

agency, or element to serve in any position in the Intelligence Community Assignment Program on a reimbursable or a nonreimbursable basis.

(2) Nonreimbursable details may be for such periods as are agreed to between the heads of the parent and host agencies, up to a maximum of three years, except that such details may be extended for a period not to exceed one year when the heads of the parent and host agencies determine that such extension is in the public interest.

(b) Benefits, allowances, travel, incentives

(1) An employee detailed under subsection (a) may be authorized any benefit, allowance, travel, or incentive otherwise provided to enhance staffing by the organization from which the employee is detailed.

(2) The head of an agency of an employee detailed under subsection (a) may pay a lodging allowance for the employee subject to the following conditions:

(A) The allowance shall be the lesser of the cost of the lodging or a maximum amount payable for the lodging as established jointly by the Director of National Intelligence and—

(i) with respect to detailed employees of the Department of Defense, the Secretary of Defense; and

(ii) with respect to detailed employees of other agencies and departments, the head of such agency or department.

(B) The detailed employee maintains a primary residence for the employee's immediate family in the local commuting area of the parent agency duty station from which the employee regularly commuted to such duty station before the detail.

(C) The lodging is within a reasonable proximity of the host agency duty station.

(D) The distance between the detailed employee's parent agency duty station and the host agency duty station is greater than 20 miles.

(E) The distance between the detailed employee's primary residence and the host agency duty station is 10 miles greater than the distance between such primary residence and the employee's parent duty station.

(F) The rate of pay applicable to the detailed employee does not exceed the rate of basic pay for grade GS-15 of the General Schedule.

(July 26, 1947, ch. 343, title I, § 113, as added Pub. L. 105-107, title III, § 303(a), Nov. 20, 1997, 111 Stat. 2251; amended Pub. L. 107-108, title III, § 304, Dec. 28, 2001, 115 Stat. 1398; Pub. L. 107-306, title VIII, § 841(a), Nov. 27, 2002, 116 Stat. 2431; Pub. L. 108-458, title I, § 1071(a)(1)(M), Dec. 17, 2004, 118 Stat. 3689.)

REFERENCES IN TEXT

GS-15 of the General Schedule, referred to in subsec. (b)(2)(F), is set out under section 5332 of Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 404h of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2004—Subsec. (b)(2)(A). Pub. L. 108-458 substituted “Director of National Intelligence” for “Director of Central Intelligence” in introductory provisions.

2002—Subsec. (c). Pub. L. 107-306 struck out heading and text of subsec. (c). Text read as follows: “Not later than March 1, 1999, and annually thereafter, the Director of Central Intelligence shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report describing the detail of intelligence community personnel pursuant to subsection (a) during the 12-month period ending on the date of the report. The report shall set forth the number of personnel detailed, the identity of parent and host agencies or elements, and an analysis of the benefits of the details.”

2001—Subsec. (b). Pub. L. 107-108 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108-458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108-458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108-458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

EFFECTIVE DATE

Pub. L. 105-107, title III, § 303(d), Nov. 20, 1997, 111 Stat. 2252, provided that: “The amendment made by subsection (a) [enacting this section] shall apply to an employee on detail on or after January 1, 1997.”

§ 3049. Non-reimbursable detail of other personnel

An officer or employee of the United States or member of the Armed Forces may be detailed to the staff of an element of the intelligence community funded through the National Intelligence Program from another element of the intelligence community or from another element of the United States Government on a non-reimbursable basis, as jointly agreed to by the heads of the receiving and detailing elements, for a period not to exceed three years. This section does not limit any other source of authority for reimbursable or non-reimbursable details. A non-reimbursable detail made under this section shall not be considered an augmentation of the appropriations of the receiving element of the intelligence community.

(July 26, 1947, ch. 343, title I, § 113A, as added Pub. L. 111-259, title III, § 302(a), Oct. 7, 2010, 124 Stat. 2658; amended Pub. L. 112-18, title III, § 303(a), June 8, 2011, 125 Stat. 226; Pub. L. 112-277, title III, § 303, Jan. 14, 2013, 126 Stat. 2471.)

CODIFICATION

Section was formerly classified to section 404h-1 of this title prior to editorial reclassification and renumbering as this section. Some section numbers of this title referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification.

AMENDMENTS

2013—Pub. L. 112-277 substituted “three years.” for “two years.” and inserted at end “A non-reimbursable

detail made under this section shall not be considered an augmentation of the appropriations of the receiving element of the intelligence community.”

2011—Pub. L. 112-18 amended section generally. Prior to amendment, text read as follows: “Except as provided in section 402c(g)(2) of this title and section 404h of this title, and notwithstanding any other provision of law, an officer or employee of the United States or member of the Armed Forces may be detailed to the staff of an element of the intelligence community funded through the National Intelligence Program from another element of the intelligence community or from another element of the United States Government on a reimbursable or nonreimbursable basis, as jointly agreed to by the head of the receiving element and the head of the detailing element, for a period not to exceed 2 years.”

§ 3049a. Special pay authority for science, technology, engineering, or mathematics positions

(a) Special rates of pay for positions requiring expertise in science, technology, engineering, or mathematics

(1) In general

Notwithstanding part III of title 5, the head of each element of the intelligence community may, for one or more categories of positions in such element that require expertise in science, technology, engineering, or mathematics—

(A) establish higher minimum rates of pay; and

(B) make corresponding increases in all rates of pay of the pay range for each grade or level, subject to subsection (b) or (c), as applicable.

(2) Treatment

The special rate supplements resulting from the establishment of higher rates under paragraph (1) shall be basic pay for the same or similar purposes as those specified in section 5305(j) of title 5.

(b) Special rates of pay for cyber positions

(1) In general

Notwithstanding subsection (c), the Director of the National Security Agency may establish a special rate of pay—

(A) not to exceed the rate of basic pay payable for level II of the Executive Schedule under section 5313 of title 5 if the Director certifies to the Under Secretary of Defense for Intelligence,¹ in consultation with the Under Secretary of Defense for Personnel and Readiness, that the rate of pay is for positions that perform functions that execute the cyber mission of the Agency; or

(B) not to exceed the rate of basic pay payable for the Vice President of the United States under section 104 of title 3 if the Director certifies to the Secretary of Defense, by name, individuals that have advanced skills and competencies and that perform critical functions that execute the cyber mission of the Agency.

(2) Pay limitation

Employees receiving a special rate under paragraph (1) shall be subject to an aggregate

pay limitation that parallels the limitation established in section 5307 of title 5, except that—

(A) any allowance, differential, bonus, award, or other similar cash payment in addition to basic pay that is authorized under title 10 (or any other applicable law in addition to title 5, excluding the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.)) shall also be counted as part of aggregate compensation; and

(B) aggregate compensation may not exceed the rate established for the Vice President of the United States under section 104 of title 3.

(3) Limitation on number of recipients

The number of individuals who receive basic pay established under paragraph (1)(B) may not exceed 100 at any time.

(4) Limitation on use as comparative reference

Notwithstanding any other provision of law, special rates of pay and the limitation established under paragraph (1)(B) may not be used as comparative references for the purpose of fixing the rates of basic pay or maximum pay limitations of qualified positions under section 1599f of title 10 or section 226² of the Homeland Security Act of 2002 (6 U.S.C. 147).

(c) Maximum special rate of pay

Except as provided in subsection (b), a minimum rate of pay established for a category of positions under subsection (a) may not exceed the maximum rate of basic pay (excluding any locality-based comparability payment under section 5304 of title 5 or similar provision of law) for the position in that category of positions without the authority of subsection (a) by more than 30 percent, and no rate may be established under this section in excess of the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.

(d) Notification of removal from special rate of pay

If the head of an element of the intelligence community removes a category of positions from coverage under a rate of pay authorized by subsection (a) or (b) after that rate of pay takes effect—

(1) the head of such element shall provide notice of the loss of coverage of the special rate of pay to each individual in such category; and

(2) the loss of coverage will take effect on the first day of the first pay period after the date of the notice.

(e) Revision of special rates of pay

Subject to the limitations in this section, rates of pay established under this section by the head of the element of the intelligence community may be revised from time to time by the head of such element and the revisions have the force and effect of statute.

(f) Regulations

The head of each element of the intelligence community shall promulgate regulations to

¹ See Change of Name note below.

² See References in Text note below.