

107TH CONGRESS
2^D SESSION

H. R. 3925

To establish an exchange program between the Federal Government and the private sector in order to promote the development of expertise in information technology management, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2002

Mr. TOM DAVIS of Virginia (for himself and Mr. BURTON of Indiana) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To establish an exchange program between the Federal Government and the private sector in order to promote the development of expertise in information technology management, and for other purposes.

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; FINDINGS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Digital Tech Corps Act of 2002”.

6 (b) **FINDINGS.**—Congress finds that—

1 (1) unless action is taken soon, there will be a
2 crisis in the government's ability to deliver essential
3 services to the American people;

4 (2) by 2006, over 50 percent of the Federal
5 Government's information technology workforce will
6 be eligible to retire, creating a huge demand in the
7 Federal Government for high-skill workers;

8 (3) despite a 44 percent decrease in the demand
9 for information technology workers in the private
10 sector, the Information Technology Association of
11 America reported in 2001 that employers will need
12 to fill over 900,000 new information technology jobs
13 and will be unable to find qualified workers for
14 425,000 of those jobs;

15 (4) to highlight the urgency of this situation, in
16 January 2001, the General Accounting Office added
17 the Federal Government's human capital manage-
18 ment to its list of high-risk problems for which an
19 effective solution must be found;

20 (5) despite efforts to increase flexibility in Fed-
21 eral agencies' employment practices, compensation
22 issues continue to severely restrain recruitment for
23 Federal agencies; and

24 (6) an effective, efficient, and economical re-
25 sponse to this crisis would be to create a vibrant, on-

1 going exchange effort designed to share talent, ex-
 2 pertise, and advances in management between lead-
 3 ing-edge businesses and Federal agencies engaged in
 4 best practices.

5 **SEC. 2. INFORMATION TECHNOLOGY EXCHANGE PROGRAM.**

6 (a) IN GENERAL.—Subpart B of part III of title 5,
 7 United States Code, is amended by adding at the end the
 8 following:

9 **“CHAPTER 37—INFORMATION**
 10 **TECHNOLOGY EXCHANGE PROGRAM**

“Sec.

“3701. Definitions.

“3702. General provisions.

“3703. Assignment of employees to private sector organizations.

“3704. Assignment of employees from private sector organizations.

“3705. Application to Office of the Chief Technology Officer of the District of
 Columbia.

“3706. Authority of the Office of Personnel Management.

11 **“§ 3701. Definitions**

12 “For purposes of this chapter—

13 “(1) the term ‘agency’ means an Executive
 14 agency, but does not include the General Accounting
 15 Office; and

16 “(2) the term ‘detail’ means—

17 “(A) the assignment or loan of an em-
 18 ployee of an agency to a private sector organi-
 19 zation without a change of position from the
 20 agency that employs the individual, or

1 “(B) the assignment or loan of an em-
2 ployee of a private sector organization to an
3 agency without a change of position from the
4 private sector organization that employs the in-
5 dividual,

6 whichever is appropriate in the context in which
7 such term is used.

8 **“§ 3702. General provisions**

9 “(a) ASSIGNMENT AUTHORITY.—On request from or
10 with the agreement of a private sector organization, and
11 with the consent of the employee concerned, the head of
12 an agency may arrange for the assignment of an employee
13 of the agency to a private sector organization or an em-
14 ployee of a private sector organization to the agency. An
15 eligible employee is an individual who—

16 “(1) works in the field of information tech-
17 nology management;

18 “(2) is considered an exceptional performer by
19 the individual’s current employer; and

20 “(3) is expected to assume increased informa-
21 tion technology management responsibilities in the
22 future.

23 An employee of an agency shall be eligible to participate
24 in this program only if the employee is employed at the
25 GS–11 level or above (or equivalent) and is serving under

1 a career or career-conditional appointment or an appoint-
2 ment of equivalent tenure in the excepted service.

3 “(b) AGREEMENTS.—Each agency that exercises its
4 authority under this chapter shall provide for a written
5 agreement between the agency and the employee con-
6 cerned regarding the terms and conditions of the employ-
7 ee’s assignment. In the case of an employee of the agency,
8 the agreement shall—

9 “(1) require the employee to serve in the civil
10 service, upon completion of the assignment, for a pe-
11 riod equal to the length of the assignment; and

12 “(2) provide that, in the event the employee
13 fails to carry out the agreement (except for good and
14 sufficient reason, as determined by the head of the
15 agency from which assigned) the employee shall be
16 liable to the United States for payment of all ex-
17 penses (excluding salary) of the assignment.

18 An amount under paragraph (2) shall be treated as a debt
19 due the United States.

20 “(c) TERMINATION.—Assignments may be termi-
21 nated by the agency or private sector organization con-
22 cerned for any reason at any time.

23 “(d) DURATION.—Assignments under this chapter
24 shall be for 1 year and may be extended for an additional
25 period not to exceed 1 year.

1 then, the amount of such payment or benefit shall be cred-
2 ited against any compensation otherwise payable under
3 subchapter I of chapter 81.

4 “(c) REIMBURSEMENTS.—The assignment of an em-
5 ployee to a private sector organization under this chapter
6 may be made with or without reimbursement by the pri-
7 vate sector organization for the travel and transportation
8 expenses to or from the place of assignment, subject to
9 the same terms and conditions as apply with respect to
10 an employee of a Federal agency or a State or local gov-
11 ernment under section 3375, and for the pay, or a part
12 thereof, of the employee during assignment. Any reim-
13 bursements shall be credited to the appropriation of the
14 agency used for paying the travel and transportation ex-
15 penses or pay.

16 “(d) TORT LIABILITY; SUPERVISION.—The Federal
17 Tort Claims Act and any other Federal tort liability stat-
18 ute apply to an employee of an agency assigned to a pri-
19 vate sector organization under this chapter. The super-
20 vision of the duties of an employee of an agency so as-
21 signed to a private sector organization may be governed
22 by an agreement between the agency and the organization.

1 **“§ 3704. Assignment of employees from private sector**
2 **organizations**

3 “(a) IN GENERAL.—An employee of a private sector
4 organization assigned to an agency under this chapter is
5 deemed, during the period of the assignment, to be on de-
6 tail to such agency.

7 “(b) TERMS AND CONDITIONS.—An employee of a
8 private sector organization assigned to an agency under
9 this chapter—

10 “(1) may continue to receive pay and benefits
11 from the private sector organization from which he
12 is assigned;

13 “(2) is deemed, notwithstanding subsection (a),
14 to be an employee of the agency for the purposes
15 of—

16 “(A) chapter 73, except for section
17 7353(a)(1);

18 “(B) sections 203, 205, 207, 208, 603,
19 606, 607, 643, 654, 1905, and 1913 of title 18;

20 “(C) sections 1343, 1344, and 1349(b) of
21 title 31;

22 “(D) the Federal Tort Claims Act and any
23 other Federal tort liability statute;

24 “(E) the Ethics in Government Act of
25 1978;

1 “(F) section 1043 of the Internal Revenue
2 Code of 1986; and

3 “(G) section 27(p)(8) of the Office of Fed-
4 eral Procurement Policy Act; and

5 “(3) is subject to such regulations as the Presi-
6 dent may prescribe.

7 The supervision of an employee of a private sector organi-
8 zation assigned to an agency under this chapter may be
9 governed by agreement between the agency and the private
10 sector organization concerned. Such an assignment may
11 be made with or without reimbursement by the agency for
12 the pay, or a part thereof, of the employee during the pe-
13 riod of assignment, or for any contribution of the private
14 sector organization to employee benefit systems.

15 “(c) COORDINATION WITH CHAPTER 81.—An em-
16 ployee of a private sector organization assigned to an
17 agency under this chapter who suffers disability or dies
18 as a result of personal injury sustained while performing
19 duties during the assignment shall be treated, for the pur-
20 pose of subchapter I of chapter 81, as an employee as de-
21 fined by section 8101 who had sustained the injury in the
22 performance of duty, except that, if the employee or the
23 employee’s dependents receive from the private sector or-
24 ganization any payment under an insurance policy for
25 which the premium is wholly paid by the private sector

1 organization, or other benefit of any kind on account of
2 the same injury or death, then, the amount of such pay-
3 ment or benefit shall be credited against any compensation
4 otherwise payable under subchapter I of chapter 81.

5 **“§ 3705. Application to Office of the Chief Technology**
6 **Officer of the District of Columbia**

7 “(a) IN GENERAL.—The Chief Technology Officer of
8 the District of Columbia may arrange for the assignment
9 of an employee of the Office of the Chief Technology Offi-
10 cer to a private sector organization, or an employee of a
11 private sector organization to such Office, in the same
12 manner as the head of an agency under this chapter.

13 “(b) TERMS AND CONDITIONS.—An assignment
14 made pursuant to subsection (a) shall be subject to the
15 same terms and conditions as an assignment made by the
16 head of an agency under this chapter, except that in apply-
17 ing such terms and conditions to an assignment made pur-
18 suant to subsection (a), any reference in this chapter to
19 a provision of law or regulation of the United States shall
20 be deemed to be a reference to the applicable provision
21 of law or regulation of the District of Columbia, including
22 the applicable provisions of the District of Columbia Gov-
23 ernment Comprehensive Merit Personnel Act of 1978 (sec.
24 1–601.01 et seq., D.C. Official Code) and section 601 of
25 the District of Columbia Campaign Finance Reform and

1 Conflict of Interest Act (sec. 1–1106.01, D.C. Official
2 Code).

3 “(c) DEFINITION.—For purposes of this section, the
4 term ‘Office of the Chief Technology Officer’ means the
5 office established in the executive branch of the govern-
6 ment of the District of Columbia under the Office of the
7 Chief Technology Officer Establishment Act of 1998 (sec.
8 1–1401 et seq., D.C. Official Code).

9 **“§ 3706. Authority of the Office of Personnel Manage-
10 ment**

11 “The Director of the Office of Personnel Manage-
12 ment shall prescribe regulations for the administration of
13 this chapter.”.

14 (b) CLERICAL AMENDMENT.—The analysis for part
15 III of title 5, United States Code, is amended by inserting
16 after the item relating to chapter 35 the following:

“37. Information Technology Exchange Program 3701”.

17 **SEC. 3. ALLOWABILITY OF COSTS.**

18 Within 120 days after the enactment of this Act, the
19 Federal Acquisition Regulatory Council shall amend the
20 Federal Acquisition Regulation to recognize the costs as-
21 sociated with an employee’s participation in the program
22 authorized by section 2 as allowable training and edu-
23 cation costs. Such costs—

24 (1) include the employee’s salary and fringe
25 benefits for a period not to exceed the period of the

1 employee's assignment under the program author-
2 ized by section 2, as well as moving and travel ex-
3 penses; and

4 (2) may be treated, for accounting purposes—

5 (A) as an indirect cost and accounted for
6 in—

7 (i) an established overhead account; or

8 (ii) an overhead account established
9 specifically for the program authorized by
10 section 2 and allocated exclusively to the
11 contractor's Federal Government contracts;

12 or

13 (B) as a direct cost chargeable to fixed
14 price or time and material contracts.

15 **SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.**

16 (a) AMENDMENTS TO TITLE 5, UNITED STATES
17 CODE.—Title 5, United States Code, is amended—

18 (1) in section 3111 by adding at the end the
19 following:

20 “(d) Notwithstanding section 1342 of title 31, the
21 head of an agency may accept voluntary service for the
22 United States under chapter 37 of this title and regula-
23 tions of the Office of Personnel Management.”; and

24 (2) in section 4108 by striking subsection (d).

1 (b) OTHER AMENDMENTS.—Section 125(c)(1) of
2 Public Law 100–238 (5 U.S.C. 8432 note) is amended—

3 (1) in subparagraph (B) by striking “or” at the
4 end;

5 (2) in subparagraph (C) by striking “and” at
6 the end and inserting “or”; and

7 (3) by adding at the end the following:

8 “(D) an individual assigned from a Fed-
9 eral agency to a private sector organization
10 under chapter 37 of title 5, United States Code;
11 and”.

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