AMENDMENTS

2011—Par. (1). Pub. L. 112–74 substituted ''section 105 (other than the Government Accountability Office)'' for ''section 105''.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–74 applicable to voluntary separation incentive payments made during fiscal year 2012 or any succeeding fiscal year, see section 1401(c) of Pub. L. 112–74, set out as a note under section 60q of Title 2, The Congress.

EFFECTIVE DATE

Pub. L. 107–296, title XIII, § 1313(a)(4), Nov. 25, 2002, 116 Stat. 2294, provided that: ''This subsection [enacting this subchapter and provisions set out as notes under this section] shall take effect 60 days after the date of enactment of this Act [Nov. 25, 2002].''

SMITHSONIAN INSTITUTION EMPLOYEES

Pub. L. 108–72, § 5, Aug. 15, 2003, 117 Stat. 889, provided that: ''The Secretary of the Smithsonian Institution may establish a program for making voluntary separation incentive payments for employees of the Smithsonian Institution which is substantially similar to the program established under subchapter II of chapter 35 of title 5, United States Code (as added by section 1313(a) of the Homeland Security Act of 2002 [Pub. L. 107–296]).''

JUDICIAL BRANCH EMPLOYEES

Pub. L. 107–296, title XIII, § 1313(a)(2), Nov. 25, 2002, 116 Stat. 2294, provided that: ''The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) [enacting this subchapter] for individuals serving in the judicial branch.''

CONTINUATION OF OTHER AUTHORITY

Pub. L. 107–296, title XIII, § 1313(a)(3), Nov. 25, 2002, 116 Stat. 2294, provided that: ''Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection [see Effective Date note above] may continue to offer voluntary separation incentives consistent with that authority until that authority expires.''

SENSE OF CONGRESS

Pub. L. 107–296, title XIII, § 1313(c), Nov. 25, 2002, 116 Stat. 2296, provided that: ''It is the sense of Congress that the implementation of this section [enacting this subchapter, amending sections 8336 and 8414 of this title, enacting provisions set out as notes under this section and section 8336 of this title, and repealing provisions set out as notes under sections 8336 and 8414 of this title] is intended to reshape the Federal workforce and not downsize the Federal workforce.''

§ 3522. Agency plans; approval

(a) Before obligating any resources for voluntary separation incentive payments, the head of each agency shall submit to the Office of Personnel Management a plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(b) The plan of an agency under subsection (a) shall include—

(1) the specific positions and functions to be reduced or eliminated;

(2) a description of which categories of employees will be offered incentives;

(3) the time period during which incentives may be paid;

(4) the number and amounts of voluntary separation incentive payments to be offered; and

(5) a description of how the agency will operate without the eliminated positions and functions.

(c) The Director of the Office of Personnel Management shall review each agency's plan an[1] may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Directive[2] of the Office of Personnel Management.

(Added Pub. L. 107–296, title XIII, § 1313(a)(1)(A), Nov. 25, 2002, 116 Stat. 2292.)

§ 3523. Authority to provide voluntary separation incentive payments

(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

(b) A voluntary incentive payment—

(1) shall be offered to agency employees on the basis of—

(A) 1 or more organizational units;

(B) 1 or more occupational series or levels;

(C) 1 or more geographical locations;

(D) skills, knowledge, or other factors related to a position;

(E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

(F) any appropriate combination of such factors;

(2) shall be paid in a lump sum after the employee's separation;

(3) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

(B) an amount determined by the agency head, not to exceed $25,000;

(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on another other[1] separation; and

(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

(Added Pub. L. 107–296, title XIII, § 1313(a)(1)(A), Nov. 25, 2002, 116 Stat. 2293.)

[1] So in original. Probably should be ''and''.

[2] So in original. Probably should be ''Director''.

[1] So in original.

§ 3524. Effect of subsequent employment with the Government

(a) The term ''employment''—

(1) in subsection (b) includes employment under a personal services contract (or other direct contract) with the United States Government (other than an entity in the legislative branch); and

(2) in subsection (c) does not include employment under such a contract.

(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States with[1] 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(c)(1) If the employment under this section is with an agency, other than the Government Accountability Office, the United States Postal Service, or the Postal Regulatory Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, may[2] waive the repayment if—

(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

(B) in case of an emergency involving a direct threat to life or property, the individual—

(i) has skills directly related to resolving the emergency; and

(ii) will serve on a temporary basis only so long as that individual's services are made necessary by the emergency.

(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(3) If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(Added Pub. L. 107–296, title XIII, § 1313(a)(1)(A), Nov. 25, 2002, 116 Stat. 2293; amended Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109–435, title VI, § 604(f), Dec. 20, 2006, 120 Stat. 3242.)

AMENDMENTS

2006—Subsec. (c)(1). Pub. L. 109–435 substituted ''Postal Regulatory Commission'' for ''Postal Rate Commission'' in introductory provisions.

2004—Subsec. (c)(1). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in introductory provisions.

§ 3525. Regulations

The Office of Personnel Management may prescribe regulations to carry out this subchapter.

(Added Pub. L. 107–296, title XIII, § 1313(a)(1)(A), Nov. 25, 2002, 116 Stat. 2294.)

PRIOR PROVISIONS

A prior section 3551, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 429; Pub. L. 90–491, § 2, Aug. 17, 1968, 82 Stat. 791, related to restoration of positions of Federal and District of Columbia employees upon release from duty in Reserves or National Guard, prior to repeal by Pub. L. 103–353, §§ 2(b)(2)(B), 8, Oct. 13, 1994, 108 Stat. 3169, 3175, effective with respect to reemployments initiated on or after first day after 60-day period beginning Oct. 13, 1994, with transition rules.

SUBCHAPTER III—REINSTATEMENT OR RESTORATION AFTER SUSPENSION OR REMOVAL FOR NATIONAL SECURITY

§ 3571. Reinstatement or restoration; individuals suspended or removed for national security

An individual suspended or removed under section 7532 of this title may be restored to duty in the discretion of the head of the agency concerned.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 429.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 22–1 (1st 31 words of 3d proviso).	Aug. 26, 1950, ch. 803, § 1 (1st 31 words of 3d proviso), 64 Stat. 477.

The words ''suspended or removed under section 7532 of this title'' are coextensive with and substituted for ''whose employment is so suspended or terminated under the authority of said sections''.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SUBCHAPTER IV—REEMPLOYMENT AFTER SERVICE WITH AN INTERNATIONAL ORGANIZATION

§ 3581. Definitions

For the purpose of this subchapter—

(1) ''agency'' means—

(A) an Executive agency;

(B) a military department; and

(C) an employing authority in the legislative branch;

(2) ''employee'' means an employee in or under an agency;

(3) ''international organization'' means a public international organization or international-organization preparatory commission in which the Government of the United States participates;

(4) ''transfer'' means the change of position by an employee from an agency to an international organization; and

(5) ''reemployment'' means—

(A) the reemployment of an employee under section 3582(b) of this title; or

(B) the reemployment of a Congressional employee within 90 days from his separation from an international organization;

following a term of employment not extending beyond the period named by the head of the agency at the time of consent to transfer or,

[1] So in original. Probably should be ''within''.

[2] So in original.