

116TH CONGRESS
1ST SESSION

S. 406

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Rotational
3 Cyber Workforce Program Act of 2019”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) **AGENCY.**—The term “agency” has the
7 meaning given the term “Executive agency” in sec-
8 tion 105 of title 5, United States Code, except that
9 the term does not include the Government Account-
10 ability Office.

11 (2) **COUNCIL.**—The term “Council” means the
12 Chief Human Capital Officers Council established
13 under section 1303 of the Chief Human Capital Of-
14 ficers Act of 2002 (5 U.S.C. 1401 note).

15 (3) **CYBER WORKFORCE POSITION.**—The term
16 “cyber workforce position” means a position identi-
17 fied as having information technology, cybersecurity,
18 or other cyber-related functions under section 303 of
19 the Federal Cybersecurity Workforce Assessment
20 Act of 2015 (5 U.S.C. 301 note).

21 (4) **DIRECTOR.**—The term “Director” means
22 the Director of the Office of Personnel Management.

23 (5) **EMPLOYEE.**—The term “employee” has the
24 meaning given the term in section 2105 of title 5,
25 United States Code.

1 (6) EMPLOYING AGENCY.—The term “employ-
2 ing agency” means the agency from which an em-
3 ployee is detailed to a rotational cyber workforce po-
4 sition.

5 (7) ROTATIONAL CYBER WORKFORCE POSI-
6 TION.—The term “rotational cyber workforce posi-
7 tion” means a cyber workforce position with respect
8 to which a determination has been made under sec-
9 tion 3(a)(1).

10 (8) ROTATIONAL CYBER WORKFORCE PRO-
11 GRAM.—The term “rotational cyber workforce pro-
12 gram” means the program for the detail of employ-
13 ees among rotational cyber workforce positions at
14 agencies.

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

16 (a) DETERMINATION WITH RESPECT TO ROTA-
17 TIONAL SERVICE.—

18 (1) IN GENERAL.—The head of each agency, in
19 the sole and exclusive discretion of the head of the
20 agency, may determine that a cyber workforce posi-
21 tion in that agency is eligible for the rotational cyber
22 workforce program.

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

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

4 (B) for each position with respect to which
5 the head of the agency makes a determination
6 under paragraph (1), the information required
7 under subsection (b)(1).

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

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

15 (A) the title of the position;

16 (B) the occupational series with respect to
17 the position;

18 (C) the grade level with respect to the po-
19 sition;

20 (D) the agency in which the position is lo-
21 cated;

22 (E) the duty location with respect to the
23 position; and

24 (F) the major duties and functions of the
25 position; and

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

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

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

8 (a) OPERATION PLAN.—

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

20 (2) UPDATING.—The Director may, in consulta-
21 tion with the Council and other entities as the Direc-
22 tor determines appropriate, periodically update the
23 operation plan developed and issued under para-
24 graph (1).

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

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

5 (2) establish procedures for the rotational cyber
6 workforce program, including—

7 (A) any training, education, or career de-
8 velopment requirements associated with partici-
9 pation in the rotational cyber workforce pro-
10 gram;

11 (B) any prerequisites or requirements for
12 participation in the rotational cyber workforce
13 program; and

14 (C) appropriate rotational cyber workforce
15 program performance measures, reporting re-
16 quirements, employee exit surveys, and other
17 accountability devices for the evaluation of the
18 program;

19 (3) provide that participation in the rotational
20 cyber workforce program by an employee shall be
21 voluntary;

22 (4) provide that an employee shall be eligible to
23 participate in the rotational cyber workforce pro-
24 gram if the head of the employing agency of the em-
25 ployee, or a designee of the head of the employing

1 agency of the employee, approves of the participation
2 of the employee;

3 (5) provide that the detail of an employee to a
4 rotational cyber workforce position under the rota-
5 tional cyber workforce program shall be on a nonre-
6 imburseable basis;

7 (6) provide that agencies may agree to partner
8 to ensure that the employing agency of an employee
9 that participates in the rotational cyber workforce
10 program is able to fill the position vacated by the
11 employee;

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

16 (A) shall be entitled to return to the posi-
17 tion held by the employee, or a corresponding
18 position, in the employing agency of the em-
19 ployee; and

20 (B) shall not be entitled to return to an-
21 other position in the employing agency of the
22 employee, including a more senior position, if
23 the position held by the employee upon accept-
24 ing the detail remains open;

1 (8) provide that discretion with respect to the
2 assignment of an employee under the rotational
3 cyber workforce program shall remain with the em-
4 ploying agency of the employee;

5 (9) require that an employee detailed to a rota-
6 tional cyber workforce position under the rotational
7 cyber workforce program in an agency that is not
8 the employing agency of the employee shall have all
9 the rights that would be available to the employee if
10 the employee were detailed under a provision of law
11 other than this Act from the employing agency to
12 the agency in which the rotational cyber workforce
13 position is located;

14 (10) provide that participation by an employee
15 in the rotational cyber workforce program shall not
16 constitute a change in the conditions of the employ-
17 ment of the employee; and

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

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

(B) based, acting in coordination with the supervisor at the agency in which the employee is performing that service, on objectives identified in the operation plan with respect to the employee; and

(C) based in whole or in part on the contribution of the employee to the agency in which the employee performed such service, as communicated from that agency to the employing agency of the employee.

(c) PROGRAM REQUIREMENTS FOR ROTATIONAL SERVICE.—

(1) IN GENERAL.—An employee serving in a cyber workforce position in an agency may, with the approval of the head of the agency, submit an application for detail to a rotational cyber workforce position that appears on the list developed under section 3(b).

(2) SELECTION AND TERM.—

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

1 (B) TERM.—Except as provided in sub-
2 paragraph (C), and notwithstanding section
3 3341(b) of title 5, United States Code, a detail
4 to a rotational cyber workforce position shall be
5 for a period of not less than 180 days and not
6 more than 1 year.

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

15 (3) WRITTEN SERVICE AGREEMENTS.—

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

1 (B) CONTINUED SERVICE AGREEMENTS.—

2 A written service agreement under subpara-
3 graph (A) shall not supersede or modify the
4 terms or conditions of any other service agree-
5 ment entered into by the employee under any
6 other authority or relieve the obligations be-
7 tween the employee and the employing agency
8 under such a service agreement. Nothing in this
9 subparagraph prevents an employing agency
10 from terminating a service agreement entered
11 into under any other authority under the terms
12 of such agreement or as required by law or reg-
13 ulation.

14 **SEC. 5. REPORTING BY GAO.**

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

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

1 (A) identified positions within the agency
2 that are rotational cyber workforce positions;

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

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

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

16 (A) the period of service;

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

22 (C) the extent to which each employee who
23 completed service in a rotational cyber work-
24 force position under the rotational cyber work-
25 force program achieved a higher skill level, or

1 attained a skill level in a different area, with re-
2 spect to information technology, cybersecurity,
3 or other cyber-related functions; and

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

9 **SEC. 6. SUNSET.**

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

Passed the Senate April 30, 2019.

Attest:

Secretary.

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