

limited appointment as a career candidate for a trial period of service prescribed by the Secretary. During such trial period of service, the Secretary shall decide whether—

- (1) to offer a career appointment to the candidate under section 3943 of this title, or
- (2) to recommend to the President that the candidate be given a career appointment under section 3942 of this title.

(b) Decisions by Secretary

Decisions by the Secretary under subsection (a) shall be based upon the recommendations of boards, established by the Secretary and composed entirely or primarily of career members of the Service, which shall evaluate the fitness and aptitude of career candidates for the work of the Service.

(c) Foreign Service Grievance Board decisions

Nothing in this section shall be construed to limit the authority of the Secretary or the Foreign Service Grievance Board under section 4137 of this title.

(Pub. L. 96-465, title I, § 306, Oct. 17, 1980, 94 Stat. 2086; Pub. L. 100-204, title I, § 181(c), Dec. 22, 1987, 101 Stat. 1363.)

AMENDMENTS

1987—Subsec. (c). Pub. L. 100-204 added subsec. (c).

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-204, title I, § 181(e), Dec. 22, 1987, 101 Stat. 1364, provided that: “The amendments made by this section [amending this section and sections 4010 and 4137 of this title] shall not apply with respect to any grievance in which the Board has issued a final decision pursuant to section 1107 of the Foreign Service Act of 1980 (22 U.S.C. 4137) before the date of enactment of this Act [Dec. 22, 1987].”

§ 3947. Entry levels for Foreign Service officer candidates

A career candidate for appointment as a Foreign Service officer may not be initially assigned under section 3964 of this title to a salary class higher than class 4 in the Foreign Service Schedule unless—

- (1) the Secretary determines in an individual case that assignment to a higher salary class is warranted because of the qualifications (including foreign language competence) and experience of the candidate and the needs of the Service; or
- (2) at the time such initial assignment is made, the candidate is serving under a career appointment in the Service and is receiving a salary at a rate equal to or higher than the minimum rate payable for class 4 in the Foreign Service Schedule.

(Pub. L. 96-465, title I, § 307, Oct. 17, 1980, 94 Stat. 2086.)

§ 3948. Recall and reappointment of career members

(a) Retired career members

Whenever the Secretary determines that the needs of the Service so require, the Secretary may recall any retired career member of the Service for active duty in the same personnel category as that member was serving at the

time of retirement. A retired career member may be recalled under this section to any appropriate salary class or rate, except that a retired career member of the Senior Foreign Service may not be recalled to a salary class higher than the one in which the member was serving at the time of retirement unless appointed to such higher class by the President, by and with the advice and consent of the Senate.

(b) Former career members

Former career members of the Service may be reappointed under section 3942(a)(1) or 3943 of this title, without regard to section 3946 of this title, in a salary class which is appropriate in light of the qualifications and experience of the individual being reappointed.

(Pub. L. 96-465, title I, § 308, Oct. 17, 1980, 94 Stat. 2086.)

USAID OVERSEAS PROGRAM

Pub. L. 115-31, div. J, title VII, § 7057(a)-(e), May 5, 2017, 131 Stat. 695, provided that:

“(a) AUTHORITY.—Up to \$93,000,000 of the funds made available in title III of this Act [title III of div. J of Pub. L. 115-31, 131 Stat. 600] pursuant to or to carry out the provisions of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], including funds appropriated under the heading ‘Assistance for Europe, Eurasia and Central Asia’, may be used by the United States Agency for International Development to hire and employ individuals in the United States and overseas on a limited appointment basis pursuant to the authority of sections 308 and 309 of the Foreign Service Act of 1980 [22 U.S.C. 3948, 3949].

“(b) RESTRICTIONS.—

“(1) The number of individuals hired in any fiscal year pursuant to the authority contained in subsection (a) may not exceed 175.

“(2) The authority to hire individuals contained in subsection (a) shall expire on September 30, 2018.

“(c) CONDITIONS.—The authority of subsection (a) should only be used to the extent that an equivalent number of positions that are filled by personal services contractors or other non-direct hire employees of USAID [United States Agency for International Development], who are compensated with funds appropriated to carry out part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], including funds appropriated under the heading ‘Assistance for Europe, Eurasia and Central Asia’, are eliminated.

“(d) PROGRAM ACCOUNT CHARGED.—The account charged for the cost of an individual hired and employed under the authority of this section shall be the account to which the responsibilities of such individual primarily relate: *Provided*, That funds made available to carry out this section may be transferred to, and merged with, funds appropriated by this Act in title II [title II of div. J of Pub. L. 115-31, 131 Stat. 599] under the heading ‘Operating Expenses’.

“(e) FOREIGN SERVICE LIMITED EXTENSIONS.—Individuals hired and employed by USAID, with funds made available in this Act [div. J of Pub. L. 115-31, 131 Stat. 589] or prior Acts making appropriations for the Department of State, foreign operations, and related programs, pursuant to the authority of section 309 of the Foreign Service Act of 1980 [22 U.S.C. 3949], may be extended for a period of up to 4 years notwithstanding the limitation set forth in such section.”

[Pub. L. 115-31, div. J, title VII, § 7034(r)(6), May 5, 2017, 131 Stat. 654, provided that: “Unless otherwise provided for in this Act [div. J of Pub. L. 115-31, 131 Stat. 589, see Tables for classification], for the purposes of this Act the terms ‘under this heading’, ‘under the heading’, ‘under the headings’, or similar phrases mean funds appropriated or otherwise made available under such heading or headings in all titles of this Act: *Pro-*

vided, That the term ‘under the heading in this title’ or similar phrases means funds appropriated or otherwise made available only in such title.”]

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 114–113, div. K, title VII, §7057(a)–(e), Dec. 18, 2015, 129 Stat. 2803, 2804.

Pub. L. 113–235, div. J, title VII, §7057(a)–(e), Dec. 16, 2014, 128 Stat. 2664, 2665.

Pub. L. 113–76, div. K, title VII, §7057(a)–(e), Jan. 17, 2014, 128 Stat. 549.

Pub. L. 112–74, div. I, title VII, §7057(a)–(e), Dec. 23, 2011, 125 Stat. 1244.

Pub. L. 111–117, div. F, title VII, §7059(a)–(g), Dec. 16, 2009, 123 Stat. 3380, 3381.

Pub. L. 111–8, div. H, title VII, §7059(a)–(g), Mar. 11, 2009, 123 Stat. 896.

Pub. L. 110–161, div. J, title VI, §676, Dec. 26, 2007, 121 Stat. 2357.

Pub. L. 109–102, title V, §577, Nov. 14, 2005, 119 Stat. 2231.

Pub. L. 108–447, div. D, title V, §588, Dec. 8, 2004, 118 Stat. 3034.

Pub. L. 108–199, div. D, title V, §525, Jan. 23, 2004, 118 Stat. 176, provided that: “Funds appropriated by this and subsequent appropriations Acts to carry out the provisions of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], including funds appropriated under the heading ‘Assistance for Eastern Europe and the Baltic States’, may be made available to employ individuals overseas on a limited appointment basis pursuant to the authority of sections 308 and 309 of the Foreign Service Act of 1980 [22 U.S.C. 3948, 3949]: *Provided*, That in fiscal years 2004, 2005, and 2006 the authority of this section may be used to hire not more than 85 individuals in each such year.”

§ 3949. Limited appointments

(a) A limited appointment in the Service, including an appointment of an individual who is an employee of an agency, may not exceed 5 years in duration and, except as provided in subsections (b) and (c), may not be extended or renewed. A limited appointment in the Service which is limited by its terms to a period of one year or less is a temporary appointment.

(b) A limited appointment may be extended for continued service—

(1) as a consular agent;

(2) in accordance with section 3951(a) of this title;

(3) as a career candidate, if—

(A) continued service is determined appropriate to remedy a matter that would be cognizable as a grievance under subchapter XI; or

(B) the individual is serving in the uniformed services (as defined in section 4303 of title 38) and the limited appointment expires in the course of such service;

(4) as a career employee in another Federal personnel system serving in a Foreign Service position on detail from another agency;

(5) as a foreign national employee;

(6) in exceptional circumstances if the Secretary determines the needs of the Service require the extension of—

(A) a limited noncareer appointment for a period not to exceed 1 year; or

(B) a limited appointment of a career candidate for the minimum time needed to resolve a grievance, claim, investigation, or complaint not otherwise provided for in this section.

(c)(1) Except as provided in paragraph (2) non-career employees who have served for 5 consecutive years under a limited appointment under this section may be reappointed to a subsequent noncareer limited appointment if there is at least a 1-year break in service before such new appointment.

(2) The Secretary may waive the 1-year break requirement under paragraph (1) in cases of special need.

(Pub. L. 96–465, title I, §309, Oct. 17, 1980, 94 Stat. 2086; Pub. L. 100–204, title I, §176, Dec. 22, 1987, 101 Stat. 1361; Pub. L. 103–236, title I, §180(a)(1), Apr. 30, 1994, 108 Stat. 415; Pub. L. 103–415, §1(hh), Oct. 25, 1994, 108 Stat. 4303; Pub. L. 114–323, title IV, §409, Dec. 16, 2016, 130 Stat. 1930.)

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–323, §409(1), substituted “subsections (b) and (c)” for “subsection (b)”.

Subsec. (b)(3). Pub. L. 114–323, §409(2)(A), substituted “if—” for “if”, inserted subpar. (A) designation before “continued service” and “or” after semicolon at end, and added subpar. (B).

Subsec. (b)(6). Pub. L. 114–323, §409(2)(B)–(D), added par. (6).

Subsec. (c). Pub. L. 114–323, §409(3), added subsec. (c). 1994—Subsec. (b)(5). Pub. L. 103–236, as amended by Pub. L. 103–415, added par. (5).

1987—Pub. L. 100–204 designated existing provisions as subsec. (a), substituted “subsection (b)” for “section 3951(a) of this title”, and added subsec. (b).

§ 3950. Reemployment rights following limited appointment

Any employee of an agency who accepts a limited appointment in the Service with the consent of the head of the agency in which the employee is employed shall be entitled, upon the termination of such limited appointment, to be reemployed in accordance with section 3597 of title 5.

(Pub. L. 96–465, title I, §310, Oct. 17, 1980, 94 Stat. 2087.)

ENTITLEMENT TO BENEFITS FOR SERVICES PERFORMED OUTSIDE UNITED STATES; SERVICE EXCEEDING THIRTY MONTHS

Persons appointed, employed, or assigned after May 19, 1959, under former section 1787(c) of this title or section 2385(d) of this title for the purpose of performing functions under the Mutual Security Act of 1954 (see Short Title note set out under section 1754 of this title) and the Foreign Assistance Act of 1961 (section 2151 et seq. of this title) outside the United States shall not, unless otherwise agreed by the agency in which such benefits may be exercised, be entitled to the benefits provided for by this section in cases in which their service under the appointment, employment, or assignment exceeds thirty months. See Ex. Ord. No. 12163, §1–602(b), Sept. 29, 1979, 44 F.R. 56677, as amended, set out as a note under section 2381 of this title.

§ 3951. United States citizens hired abroad

(a) Appointment of family members

The Secretary, under section 3943 of this title, may appoint United States citizens, who are family members of government employees assigned abroad or are hired for service at their post of residence, for employment in positions customarily filled by Foreign Service officers, Foreign Service personnel, and foreign national employees.