

6 USCS § 658

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United States Code Service > **TITLE 6. DOMESTIC SECURITY (§§ 101 — 1534)** > **CHAPTER 1. HOMELAND SECURITY ORGANIZATION (§§ 101 — 681g)** > **CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY (§§ 650 — 681g)** > **CYBERSECURITY AND INFRASTRUCTURE SECURITY (§§ 651 — 665n)**

§ 658. Cybersecurity recruitment and retention

(a) Definitions. In this section:

- (1)** Appropriate committees of Congress. The term “appropriate committees of Congress” means the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate and the Committee on Homeland Security and the Committee on Appropriations of the House of Representatives.
- (2)** Collective bargaining agreement. The term “collective bargaining agreement” has the meaning given that term in section 7103(a)(8) of title 5, United States Code.
- (3)** Excepted service. The term “excepted service” has the meaning given that term in section 2103 of title 5, United States Code.
- (4)** Preference eligible. The term “preference eligible” has the meaning given that term in section 2108 of title 5, United States Code.
- (5)** Qualified position. The term “qualified position” means a position, designated by the Secretary for the purpose of this section, in which the incumbent performs, manages, or supervises functions that execute the responsibilities of the Department relating to cybersecurity.
- (6)** Senior Executive Service. The term “Senior Executive Service” has the meaning given that term in section 2101a of title 5, United States Code.

(b) General authority.

- (1)** Establish positions, appoint personnel, and fix rates of pay.
 - (A)** General authority. The Secretary may—
 - (i)** establish, as positions in the excepted service, such qualified positions in the Department as the Secretary determines necessary to carry out the responsibilities of the Department relating to cybersecurity, including positions formerly identified as—
 - (I)** senior level positions designated under section 5376 of title 5, United States Code; and
 - (II)** positions in the Senior Executive Service;

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- (ii) appoint an individual to a qualified position (after taking into consideration the availability of preference eligibles for appointment to the position); and
- (iii) subject to the requirements of paragraphs (2) and (3), fix the compensation of an individual for service in a qualified position.

(B) Construction with other laws. The authority of the Secretary under this subsection applies without regard to the provisions of any other law relating to the appointment, number, classification, or compensation of employees.

(2) Basic pay.

(A) Authority to fix rates of basic pay. In accordance with this section, the Secretary shall fix the rates of basic pay for any qualified position established under paragraph (1) in relation to the rates of pay provided for employees in comparable positions in the Department of Defense and subject to the same limitations on maximum rates of pay established for such employees by law or regulation.

(B) Prevailing rate systems. The Secretary may, consistent with section 5341 of title 5, United States Code, adopt such provisions of that title as provide for prevailing rate systems of basic pay and may apply those provisions to qualified positions for employees in or under which the Department may employ individuals described by section 5342(a)(2)(A) of that title [5 USCS § 5342(a)(2)(A)].

(3) Additional compensation, incentives, and allowances.

(A) Additional compensation based on title 5 authorities. The Secretary may provide employees in qualified positions compensation (in addition to basic pay), including benefits, incentives, and allowances, consistent with, and not in excess of the level authorized for, comparable positions authorized by title 5, United States Code [5 USCS §§ 101 et seq.].

(B) Allowances in nonforeign areas. An employee in a qualified position whose rate of basic pay is fixed under paragraph (2)(A) shall be eligible for an allowance under section 5941 of title 5, United States Code, on the same basis and to the same extent as if the employee was an employee covered by such section 5941 [5 USCS § 5941], including eligibility conditions, allowance rates, and all other terms and conditions in law or regulation.

(4) Plan for execution of authorities. Not later than 120 days after the date of enactment of this section [enacted Dec. 18, 2014], the Secretary shall submit a report to the appropriate committees of Congress with a plan for the use of the authorities provided under this subsection.

(5) Collective bargaining agreements. Nothing in paragraph (1) may be construed to impair the continued effectiveness of a collective bargaining agreement with respect to an office, component, subcomponent, or equivalent of the Department that is a successor to an office, component, subcomponent, or equivalent of the Department covered by the agreement before the succession.

(6) Required regulations. The Secretary, in coordination with the Director of the Office of Personnel Management, shall prescribe regulations for the administration of this section.

(c) Annual report. Not later than 1 year after the date of enactment of this section [enacted Dec. 18, 2014], and every year thereafter for 4 years, the Secretary shall submit to the appropriate committees of Congress a detailed report that—

- (1) discusses the process used by the Secretary in accepting applications, assessing candidates, ensuring adherence to veterans preference, and selecting applicants for vacancies to be filled by an individual for a qualified position;
- (2) describes—
 - (A) how the Secretary plans to fulfill the critical need of the Department to recruit and retain employees in qualified positions;
 - (B) the measures that will be used to measure progress; and
 - (C) any actions taken during the reporting period to fulfill such critical need;
- (3) discusses how the planning and actions taken under paragraph (2) are integrated into the strategic workforce planning of the Department;
- (4) provides metrics on actions occurring during the reporting period, including—
 - (A) the number of employees in qualified positions hired by occupation and grade and level or pay band;
 - (B) the placement of employees in qualified positions by directorate and office within the Department;
 - (C) the total number of veterans hired;
 - (D) the number of separations of employees in qualified positions by occupation and grade and level or pay band;
 - (E) the number of retirements of employees in qualified positions by occupation and grade and level or pay band; and
 - (F) the number and amounts of recruitment, relocation, and retention incentives paid to employees in qualified positions by occupation and grade and level or pay band; and
- (5) describes the training provided to supervisors of employees in qualified positions at the Department on the use of the new authorities.

(d) Three-year probationary period. The probationary period for all employees hired under the authority established in this section shall be 3 years.

(e) Incumbents of existing competitive service positions.

- (1) In general. An individual serving in a position on the date of enactment of this section [enacted Dec. 18, 2014] that is selected to be converted to a position in the excepted service under this section shall have the right to refuse such conversion.
- (2) Subsequent conversion. After the date on which an individual who refuses a conversion under paragraph (1) stops serving in the position selected to be converted, the position may be converted to a position in the excepted service.

(f) Study and report. Not later than 120 days after the date of enactment of this section [enacted Dec. 18, 2014], the National Protection and Programs Directorate [Cybersecurity and

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Infrastructure Security Agency] shall submit a report regarding the availability of, and benefits (including cost savings and security) of using, cybersecurity personnel and facilities outside of the National Capital Region (as defined in section 2674 of title 10, United States Code) to serve the Federal and national need to—

- (1) the Subcommittee on Homeland Security of the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate; and
- (2) the Subcommittee on Homeland Security of the Committee on Appropriations and the Committee on Homeland Security of the House of Representatives.

History

HISTORY:

Nov. 25, 2002, P. L. 107-296, Title XXII [II], Subtitle A [C], § 2208 [226], as added Dec. 18, 2014, P. L. 113-277, § 3(a), 128 Stat. 3005; Nov. 16, 2018, P. L. 115-278, § 2(g)(2)(I), 132 Stat. 4178.

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