

(1) the term “career reserved position” means a position in the Administration designated under section 3132(b) which may be filled only by—

- (A) a career appointee; or
- (B) a limited emergency appointee or a limited term appointee—
 - (i) who, immediately before entering the career reserved position, was serving under a career or career-conditional appointment outside the Senior Executive Service; or
 - (ii) whose limited emergency or limited term appointment is approved in advance by the Office of Personnel Management;

(2) the term “limited emergency appointee” has the meaning given under section 3132; and

(3) the term “limited term appointee” means an individual appointed to a Senior Executive Service position in the Administration to meet a bona fide temporary need, as determined by the Administrator.

(b) The number of career reserved positions which are filled by an appointee as described under subsection (a)(1)(B) may not exceed 10 percent of the total number of Senior Executive Service positions allocated to the Administration.

(c) Notwithstanding sections 3132 and 3394(b)—

(1) the Administrator may appoint an individual to any Senior Executive Service position in the Administration as a limited term appointee under this section for a period of—

- (A) 4 years or less to a position the duties of which will expire at the end of such term; or
- (B) 1 year or less to a position the duties of which are continuing; and

(2) in rare circumstances, the Administrator may authorize an extension of a limited appointment under—

- (A) paragraph (1)(A) for a period not to exceed 2 years; and
- (B) paragraph (1)(B) for a period not to exceed 1 year.

(d) A limited term appointee who has been appointed in the Administration from a career or career-conditional appointment outside the Senior Executive Service shall have reemployment rights in the agency from which appointed, or in another agency, under requirements and conditions established by the Office of Personnel Management. The Office shall have the authority to direct such placement in any agency.

(e) Notwithstanding section 3394(b) and section 3395—

(1) a limited term appointee serving under a term prescribed under this section may be re-assigned to another Senior Executive Service position in the Administration, the duties of which will expire at the end of a term of 4 years or less; and

(2) a limited term appointee serving under a term prescribed under this section may be re-assigned to another continuing Senior Executive Service position in the Administration, except that the appointee may not serve in 1 or more positions in the Administration under such appointment in excess of 1 year, except that in rare circumstances, the Administrator

may approve an extension up to an additional 1 year.

(f) A limited term appointee may not serve more than 7 consecutive years under any combination of limited appointments.

(g) Notwithstanding section 5384, the Administrator may authorize performance awards to limited term appointees in the Administration in the same amounts and in the same manner as career appointees.

(Added Pub. L. 108-201, §3(a), Feb. 24, 2004, 118 Stat. 473.)

§ 9814. Qualifications pay

(a) Notwithstanding section 5334, the Administrator may set the pay of an employee paid under the General Schedule at any step within the pay range for the grade of the position, if such employee—

- (1) possesses unusually high or unique qualifications; and
- (2) is assigned—
 - (A) new duties, without a change of position; or
 - (B) to a new position.

(b) If an exercise of the authority under this section relates to a current employee selected for another position within the Administration, a determination shall be made that the employee’s contribution in the new position will exceed that in the former position, before setting pay under this section.

(c) Pay as set under this section is basic pay for such purposes as pay set under section 5334.

(d) If the employee serves for at least 1 year in the position for which the pay determination under this section was made, or a successor position, the pay earned under such position may be used in succeeding actions to set pay under chapter 53.

(e) Before setting any employee’s pay under this section, the Administrator shall submit a plan to the Office of Personnel Management and the appropriate committees of Congress, that includes—

- (1) criteria for approval of actions to set pay under this section;
- (2) the level of approval required to set pay under this section;
- (3) all types of actions and positions to be covered;
- (4) the relationship between the exercise of authority under this section and the use of other pay incentives; and
- (5) a process to evaluate the effectiveness of this section.

(Added Pub. L. 108-201, §3(a), Feb. 24, 2004, 118 Stat. 474.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a), is set out under section 5332 of this title.

§ 9815. Reporting requirement

The Administrator shall submit to the appropriate committees of Congress, not later than February 28 of each of the next 6 years beginning after the date of enactment of this chapter, a report that provides the following:

(1) A summary of all bonuses paid under subsections (b) and (c) of section 9804 during the preceding fiscal year. Such summary shall include the total amount of bonuses paid, the total number of bonuses paid, the percentage of the amount of bonuses awarded to supervisors and management officials, and the average percentage used to calculate the total average bonus amount, under each of those subsections.

(2) A summary of all bonuses paid under subsections (b) and (c) of section 9805 during the preceding fiscal year. Such summary shall include the total amount of bonuses paid, the total number of bonuses paid, the percentage of the amount of bonuses awarded to supervisors and management officials, and the average percentage used to calculate the total average bonus amount, under each of those subsections.

(3) The total number of term appointments converted during the preceding fiscal year under section 9806 and, of that total number, the number of conversions that were made to address a critical need described in the workforce plan pursuant to section 9802(b)(2).

(4) The number of positions for which the rate of basic pay was fixed under section 9807 during the preceding fiscal year, the number of positions for which the rate of basic pay under such section was terminated during the preceding fiscal year, and the number of times the rate of basic pay was fixed under such section to address a critical need described in the workforce plan pursuant to section 9802(b)(2).

(5) The number of scholarships awarded under section 9809 during the preceding fiscal year and the number of scholarship recipients appointed by the Administration during the preceding fiscal year.

(6) The total number of distinguished scholar appointments made under section 9810 during the preceding fiscal year and, of that total number, the number of appointments that were made to address a critical need described in the workforce plan pursuant to section 9802(b)(2).

(7) The average amount paid per appointee, and the largest amount paid to any appointee, under section 9811 during the preceding fiscal year for travel and transportation expenses.

(8) The total number of employees who were awarded enhanced annual leave under section 9812 during the preceding fiscal year; of that total number, the number of employees who were serving in a position addressing a critical need described in the workforce plan pursuant to section 9802(b)(2); and, for employees in each of those respective groups, the average amount of additional annual leave such employees earned in the preceding fiscal year (over and above what they would have earned absent section 9812).

(9) The total number of appointments made under section 9813 during the preceding fiscal year and, of that total number, the number of appointments that were made to address a critical need described in the workforce plan pursuant to section 9802(b)(2).

(10) The number of employees for whom the Administrator set the pay under section 9814

during the preceding fiscal year and the number of times pay was set under such section to address a critical need described in the workforce plan pursuant to section 9802(b)(2).

(11) A summary of all recruitment, relocation, redesignation, and retention bonuses paid under authorities other than this chapter and excluding the authorities provided in sections 5753 and 5754 of this title, during the preceding fiscal year. Such summary shall include, for each type of bonus, the total amount of bonuses paid, the total number of bonuses paid, the percentage of the amount of bonuses awarded to supervisors and management officials, and the average percentage used to calculate the total average bonus amount.

(Added Pub. L. 108-201, §3(a), Feb. 24, 2004, 118 Stat. 475.)

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in introductory provisions, is the date of enactment of Pub. L. 108-201, which was approved Feb. 24, 2004.

CHAPTER 99—DEPARTMENT OF DEFENSE PERSONNEL AUTHORITIES

Sec.	
9901.	Definitions.
9902.	Department of Defense personnel authorities.
9903.	Attracting highly qualified experts.
9904.	Special pay and benefits for certain employees outside the United States.
9905.	Direct hire authority for certain personnel of the Department of Defense.

AMENDMENTS

2018—Pub. L. 115-232, div. A, title XI, §1101(b), Aug. 13, 2018, 132 Stat. 2000, added item 9905.

2011—Pub. L. 112-81, div. A, title XI, §1101(d)(1), Dec. 31, 2011, 125 Stat. 1610, amended chapter heading generally, substituting “DEPARTMENT OF DEFENSE PERSONNEL AUTHORITIES” for “DEPARTMENT OF DEFENSE NATIONAL SECURITY PERSONNEL SYSTEM”.

2009—Pub. L. 111-84, div. A, title XI, §1113(f)(2), Oct. 28, 2009, 123 Stat. 2502, added item 9902 and struck out former item 9902 “Establishment of human resources management system”.

§ 9901. Definitions

For purposes of this chapter—

(1) the term “Director” means the Director of the Office of Personnel Management; and

(2) the term “Secretary” means the Secretary of Defense.

(Added Pub. L. 108-136, div. A, title XI, §1101(a)(1), Nov. 24, 2003, 117 Stat. 1621.)

IMPACT ON DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

Pub. L. 108-136, div. A, title XI, §1101(b), Nov. 24, 2003, 117 Stat. 1633, provided that:

“(1) Any exercise of authority under chapter 99 of such title [this chapter] (as added by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

“(2) No other provision of this Act [see Tables for classification] or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section [enacting this chapter], except to the extent that it does so by specific reference to this section.”