

career or career-conditional appointment outside the Senior Executive Service; or

(B) whose limited emergency or limited term appointment is approved in advance by the Office of Personnel Management.

(b)(1) The number of positions described under subsection (a) which are filled by an appointee as described under paragraph (2) of such subsection may not exceed 10 percent of the total number of Senior Executive Service positions in the Internal Revenue Service.

(2) Notwithstanding section 3132—

(A) the term of an appointee described under subsection (a)(2) may be for any period not to exceed 3 years; and

(B) such an appointee may serve—

(i) two such terms; or

(ii) two such terms in addition to any unexpired term applicable at the time of appointment.

(Added Pub. L. 105-206, title I, §1201(a), July 22, 1998, 112 Stat. 714.)

§ 9507. Streamlined demonstration project authority

(a) The exercise of any of the flexibilities under sections 9502 through 9510 shall not affect the authority of the Secretary of the Treasury to implement for the Internal Revenue Service a demonstration project subject to chapter 47, as provided in subsection (b).

(b) In applying section 4703 to a demonstration project described in section 4701(a)(4) which involves the Internal Revenue Service—

(1) section 4703(b)(1) shall be deemed to read as follows:

“(1) develop a plan for such project which describes its purpose, the employees to be covered, the project itself, its anticipated outcomes, and the method of evaluating the project.”;

(2) section 4703(b)(3) shall not apply;

(3) the 180-day notification period in section 4703(b)(4) shall be deemed to be a notification period of 30 days;

(4) section 4703(b)(6) shall be deemed to read as follows:

“(6) provides each House of Congress with the final version of the plan.”;

(5) section 4703(c)(1) shall be deemed to read as follows:

“(1) subchapter V of chapter 63 or subpart G of part III of this title.”;

(6) the requirements of paragraphs (1)(A) and (2) of section 4703(d) shall not apply; and

(7) notwithstanding section 4703(d)(1)(B), based on an evaluation as provided in section 4703(h), the Office of Personnel Management and the Secretary of the Treasury, except as otherwise provided by this subsection, may waive the termination date of a demonstration project under section 4703(d).

(c) At least 90 days before waiving the termination date under subsection (b)(7), the Office of Personnel Management shall publish in the Federal Register a notice of its intention to waive the termination date and shall inform in writing both Houses of Congress of its intention.

(Added Pub. L. 105-206, title I, §1201(a), July 22, 1998, 112 Stat. 715.)

§ 9508. General workforce performance management system

(a) In lieu of a performance appraisal system established under section 4302, the Secretary of the Treasury shall, within 1 year after the date of enactment of this section, establish for the Internal Revenue Service a performance management system that—

(1) maintains individual accountability by—

(A) establishing one or more retention standards for each employee related to the work of the employee and expressed in terms of individual performance, and communicating such retention standards to employees;

(B) making periodic determinations of whether each employee meets or does not meet the employee's established retention standards; and

(C) taking actions, in accordance with applicable laws and regulations, with respect to any employee whose performance does not meet established retention standards, including denying any increases in basic pay, promotions, and credit for performance under section 3502, and taking one or more of the following actions:

(i) Reassignment.

(ii) An action under chapter 43 or chapter 75 of this title.

(iii) Any other appropriate action to resolve the performance problem; and

(2) except as provided under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998, strengthens the system's effectiveness by—

(A) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with the Internal Revenue Service's performance planning procedures, including those established under the Government Performance and Results Act of 1993, subtitle III of title 40, Revenue Procedure 64-22 (as in effect on July 30, 1997), and taxpayer service surveys, and communicating such goals or objectives to employees;

(B) using such goals and objectives to make performance distinctions among employees or groups of employees; and

(C) using performance assessments as a basis for granting employee awards, adjusting an employee's rate of basic pay, and other appropriate personnel actions, in accordance with applicable laws and regulations.

(b)(1) For purposes of subsection (a)(2), the term “performance assessment” means a determination of whether or not retention standards established under subsection (a)(1)(A) are met, and any additional performance determination made on the basis of performance goals and objectives established under subsection (a)(2)(A).

(2) For purposes of this title, the term “unacceptable performance” with respect to an employee of the Internal Revenue Service covered by a performance management system established under this section means performance of the employee which fails to meet a retention standard established under this section.

(c)(1) The Secretary of the Treasury may establish an awards program designed to provide

incentives for and recognition of organizational, group, and individual achievements by providing for granting awards to employees who, as individuals or members of a group, contribute to meeting the performance goals and objectives established under this chapter by such means as a superior individual or group accomplishment, a documented productivity gain, or sustained superior performance.

(2) A cash award under subchapter I of chapter 45 may be granted to an employee of the Internal Revenue Service without the need for any approval under section 4502(b).

(d)(1) In applying sections 4303(b)(1)(A) and 7513(b)(1) to employees of the Internal Revenue Service, “30 days” may be deemed to be “15 days”.

(2) Notwithstanding the second sentence of section 5335(c), an employee of the Internal Revenue Service shall not have a right to appeal the denial of a periodic step increase under section 5335 to the Merit Systems Protection Board.

(Added Pub. L. 105-206, title I, §1201(a), July 22, 1998, 112 Stat. 715; amended Pub. L. 107-217, §3(a)(3), Aug. 21, 2002, 116 Stat. 1295.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 105-206, which was approved July 22, 1998.

Section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998, referred to in subsec. (a)(2), is section 1204 of Pub. L. 105-206, which is set out as a note under section 7804 of Title 26, Internal Revenue Code.

The Government Performance and Results Act of 1993, referred to in subsec. (a)(2)(A), is Pub. L. 103-62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of this title, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

AMENDMENTS

2002—Subsec. (a)(2)(A). Pub. L. 107-217 substituted “subtitle III of title 40” for “division E of the Clinger-Cohen Act of 1996 (Public Law 104-106; 110 Stat. 679)”.

§ 9509. General workforce classification and pay

(a) For purposes of this section, the term “broad-banded system” means a system for grouping positions for pay, job evaluation, and other purposes that is different from the system established under chapter 51 and subchapter III of chapter 53 as a result of combining grades and related ranges of rates of pay in one or more occupational series.

(b)(1)(A) The Secretary of the Treasury may, subject to criteria to be prescribed by the Office of Personnel Management, establish one or more broad-banded systems covering all or any portion of the Internal Revenue Service workforce.

(B) With the approval of the Office of Personnel Management, a broad-banded system established under this section may either include or consist of positions that otherwise would be subject to subchapter IV of chapter 53 or section 5376.

(2) The Office of Personnel Management may require the Secretary of the Treasury to submit

information relating to broad-banded systems at the Internal Revenue Service.

(3) Except as otherwise provided under this section, employees under a broad-banded system shall continue to be subject to the laws and regulations covering employees under the pay system that otherwise would apply to such employees.

(4) The criteria to be prescribed by the Office of Personnel Management shall, at a minimum—

(A) ensure that the structure of any broad-banded system maintains the principle of equal pay for substantially equal work;

(B) establish the minimum and maximum number of grades that may be combined into pay bands;

(C) establish requirements for setting minimum and maximum rates of pay in a pay band;

(D) establish requirements for adjusting the pay of an employee within a pay band;

(E) establish requirements for setting the pay of a supervisory employee whose position is in a pay band or who supervises employees whose positions are in pay bands; and

(F) establish requirements and methodologies for setting the pay of an employee upon conversion to a broad-banded system, initial appointment, change of position or type of appointment (including promotion, demotion, transfer, reassignment, reinstatement, placement in another pay band, or movement to a different geographic location), and movement between a broad-banded system and another pay system.

(c) With the approval of the Office of Personnel Management and in accordance with a plan for implementation submitted by the Secretary of the Treasury, the Secretary may, with respect to Internal Revenue Service employees who are covered by a broad-banded system established under this section, provide for variations from the provisions of subchapter VI of chapter 53.

(Added Pub. L. 105-206, title I, §1201(a), July 22, 1998, 112 Stat. 716.)

§ 9510. General workforce staffing

(a)(1) Except as otherwise provided by this section, an employee of the Internal Revenue Service may be selected for a permanent appointment in the competitive service in the Internal Revenue Service through internal competitive promotion procedures if—

(A) the employee has completed, in the competitive service, 2 years of current continuous service under a term appointment or any combination of term appointments;

(B) such term appointment or appointments were made under competitive procedures prescribed for permanent appointments;

(C) the employee’s performance under such term appointment or appointments met established retention standards, or, if not covered by a performance management system established under section 9508, was rated at the fully successful level or higher (or equivalent thereof); and

(D) the vacancy announcement for the term appointment from which the conversion is made stated that there was a potential for