

EMPLOYMENT OF HIGHLY QUALIFIED EXPERTS

Frequently Asked Questions

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For Additional Information: 703-696-6301, Team 4; Staffing Advisory 3, DSN 426-6301

Q1. What is a highly qualified expert?

A1. A highly qualified expert is an individual possessing expert knowledges or skills not available within the Department of Defense (DoD) that are needed to satisfy an emerging and relatively short-term, non-permanent requirement.

Q2. What statute granted DoD the authority to employ highly qualified experts?

A2. Section 9903 of title 5, United States Code (U.S.C.), authorizes the Secretary of Defense to establish a program within DoD to employ highly qualified experts.

Q3. What are examples of occupations that may be filled by highly qualified experts?

A3. Some examples of occupations are those requiring advanced foreign languages, science, engineering, mathematics, and medical skills, as well as those related to health, safety, and national security. However, there is no limitation on the types of occupations to which a highly qualified expert may be appointed.

Q4. Does the authority to hire highly qualified experts under 5 U.S.C. 9903 replace the already existing authority provided by 5 U.S.C. 3109?

A4. No, the two authorities are different, and will apply in different situations. The Department may continue to hire experts and consultants in accordance with the provisions of 5 U.S.C. 3109 in appropriate cases.

Q5. What type of appointment is given to individuals employed as highly qualified experts?

A5. Individuals employed under this policy will be given time limited, Excepted Service appointments (not to exceed five years) using Nature of Action Code 171, Authority Code ZLM, and Authority 5 U.S.C. 9903.

Q6. How will appointments made under these provisions be documented?

A6. Components must maintain written documentation of the criteria used for each appointment, as well as the factors and criteria used in setting initial pay, pay increases, and additional payments, for three years after the employment is terminated.

Q7. What is the appropriate pay plan for individuals employed as highly qualified experts?

A7. The pay plan is EE (Experts-Other).

Q8. May an individual who is currently a civil service employee or a member of the uniformed services be appointed as a qualified expert?

A8. No. Title 5 U.S.C. 9903(b)(1) grants the Secretary of Defense the authority to appoint highly qualified experts from outside the civil service and uniformed services (as such terms are defined in 5 U.S.C. 2101).

Q9. At what level should basic pay be set for an individual initially appointed as an expert under this authority?

A9. Pay may be set at any rate between the basic rate for GS-15, step 10, up to the rate for Executive Level IV.

Q10. Do experts also receive locality pay?

A10. Experts working in the Continental United States are entitled to receive locality pay as long as the total of basic pay plus locality pay does not exceed the rate for Level III of the Executive Schedule.

Q11. What factors should be considered in determining basic pay for a newly appointed expert?

A11. Labor market conditions, personal qualifications, type of position and its criticality to the organization's mission, experience, current salary, and mission impact of work assignments are some of the factors that may be considered in setting the expert's rate of basic pay.

Q12. On what basis may a highly qualified expert's rate of basic pay be adjusted?

A12. An expert's rate of basic pay may be increased as a result of an individual's exceptional accomplishments that contribute to an organization's strategic mission or because of a change in duties or responsibilities.

Q13. May highly qualified experts receive more than one pay adjustment in a 12-month period?

A13. Yes, if each adjustment is based upon the employee's exceptional level of accomplishment related to projects, programs, or tasks that contribute to the Department's or Component's strategic mission requirements and goals, or because of a change in the employee's duties or responsibilities (subject to the Executive Level IV pay cap).

Q14. Is a highly qualified expert entitled to receive an annual pay adjustment each year?

A14. An employee has no entitlement to any adjustment in basic pay. However, locality pay will be adjusted in line with any change in the locality pay percentage that applies to the expert's duty station.

Q15. May an expert's rate of basic pay ever be reduced?

A15. No. The rate of basic pay for an expert hired under this authority may not be reduced as long as the employee continues to serve in the prescribed position without a break in service.

Q16. Are experts hired under this appointment authority eligible to receive premium pay such as overtime, night, holiday, and Sunday premium pay?

A16. No. Highly qualified experts are not entitled to any types of premium pay.

Q17. Are highly qualified experts eligible for any additional pay beyond their basic and locality pay?

A17. Yes. They may receive additional payments under 5 U.S.C. 9903(d). They are not eligible for any bonus, monetary award, or other monetary incentive except for the payments authorized by section 9903.

Q18. What are the pay limitations established under 5 U.S.C. 9903(d)?

A18. An expert may receive additional pay only to the extent that the total of all additional payments during any 12-month period does not exceed the lesser of (1) \$50,000 (in FY 2005 – this figure may be adjusted in future years by the USD(P&R) or the PDUSD(P&R)); or (2) the amount equal to 50 percent of the employee's annual rate

of basic pay. Additionally, the employee's total compensation in any calendar year, including basic pay, locality pay, and additional payments, may not exceed the salary for the Vice President.

Q19. If an expert is authorized an additional payment under section 9903, must the recipient sign a service agreement?

A19. There is no requirement for a service agreement in those cases where the additional payments authorized by section 9903 are made at the end of the performance period. However, if the payment(s) made is in the nature of a recruitment or retention bonus, paid at the start of the performance period, the organization may require a service agreement.

Q20. How will appointments made under these provisions be documented?

A20. Components must maintain written documentation of the criteria used for each appointment, as well as the factors and criteria used in setting initial pay, pay increases, and additional payments, for three years after the employment is terminated.