

Sec. 5597. Separation pay

- (a) For the purpose of this section -
 - (1) the term "Secretary" means the Secretary of Defense;
 - (2) the term "defense agency" means an agency of the Department of Defense, as further defined under regulations prescribed by the Secretary; and
 - (3) the term "employee" means an employee of a defense agency, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months, except that such term does not include -
 - (A) a reemployed annuitant under subchapter III of chapter 83, chapter [84](#), or another retirement system for employees of the Government; or
 - (B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A).
- (b) In order to avoid or minimize the need for involuntary separations due to a reduction in force, base closure, reorganization, transfer of function, or other similar action affecting 1 or more defense agencies, the Secretary shall establish a program under which separation pay may be offered to encourage eligible employees to separate from service voluntarily (whether by retirement or resignation).
- (c) Under the program, separation pay may be offered by a defense agency only -
 - (1) with the prior consent, or on the authority, of the Secretary; and
 - (2) to employees within such occupational groups or geographic locations, or subject to such other similar limitations or conditions, as the Secretary may require.
- (d) Such separation pay -
 - (1) shall be paid in a lump sum;
 - (2) shall be equal to the lesser of -
 - (A) an amount equal to the amount the employee would be entitled to receive under section [5595](#)(c) if the employee were entitled to payment under such section; or

- (B) \$25,000;
 - (3) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and
 - (4) shall not be taken into account for purposes of determining the amount of any severance pay to which an individual may be entitled under section [5595](#) based on any other separation.
- (e) No amount shall be payable under this section based on any separation occurring after September 30, 2003.
- (f) The Secretary shall prescribe such regulations as may be necessary to carry out this section.
- (g)
 - (1) An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 and accepts employment with the Government of the United States within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the defense agency that paid the separation pay.
 - (2) If the employment is with an Executive agency, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.
 - (3) If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.
 - (4) If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.
 - (5) If the employment is without compensation, the appointing official may waive the repayment.
- (h)
 - (1)
 - (A) In addition to any other payment that it is required to make under subchapter III of chapter [83](#) or chapter [84](#), the Department of Defense shall remit to the Office of Personnel Management an amount equal to 15 percent of the final basic pay of each covered employee.

- (B) If the employee is one with respect to whom a remittance would otherwise be required under section 4(a) of the Federal Workforce Restructuring Act of 1994 based on the separation involved, the remittance under this subsection shall be instead of the remittance otherwise required under such section [4\(a\)](#).
- (2) Amounts remitted under paragraph (1) shall be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund.
- (3) For the purposes of this subsection -
 - (A) the term "covered employee" means an employee who is subject to subchapter III of chapter [83](#) or chapter [84](#) and to whom a voluntary separation incentive has been paid under this section on the basis of a separation occurring on or after October 1, 1997; and
 - (B) the term "final basic pay" has the meaning given such term in section 4(a)(2) of the Federal Workforce Restructuring Act of 1994.