retary of Defense may enter into personal services contracts if the personal services—

(A) are to be provided by individuals outside the United States, regardless of their nationality, and are determined by the Secretary to be necessary and appropriate for supporting the activities and programs of the Department of Defense outside the United States;

(B) directly support the mission of a defense intelligence component or counter-intelligence organization of the Department of Defense; or

(C) directly support the mission of the special operations command of the Department of Defense.

(2) The contracting officer for a personal services contract under this subsection shall be responsible for ensuring that—

(A) the services to be procured are urgent or unique; and

(B) it would not be practicable for the Department to obtain such services by other means.

(3) The requirements of section 3109 of title 5 shall not apply to a contract entered into under this subsection.

(Added Pub. L. 101–510, div. A, title XIV, § 1481(b)(1), Nov. 5, 1990, 104 Stat. 1704; amended Pub. L. 102–190, div. A, title X, § 1061(a)(2), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 108–136, div. A, title VIII, § 841(a), (b)(1), Nov. 24, 2003, 117 Stat. 1552.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–165, title IX, § 9002, Nov. 21, 1989, 103 Stat. 1129, which was set out as a note under section 2241 of this title, prior to repeal by Pub. L. 101–510, § 1481(b)(3).

AMENDMENTS

2003—Pub. L. 108–136, § 841(b)(1), substituted ''Authority to procure personal services'' for ''Experts and consultants: authority to procure services of'' in section catchline.

Subsec. (d). Pub. L. 108–136, § 841(a), added subsec. (d).

1991—Pub. L. 102–190 inserted ''of'' after ''services'' in section catchline.

§ 129c. Medical personnel: limitations on reductions

(a) LIMITATION ON REDUCTION.—For any fiscal year, the Secretary of Defense may not make a reduction in the number of medical personnel of the Department of Defense described in subsection (b) unless the Secretary makes a certification for that fiscal year described in subsection (c).

(b) COVERED REDUCTIONS.—Subsection (a) applies to a reduction in the number of medical personnel of the Department of Defense as of the end of a fiscal year to a number that is less than—

(1) 95 percent of the number of such personnel at the end of the immediately preceding fiscal year; or

(2) 90 percent of the number of such personnel at the end of the third fiscal year preceding the fiscal year.

(c) CERTIFICATION.—A certification referred to in subsection (a) with respect to reductions in medical personnel of the Department of Defense for any fiscal year is a certification by the Secretary of Defense to Congress that—

(1) the number of medical personnel being reduced is excess to the current and projected needs of the Department of Defense; and

(2) such reduction will not result in an increase in the cost of health care services provided under the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of this title.

(d) POLICY FOR IMPLEMENTING REDUCTIONS.—Whenever the Secretary of Defense directs that there be a reduction in the total number of military medical personnel of the Department of Defense, the Secretary shall require that the reduction be carried out so as to ensure that the reduction is not exclusively or disproportionately borne by any one of the armed forces and is not exclusively or disproportionately borne by either the active or the reserve components.

(e) DEFINITION.—In this section, the term ''medical personnel'' means—

(1) the members of the armed forces covered by the term ''medical personnel'' as defined in section 115a(e)(2) of this title; and

(2) the civilian personnel of the Department of Defense assigned to military medical facilities.

(Added Pub. L. 104–106, div. A, title V, § 564(a)(1), Feb. 10, 1996, 110 Stat. 325; amended Pub. L. 105–85, div. A, title X, § 1073(a)(4), Nov. 18, 1997, 111 Stat. 1900.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–510, div. A, title VII, § 711, Nov. 5, 1990, 104 Stat. 1582, as amended, which was set out as a note under section 115 of this title, prior to repeal by Pub. L. 104–106, § 564(d)(1).

AMENDMENTS

1997—Subsec. (e)(1). Pub. L. 105–85 substituted ''section 115a(e)(2)'' for ''section 115a(g)(2)''.

PROHIBITION ON CONVERSION OF MILITARY MEDICAL AND DENTAL POSITIONS TO CIVILIAN MEDICAL AND DENTAL POSITIONS

Pub. L. 110–181, div. A, title VII, § 721(a)–(d), Jan. 28, 2008, 122 Stat. 198, 199, as amended by Pub. L. 111–84, div. A, title VII, § 701, Oct. 28, 2009, 123 Stat. 2372, provided that:

''(a) PROHIBITION.—The Secretary of a military department may not convert any military medical or dental position to a civilian medical or dental position on or after October 1, 2007.

''(b) RESTORATION OF CERTAIN POSITIONS TO MILITARY POSITIONS.—In the case of any military medical or dental position that is converted to a civilian medical or dental position during the period beginning on October 1, 2004, and ending on September 30, 2008, if the position is not filled by a civilian by September 30, 2008, the Secretary of the military department concerned shall restore the position to a military medical or dental position that can be filled only by a member of the Armed Forces who is a health professional.

''(c) REPORT.—

''(1) REQUIREMENT.—The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on conversions made during fiscal year 2007 not later than 180 days after the enactment of this Act [Jan. 28, 2008].

''(2) MATTERS COVERED.—The report shall include the following:

''(A) The number of military medical or dental positions, by grade or band and specialty, converted to civilian medical or dental positions.

''(B) The results of a market survey in each affected area of the availability of civilian medical and dental care providers in such area in order to determine whether there were civilian medical and dental care providers available in such area adequate to fill the civilian positions created by the conversion of military medical and dental positions to civilian positions in such area.

''(C) An analysis, by affected area, showing the extent to which access to health care and cost of health care was affected in both the direct care and purchased care systems, including an assessment of the effect of any increased shifts in patient load from the direct care to the purchased care system, or any delays in receipt of care in either the direct or purchased care system because of the conversions.

''(D) The extent to which military medical and dental positions converted to civilian medical or dental positions affected recruiting and retention of uniformed medical and dental personnel.

''(E) A comparison of the full costs for the military medical and dental positions converted with the full costs for civilian medical and dental positions, including expenses such as recruiting, salary, benefits, training, and any other costs the Department identifies.

''(F) An assessment showing that the military medical or dental positions converted were in excess of the military medical and dental positions needed to meet medical and dental readiness requirements of the uniformed services, as determined jointly by all the uniformed services.

''(d) DEFINITIONS.—In this section:

''(1) The term 'military medical or dental position' means a position for the performance of health care functions within the Armed Forces held by a member of the Armed Forces.

''(2) The term 'civilian medical or dental position' means a position for the performance of health care functions within the Department of Defense held by an employee of the Department or of a contractor of the Department.

''(3) The term 'uniformed services' has the meaning given that term in section 1072(1) of title 10, United States Code.

''(4) The term 'conversion', with respect to a military medical or dental position, means a change of the position to a civilian medical or dental position, effective as of the date of the manning authorization document of the military department making the change (through a change in designation from military to civilian in the document, the elimination of the listing of the position as a military position in the document, or through any other means indicating the change in the document or otherwise).''

REQUIREMENT TO CERTIFY AND REPORT ON CONVERSION OF MILITARY MEDICAL AND DENTAL POSITIONS TO CIVILIAN MEDICAL AND DENTAL POSITIONS

Pub. L. 109–364, div. A, title VII, §742, Oct. 17, 2006, 120 Stat. 2306, which prohibited the Secretary of a military department from converting any military medical or dental position to a civilian medical or dental position in a fiscal year until the Secretary submitted to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives with respect to that fiscal year a certification that the conversions within that department would not increase cost or decrease quality of care or access to care, was repealed by Pub. L. 110–181, div. A, title VII, §721(e), Jan. 28, 2008, 122 Stat. 199.

PROHIBITION ON CONVERSIONS OF MILITARY MEDICAL AND DENTAL POSITIONS TO CIVILIAN MEDICAL POSITIONS UNTIL SUBMISSION OF CERTIFICATION

Pub. L. 109–163, div. A, title VII, §744, Jan. 6, 2006, 119 Stat. 3360, provided that:

''(a) PROHIBITION ON CONVERSIONS.—

''(1) SUBMISSION OF CERTIFICATION.—A Secretary of a military department may not convert any military medical or dental position to a civilian medical or dental position until the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a certification that the conversions within that department will not increase cost or decrease quality of care or access to care. Such a certification may not be submitted before June 1, 2006.

''(2) REPORT WITH CERTIFICATION.—A Secretary submitting such a certification shall include with the certification a written report that includes—

''(A) the methodology used by the Secretary in making the determinations necessary for the certification, including the extent to which the Secretary took into consideration the findings of the Comptroller General in the report under subsection (b)(3);

''(B) the results of a market survey in each affected area of the availability of civilian medical and dental care providers in such area in order to determine whether the civilian medical and dental care providers available in such area are adequate to fill the civilian positions created by the conversion of military medical and dental positions to civilian positions in such area; and

''(C) any action taken by the Secretary in response to recommendations in the Comptroller General report under subsection (b)(3).

''(b) REQUIREMENT FOR STUDY.—

''(1) IN GENERAL.—The Comptroller General shall conduct a study on the effect of conversions of military medical and dental positions to civilian medical or dental positions on the defense health program.

''(2) MATTERS COVERED.—The study shall include the following:

''(A) The number of military medical and dental positions, by grade and specialty, planned for conversion to civilian medical or dental positions.

''(B) The number of military medical and dental positions, by grade and specialty, converted to civilian medical or dental positions since October 1, 2004.

''(C) The ability of the military health care system to fill the civilian medical and dental positions required, by specialty.

''(D) The degree to which access to health care is affected in both the direct and purchased care system, including an assessment of the effects of any increased shifts in patient load from the direct care to the purchased care system, or any delays in receipt of care in either the direct or purchased care system because of lack of direct care providers.

''(E) The degree to which changes in military manpower requirements affect recruiting and retention of uniformed medical and dental personnel.

''(F) The degree to which conversion of the military positions meets the joint medical and dental readiness requirements of the uniformed services, as determined jointly by all the uniformed services.

''(G) The effect of the conversions of military medical positions to civilian medical and dental positions on the defense health program, including costs associated with the conversions, with a comparison of the estimated costs versus the actual costs incurred by the number of conversions since October 1, 2004.

''(H) The effectiveness of the conversions in enhancing medical and dental readiness, health care efficiency, productivity, quality, and customer satisfaction.

''(3) REPORT ON STUDY.—Not later than May 1, 2006, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study under this section.

''(c) DEFINITIONS.—In this section:

''(1) The term 'military medical or dental position' means a position for the performance of health care functions within the Armed Forces held by a member of the Armed Forces.

''(2) The term 'civilian medical or dental position' means a position for the performance of health care functions within the Department of Defense held by an employee of the Department or of a contractor of the Department.

''(3) The term 'affected area' means an area in which military medical or dental positions were converted to civilian medical or dental positions before October 1, 2004, or in which such conversions are scheduled to occur in the future.

''(4) The term 'uniformed services' has the meaning given that term in section 1072(1) of title 10, United States Code.''

SPECIAL TRANSITION RULE FOR FISCAL YEAR 1996

Pub. L. 104–106, div. A, title V, § 564(b), Feb. 10, 1996, 110 Stat. 326, provided that, for purposes of applying subsec. (b)(1) of this section during fiscal year 1996, the number against which the percentage limitation of 95 percent was to be computed would be the number of medical personnel of the Department of Defense as of the end of fiscal year 1994, rather than the number as of the end of fiscal year 1995.

§ 129d. Disclosure to litigation support contractors

(a) DISCLOSURE AUTHORITY.—An officer or employee of the Department of Defense may disclose sensitive information to a litigation support contractor if—

(1) the disclosure is for the sole purpose of providing litigation support to the Government in the form of administrative, technical, or professional services during or in anticipation of litigation; and

(2) under a contract with the Government, the litigation support contractor agrees to and acknowledges—

(A) that sensitive information furnished will be accessed and used only for the purposes stated in the relevant contract;

(B) that the contractor will take all precautions necessary to prevent disclosure of the sensitive information provided to the contractor;

(C) that such sensitive information provided to the contractor under the authority of this section shall not be used by the contractor to compete against a third party for Government or non-Government contracts; and

(D) that the violation of subparagraph (A), (B), or (C) is a basis for the Government to terminate the litigation support contract of the contractor.

(b) DEFINITIONS.—In this section:

(1) The term ''litigation support contractor'' means a contractor (including an expert or technical consultant) under contract with the Department of Defense to provide litigation support.

(2) The term ''sensitive information'' means confidential commercial, financial, or proprietary information, technical data, or other privileged information.

(Added Pub. L. 112–81, div. A, title VIII, § 802(a)(1), Dec. 31, 2011, 125 Stat. 1484.)

§ 130. Authority to withhold from public disclosure certain technical data

(a) Notwithstanding any other provision of law, the Secretary of Defense may withhold from public disclosure any technical data with military or space application in the possession of, or under the control of, the Department of Defense, if such data may not be exported lawfully outside the United States without an approval, authorization, or license under the Export Administration Act of 1979 (50 U.S.C. App. 2401–2420) or the Arms Export Control Act (22 U.S.C. 2751 et seq.). However, technical data may not be withheld under this section if regulations promulgated under either such Act authorize the export of such data pursuant to a general, unrestricted license or exemption in such regulations.

(b) Regulations under this section shall be published in the Federal Register for a period of no less than 30 days for public comment before promulgation. Such regulations shall address, where appropriate, releases of technical data to allies of the United States and to qualified United States contractors, including United States contractors that are small business concerns, for use in performing United States Government contracts.

(c) In this section, the term ''technical data with military or space application'' means any blueprints, drawings, plans, instructions, computer software and documentation, or other technical information that can be used, or be adapted for use, to design, engineer, produce, manufacture, operate, repair, overhaul, or reproduce any military or space equipment or technology concerning such equipment.

(Added Pub. L. 98–94, title XII, § 1217(a), Sept. 24, 1983, 97 Stat. 690, § 140c; amended Pub. L. 99–145, title XIII, § 1303(a)(3), Nov. 8, 1985, 99 Stat. 738; renumbered § 130 and amended Pub. L. 99–433, title I, §§ 101(a)(3), 110(d)(6), Oct. 1, 1986, 100 Stat. 994, 1003; Pub. L. 100–26, § 7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101–510, div. A, title XIV, § 1484(b)(1), Nov. 5, 1990, 104 Stat. 1715.)

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (a), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, as amended, which is classified principally to section 2401 et seq. of the Appendix to Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of the Appendix to Title 50 and Tables.

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

AMENDMENTS

1990—Subsecs. (b), (c). Pub. L. 101–510 substituted ''Regulations under this section'' for ''(1) Within 90 days after September 24, 1983, the Secretary of Defense shall propose regulations to implement this section. Such regulations'' in subsec. (b) and redesignated former subsec. (b)(2) as subsec. (c).