SUBCHAPTER IX—SPECIAL OCCUPATIONAL PAY SYSTEMS

AMENDMENTS


§ 5391. Definitions

For the purposes of this subchapter, "agency", "employee", and "position" have the meanings given them by section 5102.


EFFECTIVE DATE

Subchapter 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 I, § 305) of Pub. L. 101–509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

§ 5392. Establishment of special occupational pay systems

(a) Authority under this section may be exercised with respect to any occupation or group of occupations to which subchapter III applies (or would apply but for this section).

(b) Subject to subsection (a), the President's pay agent (as referred to in section 5304(d)) may establish one or more special occupational pay systems for any positions within occupations or groups of occupations that the pay agent determines, for reasons of good administration, should not be classified under chapter 51 or subject to subchapter III.

(c) In establishing special occupational pay systems, the pay agent shall:

(1) identify occupations or groups of occupations for which chapter 51 and subchapter III do not function adequately;

(2) consider alternative approaches for determining the pay for employees in positions in such occupations or groups of occupations;

(3) give thorough consideration to the views of agencies employing such employees and labor organizations representing such employees, as well as other interested parties;

(4) publish a proposed plan for determining the pay of such employees in the Federal Register;

(5) conduct one or more public hearings;

(6) provide each House of Congress with a report at least 90 days in advance of the date the system is to take effect setting forth the details of the proposed plan; and

(7) not later than 30 days before the date the system is to take effect, publish in the Federal Register the details of the final plan for the special occupational pay system.

(d) A special occupational pay system may not:

(1) provide for a waiver of any law, rule, or regulation that could not be waived under section 4703(c); or

(2) provide a rate of basic pay for any employee in excess of the rate payable for level V of the Executive Schedule.

(e) Subject to subsection (d)(2), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of pay under the General Schedule, each rate of pay established under this section shall be adjusted by such amount as the Office considers appropriate.


REFERENCES IN TEXT

Level V of the Executive Schedule, referred to in subsec. (d)(2), is set out in section 5316 of this title.

The General Schedule, referred to in subsec. (e), is set out under section 5332 of this title.

CHAPTER 54—HUMAN CAPITAL PERFORMANCE FUND

§ 5401. Purpose

§ 5402. Definitions.


§ 5404. Human capital performance payments.

§ 5405. Regulations.

§ 5406. Agency plan.

§ 5407. Nature of payment.

§ 5408. Appropriations.

PRIOR PROVISIONS


TREATMENT OF EMPLOYEES COVERED BY PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM AS OF TERMINATION DATE

Pub. L. 103–89, § 4, Sept. 30, 1993, 107 Stat. 983, provided that:

(a) Definitions.—For purposes of this section—

(1) the term 'employee' means an individual employed by an agency (within the meaning of section 7533(a)(3) of title 5, United States Code);

(2) the term 'performance management and recognition system' means the performance management and recognition system under [former] chapter 54 of title 5, United States Code;

(3) the term 'basic pay' does not include any amount payable under section 302 [set out as a note under section 5304 of this title] or title IV [see Short Title set out under section 5301 of this title] of FEPCA or section 5304 or 5304a of title 5, United States Code;

(4) the term 'rate of pay', as used in clauses (iii) through (v) of subsection (c)(2)(B), is used in the same way as such term is used under section 5335(a) of title 5, United States Code; and


(b) Applicability.—Notwithstanding section 5332(a)(1) of title 5, United States Code (as amended by section 3(b)(1)(F)), or any other provision of law, the rate of basic pay for an employee covered by the performance management and recognition system on October 1, 1993, shall be determined in accordance with this section so long as such employee continues, without a break in service of more than 3 days, to occupy any position—

(1) which is in the same grade of the General Schedule, and the same agency, as the position which such employee occupied on October 31, 1993; and
§ 5401

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

The purpose of this chapter is to promote, through the creation of a Human Capital Performance Fund, greater performance in the Federal Government. Monies from the Fund will be used to reward agencies' highest performing and most valuable employees. This Fund will offer Federal managers a new tool to recognize employee performance that is critical to the achievement of agency missions.


§ 5402. Definitions

For the purpose of this chapter—
(1) “agency” means an Executive agency under section 105, but does not include the Government Accountability Office;
(2) “employee” includes—
(A) an individual paid under a statutory pay system defined in section 5302(1);
(B) a prevailing rate employee, as defined in section 5342(a)(2); and
(C) a category of employees included by the Office of Personnel Management following the review of an agency plan under section 5403(b)(1);
but does not include—
(i) an individual paid at an annual rate of basic pay for a level of the Executive Schedule, under subchapter II of chapter 53, or at a rate provided for one of those levels under another provision of law;
(ii) a member of the Senior Executive Service paid under subchapter VIII of chapter 53, or an equivalent system;
(iii) an administrative law judge paid under section 5372;
(iv) a contract appeals board member paid under section 5372a;
(v) an administrative appeals judge paid under section 5372b; and
(vi) an individual in a position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; and
(3) “Office” means the Office of Personnel Management.


§ 5401. Purpose

The purpose of this chapter is to promote, through the creation of a Human Capital Performance Fund, greater performance in the Federal Government. Monies from the Fund will be used to reward agencies' highest performing and most valuable employees. This Fund will offer Federal managers a new tool to recognize employee performance that is critical to the achievement of agency missions.

§ 5403. Human Capital Performance Fund

(a) There is hereby established the Human Capital Performance Fund, to be administered by the Office for the purpose of this chapter.

(b)(1)(A) An agency shall submit a plan as described in section 5406 to be eligible for consideration by the Office for an allocation under this section. An allocation shall be made only upon approval by the Office of an agency’s plan.

(B)(i) After the reduction for training required under section 5408, ninety percent of the remaining amount appropriated to the Fund may be allocated by the Office to the agencies. Of the amount to be allocated, an agency’s pro rata distribution may not exceed its pro rata share of Executive branch payroll.

(ii) If the Office does not allocate an agency’s full pro rata share, the undistributed amount remaining from that share will be available for distribution to other agencies, as provided in subparagraph (C).

(C)(i) After the reduction for training under section 5408, ten percent of the remaining amount appropriated to the Fund, as well as the amount of the pro rata share not distributed because of an agency’s failure to submit a satisfactory plan, shall be allocated among agencies with exceptionally high-quality plans.

(ii) An agency with an exceptionally high-quality plan is eligible to receive an additional distribution in addition to its full pro rata distribution.

(2) Each agency is required to provide to the Office such payroll information as the Office specifies necessary to determine the Executive branch payroll.


§ 5404. Human capital performance payments

(a)(1) Notwithstanding any other provision of law, the Office may authorize an agency to provide human capital performance payments to individual employees based on exceptional performance contributing to the achievement of the agency missions.

(2) The number of employees in an agency receiving payments from the Fund, in any year, shall not be more than the number equal to 15 percent of the agency’s average total civilian full- and part-time permanent employment for the previous fiscal year.

(b)(1) A human capital performance payment provided to an individual employee from the Fund, in any year, shall not exceed 10 percent of the employee’s rate of basic pay.

(2) The aggregate of an employee’s rate of basic pay, adjusted by any locality-based comparability payments, and human capital performance pay, as defined by regulation, may not exceed the rate of basic pay for Executive Level IV in any year.

(3) Any human capital performance payment provided to an employee from the Fund is in addition to any annual pay adjustment (under section 5303 or any similar provision of law) and any locality-based comparability payment that may apply.

(c) No monies from the Human Capital Performance Fund may be used to pay for a new position, for other performance-related payments, or for recruitment or retention incentives paid under sections 5753 and 5754.

(d)(1) An agency may finance initial human capital performance payments using monies from the Human Capital Performance Fund, as available.

(2) In subsequent years, continuation of previously awarded human capital performance payments shall be financed from other agency funds available for salaries and expenses.


References in Text

Executive Level IV, referred to in subsec. (b)(2), is set out in section 5115 of this title.

Prior Provisions


§ 5405. Regulations

The Office shall issue such regulations as it determines to be necessary for the administration of this chapter, including the administration of the Fund. The Office’s regulations shall include criteria governing—

(1) an agency plan under section 5406;

(2) the allocation of monies from the Fund to agencies;

(3) the nature, extent, duration, and adjustment of, and approval processes for, payments to individual employees under this chapter;

(4) the relationship to this chapter of agency performance management systems;

(5) training of supervisors, managers, and other individuals involved in the process of making performance distinctions; and

(6) the circumstances under which funds may be allocated by the Office to an agency in amounts below or in excess of the agency’s pro rata share.


Prior Provisions


§ 5406. Agency plan

(a) To be eligible for consideration by the Office for an allocation under this section, an agency shall—
§ 5407. Nature of payment

Any payment to an employee under this section shall be part of the employee’s basic pay for the purposes of subchapter III of chapter 83, and chapters 84 and 87, and for such other purposes (other than chapter 75) as the Office shall determine by regulation.


PRIOR PROVISIONS


§ 5408. Appropriations

There is authorized to be appropriated $500,000,000 for fiscal year 2004, and, for each subsequent fiscal year, such sums as may be necessary to carry out the provisions of this chapter. In the first year of implementation, up to 10 percent of the amount appropriated to the Fund shall be available to participating agencies to train supervisors, managers, and other individuals involved in the appraisal process on using performance management systems to make meaningful distinctions in employee performance and on the use of the Fund.


PRIOR PROVISIONS

Prior sections 5408 to 5410 were repealed by Pub. L. 103–89, §3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, 983, effective Nov. 1, 1993.


CHAPTER 55—PAY ADMINISTRATION

SUBCHAPTER I—GENERAL PROVISIONS

Sec. 5501. Disposition of money accruing from lapsed salaries or unused appropriations for salaries.

5502. Unauthorized office; prohibition on use of funds.

5503. Recess appointments.

5504. Biweekly pay periods; computation of pay.

5505. Monthly pay periods; computation of pay.

5506. Computation of extra pay based on standard or daylight saving time.

5507. Officer affidavit; condition to pay.

5508. Officer entitled to leave; effect on pay status.

5509. Appropriations.

SUBCHAPTER II—WITHHOLDING PAY

5511. Withholding pay; employees removed for cause.

5512. Withholding pay; individuals in arrears.

5513. Withholding pay; credit disallowed or charge raised for payment.

5514. Installment deduction for indebtedness because of erroneous payment.

5515. Crediting amounts received for jury or witness service.

1 Section catchline amended by Pub. L. 97–365 without corresponding amendment of chapter analysis.