

2009—Subsec. (c). Pub. L. 111-13 added par. (1), redesignated par. (3) as (2), and struck out former pars. (1) and (2) which read as follows:

“(1) OFFICE.—There shall be in the Corporation a Chief Financial Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

“(2) COMPENSATION.—The Chief Financial Officer shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5.”

2008—Subsec. (b)(3). Pub. L. 110-409 struck out par. (3). Text read as follows: “The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5.”

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112-166, set out as a note under section 113 of Title 6, Domestic Security.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as a note under section 4950 of this title.

#### EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 202(i) of Pub. L. 103-82, set out as a note under section 12651 of this title.

### § 12651f. Employees, consultants, and other personnel

#### (a) Employees

Except as provided in subsection (b), section 12651e(d) of this title, and section 8E<sup>1</sup> of the Inspector General Act of 1978, the Chief Executive Officer shall, in accordance with applicable provisions of title 5, appoint and determine the compensation of such employees as the Chief Executive Officer determines to be necessary to carry out the duties of the Corporation.

#### (b) Alternative personnel system

##### (1) Authority

The Chief Executive Officer may designate positions in the Corporation as positions to which the Chief Executive Officer may make appointments, and for which the Chief Executive Officer may determine compensation, without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, to the extent the Chief Executive Officer determines that such a designation is appropriate and desirable to further the effective operation of the Corporation. The Chief Executive Officer may provide for appointments to such positions to be made on a limited term basis.

##### (2) Appointment in the competitive service after employment under alternative personnel system

The Director of the Office of Personnel Management may grant competitive status for appointment to the competitive service, under

such conditions as the Director may prescribe, to an employee who is appointed under this subsection and who is separated from the Corporation (other than by removal for cause).

#### (3) Selection and compensation system

##### (A) Establishment of system

The Chief Executive Officer, after obtaining the approval of the Director of the Office of Personnel Management, shall issue regulations establishing a selection and compensation system for employees of the Corporation appointed under paragraph (1). In issuing such regulations, the Chief Executive Officer shall take into consideration the need for flexibility in such a system.

##### (B) Application

The Chief Executive Officer shall appoint and determine the compensation of employees in accordance with the selection and compensation system established under subparagraph (A).

##### (C) Selection

The system established under subparagraph (A) shall provide for the selection of employees—

- (i) through a competitive process; and
- (ii) on the basis of the qualifications of applicants and the requirements of the positions.

##### (D) Compensation

The system established under subparagraph (A) shall include a scheme for the classification of positions in the Corporation. The system shall require that the compensation of an employee be determined in part on the basis of the job performance of the employee, and in a manner consistent with the principles described in section 5301 of title 5. The rate of compensation for each employee compensated under the system shall not exceed the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.

#### (c) Corporation representative in each State

##### (1) Designation of representative

The Corporation shall designate 1 employee of the Corporation for each State or group of States to serve as the representative of the Corporation in the State or States and to assist the Corporation in carrying out the activities described in the national service laws in the State or States.

##### (2) Duties

The representative designated under this subsection for a State or group of States shall serve as the liaison between—

(A) the Corporation and the State Commission that is established in the State or States;

(B) the Corporation and any subdivision of a State, territory, Indian tribe, public or private nonprofit organization, or institution of higher education, in the State or States, that is awarded a grant under section 12571 of this title directly from the Corporation; and

<sup>1</sup> See References in Text note below.

(C) after the effective date of section 203(c)(2) of the National and Community Service Trust Act of 1993, the State Commission and the Corporation employee responsible for programs under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.] in the State, if the employee is not the representative described in paragraph (1) for the State.

**(3) Nonvoting member of State Commission**

The representative designated under this subsection for a State or group of States shall also serve as a nonvoting member of the State Commission established in the State or States, as described in section 12638(c)(3) of this title.

**(4) Compensation**

If the employee designated under paragraph (1) is an employee whose appointment was made pursuant to subsection (b), the rate of compensation for such employee may not exceed the maximum rate of basic pay payable for GS-13 of the General Schedule under section 5332 of title 5.

**(d) Consultants**

The Chief Executive Officer may procure the temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5.

**(e) Details of personnel**

The head of any Federal department or agency may detail on a reimbursable basis, or on a non-reimbursable basis for not to exceed 180 calendar days during any fiscal year, as agreed upon by the Chief Executive Officer and the head of the Federal agency, any of the personnel of that department or agency to the Corporation to assist the Corporation in carrying out the duties of the Corporation under the national service laws. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

**(f) Advisory committees**

**(1) Establishment**

The Chief Executive Officer, acting upon the recommendation of the Board, may establish advisory committees in the Corporation to advise the Board with respect to national service issues, such as the type of programs to be established or assisted under the national service laws, priorities and criteria for such programs, and methods of conducting outreach for, and evaluation of, such programs.

**(2) Composition**

Such an advisory committee shall be composed of members appointed by the Chief Executive Officer, with such qualifications as the Chief Executive Officer may specify.

**(3) Expenses**

Members of such an advisory committee may be allowed travel expenses as described in section 12651b(d) of this title.

**(4) Staff**

**(A) In general**

Except as provided in subparagraph (B), the Chief Executive Officer is authorized to

appoint and fix the compensation of such staff as the Chief Executive Officer determines to be necessary to carry out the functions of the advisory committee, without regard to—

(i) the provisions of title 5 governing appointments in the competitive service; and

(ii) the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

**(B) Compensation**

If a member of the staff appointed under subparagraph (A) was appointed without regard to the provisions described in clauses (i) and (ii) of subparagraph (A), the rate of compensation for such member may not exceed the maximum rate of basic pay payable for GS-13 of the General Schedule under section 5332 of title 5.

**(g) Personal services contracts**

The Corporation may enter into personal services contracts to carry out research, evaluation, and public awareness related to the national service laws.

(Pub. L. 101-610, title I, §195, as added and amended Pub. L. 103-82, title II, §§202(a), 203(a)(1)(B), Sept. 21, 1993, 107 Stat. 883, 891; Pub. L. 111-13, title I, §1706, Apr. 21, 2009, 123 Stat. 1547.)

REFERENCES IN TEXT

Section 8E of the Inspector General Act of 1978, referred to in subsec. (a), is section 8E of Pub. L. 95-452, as added by Pub. L. 103-82, title II, §202(g)(1), Sept. 21, 1993, 107 Stat. 889, which was renumbered section 8F of the Act by Pub. L. 103-204, §23(a)(3), Dec. 17, 1993, 107 Stat. 2408, and is set out in the Appendix to Title 5, Government Organization and Employees.

Section 203(c)(2) of the National and Community Service Trust Act of 1993, referred to in subsec. (c)(2)(C), is section 203(c)(2) of Pub. L. 103-82, which is set out as a note under section 12651 of this title. For the effective date of section 203(c)(2) of this Act, see section 203(d) of Pub. L. 103-82, set out as an Effective Date of 1993 Amendment note under section 12651 of this title.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (c)(2)(C), is Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 394, which is classified generally to chapter 66 (§4950 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

PRIOR PROVISIONS

A prior section 195 of Pub. L. 101-610 was renumbered section 151 by Pub. L. 103-82 and is classified to section 12611 of this title.

AMENDMENTS

2009—Subsec. (c)(2)(B). Pub. L. 111-13, §1706(1)(A), inserted “territory,” after “subdivision of a State.”

Subsec. (c)(3). Pub. L. 111-13, §1706(1)(B), substituted “Nonvoting member” for “Member” in heading and inserted “nonvoting” before “member” in text.

Subsec. (g). Pub. L. 111-13, §1706(2), added subsec. (g). 1993—Subsecs. (c)(1), (e). Pub. L. 103-82, §203(a)(1)(B), which directed amendment of section 195(c) and (e) of subtitle I of the National and Community Service Act of 1990 by substituting “the national service laws” for “this chapter”, was executed to subsecs. (c)(1) and (e) of this section, which is section 195 of subtitle G of title I of the National Community Service Act of 1990, to reflect the probable intent of Congress.

## EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as a note under section 4950 of this title.

## EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 203(a)(1)(B) of Pub. L. 103-82 effective Apr. 4, 1994, see section 203(d) of Pub. L. 103-82, set out as a note under section 12651 of this title.

## EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 202(i) of Pub. L. 103-82, set out as a note under section 12651 of this title.

**§ 12651g. Administration****(a) Donations****(1) Services****(A) Organizations and individuals**

Notwithstanding section 1342 of title 31, the Corporation may solicit and accept the services of organizations and individuals (other than participants) to assist the Corporation in carrying out the duties of the Corporation under the national service laws, and may provide to such individuals the travel expenses described in section 12651b(d) of this title.

**(B) Limitation**

A person who provides assistance, either individually or as a member of an organization, in accordance with subparagraph (A) shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except that—

(i) for the purposes of the tort claims provisions of chapter 171 of title 28, such a person shall be considered to be a Federal employee;

(ii) for the purposes of subchapter I of chapter 81 of title 5 relating to compensation to Federal employees for work injuries, such persons shall be considered to be employees, as defined in section 8101(1)(B) of title 5 and the provisions of such subchapter shall apply; and

(iii) for purposes of the provisions of chapter 11 of part I of title 18, such a person (to whom such provisions would not otherwise apply except for this subsection) shall be a special Government employee.

**(C) Inherently governmental function****(i) In general**

Such a person shall not carry out an inherently governmental function.

**(ii) Regulations**

The Chief Executive Officer shall promulgate regulations to carry out this subparagraph.

**(iii) “Inherently governmental function” defined**

As used in this subparagraph, the term “inherently governmental function”

means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of value judgment in making a decision for the Government.

**(2) Property****(A) In general**

The Corporation may solicit, accept, hold, administer, use, and dispose of, in furtherance of the purposes of the national service laws, donations of any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise. Donations accepted under this subparagraph shall be used as nearly as possible in accordance with the terms, if any, of such donation.

**(B) Status of contribution**

Any donation accepted under subparagraph (A) shall be considered to be a gift, devise, or bequest to, or for the use of, the United States.

**(C) Rules**

The Chief Executive Officer shall establish written rules to ensure that the solicitation, acceptance, holding, administration, and use of property described in subparagraph (A)—

(i) will not reflect unfavorably upon the ability of the Corporation, or of any officer or employee of the Corporation, to carry out the responsibilities or official duties of the Corporation in a fair and objective manner; and

(ii) will not compromise the integrity of the programs of the Corporation or any official or employee of the Corporation involved in such programs.

**(D) Disposition**

Upon completion of the use by the Corporation of any property accepted pursuant to subparagraph (A) (other than money or monetary proceeds from sales of property so accepted), such completion shall be reported to the General Services Administration and such property shall be disposed of in accordance with title II of the Federal Property and Administrative Services Act of 1949.<sup>1</sup>

**(b) Contracts**

Subject to chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, the Corporation may enter into contracts, and cooperative and interagency agreements, with Federal and State agencies, private firms, institutions, and individuals to conduct activities necessary to assist the Corporation in carrying out the duties of the Corporation under the national service laws.

**(c) Office of Management and Budget**

Appropriate circulars of the Office of Management and Budget shall apply to the Corporation.

<sup>1</sup> See References in Text note below.