

under section 5108 of title 5, provide for the establishment in each of the grade levels GS-16, GS-17, and GS-18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under this chapter and which were assigned and filled on the day before May 4, 1980.

(2) Repealed. Pub. L. 107-279, title IV, §403(3), Nov. 5, 2002, 116 Stat. 1985.

(3) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this chapter and, on the day preceding May 4, 1980, holds a position and has duties comparable to those of the position to which appointed hereunder.

(4) The authority under this subsection with respect to any position shall terminate when the person first appointed to fill such position ceases to hold such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as the individual occupied on the day preceding May 4, 1980.

**(c) Repealed. Pub. L. 99-498, title XIV, § 1401(d), Oct. 17, 1986, 100 Stat. 1597**

#### **(d) Senior Executive Service**

Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 15 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5. Such positions shall expire on the later of three years after May 4, 1980, or three years after the initial appointment to each position. Positions in effect under this subsection shall be taken into account in applying the limitations on positions prescribed under section 3134(e) and section 5108 of such title.

#### **(e) Indian preference laws**

Nothing in this chapter shall be construed to prevent the application of any Indian preference law in effect on the day before October 17, 1979, to any function or office transferred by this chapter and subject to any such law on the day before October 17, 1979. Any function or office transferred by this chapter and subject to any such law shall continue to be subject to any such law.

(Pub. L. 96-88, title IV, §401, Oct. 17, 1979, 93 Stat. 681; Pub. L. 99-145, title XII, §1204(a)(1), Nov. 8, 1985, 99 Stat. 720; Pub. L. 99-498, title XIV, §1401(d), Oct. 17, 1986, 100 Stat. 1597; Pub. L. 103-382, title II, §271(a)(3)(A), Oct. 20, 1994, 108 Stat. 3929; Pub. L. 107-279, title IV, §403(3), Nov. 5, 2002, 116 Stat. 1985.)

#### REFERENCES IN TEXT

Section 414(a)(3)(A) of the Civil Service Reform Act of 1978, referred to in subsec. (b)(5), is section 414(a)(3)(A) of Pub. L. 95-454, title IV, Oct. 13, 1978, 92 Stat. 1178, which is set out as a note under sections 3104 and 5108 of Title 5.

#### CODIFICATION

In subsecs. (a) and (d), “May 4, 1980” substituted for “the effective date of this chapter” pursuant to section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

#### AMENDMENTS

2002—Subsec. (b)(2). Pub. L. 107-279 struck out par. (2) which read as follows: “At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, provide for the establishment in the Office created by section 3419 of this title of a number of scientific, professional, and technical positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under this chapter and which were assigned and filled on the day before May 4, 1980.”

1994—Subsec. (b)(2). Pub. L. 103-382 made technical amendment to reference to section 3419 of this title to reflect renumbering of corresponding section of original act.

1986—Subsec. (c). Pub. L. 99-498 struck out subsec. (c) which read as follows: “The Secretary may appoint, without regard to the provisions of title 5 governing appointment in the competitive service, up to 175 scientific, technical, or professional employees of the Office created by section 3419 of this title and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the minimum rate of pay currently paid for GS-16 of the General Schedule under section 5332 of such title.”

1985—Subsec. (f). Pub. L. 99-145 struck out subsec. (f) which deemed any reference to “civilian component” as including a reference to overseas personnel of the overseas dependents’ education system for purposes of any status of forces agreement between the United States and any other country or any international organization.

#### REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

### **§ 3462. Experts and consultants**

#### **(a) In general**

The Secretary may as provided in appropriation Acts obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5 and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

#### **(b) Special rule**

##### **(1) In general**

Notwithstanding any other provision of law, the Secretary may use not more than 1 percent of the funds appropriated for any education program that awards such funds on a competitive basis to pay the expenses and fees of non-Federal experts necessary to review applications and proposals for such funds.

##### **(2) Applicability**

The provisions of paragraph (1) shall not apply to any education program under which

funds are authorized to be appropriated to pay the fees and expenses of non-Federal experts to review applications and proposals for such funds.

(Pub. L. 96-88, title IV, §402, Oct. 17, 1979, 93 Stat. 682; Pub. L. 103-227, title IX, §981, Mar. 31, 1994, 108 Stat. 263.)

#### AMENDMENTS

1994—Pub. L. 103-227 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

#### REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

### § 3463. Personnel reduction and annual limitations

#### (a) Work-years limitation; allocations; adjustments

(1) Notwithstanding any other provision of this chapter, there shall be included in each appropriation Act containing appropriations for the administration of the Department for any fiscal year beginning after September 30, 1981 (other than an appropriation Act containing only supplemental appropriations for the Department), an annual limitation on the total number of work-years for the personnel of the Department.

(2) The Secretary shall prescribe the allocation of the work-years available under paragraph (1) among the organizational units and components of the Department.

(3) If the President transmits any reorganization plan under chapter 9 of title 5 which would result in the transfer of functions or offices to the Secretary or the Department, the message transmitting the plan shall include any adjustments which may be necessary in a work-year limitation established under paragraph (1) to reflect changes in the work-years required as a result of such plan.

#### (b) Full-time equivalent personnel reductions

Not later than the end of the first fiscal year beginning after May 4, 1980, the number of full-time equivalent personnel positions available for performing functions transferred to the Secretary or the Department by this chapter shall be reduced by 500.

#### (c) Personnel computations

(1) Computations required to be made for purposes of this section shall be made on the basis of all personnel employed by the Department, including experts and consultants employed under section 3109 of title 5 and all other part-time and full-time personnel employed to perform functions of the Secretary or the Department, except personnel employed under special programs for students and disadvantaged youth (including temporary summer employment).

(2) The Director of the Office of Personnel Management shall, by rule, establish a method for computing work-years for personnel of the Department as described in paragraph (1).

#### (d) Report on effects of reorganization on employees

The Director of the Office of Personnel Management shall, as soon as practicable, but not later than one year after May 4, 1980, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this chapter, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this chapter;

(2) a statement of the number of employees entitled to pay savings by reason of the organization under this chapter;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

(Pub. L. 96-88, title IV, §403, Oct. 17, 1979, 93 Stat. 682; Pub. L. 104-66, title I, §1041(a), Dec. 21, 1995, 109 Stat. 714.)

#### CODIFICATION

In subsecs. (a) and (d), “May 4, 1980” substituted for “the effective date of this chapter” pursuant to section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

#### AMENDMENTS

1995—Subsec. (a)(2). Pub. L. 104-66 struck out before period at end “and shall, within 120 days after the enactment of an appropriation Act containing a work-year limitation, prepare and transmit to the Congress a report on such allocation. Such report shall include explanations and justifications for the allocations made by the Secretary and shall indicate the necessary personnel actions which will be required as a consequence of such allocation. Not later than 120 days after the conclusion of any fiscal year to which a work-year limitation established under paragraph (1) applies, the Secretary shall prepare and transmit to the Congress a report on compliance with such limitation indicating the total work-years actually expended by the Department and by the organizational units and components to which such work-years were allocated”.

#### PART B—GENERAL ADMINISTRATIVE PROVISIONS

### § 3471. General authority

#### (a) Force and effect of actions by Secretary

In carrying out any function transferred by this chapter, the Secretary, or any officer or employee of the Department, may exercise any authority available by law (including appropriation Acts) with respect to such function to the official or agency from which such function is transferred, and the actions of the Secretary in exercising such authority shall have the same force and effect as when exercised by such official or agency.

#### (b) Reporting requirements

(1) The director of any office continued in the Department the director of which was required,