chapter (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this chapter, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) Limitation relating to positions or employees

No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of such title 5, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this chapter and any employees first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) Waiver

If the President determines that the application of subsections (a), (b), and (d) of this section would have a substantial adverse impact on the ability of the Department to protect homeland security, the President may waive the application of such subsections 10 days after the President has submitted to Congress a written explanation of the reasons for such determination.

(d) Coordination rule

No other provision of this chapter or of any amendment made by this chapter may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

(e) Rule of construction

Nothing in section 9701(e) of title 5 shall be considered to apply with respect to any agency or subdivision of any agency, which is excluded from the coverage of chapter 71 of title 5 by virtue of an order issued in accordance with section 7103(b) of such title 5 and the preceding provisions of this section (as applicable), or to any employees of any such agency or subdivision or to any individual or entity representing any such employees or any representatives thereof.

(Pub. L. 107–296, title VIII, §842, Nov. 25, 2002, 116 Stat. 2234.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (b), is 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of this title.

§413. Use of counternarcotics enforcement activities in certain employee performance appraisals

(a) In general

Each subdivision of the Department that is a National Drug Control Program Agency shall include as one of the criteria in its performance appraisal system, for each employee directly or indirectly involved in the enforcement of Federal, State, or local narcotics laws, the performance of that employee with respect to the enforcement of Federal, State, or local narcotics laws, relying to the greatest extent practicable on objective performance measures, including—

(1) the contribution of that employee to seizures of narcotics and arrests of violators of Federal, State, or local narcotics laws; and

(2) the degree to which that employee cooperated with or contributed to the efforts of other employees, either within the Department or other Federal, State, or local agencies, in counternarcotics enforcement.

(b) Definitions

For purposes of this section—

(1) the term ''National Drug Control Program Agency'' means—

(A) a National Drug Control Program Agency, as defined in section 1701(7) of title 21 (as last in effect); and

(B) any subdivision of the Department that has a significant counternarcotics responsibility, as determined by—

(i) the counternarcotics officer, appointed under section 458 of this title; or

(ii) if applicable, the counternarcotics officer's successor in function (as determined by the Secretary); and

(2) the term ''performance appraisal system'' means a system under which periodic appraisals of job performance of employees are made, whether under chapter 43 of title 5, or otherwise.

(Pub. L. 107–296, title VIII, §843, as added Pub. L. 108–458, title VII, §7408(a), Dec. 17, 2004, 118 Stat. 3854.)

REFERENCES IN TEXT

For repeal of section 1701 of title 21, referred to in subsec. (b)(1)(A), see section 1712 of Title 21, Food and Drugs.

§414. Homeland Security Rotation Program

(a)[1] Establishment

(1) In general

Not later than 180 days after October 4, 2006, the Secretary shall establish the Homeland Security Rotation Program (in this section referred to as the ''Rotation Program'') for employees of the Department. The Rotation Program shall use applicable best practices, including those from the Chief Human Capital Officers Council.

(2) Goals

The Rotation Program established by the Secretary shall—

[1] So in original. There is no subsec. (b).

(A) be established in accordance with the Human Capital Strategic Plan of the Department;

(B) provide middle and senior level employees in the Department the opportunity to broaden their knowledge through exposure to other components of the Department;

(C) expand the knowledge base of the Department by providing for rotational assignments of employees to other components;

(D) build professional relationships and contacts among the employees in the Department;

(E) invigorate the workforce with exciting and professionally rewarding opportunities;

(F) incorporate Department human capital strategic plans and activities, and address critical human capital deficiencies, recruitment and retention efforts, and succession planning within the Federal workforce of the Department; and

(G) complement and incorporate (but not replace) rotational programs within the Department in effect on October 4, 2006.

(3) Administration

(A) In general

The Chief Human Capital Officer shall administer the Rotation Program.

(B) Responsibilities

The Chief Human Capital Officer shall—

(i) provide oversight of the establishment and implementation of the Rotation Program;

(ii) establish a framework that supports the goals of the Rotation Program and promotes cross-disciplinary rotational opportunities;

(iii) establish eligibility for employees to participate in the Rotation Program and select participants from employees who apply;

(iv) establish incentives for employees to participate in the Rotation Program, including promotions and employment preferences;

(v) ensure that the Rotation Program provides professional education and training;

(vi) ensure that the Rotation Program develops qualified employees and future leaders with broad-based experience throughout the Department;

(vii) provide for greater interaction among employees in components of the Department; and

(viii) coordinate with rotational programs within the Department in effect on October 4, 2006.

(4) Allowances, privileges, and benefits

All allowances, privileges, rights, seniority, and other benefits of employees participating in the Rotation Program shall be preserved.

(5) Reporting

Not later than 180 days after the date of the establishment of the Rotation Program, the Secretary shall submit a report on the status of the Rotation Program, including a description of the Rotation Program, the number of employees participating, and how the Rotation Program is used in succession planning and leadership development to the appropriate committees of Congress.

(Pub. L. 107–296, title VIII, § 844, as added Pub. L. 109–295, title VI, § 622(a), Oct. 4, 2006, 120 Stat. 1416.)

§ 415. Homeland Security Education Program

(a) Establishment

The Secretary, acting through the Administrator, shall establish a graduate-level Homeland Security Education Program in the National Capital Region to provide educational opportunities to senior Federal officials and selected State and local officials with homeland security and emergency management responsibilities. The Administrator shall appoint an individual to administer the activities under this section.

(b) Leveraging of existing resources

To maximize efficiency and effectiveness in carrying out the Program, the Administrator shall use existing Department-reviewed Master's Degree curricula in homeland security, including curricula pending accreditation, together with associated learning materials, quality assessment tools, digital libraries, exercise systems and other educational facilities, including the National Domestic Preparedness Consortium, the National Fire Academy, and the Emergency Management Institute. The Administrator may develop additional educational programs, as appropriate.

(c) Student enrollment

(1) Sources

The student body of the Program shall include officials from Federal, State, local, and tribal governments, and from other sources designated by the Administrator.

(2) Enrollment priorities and selection criteria

The Administrator shall establish policies governing student enrollment priorities and selection criteria that are consistent with the mission of the Program.

(3) Diversity

The Administrator shall take reasonable steps to ensure that the student body represents racial, gender, and ethnic diversity.

(d) Service commitment

(1) In general

Before any employee selected for the Program may be assigned to participate in the program, the employee shall agree in writing—

(A) to continue in the service of the agency sponsoring the employee during the 2-year period beginning on the date on which the employee completes the program, unless the employee is involuntarily separated from the service of that agency for reasons other than a reduction in force; and

(B) to pay to the Government the amount of the additional expenses incurred by the Government in connection with the employ-