

Legislative Language

PERSONNEL AUTHORITIES RELATED TO CYBERSECURITY POSITIONS

Part 1: Recruitment and Retention of Cybersecurity Employees at the Department of Homeland Security

“ SECTION 1. RECRUITMENT AND RETENTION OF CYBERSECURITY AND COMMUNICATIONS EMPLOYEES

“ (a) DEFINITIONS.—In this section:

“ (1) DEPARTMENT.—The term “Department” means the Department of Homeland Security.

“ (2) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

“ (3) QUALIFIED EMPLOYEE.—The term “qualified employee” means an employee who performs functions relating to the security of federal systems and critical information infrastructure.

“ (4) COLLECTIVE BARGAINING AGREEMENT.—The term “collective bargaining agreement” has the meaning given such term in section 7103(a)(8) of title 5.

“ (b) GENERAL AUTHORITY.—

“ (1) APPOINT PERSONNEL AND FIX RATES OF PAY.--The Secretary may exercise, with respect to qualified employees of the Department, any authority of the Secretary of Defense with respect to civilian intelligence personnel under sections 1601, 1602, and 1603(a) of title 10, United States Code, to the same extent, and subject to the same conditions and limitations, that the Secretary of Defense may exercise such authority with respect to civilian intelligence personnel of the Department of Defense.

“ (2) SCHOLARSHIP PROGRAM.--The Secretary may exercise, with respect to qualified employees of the Department, the authority of the Secretary of Defense with respect to civilian personnel under section 2200a of title 10, United States Code, to the same extent, and subject to the same conditions and limitations, that the Secretary of Defense may exercise such authority with respect to civilian personnel of the Department of Defense.

“ (3) PLAN FOR EXECUTION OF AUTHORITIES.—Not later than 120 days after enactment of this Act, the Secretary shall submit a plan to the appropriate Committees of Congress for the execution of the authorities under this subchapter.

“(4) COLLECTIVE BARGAINING AGREEMENTS.--Nothing in subsection (b)(1) may be construed to impair the continued effectiveness of a collective bargaining agreement with respect to an Office, Component, Subcomponent, or equivalent of the Department that is a successor to an Office, Component, Subcomponent, or equivalent of the Department covered by the agreement before the succession.

“(5) The Secretary, in coordination with the Director, Office of Personnel Management, shall prescribe regulations for the administration of this subchapter.

“(c) MERIT SYSTEM PRINCIPLES AND CIVIL SERVICE PROTECTIONS:
APPLICABILITY.--

“(1) APPLICABILITY OF MERIT SYSTEM PRINCIPLES.—Section 2301 of title 5, United States Code, shall apply to the exercise of authority under this subchapter.

“(2) CIVIL SERVICE PROTECTIONS.—The Secretary shall apply the civil service protections established in section 1612(b) of title 10, United States Code, with respect to the exercise of authority under section 1601 of title 10, United States Code.

“(d) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this Act, and every year thereafter for 4 years, the Secretary shall submit to the appropriate committees of Congress a detailed report that—

“(1) discusses how the actions taken during the period of the report are fulfilling the Department’s critical need to recruit and retain qualified employees;

“(2) provides metrics on the following actions occurring during the reporting period—

“(i) the number of qualified employees hired by occupation and grade/level or pay band;

“(ii) the total number of veterans hired;

“(iii) the number of separations of qualified employees;

“(iv) the number of retirements of qualified employees; and

“(v) the number and amounts of recruitment, relocation, and retention incentives paid to qualified employees by occupation and grade/level or pay band.

Part 2: Reactivation and Streamlining of Government-wide Information Technology Exchange Program.

[Changes to existing law are shown in italics, bold, and strikethrough format]

Title 5, section 3702, United States Code, is amended as follows—

“ SEC. 3702. GENERAL PROVISIONS

“ (a) ASSIGNMENT AUTHORITY.— On request from or with the agreement of a private sector organization, and with the consent of the employee concerned, the head of an agency may arrange for the assignment of an employee of the agency to a private sector organization or an employee of a private sector organization to the agency. ~~An eligible employee is an individual who~~ ***An employee shall be eligible for such an assignment only if the employee—***

“ (1) works in the field of information technology ~~management~~;

“ (2) is considered ~~an exceptional performer by the individual’s current employer~~ ***by the employee’s current employer to be a highly skilled and valued employee who excels in the performance of the employee’s duties and who would excel in the assignment***; and

“ (3) is expected to assume increased information technology ~~management~~ responsibilities in the future.

~~An employee of an agency shall be eligible to participate in this program~~ ***In addition, an employee shall be eligible for such an assignment*** only if the employee is employed at the GS-11 level or above (or equivalent) and is serving under a career or career-conditional appointment ~~or an appointment of equivalent tenure in the excepted service~~ ***compensated at not less than the GS-11 level (or the equivalent)***, and applicable requirements of section 209(b) of the E-Government Act of 2002 (***44 U.S.C. 3501 note***) are met with respect to the proposed assignment of such employee.

“ (b) AGREEMENTS.— Each agency that exercises its authority under this chapter shall enter into a written agreement ~~between the agency~~ ***among the agency, the private sector organization,*** and the employee concerned regarding the terms and conditions of the employee’s assignment. In the case of an employee of the agency, the agreement shall—

“ (1) require the employee to serve in the civil service, upon completion of the assignment, for a period equal to the length of the assignment ***paid by the agency, exclusive of salary***; and

“ (2) provide that, in the event the employee fails to carry out the agreement (except for good and sufficient reason, as determined by the head of the agency from which assigned) the employee shall be liable to the United States for payment of all expenses of the assignment.

An amount ***for which an employee is liable*** under paragraph (2) shall be treated as a debt due the United States.

“ (c) TERMINATION.— ~~Assignments~~ ***An assignment under this section*** may be terminated by the agency or private sector organization concerned for any reason at any time.

“ (d) DURATION.— Assignments under this chapter shall be for a period of between 3 months and 1 year, and may be extended in 3-month increments for a total of not more than 1 additional

year, ~~except that no assignment under this chapter may commence after the end of the 5-year period beginning on the date of the enactment of this chapter.~~

...

“(f) CONSIDERATIONS.— In exercising any authority under this chapter, an agency shall take into consideration—

“(1) the need to ensure that small business concerns are appropriately represented with respect to the assignments described in sections 3703 and 3704, respectively; and

“(2) how assignments described in section 3703 might best be used to help meet the needs of the agency for the training of employees in information technology ~~management~~.

“Title 5, section 3702, United States Code, is amended as follows—

“SEC. 3703. ASSIGNMENT OF EMPLOYEES TO PRIVATE SECTOR ORGANIZATIONS

...

“(e) SMALL BUSINESS CONCERNS.—

“(1) In general.— The head of each agency shall take such actions as may be necessary to ensure *that the agency has a goal* that, of the assignments made under this chapter from such agency to private sector organizations in each year, at least 20 percent are to small business concerns.

“(2) Definitions.— For purposes of this subsection—

“(A) the term “small business concern” means a business concern that satisfies the definitions and standards specified by the Administrator of the Small Business Administration under section 3(a)(2) of the Small Business Act (as from time to time amended by the Administrator);

“(B) the term “year” refers to the 12-month period beginning on the date of the enactment of this chapter, and each succeeding 12-month period in which any assignments under this chapter may be made; and

“(C) the assignments “made” in a year are those commencing in such year.

“(3) Reporting requirement.— An agency which fails to ~~to comply~~ *meet the goal specified in* paragraph (1) shall, within 90 days following the end of such year, submit a report to the Committees on Government Reform and Small Business of the House of Representatives and the Committees on Governmental Affairs and Small Business of the Senate. The report shall include—

“(A) the total number of assignments made under this chapter from such agency to private sector organizations in the year;

“(B) of that total number, the number (and percentage) made to small business concerns; and

“(C) the reasons for the agency’s ~~noncompliance with~~ *failure to meet* the goal specified in paragraph (1).

PART 3: IMPLEMENTING REGULATIONS

“ The Director of Office of Personnel Management shall amend the regulations implementing chapter 37 of title 5, United States Code, not later than 365 days after the date of the enactment of the implementing Act.