

113TH CONGRESS
1ST SESSION

H. R. 2067

To amend title 5, United States Code, to make permanent the authority of the Secretary of the Treasury to establish a separate compensation and performance management system with respect to persons holding critical scientific, technical, or professional positions within the Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2013

Mr. MEADOWS introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To amend title 5, United States Code, to make permanent the authority of the Secretary of the Treasury to establish a separate compensation and performance management system with respect to persons holding critical scientific, technical, or professional positions within the Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury.

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 “Alcohol and Tobacco
5 Tax and Trade Bureau Personnel Flexibilities Act”.

1 **SEC. 2. ALCOHOL AND TOBACCO TAX AND TRADE BUREAU.**

2 (a) IN GENERAL.—Subpart I of part III of title 5,
3 United States Code, is amended by inserting after chapter
4 95 the following:

5 **“CHAPTER 96—ALCOHOL AND TOBACCO**
6 **TAX AND TRADE BUREAU**

“9601. Definitions; applicability.

“9602. Compensation and performance management system.

7 **“§ 9601. Definitions; applicability**

8 “(a) DEFINITIONS.—For purposes of this chapter—

9 “(1) the term ‘Secretary’ means the Secretary
10 of the Treasury;

11 “(2) the term ‘Bureau’ means the Alcohol and
12 Tobacco Tax and Trade Bureau, Department of the
13 Treasury; and

14 “(3) the terms ‘senior executive’ and ‘Senior
15 Executive Service position’ have the respective mean-
16 ings given them in section 3132(a).

17 “(b) APPLICABILITY.—A compensation and perform-
18 ance management system established under section 9602
19 shall not cover, and nothing in any such system shall be
20 considered to apply with respect to, a senior executive or
21 a Senior Executive Service position.

22 **“§ 9602. Compensation and performance management**
23 **system**

24 “(a) ESTABLISHMENT.—

1 “(1) IN GENERAL.—The Secretary shall estab-
2 lish a system, applying such criteria and procedures
3 as the Secretary considers appropriate, which shall
4 govern the compensation and performance manage-
5 ment of any number of employees holding critical
6 scientific, technical, or professional positions in the
7 Bureau.

8 “(2) AUTHORITY.—Subject to the provisions of
9 this chapter—

10 “(A) the establishment of a compensation
11 and performance management system under
12 this section shall not be limited by any lack of
13 specific authority under this title to take the ac-
14 tion contemplated, or by any provision of this
15 title or any rule or regulation prescribed under
16 this title which is inconsistent with the action;
17 and

18 “(B) the total number of positions covered
19 by the system or systems established under au-
20 thority of this section (determined on a full-
21 time equivalent basis) may not at any time ex-
22 ceed the number equal to 50 percent of the
23 total number of positions within the Bureau (so
24 determined).

1 “(3) CONSULTATION.—The Secretary shall con-
2 sult with the Director of the Office of Personnel
3 Management in the exercise of any authority under
4 this section.

5 “(b) NONWAIVABLE PROVISIONS; COLLABORA-
6 TION.—A compensation and performance management
7 system established under this section—

8 “(1) may not provide for a waiver of any provi-
9 sion of law, rule, or regulation identified in section
10 4703(c); and

11 “(2) shall be established and implemented in a
12 manner consistent with subsections (f) and (g) of
13 section 4703.

14 “(c) LIMITATIONS ON COMPENSATION.—Except as
15 otherwise provided by law—

16 “(1) no employee compensated under a system
17 established under this section may be paid at a rate
18 of basic pay in excess of the rate payable for level
19 III of the Executive Schedule under section 5314;
20 and

21 “(2) total payments made to employees under a
22 system so established shall be subject to any limita-
23 tion on payments under section 5307, to the same
24 extent and in the same manner as would apply in
25 the case of employees paid under section 5376.

1 “(d) LEVELS OF PERFORMANCE.—A system estab-
 2 lished under this section shall have not less than 2 levels
 3 of performance above a retention standard.

4 “(e) DISCLOSURE OF INFORMATION.—The Secretary
 5 of the Treasury, on request of the Director of the Office
 6 of Personnel Management, shall furnish information relat-
 7 ing to the operation of any compensation and performance
 8 management system established under this section.”.

9 (b) COMPLIANCE USING A PREEXISTING SYSTEM.—
 10 Nothing in this Act shall be considered to require that the
 11 Secretary of the Treasury discontinue any compensation
 12 and performance management system, originally imple-
 13 mented as a demonstration project, or postpone any plans
 14 to modify any such system, so long as such system (as
 15 so implemented or modified) satisfies the requirements of
 16 chapter 96 of title 5, United States Code, as amended by
 17 this Act.

18 (c) CLERICAL AMENDMENT.—The analysis for part
 19 III of title 5, United States Code, is amended by inserting
 20 after the item relating to chapter 95 the following:

“96. Alcohol and Tobacco Tax and Trade Bureau 9601”.

21 **SEC. 3. STUDY.**

22 (a) IN GENERAL.—Not later than 1 year after the
 23 date of the establishment of a compensation and perform-
 24 ance management system under section 9602 of title 5,
 25 United States Code, as amended by this Act (or, in any

1 circumstance described in section 2(b), after the earliest
2 date, on or after the date of the enactment of this Act,
3 as of which a system satisfying the requirements of chap-
4 ter 96 of such title, as so amended, is in operation) the
5 Government Accountability Office shall submit to the ap-
6 propriate committees of Congress a report on—

7 (1) the operation of such system; and

8 (2) the operation of ongoing demonstration
9 projects, whether under section 4703 of title 5,
10 United States Code, or other authority, testing the
11 use of a pay and classification system different from
12 the system set forth in chapter 51 and subchapter
13 III of chapter 53 of such title 5 (relating to the Gen-
14 eral Schedule).

15 The report shall, with respect to each system covered by
16 such report, include an assessment of the overall effective-
17 ness of such system (particularly as compared to the sys-
18 tem which is based on the General Schedule) and rec-
19 ommendations for any legislation or administrative action
20 which the Government Accountability Office considers ap-
21 propriate.

22 (b) APPROPRIATE COMMITTEES OF CONGRESS.—For
23 purposes of this section, the term “appropriate committees
24 of Congress” means—

- 1 (1) the Committee on Oversight and Govern-
2 ment Reform of the House of Representatives; and
- 3 (2) the Committee on Homeland Security and
4 Governmental Affairs of the Senate.

