



DEPARTMENT OF THE NAVY
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MEMORANDUM FOR DISTRIBUTION

Subj: APPOINTMENT OF HIGHLY QUALIFIED EXPERTS

I have approved the release of Civilian Human Resources Manual Subchapter 991, Appointment of Highly Qualified Experts under 5 U.S.C. Section 9903. The Secretary of the Navy has authority to approve all appointments under this authority, which include allocation, position establishment, pay setting, recruitment/retention allowances, annual pay increases, and performance incentives.

Distribution of this subchapter will be made by posting it to the Department of the Navy Human Resources website, www.donhr.navy.mil.

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Assistant Secretary of the Navy
(Manpower and Reserve Affairs)

Distribution:
Echelon I & II

SUBCHAPTER 991

APPOINTMENT OF HIGHLY QUALIFIED EXPERTS UNDER SECTION 9903

Reference: (a) Title 5, Section 9903
(b) USD(P&R) policy of Feb 27, 2004

1. Purpose

a. This subchapter establishes policy and assigns responsibility for the authority to appoint highly qualified experts within the Department of the Navy (DON) in accordance with references (a) and (b).

b. This authority will allow DON to attract and retain experts who have state-of-the art knowledge in fields of critical importance to the Department's mission.

2. Definitions

a. Highly Qualified Expert (HQE) - An individual who possesses uncommon, special knowledge or skills in a particular occupational field beyond the usual range of expertise, who is regarded by others as an authority or practitioner of unusual competence and skill.

b. The expert knowledge or skills are generally not available within the Department of Defense (DoD) and are needed to satisfy an emerging and relatively short-term, non-permanent requirement.

3. Policy

a. The Under Secretary of Defense (Personnel and Readiness) (USD(P&R)) delegated authority to the Secretary of the Navy (SECNAV) to appoint HQEs from outside the civil service and uniformed services to positions in the DON, with any work schedule, without regard to any other provision of Title 5 U.S.C. This authority is in addition to 5 U.S.C. 3109, which covers the employment of experts and consultants, and may not be redelegated.

c. The SECNAV's authority covers all aspects of the employment of an HQE to include allocation, position establishment, pay setting, recruitment/retention allowances, annual pay increases, and performance incentives, and extension of appointment (which also requires USD(P&R) approval).

d. Employment under this authority may not exceed five years. On a case-by-case basis, an appointment may be extended up to one additional year after approval by the SECNAV and the USD(P&R).

e. The authority to employ shall not be used to provide any one person temporary employment in anticipation of a permanent appointment; to provide desired services that are readily available within the DoD or another Federal agency; to perform continuing functions, including work of a policy, decision-making, or managerial nature; to bypass or undermine personnel ceilings or pay limitations; to aid in influencing enacting legislation; to give former Federal employees preferential treatment; to do work performed by regular employees; or to fill in during staff shortages.

f. An employee who separated under authority of the Voluntary Separation Incentive Pay Program is prohibited from reemployment with DoD for 12 months after separation, and may not be reemployed within five years, unless the employee repays the separation incentive. Appointment under this authority constitutes reemployment with the DoD, and all prohibitions and repayment requirements apply.

4. Procedures

a. In order to obtain an allocation to support the employment of an HQE, requesting officials must submit a justification form, OCHR 12910/3, through the chain of command, to the Deputy Assistant Secretary of the Navy (Civilian Human Resources) (DASN (CHR)), through the Director, Executive Personnel and Leadership Development Division (EPLDD), Office of Civilian Human Resources (OCHR), Code 013). The accompanying documentation must be provided with the form:

(1) A description of the non-permanent functions of the position, with the expected duration of the project and/or functions. The description should be in the form of a concise position description to ensure the duties of the position are commensurate with the proposed salary of the expert.

(2) A resume of the proposed appointee with a personal qualifications statement outlining the special and unique skills required to perform the job and reasons why the particular expertise is not currently found within the DoD.

(3) Justification of proposed salary. The justification must address the following factors: labor market conditions, type of position, location of position, work schedule, level of independence in establishing work objectives, working conditions, organizational needs, personal qualifications, type of degree, personal recommendations, experience (time, relevancy, etc.), budget considerations and mission impact of work assignments.

(4) A statement addressing any additional payments (recruitment or relocation incentives) to include a signed service agreement.

b. Requests for extension of appointment must include justification of the need to retain the services of the employee, as well as the employee's expertise in promoting the DON's national security mission.

c. All requests must be approved at the Echelon I level or the organizational Executive Resources Board prior to submission to the DASN (CHR) through the EPLDD, OCHR, Code 013.

d. Individuals employed under this policy will be given Excepted Not to Exceed appointments (up to five years) using Nature of Action Code 171, Authority Code ZLM, and 5 U.S.C. 9903, if not currently on the agency's rolls. If the individual is currently on the agency's rolls, and obtains a new appointment, the Nature of Action Code 571, Authority Code ZLM, and 5 U.S.C. 9903 will be used for appointment. The pay plan will be EE (Experts Other).

e. Once the HQE is appointed, the incumbent must be on performance standards within 30 days. The performance appraisal will be used as justification for annual salary increase and performance incentives.

5. Pay Administration

a. An HQE's pay is comprised of base pay, geographic locality pay/or Cost of Living Allowances and may include incentive/bonus pay, and recruitment or relocation incentive pay.

b. Base pay may be set at any rate between GS-15, step 10, and Level III of the Executive Schedule, the maximum limit established by 5 U.S.C. 9903(b)(2).

c. Pay increases will be based on the HQE's performance. The total of all additional payments made under these provisions during any 12-month period may not exceed the lesser of (a) \$50,000 (adjusted annually); (b) the amount equal to 50 percent of the employee's annual rate of basic pay; or (c) the difference between the employee's base pay and the maximum amount of total annual compensation payable to the Vice President under 3 U.S.C. 104.

d. Prior to any pay adjustment or incentive payment, a request must be forwarded to the DASN (CHR), for SECNAV approval. This request should address the following: circumstances surrounding the pay increase or incentive payment, such as employee's exceptional level of accomplishment related to projects, programs, or tasks that contributed to the DON's strategic mission, requirements, and goals; or a change in the employee's duties or responsibilities. If the latter is the case, a new position description must be submitted.

e. The recipient of an authorized payment increase for recruitment or relocation must also sign a written service agreement, (documenting a minimum period of employment commensurate with the incentive), prior to receiving the payment.

6. Oversight

a. The DASN (CHR), with the advice of the Department of the Navy Civilian Executive Resources Board (DONCERB),

provides policy oversight, monitors the effective use of this appointment authority, and reports the number of appointees to DoD, as required.

7. **Responsibilities**

a. The SECNAV is responsible for approving allocation, position establishment, pay setting, recruitment/retention allowances, annual increases, and performance incentives, and extension of appointment (which also requires USD(P&R) approval).

b. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) is responsible for:

(1) Issuing and implementing DON policy on employment of HQEs.

(2) Reviewing and recommending approval of requests to SECNAV.

c. The DASN (CHR) will:

(1) Provide advice and guidance to the Chief of Naval Operations, the Commandant of the Marine Corps, the Assistant for Administration, SECNAV and Under SECNAV, and heads of Navy Echelon I and II commands.

(2) Provide periodic updates to members of the DONCERB.

d. The Director, EPLDD, OCHR 013 will:

(1) Report on all aspects of the authority to the DASN (CHR).

(2) Issue guidance and provide training to organizational ERBs and staff.

(3) Review requests for the employment of HQEs and provide written recommendations to the DASN (CHR).

(4) Coordinate with appropriate command staffs and provide appropriate documentation for processing approvals by the Regional Servicing Centers.

(5) Maintain documentation (hiring requests, pay rates, additional payments and justifications records) on file for a minimum of three years after employment ends.

e. Echelon I Claimant Heads or ERB Chairpersons will endorse HQE positions and proposed appointments prior to SECNAV decision.

f. Functional heads will concur or may request additional information on each HQE position request and/or proposed appointee.

8. **Action.** Commands, activities and individuals shall take necessary actions to implement the provisions outlined by this authority.