

have the authority to make the determinations and grant the awards permitted under this section.

(Added Pub. L. 97-35, title XVII, §1703(a), Aug. 13, 1981, 95 Stat. 755; amended Pub. L. 99-145, title XII, §1225(b)(2), Nov. 8, 1985, 99 Stat. 730.)

AMENDMENTS

1985—Subsec. (c). Pub. L. 99-145 struck out subsec. (c) which provided that the Inspector General, or other employee designated under subsection (b), shall submit to the Comptroller General documentation substantiating any award made under this section and that the Comptroller General shall, from time to time, review awards made under this section and procedures used in making such awards to verify the cost savings for which the awards were made.

§ 4513. Presidential awards for cost savings disclosures

The President may pay a cash award in the amount of \$20,000 to any employee whose disclosure of fraud, waste, or mismanagement has resulted in substantial cost savings for the Government. In evaluating the significance of a cost savings disclosure made by an employee for purposes of determining whether to make an award to such employee under this section, the President may take into account cost savings projected for subsequent fiscal years which will be attributable to the disclosure. During any fiscal year, the President may not make more than 50 awards under this section.

(Added Pub. L. 97-35, title XVII, §1703(a), Aug. 13, 1981, 95 Stat. 755.)

[§ 4514. Repealed. Pub. L. 102-487, §1(a), Oct. 24, 1992, 106 Stat. 3134]

Section, added Pub. L. 97-35, title XVII, §1703(a), Aug. 13, 1981, 95 Stat. 756; amended Pub. L. 99-145, title XII, §1225(b)(1)(A), Nov. 8, 1985, 99 Stat. 730; Pub. L. 100-611, §1(a), Nov. 5, 1988, 102 Stat. 3179, provided that no award could be made under this subchapter after Sept. 30, 1990.

SUBCHAPTER III—AWARD TO LAW ENFORCEMENT OFFICERS FOR FOREIGN LANGUAGE CAPABILITIES

AMENDMENTS

1992—Pub. L. 102-378, §2(20), Oct. 2, 1992, 106 Stat. 1348, substituted “OFFICERS” for “OFFICER”.

§ 4521. Definition

For the purpose of this subchapter, the term “law enforcement officer” means—

- (1) a law enforcement officer within the meaning of section 5541(3) and to whom the provisions of chapter 51 apply;
- (2) a member of the United States Secret Service Uniformed Division;
- (3) a member of the United States Park Police;
- (4) a special agent in the Diplomatic Security Service;
- (5) a probation officer (referred to in section 3672 of title 18); and
- (6) a pretrial services officer (referred to in section 3153 of title 18).

(Added Pub. L. 101-509, title V, §529 [title IV, §408(a)], Nov. 5, 1990, 104 Stat. 1427, 1467; amend-

ed Pub. L. 102-141, title VI, §627, Oct. 28, 1991, 105 Stat. 874; Pub. L. 102-378, §2(21), Oct. 2, 1992, 106 Stat. 1348.)

AMENDMENTS

1992—Pub. L. 102-378 amended section generally, substituting in par. (1) “section 5541(3)” for “section 8331(20) or section 8401(17)”.

1991—Pub. L. 102-141 amended section generally. Prior to amendment, section read as follows: “For the purpose of this subchapter, the term ‘law enforcement officer’ has the same meaning as under section 5949(a).”

EFFECTIVE DATE

Section 529 [title IV, §408(d)] of Pub. L. 101-509 provided that: “The amendments made by this section [enacting this subchapter and amending provisions set out as a note under section 5541 of this title] shall be effective on January 1, 1992.”

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 4522. General provision

An award under this subchapter is in addition to the basic pay of the recipient.

(Added Pub. L. 101-509, title V, §529 [title IV, §408(a)], Nov. 5, 1990, 104 Stat. 1427, 1467.)

§ 4523. Award authority

(a) An agency may pay a cash award, up to 5 percent of basic pay, to any law enforcement officer employed in or under such agency who possesses and makes substantial use of 1 or more foreign languages in the performance of official duties.

(b) Awards under this section shall be paid under regulations prescribed by the head of the agency involved (or designee thereof). Regulations prescribed by an agency head (or designee) under this subsection¹ shall include—

- (1) procedures under which foreign language proficiency shall be ascertained;
- (2) criteria for the selection of individuals for recognition under this section; and
- (3) any other provisions which may be necessary to carry out the purposes of this subchapter.

(Added Pub. L. 101-509, title V, §529 [title IV, §408(a)], Nov. 5, 1990, 104 Stat. 1427, 1467.)

CHAPTER 47—PERSONNEL RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

| | |
|---------|-------------------------|
| Sec. | |
| 4701. | Definitions. |
| 4702. | Research programs. |
| 4703. | Demonstration projects. |
| 4704. | Allocation of funds. |
| 4705. | Regulations. |
| [4706.] | Renumbered.] |

AMENDMENTS

1998—Pub. L. 105-362, title XIII, §1302(b)(2)(B)(ii), Nov. 10, 1998, 112 Stat. 3293, added item 4705 and struck out former items 4705 “Reports” and 4706 “Regulations”.

¹ So in original. Probably should be “subsection”.

§ 4701. Definitions

(a) For the purpose of this chapter—

(1) “agency” means an Executive agency and the Government Printing Office, but does not include—

(A) a Government corporation;

(B) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof which is designated by the President and which has as its principal function the conduct of foreign intelligence or counter-intelligence activities; or

(C) the Government Accountability Office;

(2) “employee” means an individual employed in or under an agency;

(3) “eligible” means an individual who has qualified for appointment in an agency and whose name has been entered on the appropriate register or list of eligibles;

(4) “demonstration project” means a project conducted by the Office of Personnel Management, or under its supervision, to determine whether a specified change in personnel management policies or procedures would result in improved Federal personnel management; and

(5) “research program” means a planned study of the manner in which public management policies and systems are operating, the effects of those policies and systems, the possibilities for change, and comparisons among policies and systems.

(b) This chapter shall not apply to any position in the Drug Enforcement Administration which is excluded from the competitive service under section 201 of the Crime Control Act of 1976 (28 U.S.C. 509 note; 90 Stat. 2425).

(Added Pub. L. 95-454, title VI, §601(a), Oct. 13, 1978, 92 Stat. 1185; amended Pub. L. 96-54, §2(a)(21), Aug. 14, 1979, 93 Stat. 382; Pub. L. 101-474, §5(g), Oct. 30, 1990, 104 Stat. 1100; Pub. L. 103-359, title V, §501(f), Oct. 14, 1994, 108 Stat. 3429; Pub. L. 104-201, div. A, title XI, §1122(a)(1), Sept. 23, 1996, 110 Stat. 2687; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110-417, [div. A], title IX, §931(a)(1), Oct. 14, 2008, 122 Stat. 4575.)

AMENDMENTS

2008—Subsec. (a)(1)(B). Pub. L. 110-417 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

2004—Subsec. (a)(1)(C). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

1996—Subsec. (a)(1)(B). Pub. L. 104-201 substituted “National Imagery and Mapping Agency” for “Central Imagery Office”.

1994—Subsec. (a)(1)(B). Pub. L. 103-359 inserted “the Central Imagery Office,” after “Defense Intelligence Agency.”

1990—Subsec. (a)(1). Pub. L. 101-474 struck out “, the Administrative Office of the United States Courts,” after “means an Executive agency”.

1979—Subsec. (b). Pub. L. 96-54 substituted “chapter” for “subchapter” and “28 U.S.C. 509” for “5 U.S.C. 5108”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as a note under section 193 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

EFFECTIVE DATE

Chapter effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

DESIGN ELEMENTS OF PAY-FOR-PERFORMANCE SYSTEMS IN DEMONSTRATION PROJECTS

Pub. L. 108-136, div. A, title XI, §1126, Nov. 24, 2003, 117 Stat. 1640, provided that: “A pay-for-performance system may not be initiated under chapter 47 of title 5, United States Code, after the date of the enactment of this Act [Nov. 24, 2003], unless it incorporates the following elements:

“(1) Adherence to merit principles set forth in section 2301 of such title.

“(2) A fair, credible, and transparent employee performance appraisal system.

“(3) A link between elements of the pay-for-performance system, the employee performance appraisal system, and the agency’s strategic plan.

“(4) A means for ensuring employee involvement in the design and implementation of the system.

“(5) Adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the pay-for-performance system.

“(6) A process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period, and setting timetables for review.

“(7) Effective safeguards to ensure that the management of the system is fair and equitable and based on employee performance.

“(8) A means for ensuring that adequate agency resources are allocated for the design, implementation, and administration of the pay-for-performance system.”

§ 4702. Research programs

The Office of Personnel Management shall—

(1) establish and maintain (and assist in the establishment and maintenance of) research programs to study improved methods and technologies in Federal personnel management;

(2) evaluate the research programs established under paragraph (1) of this section;

(3) establish and maintain a program for the collection and public dissemination of information relating to personnel management research and for encouraging and facilitating the exchange of information among interested persons and entities; and

(4) carry out the preceding functions directly or through agreement or contract.

(Added Pub. L. 95-454, title VI, §601(a), Oct. 13, 1978, 92 Stat. 1185.)

§ 4703. Demonstration projects

(a) Except as provided in this section, the Office of Personnel Management may, directly or through agreement or contract with one or more agencies and other public and private organizations, conduct and evaluate demonstration

projects. Subject to the provisions of this section, the conducting of demonstration projects shall not be limited by any lack of specific authority under this title to take the action contemplated, or by any provision of this title or any rule or regulation prescribed under this title which is inconsistent with the action, including any law or regulation relating to—

- (1) the methods of establishing qualification requirements for, recruitment for, and appointment to positions;
- (2) the methods of classifying positions and compensating employees;
- (3) the methods of assigning, reassigning, or promoting employees;
- (4) the methods of disciplining employees;
- (5) the methods of providing incentives to employees, including the provision of group or individual incentive bonuses or pay;
- (6) the hours of work per day or per week;
- (7) the methods of involving employees, labor organizations, and employee organizations in personnel decisions; and
- (8) the methods of reducing overall agency staff and grade levels.

(b) Before conducting or entering into any agreement or contract to conduct a demonstration project, the Office shall—

(1) develop a plan for such project which identifies—

- (A) the purposes of the project;
- (B) the types of employees or eligibles, categorized by occupational series, grade, or organizational unit;
- (C) the number of employees or eligibles to be included, in the aggregate and by category;
- (D) the methodology;
- (E) the duration;
- (F) the training to be provided;
- (G) the anticipated costs;
- (H) the methodology and criteria for evaluation;
- (I) a specific description of any aspect of the project for which there is a lack of specific authority; and
- (J) a specific citation to any provision of law, rule, or regulation which, if not waived under this section, would prohibit the conducting of the project, or any part of the project as proposed;

(2) publish the plan in the Federal Register;

(3) submit the plan so published to public hearing;

(4) provide notification of the proposed project, at least 180 days in advance of the date any project proposed under this section is to take effect—

- (A) to employees who are likely to be affected by the project; and
- (B) to each House of the Congress;

(5) obtain approval from each agency involved of the final version of the plan; and

(6) provide each House of the Congress with a report at least 90 days in advance of the date the project is to take effect setting forth the final version of the plan as so approved.

(c) No demonstration project under this section may provide for a waiver of—

(1) any provision of chapter 63 or subpart G of this title;

(2)(A) any provision of law referred to in section 2302(b)(1) of this title; or

(B) any provision of law implementing any provision of law referred to in section 2302(b)(1) of this title by—

- (i) providing for equal employment opportunity through affirmative action; or
- (ii) providing any right or remedy available to any employee or applicant for employment in the civil service;

(3) any provision of chapter 15 or subchapter III of chapter 73 of this title;

(4) any rule or regulation prescribed under any provision of law referred to in paragraph (1), (2), or (3) of this subsection; or

(5) any provision of chapter 23 of this title, or any rule or regulation prescribed under this title, if such waiver is inconsistent with any merit system principle or any provision thereof relating to prohibited personnel practices.

(d)(1) Each demonstration project shall—

(A) involve not more than 5,000 individuals other than individuals in any control groups necessary to validate the results of the project; and

(B) terminate before the end of the 5-year period beginning on the date on which the project takes effect, except that the project may continue beyond the date to the extent necessary to validate the results of the project.

(2) Not more than 10 active demonstration projects may be in effect at any time.

(e) Subject to the terms of any written agreement or contract between the Office and an agency, a demonstration project involving the agency may be terminated by the Office, or the agency, if either determines that the project creates a substantial hardship on, or is not in the best interests of, the public, the Federal Government, employees, or eligibles.

(f) Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of this title shall not be included within any project under subsection (a) of this section—

(1) if the project would violate a collective bargaining agreement (as defined in section 7103(8) of this title) between the agency and the labor organization, unless there is another written agreement with respect to the project between the agency and the organization permitting the inclusion; or

(2) if the project is not covered by such a collective bargaining agreement, until there has been consultation or negotiation, as appropriate, by the agency with the labor organization.

(g) Employees within any unit with respect to which a labor organization has not been accorded exclusive recognition under chapter 71 of this title shall not be included within any project under subsection (a) of this section unless there has been agency consultation regarding the project with the employees in the unit.

(h) The Office shall provide for an evaluation of the results of each demonstration project and its impact on improving public management.

(i) Upon request of the Director of the Office of Personnel Management, agencies shall cooperate with and assist the Office, to the extent practicable, in any evaluation undertaken under subsection (h) of this section and provide the Office with requested information and reports relating to the conducting of demonstration projects in their respective agencies.

(Added Pub. L. 95-454, title VI, §601(a), Oct. 13, 1978, 92 Stat. 1186.)

AUTHORITY OF EXPORT-IMPORT BANK TO CONDUCT
DEMONSTRATION PROGRAM

Pub. L. 104-97, §2, Jan. 11, 1996, 109 Stat. 984, provided that: "Notwithstanding section 4701(a)(1)(A) of title 5, United States Code, the Export-Import Bank of the United States may conduct a demonstration project in accordance with section 4703 of such title."

§ 4704. Allocation of funds

Funds appropriated to the Office of Personnel Management for the purpose of this chapter may be allocated by the Office to any agency conducting demonstration projects or assisting the Office in conducting such projects. Funds so allocated shall remain available for such period as may be specified in appropriation Acts. No contract shall be entered into under this chapter unless the contract has been provided for in advance in appropriation Acts.

(Added Pub. L. 95-454, title VI, §601(a), Oct. 13, 1978, 92 Stat. 1188.)

§ 4705. Regulations

The Office of Personnel Management shall prescribe regulations to carry out the purpose of this chapter.

(Added Pub. L. 95-454, title VI, §601(a), Oct. 13, 1978, 92 Stat. 1188, §4706; renumbered §4705, Pub. L. 105-362, title XIII, §1302(b)(2)(B)(i), Nov. 10, 1998, 112 Stat. 3293.)

PRIOR PROVISIONS

A prior section 4705, added Pub. L. 95-454, title VI, §601(a), Oct. 13, 1978, 92 Stat. 1188, required annual report on research programs and demonstration projects, prior to repeal by Pub. L. 105-362, title XIII, §1302(b)(2)(B)(i), Nov. 10, 1998, 112 Stat. 3293.

[§ 4706. Renumbered § 4705]

**CHAPTER 48—AGENCY PERSONNEL
DEMONSTRATION PROJECT**

Sec.

4801. Nonapplicability of chapter 47.
4802. Securities and Exchange Commission.

§ 4801. Nonapplicability of chapter 47

Chapter 47 shall not apply to this chapter.

(Added Pub. L. 107-123, §8(a), Jan. 16, 2002, 115 Stat. 2398.)

EFFECTIVE DATE

Chapter effective Oct. 1, 2001, see section 11 of Pub. L. 107-123, set out as an Effective Date of 2002 Amendment note under section 78ee of Title 15, Commerce and Trade.

§ 4802. Securities and Exchange Commission

(a) In this section, the term "Commission" means the Securities and Exchange Commission.

(b) The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out its functions under the securities laws as defined under section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

(c) Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51 or subchapter III of chapter 53.

(d) The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any agency referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).

(e) The Commission shall consult with the Office of Personnel Management in the implementation of this section.

(f) This section shall be administered consistently with merit system principles.

(Added Pub. L. 107-123, §8(a), Jan. 16, 2002, 115 Stat. 2398.)

EMPLOYEES REPRESENTED BY LABOR ORGANIZATIONS

Pub. L. 107-123, §8(b), Jan. 16, 2002, 115 Stat. 2398, provided that: "To the extent that any employee of the Securities and Exchange Commission is represented by a labor organization with exclusive recognition in accordance with chapter 71 of title 5, United States Code, no reduction in base pay of such employee shall be made by reason of enactment of this section [enacting this chapter, amending sections 3132 and 5373 of this title, section 1833b of Title 12, Banks and Banking, and section 78d of Title 15, Commerce and Trade, and enacting provisions set out as a note under this section] (including the amendments made by this section)."

IMPLEMENTATION PLAN AND REPORT

Pub. L. 107-123, §8(c), Jan. 16, 2002, 115 Stat. 2398, provided that:

"(1) IMPLEMENTATION PLAN.—

"(A) IN GENERAL.—The Securities and Exchange Commission shall develop a plan to implement section 4802 of title 5, United States Code, as added by this section.

"(B) INCLUSION IN ANNUAL PERFORMANCE PLAN AND REPORT.—The Securities and Exchange Commission shall include—

"(i) the plan developed under this paragraph in the annual program performance plan submitted under section 1115 of title 31, United States Code; and

"(ii) the effects of implementing the plan developed under this paragraph in the annual program performance report submitted under section 1116 of title 31, United States Code.

"(2) IMPLEMENTATION REPORT.—

"(A) IN GENERAL.—Before implementing the plan developed under paragraph (1), the Securities and Exchange Commission shall submit a report to the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] and the Committee on Banking, Housing, and Urban Af-