

115TH CONGRESS
2D SESSION

S. 3437

To establish a Federal rotational cyber workforce program for the Federal cyber workforce.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 12, 2018

Mr. PETERS (for himself and Mr. HOEVEN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish a Federal rotational cyber workforce program for the Federal cyber workforce.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Rotational
5 Cyber Workforce Program Act of 2018”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) AGENCY.—The term “agency” has the
9 meaning given the term “Executive agency” in sec-
10 tion 105 of title 5, United States Code, except that

1 the term does not include the Government Account-
2 ability Office.

3 (2) COUNCIL.—The term “Council” means the
4 Chief Human Capital Officers Council established
5 under section 1303 of the Homeland Security Act of
6 2002 (5 U.S.C. 1401 note).

7 (3) CYBER WORKFORCE POSITION.—The term
8 “cyber workforce position” means a position identi-
9 fied as having information technology, cybersecurity,
10 or other cyber-related functions under section 303 of
11 the Federal Cybersecurity Workforce Assessment
12 Act of 2015 (Public Law 114–113; 5 U.S.C. 301
13 note).

14 (4) DIRECTOR.—The term “Director” means
15 the Director of the Office of Personnel Management.

16 (5) EMPLOYEE.—The term “employee” has the
17 meaning given the term in section 2105 of title 5,
18 United States Code.

19 (6) EMPLOYING AGENCY.—The term “employ-
20 ing agency” means the agency from which an em-
21 ployee is detailed to a rotational cyber workforce po-
22 sition.

23 (7) ROTATIONAL CYBER WORKFORCE POSI-
24 TION.—The term “rotational cyber workforce posi-
25 tion” means a cyber workforce position with respect

1 to which a determination has been made under sec-
 2 tion 3(a)(1).

3 (8) ROTATIONAL CYBER WORKFORCE PRO-
 4 GRAM.—The term “rotational cyber workforce pro-
 5 gram” means the program for the detail of employ-
 6 ees among rotational cyber workforce positions at
 7 agencies.

8 **SEC. 3. ROTATIONAL CYBER WORKFORCE POSITIONS.**

9 (a) DETERMINATION WITH RESPECT TO ROTA-
 10 TIONAL SERVICE.—

11 (1) IN GENERAL.—The head of each agency, in
 12 the sole and exclusive discretion of the head of the
 13 agency, may determine that a cyber workforce posi-
 14 tion in that agency is eligible for the rotational cyber
 15 workforce program.

16 (2) NOTICE PROVIDED.—The head of an agency
 17 shall submit to the Director—

18 (A) notice regarding any determination
 19 made by the head of the agency under para-
 20 graph (1); and

21 (B) for each position with respect to which
 22 the head of the agency makes a determination
 23 under paragraph (1), the information required
 24 under subsection (b)(1).

1 (b) PREPARATION OF LIST.—The Director, with as-
2 sistance from the Council and the Secretary of Homeland
3 Security, shall develop a list of rotational cyber workforce
4 positions that—

5 (1) with respect to each such position, to the
6 extent that the information does not disclose sen-
7 sitive national security information, includes—

8 (A) the title of the position;

9 (B) the occupational series with respect to
10 the position;

11 (C) the grade level with respect to the po-
12 sition;

13 (D) the agency in which the position is lo-
14 cated;

15 (E) the duty location with respect to the
16 position; and

17 (F) the major duties and functions of the
18 position; and

19 (2) shall be used to support the rotational cyber
20 workforce program.

21 (c) DISTRIBUTION OF LIST.—Not less frequently
22 than annually, the Director shall distribute an updated list
23 developed under subsection (b) to the head of each agency
24 and other appropriate entities.

1 **SEC. 4. ROTATIONAL CYBER WORKFORCE PROGRAM.**

2 (a) OPERATION PLAN.—

3 (1) IN GENERAL.—Not later than 270 days
4 after the date of enactment of this Act, the Director,
5 in consultation with the Council, the Chief Informa-
6 tion Officer of the Department of Homeland Secu-
7 rity, representatives of other agencies, and any other
8 entity as the Director determines appropriate, shall
9 develop and issue a Federal Rotational Cyber Work-
10 force Program operation plan providing policies,
11 processes, and procedures for a program for the de-
12 tailing of employees among rotational cyber work-
13 force positions at agencies.

14 (2) UPDATING.—The Director may, in consulta-
15 tion with the Council and other entities as the Direc-
16 tor determines appropriate, periodically update the
17 operation plan developed and issued under para-
18 graph (1).

19 (b) REQUIREMENTS.—The operation plan developed
20 and issued under subsection (a) shall, at a minimum—

21 (1) identify agencies for participation in the ro-
22 tational cyber workforce program;

23 (2) establish procedures for the rotational cyber
24 workforce program, including—

25 (A) any training, education, or career de-
26 velopment requirements associated with partici-

1 pation in the rotational cyber workforce pro-
2 gram;

3 (B) any prerequisites or requirements for
4 participation in the rotational cyber workforce
5 program; and

6 (C) appropriate rotational cyber workforce
7 program performance measures, reporting re-
8 quirements, employee exit surveys, and other
9 accountability devices for the evaluation of the
10 program;

11 (3) provide that participation in the rotational
12 cyber workforce program by an employee shall be
13 voluntary;

14 (4) provide that an employee shall be eligible to
15 participate in the rotational cyber workforce pro-
16 gram if the head of the employing agency of the em-
17 ployee, or a designee of the head of the employing
18 agency of the employee, approves of the participation
19 of the employee;

20 (5) provide that the detail of an employee to a
21 rotational cyber workforce position under the rota-
22 tional cyber workforce program shall be on a nonre-
23 imbursable basis;

24 (6) provide that agencies may agree to partner
25 to ensure that the employing agency of an employee

1 that participates in the rotational cyber workforce
2 program is able to fill the position vacated by the
3 employee;

4 (7) require that an employee detailed to a rota-
5 tional cyber workforce position under the rotational
6 cyber workforce program, upon the end of the period
7 of service with respect to the detail—

8 (A) shall be entitled to return to the posi-
9 tion held by the employee, or a corresponding
10 position, in the employing agency of the em-
11 ployee; and

12 (B) shall not be entitled to return to an-
13 other position in the employing agency of the
14 employee, including a more senior position, if
15 the position held by the employee upon accept-
16 ing the detail remains open;

17 (8) provide that discretion with respect to the
18 assignment of an employee under the rotational
19 cyber workforce program shall remain with the em-
20 ploying agency of the employee;

21 (9) require that an employee detailed to a rota-
22 tional cyber workforce position under the rotational
23 cyber workforce program—

24 (A) in an agency that is not the employing
25 agency of the employee shall have all the rights

1 that would be available to the employee if the
2 employee were detailed under a provision of law
3 other than this Act from the employing agency
4 to the agency in which the rotational cyber
5 workforce position is located; and

6 (B) including under an extension granted
7 under subsection (c)(2)(C), shall be excluded
8 from the application of chapter 71 of title 5,
9 United States Code, during the period in which
10 the employee is detailed;

11 (10) provide that chapter 71 of title 5, United
12 States Code, shall not apply with respect to any
13 changes in the conditions of the employment of an
14 employee relating to participation by the employee in
15 the rotational cyber workforce program; and

16 (11) provide that an employee participating in
17 the rotational cyber workforce program shall receive
18 performance evaluations relating to service in the ro-
19 tational cyber workforce program in a participating
20 agency that are—

21 (A) prepared by an appropriate officer, su-
22 pervisor, or management official of the employ-
23 ing agency;

24 (B) in coordination with the supervisor at
25 the agency in which the employee is performing

1 that service, based on objectives identified in
2 the operation plan with respect to the employee;
3 and

4 (C) based in whole or in part on the con-
5 tribution of the employee to the agency in which
6 the employee performed such service, as com-
7 municated from that agency to the employing
8 agency of the employee.

9 (c) PROGRAM REQUIREMENTS FOR ROTATIONAL
10 SERVICE.—

11 (1) IN GENERAL.—An employee serving in a
12 cyber workforce position in an agency may, with the
13 approval of the head of the agency, submit an appli-
14 cation for detail to a rotational cyber workforce posi-
15 tion that appears on the list developed under section
16 3(b).

17 (2) SELECTION AND TERM.—

18 (A) SELECTION.—The head of an agency
19 shall select an employee for a rotational cyber
20 workforce position under the rotational cyber
21 workforce program in a manner that is con-
22 sistent with the merit system principles under
23 section 2301(b) of title 5, United States Code.

24 (B) TERM.—Except as provided in sub-
25 paragraph (C), and notwithstanding section

1 3341(b) of title 5, United States Code, a detail
2 to a rotational cyber workforce position shall be
3 for a period of not less than 180 days and not
4 more than 1 year.

5 (C) EXTENSION.—The Chief Human Cap-
6 ital Officer of the agency to which an employee
7 is detailed under the rotational cyber workforce
8 program may extend the period of a detail de-
9 scribed in subparagraph (B) for a period of 60
10 days unless the Chief Human Capital Officer of
11 the employing agency of the employee objects to
12 that extension.

13 (3) WRITTEN SERVICE AGREEMENTS.—

14 (A) IN GENERAL.—The detail of an em-
15 ployee to a rotational cyber position shall be
16 contingent upon the employee entering into a
17 written service agreement with the employing
18 agency under which the employee is required to
19 complete a period of employment with the em-
20 ploying agency following the conclusion of the
21 detail that is equal in length to the period of
22 the detail.

23 (B) CONTINUED SERVICE AGREEMENTS.—
24 A written service agreement under subpara-
25 graph (A) shall not supersede or modify the

1 terms or conditions of any other service agree-
2 ment entered into by the employee under any
3 other authority or relieve the obligations be-
4 tween the employee and the employing agency
5 under such a service agreement. Nothing in this
6 subparagraph prevents an employing agency
7 from terminating a service agreement entered
8 into under any other authority under the terms
9 of such agreement or as required by law or reg-
10 ulation.

11 **SEC. 5. REPORTING BY GAO.**

12 Not later than the end of the second fiscal year after
13 the fiscal year in which the operation plan under section
14 4(a) is issued, the Comptroller General of the United
15 States shall submit to Congress a report assessing the op-
16 eration and effectiveness of the rotational cyber workforce
17 program, which shall address, at a minimum—

18 (1) the extent to which agencies have partici-
19 pated in the rotational cyber workforce program, in-
20 cluding whether the head of each such participating
21 agency has—

22 (A) identified positions within the agency
23 that are rotational cyber workforce positions;

1 (B) had employees from other partici-
2 pating agencies serve in positions described in
3 subparagraph (A); and

4 (C) had employees of the agency request to
5 serve in rotational cyber workforce positions
6 under the rotational cyber workforce program
7 in participating agencies, including a descrip-
8 tion of how many such requests were approved;
9 and

10 (2) the experiences of employees serving in ro-
11 tational cyber workforce positions under the rota-
12 tional cyber workforce program, including an assess-
13 ment of—

14 (A) the period of service;

15 (B) the positions (including grade level and
16 occupational series) held by employees before
17 completing service in a rotational cyber work-
18 force position under the rotational cyber work-
19 force program;

20 (C) the extent to which each employee who
21 completed service in a rotational cyber work-
22 force position under the rotational cyber work-
23 force program achieved a higher skill level, or
24 attained a skill level in a different area, with re-

1 spect to information technology, cybersecurity,
2 or other cyber-related functions; and

3 (D) the extent to which service in rota-
4 tional cyber workforce positions has affected
5 intra-agency and interagency integration and
6 coordination of cyber practices, functions, and
7 personnel management.

8 **SEC. 6. SUNSET.**

9 Effective 5 years after the date of enactment of this
10 Act, this Act is repealed.

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