

(Added Pub. L. 95-454, title IV, § 407(a), Oct. 13, 1978, 92 Stat. 1172.)

CHAPTER 54—MERIT PAY AND CASH AWARDS

Sec.

- 5401. Purpose.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 5361, 5362, 5363, 5948 of this title.

§ 5401. Purpose

(a) It is the purpose of this chapter to provide for—

(1) a merit pay system which shall—

(A) within available funds, recognize and reward quality performance by varying merit pay adjustments;

(B) use performance appraisals as the basis for determining merit pay adjustments;

(C) within available funds, provide for training to improve objectivity and fairness in the evaluation of performance; and

(D) regulate the costs of merit pay by establishing appropriate control techniques; and

(2) a cash award program which shall provide cash awards for superior accomplishment and special service.

(b)(1) Except as provided in paragraph (2) of this subsection, this chapter shall apply to any supervisor or management official (as defined in paragraphs (10) and (11) of section 7103 of this title, respectively) who is in a position which is in GS-13, 14, or 15 of the General Schedule described in section 5104 of this title.

(2)(A) Upon application under subparagraph (C) of this paragraph, the President may, in writing, exclude an agency or any unit of an agency from the application of this chapter if the President considers such exclusion to be required as a result of conditions arising from—

- (i) the recent establishment of the agency or unit, or the implementation of a new program,
- (ii) an emergency situation, or
- (iii) any other situation or circumstance.

(B) Any exclusion under this paragraph shall not take effect earlier than 30 calendar days after the President transmits to each House of the Congress a report describing the agency or unit to be excluded and the reasons therefor.

(C) An application for exclusion under this paragraph of an agency or any unit of an agency shall be filed by the head of the agency with the Office of Personnel Management, and shall set forth reasons why the agency or unit should be excluded from this chapter. The Office shall review the application and reasons, undertake such other review as it considers appropriate to determine whether the agency or unit should be excluded from the coverage of this chapter, and upon completion of its review, recommend to the President whether the agency or unit should be so excluded.

(D) Any agency or unit which is excluded pursuant to this paragraph shall, insofar as practicable, make a sustained effort to eliminate the conditions on which the exclusion is based.

(E) The Office shall periodically review any exclusion from coverage and may at any time recommend to the President that an exclusion under this paragraph be revoked. The President may at any time revoke, in writing, any exclusion under this paragraph.

(Added Pub. L. 95-454, title V, § 501, Oct. 13, 1978, 92 Stat. 1180.)

REFERENCES IN TEXT

GS-13, 14, or 15 of the General Schedule, referred to in subsec. (b)(1), are set out under section 5332 of this title.

EFFECTIVE DATE

Section 504(a) of Pub. L. 95-454 provided that: "The provisions of this title [enacting this chapter, amending sections 4501 to 4504, 4506, 5332 and 5334 to 5336 of this title, and enacting provision set out as a note under section 5404 of this title] shall take effect on the first day of the first applicable pay period which begins on or after October 1, 1981, except that such provisions may take effect with respect to any category or categories of positions before such day to the extent prescribed by the Director of the Office of Personnel Management."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5402, 5404 of this title.

§ 5402. Merit pay system

(a) In accordance with the purpose set forth in section 5401(a)(1) of this title, the Office of Personnel Management shall establish a merit pay system which shall provide for a range of basic pay for each grade to which the system applies, which range shall be limited by the minimum and maximum rates of basic pay payable for each grade under chapter 53 of this title.

(b)(1) Under regulations prescribed by the Office, the head of each agency may provide for increases within the range of basic pay for any employee covered by the merit pay system.

(2) Determinations to provide pay increases under this subsection—

(A) may take into account individual performance and organizational accomplishment, and

(B) shall be based on factors such as—

- (i) any improvement in efficiency, productivity, and quality of work or service, including any significant reduction in paperwork;
- (ii) cost efficiency;
- (iii) timeliness of performance; and
- (iv) other indications of the effectiveness, productivity, and quality of performance of the employees for whom the employee is responsible;

(C) shall be subject to review only in accordance with and to the extent provided by procedures established by the head of the agency; and

(D) shall be made in accordance with regulations issued by the Office which relate to the distribution of increases authorized under this subsection.

(3) For any fiscal year, the head of any agency may exercise authority under paragraph (1) of this subsection only to the extent of the funds available for the purpose of this subsection.

(4) The funds available for the purpose of this subsection to the head of any agency for any fiscal year shall be determined before the beginning of the fiscal year by the Office on the basis of the amount estimated by the Office to be necessary to reflect—

(A) within-grade step increases and quality step increases which would have been paid under subchapter III of chapter 53 of this title during the fiscal year to the employees of the agency covered by the merit pay system if the employees were not so covered; and

(B) adjustments under section 5305 of this title which would have been paid under such subchapter during the fiscal year to such employees if the employees were not so covered, less an amount reflecting the adjustment under subsection (c)(1) of this section in rates of basic pay payable to the employees for the fiscal year.

(c)(1) 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 5305 of this title, the rate of basic pay for any position under this chapter shall be adjusted by an amount equal to the greater of—

(A) one-half of the percentage of the adjustment in the annual rate of pay which corresponds to the percentage generally applicable to positions not covered by the merit pay system in the same grade as the position; or

(B) such greater amount of such percentage of such adjustment in the annual rate of pay as may be determined by the Office.

(2) Any employee whose position is brought under the merit pay system shall, so long as the employee continues to occupy the position, be entitled to receive basic pay at a rate of basic pay not less than the rate the employee was receiving when the position was brought under the merit pay system, plus any subsequent adjustment under paragraph (1) of this subsection.

(3) No employee to whom this chapter applies may be paid less than the minimum rate of basic pay of the grade of the employee's position.

(d) Under regulations prescribed by the Office, the benefit of advancement through the range of basic pay for a grade shall be preserved for any employee covered by the merit pay system whose continuous service is interrupted in the public interest by service with the armed forces, or by service in essential non-Government civilian employment during a period of war or national emergency.

(e) For the purpose of section 5941 of this title, rates of basic pay of employees covered by the merit pay system shall be considered rates of basic pay fixed by statute.

(Added Pub. L. 95-454, title V, § 501, Oct. 13, 1978, 92 Stat. 1181.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4501, 5332, 5334, 5335, 5336, 5362, 5403 of this title.

§ 5403. Cash award program

(a) The head of any agency may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the merit pay system who—

(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

(2) performs a special act or service in the public interest in connection with or related to the employee's Federal employment.

(b) The President may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the merit pay system who—

(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

(2) performs an exceptionally meritorious special act or service in the public interest in connection with or related to the employee's Federal employment.

A Presidential cash award may be in addition to an agency cash award under subsection (a) of this section.

(c) A cash award to any employee under this section is in addition to the basic pay of the employee under section 5402 of this title. Acceptance of a cash award under this section constitutes an agreement that the use by the Government of any idea, method, or device for which the award is made does not form the basis of any claim of any nature against the Government by the employee accepting the award, or the employee's heirs or assigns.

(d) A cash award to, and expenses for the honorary recognition of, any employee covered by the merit pay system may be paid from the fund or appropriation available to the activity primarily benefiting, or the various activities benefiting, from the suggestion, invention, superior accomplishment, or other meritorious effort of the employee. The head of the agency concerned shall determine the amount to be contributed by each activity to any agency cash award under subsection (a) of this section. The President shall determine the amount to be contributed by each activity to a Presidential award under subsection (b) of this section.

(e)(1) Except as provided in paragraph (2) of this subsection, a cash award under this section may not exceed \$10,000.

(2) If the head of an agency certifies to the Office of Personnel Management that the suggestion, invention, superior accomplishment, or other meritorious effort of an employee for which a cash award is proposed is highly exceptional and unusually outstanding, a cash award in excess of \$10,000 but not in excess of \$25,000 may be awarded to the employee on the approval of the Office.

(f) The President or the head of an agency may pay a cash award under this section notwithstanding the death or separation from the service of an employee, if the suggestion, invention, superior accomplishment, or other meritorious effort of the employee for which the award is proposed was made or performed while the employee was covered by the merit pay system.

(Added Pub. L. 95-454, title V, § 501, Oct. 13, 1978, 92 Stat. 1182.)

§ 5404. Report

The Office of Personnel Management shall include in each annual report required by section 1308(a) of this title a report on the operation of the merit pay system and the cash award program established under this chapter. The report shall include—

(1) an analysis of the cost and effectiveness of the merit pay system and the cash award program; and

(2) a statement of the agencies and units excluded from the coverage of this chapter under section 5401(b)(2) of this title, the reasons for which each exclusion was made, and whether the exclusion continues to be warranted.

(Added Pub. L. 95-454, title V, § 501, Oct. 13, 1978, 92 Stat. 1183.)

ADDITIONAL REPORTING REQUIREMENTS

Section 504(b) of Pub. L. 95-454 provided that: "The Director of the Office of Personnel Management shall include in the first report required under section 5404 of title 5, United States Code (as added by this title), information with respect to the progress and cost of the implementation of the merit pay system and the cash award program established under chapter 54 of such title (as added by this title)."

§ 5405. Regulations

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

(Added Pub. L. 95-454, title V, § 501, Oct. 13, 1978, 92 Stat. 1183.)

CHAPTER 55—PAY ADMINISTRATION

SUBCHAPTER II—WITHHOLDING PAY

Sec. 5520. Withholding of city or county income or employment taxes.

SUBCHAPTER IV—DUAL PAY AND DUAL EMPLOYMENT

5532. Employment of retired members of the uniformed services; reduction in retired or re-tainer pay.

SUBCHAPTER V—PREMIUM PAY

5550a. Compensatory time off for religious observances.

AMENDMENTS

1978—Pub. L. 95-454, title III, § 308(f)(2), Oct. 13, 1978, 92 Stat. 1151, in item 5532 substituted "members of the uniformed services; reduction in retired or re-tainer pay" for "officers of the uniformed services; reduction in retired or retirement pay; exceptions".

Pub. L. 95-390, title IV, § 401(b), Sept. 29, 1978, 92 Stat. 762, added item 5550a.

1977—Pub. L. 95-30, title IV, § 408(b), May 23, 1977, 91 Stat. 157, substituted "city or county" for "city" in item 5520.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 5362 of this title.

SUBCHAPTER I—GENERAL PROVISIONS

§ 5504. Biweekly pay periods; computation of pay

(a) The pay period for an employee covers two administrative workweeks. For the purpose of this subsection, "employee" means—

[See main edition for text of (1) to (3)]

but does not include—

(A) an employee on the Isthmus of Panama in the service of the Panama Canal Commission; or

(B) an employee or individual excluded from the definition of employee in section 5541(2) of this title other than an employee or individual excluded by section 5541(2)(xvi) of this title.

[See main edition for text of (b)]

(c) The Office of Personnel Management may prescribe regulations, subject to the approval of the President, necessary for the administration of this section insofar as this section affects employees in or under an Executive agency.

(As amended Pub. L. 95-454, title IV, § 408(a)(1), title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1173, 1224; Pub. L. 96-54, § 2(a)(29), Aug. 14, 1979, 93 Stat. 383; Pub. L. 96-70, title III, § 3302(e)(2), Sept. 27, 1979, 93 Stat. 498.)

AMENDMENTS

1979—Subsec. (a)(A). Pub. L. 96-70 substituted "Panama Canal Commission" for "Canal Zone Government or the Panama Canal Company".

Subsec. (a)(B). Pub. L. 96-54 substituted "(xvi) of this title" for "(xvi) of this section".

1978—Subsec. (a). Pub. L. 95-454, § 408(a)(1), inserted in par. (B) reference to an employee or individual excluded by section 5541(2)(xvi).

Subsec. (c). Pub. L. 95-454, § 906(a)(2), substituted "Office of Personnel Management" for "Civil Service Commission".

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96-70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96-70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

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

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 408(a)(1) of Pub. L. 95-454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 415 of Pub. L. 95-454, see section 415 of Pub. L. 95-454, set out as an Effective Date note under section 3131 of this title.

Amendment by section 906(a)(2) of Pub. L. 95-454 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.