

(a) The Director shall be guided in the performance of this function by the provisions of Section 4504 and 4505 of Title 5 of the United States Code, and by additional criteria which the Director may prescribe.

(b) The Director shall not recommend any person for the award without the concurrence of the head of the agency in which that person was employed at the time of the achievement for which the award is recommended.

(c) Persons appointed by the President are not eligible for this award unless, in the opinion of the Office, they are currently serving in a career position.

§ 4505. Awards to former employees

An agency may pay or grant an award under this subchapter notwithstanding the death or separation from the service of the employee concerned, if the suggestion, invention, superior accomplishment, other personal effort, or special act or service in the public interest for which the award is proposed was made or performed while the employee was in the employ of the Government.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 443; Pub. L. 97-35, title XVII, §1703(b)(2), Aug. 13, 1981, 95 Stat. 756.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|-------------------|-------------------------------------------------|
| | 5 U.S.C. 2123(c). | Sept. 1, 1954, ch. 1208 §304(c), 68 Stat. 1113. |

The words "or grant" are added for clarity. Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1981—Pub. L. 97-35 substituted "subchapter" for "chapter".

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 1703(c) of Pub. L. 97-35, set as a note under section 4501 of this title.

§ 4505a. Performance-based cash awards

(a)(1) An employee whose most recent performance rating was at the fully successful level or higher (or the equivalent thereof) may be paid a cash award under this section.

(2) A cash award under this section shall be equal to an amount determined appropriate by the head of the agency, but may not be more than 10 percent of the employee's annual rate of basic pay. Notwithstanding the preceding sentence, the agency head may authorize a cash award equal to an amount exceeding 10 percent of the employee's annual rate of basic pay if the agency head determines that exceptional performance by the employee justifies such an award, but in no case may an award under this section exceed 20 percent of the employee's annual rate of basic pay.

(b)(1) A cash award under this section shall be paid as a lump sum, and may not be considered to be part of the basic pay of an employee.

(2) The failure to pay a cash award under this section, or the amount of such an award, may not be appealed. The preceding sentence shall not be construed to extinguish or lessen any

right or remedy under subchapter II of chapter 12, chapter 71, or any of the laws referred to in section 2302(d).

(c) The Office of Personnel Management shall prescribe such regulations as it considers necessary for the administration of subsections (a) and (b).

(d) The preceding provisions of this section shall be applicable with respect to any employee to whom subchapter III of chapter 53 applies, and to any category of employees provided for under subsection (e).

(e) At the request of the head of an Executive agency, the President may authorize the application of subsections (a) through (c) with respect to any category of employees within such agency who would not otherwise be covered by this section.

(Added Pub. L. 101-509, title V, §529 [title II, §207(a)], Nov. 5, 1990, 104 Stat. 1427, 1457; amended Pub. L. 102-378, §2(19), Oct. 2, 1992, 106 Stat. 1347; Pub. L. 108-411, title III, §301(c), Oct. 30, 2004, 118 Stat. 2317.)

AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108-411 struck out subpar. (A) designation before "A cash award under" and struck out subpar. (B) which read as follows: "For purposes of computing a percentage of a rate of basic pay under subparagraph (A), the rate of basic pay used shall be determined without taking into account any comparability payment under section 5304."

1992—Subsec. (b)(2). Pub. L. 102-378, §2(19)(A), inserted reference to chapter 71.

Subsec. (c). Pub. L. 102-378, §2(19)(B), inserted "of Personnel Management" after "Office".

Subsecs. (d), (e). Pub. L. 102-378, §2(19)(C), added subsecs. (d) and (e) and struck out former subsec. (d) which read as follows: "At the request of the head of an Executive agency, the President may authorize the application of the preceding provisions of this section with respect to 1 or more categories of employees within such agency who would not otherwise be covered by this section (including authority under subsection (c) to prescribe any necessary regulations)."

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-411 effective on the first day of the first applicable pay period beginning on or after the 180th day after Oct. 30, 2004, with provisions relating to conversion rules, see section 301(d) of Pub. L. 108-411, set out as a note under section 5363 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-378 effective May 4, 1991, see section 9(b)(4) of Pub. L. 102-378, set out as a note under section 6303 of this title.

EFFECTIVE DATE

Section effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

DELEGATION OF FUNCTIONS

Authority of President under subsec. (e) of this section delegated to Director of Office of Personnel Management by Ex. Ord. No. 12828, §1(2), Jan. 5, 1993, 58 F.R. 2965, set out as a note under section 3502 of this title.

EX. ORD. NO. 13415. ASSIGNMENT OF CERTAIN PAY-RELATED FUNCTIONS

Ex. Ord. No. 13415, Dec. 1, 2006, 71 F.R. 70641, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, it is hereby ordered as follows:

SECTION 1. *Assignment of Functions.* The functions of the President under sections 4505a, 5305, and 5377 of title 5, United States Code, are assigned to the Director of the Office of Personnel Management.

SEC. 2. *Revocations.* (a) [Amended Ex. Ord. No. 12748, set out as a note under section 5301 of this title.]

(b) [Amended Ex. Ord. No. 12828, set out as a note under section 3502 of this title.]

SEC. 3. *General Provision.* This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity against the United States, its departments, agencies, entities, officers, employees, or agents, or any other person.

GEORGE W. BUSH.

§ 4506. Regulations

The Office of Personnel Management shall prescribe regulations and instructions under which the awards programs set forth by this subchapter shall be carried out.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 443; Pub. L. 95-454, title V, §503(d), Oct. 13, 1978, 92 Stat. 1184; Pub. L. 97-35, title XVII, §1703(b)(2), Aug. 13, 1981, 95 Stat. 756; Pub. L. 107-67, title VI, §641(b), Nov. 12, 2001, 115 Stat. 555.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 2121 (1st 29 words). Sept. 1, 1954, ch. 1208, §302 (1st 29 words), 68 Stat. 1112.

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

AMENDMENTS

2001—Pub. L. 107-67 substituted “the awards programs” for “the agency awards program”.

1981—Pub. L. 97-35 substituted “subchapter” for “chapter”.

1978—Pub. L. 95-454 substituted “Office of Personnel Management shall” for “Civil Service Commission may”.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-67, title VI, §641(d), Nov. 12, 2001, 115 Stat. 555, provided that: “The amendments made by this section [enacting section 4507a of this title and amending this section] shall take effect for awards granted in 2003.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 1703(c) of Pub. L. 97-35, set out as a note under section 4501 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 504(a) of Pub. L. 95-454 provided that amendment by Pub. L. 95-454 was effective on first day of first applicable pay period which began on or after Oct. 1, 1981, except it could take effect with respect to any category or categories of positions before such day to extent prescribed by Director of Office of Personnel Management.

§ 4507. Awarding of ranks in the Senior Executive Service

(a) For the purpose of this section, “agency”, “senior executive”, and “career appointee” have

the meanings set forth in section 3132(a) of this title.

(b) Each agency shall submit annually to the Office recommendations of career appointees in the agency to be awarded the rank of Meritorious Executive or Distinguished Executive. The recommendations may take into account the individual’s performance over a period of years. The Office shall review such recommendations and provide to the President recommendations as to which of the agency recommended appointees should receive such rank.

(c) During any fiscal year, the President may, subject to subsection (d) of this section, award to any career appointee recommended by the Office the rank of—

(1) Meritorious Executive, for sustained accomplishment, or

(2) Distinguished Executive, for sustained extraordinary accomplishment.

A career appointee awarded a rank under paragraph (1) or (2) of this subsection shall not be entitled to be awarded that rank during the following 4 fiscal years.

(d) During any fiscal year—

(1) the number of career appointees awarded the rank of Meritorious Executive may not exceed 5 percent of the Senior Executive Service; and

(2) the number of career appointees awarded the rank of Distinguished Executive may not exceed 1 percent of the Senior Executive Service.

(e)(1) Receipt by a career appointee of the rank of Meritorious Executive entitles such individual to a lump-sum payment of an amount equal to 20 percent of annual basic pay, which shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 5384 of this title.

(2) Receipt by a career appointee of the rank of Distinguished Executive entitles the individual to a lump-sum payment of an amount equal to 35 percent of annual basic pay, which shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 5384 of this title.

(Added Pub. L. 95-454, title IV, §406(a), Oct. 13, 1978, 92 Stat. 1170; amended Pub. L. 105-277, div. A, §101(h) [title VI, §631(a), (b)], Oct. 21, 1998, 112 Stat. 2681-480, 2681-523.)

AMENDMENTS

1998—Subsec. (e)(1). Pub. L. 105-277, §101(h) [title VI, §631(a)], substituted “an amount equal to 20 percent of annual basic pay” for “\$10,000”.

Subsec. (e)(2). Pub. L. 105-277, §101(h) [title VI, §631(b)], substituted “an amount equal to 35 percent of annual basic pay” for “\$20,000”.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. A, §101(h) [title VI, §631(c)], Oct. 21, 1998, 112 Stat. 2681-480, 2681-523, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 1998, or the date of enactment of this Act [Oct. 21, 1998], whichever is later.”

EFFECTIVE DATE

Section effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through