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5 U.S. Code § 4703 - Demonstration projects

U.S. Code Notes

(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)

(A) Except as provided in subparagraph (B), not more than 10 active demonstration projects may be in effect at any time.

(B) Any demonstration project authorized under this section that is active for a period greater than 10 years shall not count for purposes of applying the limitation in subparagraph (A).

(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.

(j) Each agency at which a demonstration project authorized by this section is ongoing shall submit an annual report to the Office of Personnel Management, the Office and^[1] Management and Budget, the Committee on Homeland Security and Governmental Affairs of the United States Senate, and the Committee on Oversight and Government Reform of the United States House of Representatives that includes—

(1) the aggregate performance appraisal ratings and compensation costs for employees under a demonstration project;

(2) an assessment of the results of the demonstration project, including its impact on mission goals, employee recruitment, retention, and satisfaction, and which may include the results of the survey authorized under section 1128 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 5 U.S.C. 7101 note), commonly referred to as the Federal Employee Viewpoint Survey, and performance management for employees; and

(3) a comparison of the items listed in (1) and (2) with employees not covered by the demonstration project.

(Added Pub. L. 95–454, title VI, § 601(a), Oct. 13, 1978, 92 Stat. 1186; amended Pub. L. 115–232, div. A, title XI, § 1106, Aug. 13, 2018, 132 Stat. 2001.)