, §401, Oct. 11, 1996, 110 Stat. 3468; Pub. L. 106-120, title IV, §402, Dec. 3, 1999, 113 Stat. 1616; Pub. L. 107-108, title IV, §402, Dec. 28, 2001, 115 Stat. 1403; Pub. L. 107-306, title IV, §401, Nov. 27, 2002, 116 Stat. 2403; Pub. L. 108-458, title I, §1071(d), Dec. 17, 2004, 118 Stat. 3691; Pub. L. 108-487, title IV, §401(a), (b)(1), Dec. 23, 2004, 118 Stat. 3945, 3946.)

CODIFICATION

Section was formerly set out as a note under section 403-4 of this title.

Section was enacted as part of the Central Intelligence Agency Voluntary Separation Pay Act, and not as part of the Central Intelligence Agency Act of 1949 which is classified to section 403a et seq. of this title, or as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108-458, §1071(d), amended par. (1) generally. Prior to amendment, par. (1) read: “the term ‘Director’ means the Director of Central Intelligence; and”.

Subsecs. (f) to (h). Pub. L. 108-487, §401(a), redesignated subsecs. (g) and (h) as (f) and (g), respectively, and struck out former subsec. (f), which related to termination of payments under this section.

Subsec. (i). Pub. L. 108-487, §401(b)(1), struck out subsec. (i) which related to remittance of funds.

2002—Subsec. (f). Pub. L. 107-306, §401(1), substituted “September 30, 2005” for “September 30, 2003”.

Subsec. (i). Pub. L. 107-306, §401(2), substituted “2003, 2004, or 2005” for “or 2003”.

2001—Subsec. (f). Pub. L. 107-108, §402(1), substituted “September 30, 2003” for “September 30, 2002”.

Subsec. (i). Pub. L. 107-108, §402(2), substituted “2002, or 2003” for “or 2002”.

1999—Subsec. (f). Pub. L. 106-120, §402(a), substituted “September 30, 2002” for “September 30, 1999”.

Subsec. (i). Pub. L. 106-120, §402(b), substituted “, 1999, 2000, 2001, or 2002” for “or fiscal year 1999”.

1996—Subsec. (f). Pub. L. 104-93, §401(a), substituted “September 30, 1999” for “September 30, 1997”.

Subsec. (i). Pub. L. 104-293 inserted at end: “The remittance required by this subsection shall be in lieu of any remittance required by section 4(a) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 8331 note).”

Pub. L. 104-93, §401(b), added subsec. (i).

1994—Subsec. (b). Pub. L. 103-226, §8(b), inserted four sentences at end relating to repayment of separation pay requirement.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108-458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 401 of this title.

§ 404. Emergency preparedness

(a) Employment of personnel

The Director of the Office of Defense Mobilization, subject to the direction of the President, is authorized, subject to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5, to appoint and fix the compensation of such personnel as may be necessary to assist the Director in carrying out his functions.

(b) Functions

It shall be the function of the Director of the Office of Defense Mobilization to advise the