

(c)(1) None of the workforce authorities made available under section 9804, 9805, 9806, 9807, 9809, 9812, 9813, 9814, or 9815 may be exercised with respect to a political appointee.

(2) For purposes of this subsection, the term “political appointee” means an employee who holds—

(A) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character; or

(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined in section 3132(a)).

(Added Pub. L. 108–201, §3(a), Feb. 24, 2004, 118 Stat. 464.)

§ 9804. Recruitment, redesignation, and relocation bonuses

(a) Notwithstanding section 5753, the Administrator may pay a bonus to an individual, in accordance with the workforce plan and subject to the limitations in this section, if—

(1) the Administrator determines that the Administration would be likely, in the absence of a bonus, to encounter difficulty in filling a position; and

(2) the individual—

(A) is newly appointed as an employee of the Federal Government;

(B) is currently employed by the Federal Government and is newly appointed to another position in the same geographic area; or

(C) is currently employed by the Federal Government and is required to relocate to a different geographic area to accept a position with the Administration.

(b) If the position is described as addressing a critical need in the workforce plan under section 9802(b)(2)(A), the amount of a bonus may not exceed—

(1) 50 percent of the employee’s annual rate of basic pay (including comparability payments under sections 5304 and 5304a) as of the beginning of the service period multiplied by the service period specified under subsection (d)(1)(B)(i); or

(2) 100 percent of the employee’s annual rate of basic pay (including comparability payments under sections 5304 and 5304a) as of the beginning of the service period.

(c) If the position is not described as addressing a critical need in the workforce plan under section 9802(b)(2)(A), the amount of a bonus may not exceed 25 percent of the employee’s annual rate of basic pay (excluding comparability payments under sections 5304 and 5304a) as of the beginning of the service period.

(d)(1)(A) Payment of a bonus under this section shall be contingent upon the individual entering into a service agreement with the Administration.

(B) At a minimum, the service agreement shall include—

(i) the required service period;

(ii) the method of payment, including a payment schedule, which may include a lump-sum payment, installment payments, or a combination thereof;

(iii) the amount of the bonus and the basis for calculating that amount; and

(iv) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

(2) For purposes of determinations under subsections (b)(1) and (c)(1), the employee’s service period shall be expressed as the number equal to the full years and twelfth parts thereof, rounding the fractional part of a month to the nearest twelfth part of a year. The service period may not be less than 6 months and may not exceed 4 years.

(3) A bonus under this section may not be considered to be part of the basic pay of an employee.

(e) Before paying a bonus under this section, the Administration shall establish a plan for paying recruitment, redesignation, and relocation bonuses, subject to approval by the Office of Personnel Management.

(f) No more than 25 percent of the total amount in bonuses awarded under subsection (a) in any year may be awarded to supervisors or management officials.

(Added Pub. L. 108–201, §3(a), Feb. 24, 2004, 118 Stat. 464.)

§ 9805. Retention bonuses

(a) Notwithstanding section 5754, the Administrator may pay a bonus to an employee, in accordance with the workforce plan and subject to the limitations in this section, if the Administrator determines that—

(1) the unusually high or unique qualifications of the employee or a special need of the Administration for the employee’s services makes it essential to retain the employee; and

(2) the employee would be likely to leave in the absence of a retention bonus.

(b) If the position is described as addressing a critical need in the workforce plan under section 9802(b)(2)(A), the amount of a bonus may not exceed 50 percent of the employee’s annual rate of basic pay (including comparability payments under sections 5304 and 5304a).

(c) If the position is not described as addressing a critical need in the workforce plan under section 9802(b)(2)(A), the amount of a bonus may not exceed 25 percent of the employee’s annual rate of basic pay (excluding comparability payments under sections 5304 and 5304a).

(d)(1)(A) Payment of a bonus under this section shall be contingent upon the employee entering into a service agreement with the Administration.

(B) At a minimum, the service agreement shall include—

(i) the required service period;

(ii) the method of payment, including a payment schedule, which may include a lump-sum payment, installment payments, or a combination thereof;

(iii) the amount of the bonus and the basis for calculating the amount; and

(iv) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

(2) The employee's service period shall be expressed as the number equal to the full years and twelfth parts thereof, rounding the fractional part of a month to the nearest twelfth part of a year. The service period may not be less than 6 months and may not exceed 4 years.

(3) Notwithstanding paragraph (1), a service agreement is not required if the Administration pays a bonus in biweekly installments and sets the installment payment at the full bonus percentage rate established for the employee, with no portion of the bonus deferred. In this case, the Administration shall inform the employee in writing of any decision to change the retention bonus payments. The employee shall continue to accrue entitlement to the retention bonus through the end of the pay period in which such written notice is provided.

(e) A bonus under this section may not be considered to be part of the basic pay of an employee.

(f) An employee is not entitled to a retention bonus under this section during a service period previously established for that employee under section 5753 or under section 9804.

(g) No more than 25 percent of the total amount in bonuses awarded under subsection (a) in any year may be awarded to supervisors or management officials.

(Added Pub. L. 108–201, §3(a), Feb. 24, 2004, 118 Stat. 465.)

§ 9806. Term appointments

(a) The Administrator may authorize term appointments within the Administration under subchapter I of chapter 33, for a period of not less than 1 year and not more than 6 years.

(b) Notwithstanding chapter 33 or any other provision of law relating to the examination, certification, and appointment of individuals in the competitive service, the Administrator may convert an employee serving under a term appointment to a permanent appointment in the competitive service within the Administration without further competition if—

(1) such individual was appointed under open, competitive examination under subchapter I of chapter 33 to the term position;

(2) the announcement for the term appointment from which the conversion is made stated that there was potential for subsequent conversion to a career-conditional or career appointment;

(3) the employee has completed at least 2 years of current continuous service under a term appointment in the competitive service;

(4) the employee's performance under such term appointment was at least fully successful or equivalent; and

(5) the position to which such employee is being converted under this section is in the same occupational series, is in the same geographic location, and provides no greater promotion potential than the term position for which the competitive examination was conducted.

(c) Notwithstanding chapter 33 or any other provision of law relating to the examination, certification, and appointment of individuals in the competitive service, the Administrator may

convert an employee serving under a term appointment to a permanent appointment in the competitive service within the Administration through internal competitive promotion procedures if the conditions under paragraphs (1) through (4) of subsection (b) are met.

(d) An employee converted under this section becomes a career-conditional employee, unless the employee has otherwise completed the service requirements for career tenure.

(e) An employee converted to career or career-conditional employment under this section acquires competitive status upon conversion.

(Added Pub. L. 108–201, §3(a), Feb. 24, 2004, 118 Stat. 466.)

§ 9807. Pay authority for critical positions

(a) In this section, the term “position” means—

(1) a position to which chapter 51 applies, including a position in the Senior Executive Service;

(2) a position under the Executive Schedule under sections 5312 through 5317;

(3) a position established under section 3104; or

(4) a senior-level position to which section 5376(a)(1) applies.

(b) Authority under this section—

(1) may be exercised only with respect to a position that—

(A) is described as addressing a critical need in the workforce plan under section 9802(b)(2)(A); and

(B) requires expertise of an extremely high level in a scientific, technical, professional, or administrative field;

(2) may be exercised only to the extent necessary to recruit or retain an individual exceptionally well qualified for the position; and

(3) may be exercised only in retaining employees of the Administration or in appointing individuals who were not employees of another Federal agency as defined under section 5102(a)(1).

(c)(1) Notwithstanding section 5377, the Administrator may fix the rate of basic pay for a position in the Administration in accordance with this section. The Administrator may not delegate this authority.

(2) The number of positions with pay fixed under this section may not exceed 10 at any time.

(d)(1) The rate of basic pay fixed under this section may not be less than the rate of basic pay (including any comparability payments) which would otherwise be payable for the position involved if this section had never been enacted.

(2) The annual rate of basic pay fixed under this section may not exceed the per annum rate of salary payable under section 104 of title 3.

(3) Notwithstanding any provision of section 5307, in the case of an employee who, during any calendar year, is receiving pay at a rate fixed under this section, no allowance, differential, bonus, award, or similar cash payment may be paid to such employee if, or to the extent that, when added to basic pay paid or payable to such