

PRIOR PROVISIONS

A prior section 1622, added Pub. L. 99-145, title IX, § 924(a)(1), Nov. 8, 1985, 99 Stat. 698; amended Pub. L. 99-500, § 101(c) [title X, § 933], Oct. 18, 1986, 100 Stat. 1783-82, 1783-161; Pub. L. 99-591, § 101(c) [title X, § 933], Oct. 30, 1986, 100 Stat. 3341-82, 3341-161; Pub. L. 99-661, div. A, title IX, formerly title IV, § 933, Nov. 14, 1986, 100 Stat. 3940, renumbered title IX, Pub. L. 100-26, § 3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 101-189, div. A, title VIII, § 853(c)(2), Nov. 29, 1989, 103 Stat. 1518, related to education, training, and experience requirements for persons assigned as program managers of major defense acquisition programs, prior to repeal by Pub. L. 101-510, div. A, title XII, § 1207(c)(1), Nov. 5, 1990, 104 Stat. 1665, effective Oct. 1, 1991.

AMENDMENTS

1996—Pub. L. 104-201 renumbered section 1606 of this title as this section.

1989—Subsec. (b)(2). Pub. L. 101-189 substituted “The maximum allowance provided under section 1593(b) of this title” for “\$360 per year”.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-189 effective Jan. 1, 1990, see section 336(c) of Pub. L. 101-189, set out as an Effective Date note under section 1593 of this title.

§ 1623. Financial assistance to certain employees in acquisition of critical skills

(a) The Secretary of Defense shall establish an undergraduate training program with respect to civilian employees of the Defense Intelligence Agency that is similar in purpose, conditions, content, and administration to the program which the Secretary of Defense is authorized to establish under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.

(b) Any payments made by the Secretary to carry out the program required to be established by subsection (a) may be made in any fiscal year only to the extent that appropriated funds are available for that purpose.

(Added Pub. L. 101-193, title V, § 507(a)(1), Nov. 30, 1989, 103 Stat. 1709, § 1608; renumbered § 1623, Pub. L. 104-201, div. A, title XVI, § 1632(a)(2), Sept. 23, 1996, 110 Stat. 2745.)

PRIOR PROVISIONS

A prior section 1623, added Pub. L. 99-145, title IX, § 924(a)(1), Nov. 8, 1985, 99 Stat. 698; amended Pub. L. 99-661, div. A, title XIII, § 1343(a)(10), Nov. 14, 1986, 100 Stat. 3993; Pub. L. 100-26, § 7(j)(4), Apr. 21, 1987, 101 Stat. 283; Pub. L. 101-189, div. A, title VIII, § 853(c)(3), Nov. 29, 1989, 103 Stat. 1519, related to education, training, and experience requirements for general and flag officers assigned to a procurement command, prior to repeal by Pub. L. 101-510, div. A, title XII, § 1207(c)(3), Nov. 5, 1990, 104 Stat. 1665, effective Oct. 1, 1992.

A prior section 1624, added Pub. L. 99-145, title IX, § 924(a)(1), Nov. 8, 1985, 99 Stat. 698, required a training program for quality assurance personnel, prior to repeal by Pub. L. 101-510, div. A, title XII, § 1207(c)(4), Nov. 5, 1990, 104 Stat. 1665; Pub. L. 102-190, div. A, title X, § 1061(a)(26)(C)(i), Dec. 5, 1991, 105 Stat. 1474, effective Oct. 1, 1993.

AMENDMENTS

1996—Pub. L. 104-201 renumbered section 1608 of this title as this section.

EFFECTIVE DATE

Section 507(b) of Pub. L. 101-193 provided that: “Section 1608 [now 1623] of title 10, United States Code, as

added by subsection (a), shall take effect on the date of enactment of this Act [Nov. 30, 1989].”

CHAPTER 87—DEFENSE ACQUISITION WORKFORCE

Table with 2 columns: Subchapter and Sec. I. General Authorities and Responsibilities 1701 II. Defense Acquisition Positions 1721 III. Acquisition Corps 1731 IV. Education and Training 1741 V. General Management Provisions 1761

AMENDMENTS

1991—Pub. L. 102-25, title VII, § 704(b)(1), Apr. 6, 1991, 105 Stat. 119, made technical amendment to directory language of Pub. L. 101-510, div. A, title XII, § 1202(a), Nov. 5, 1990, 104 Stat. 1638, which enacted this chapter.

SUBCHAPTER I—GENERAL AUTHORITIES AND RESPONSIBILITIES

Table with 2 columns: Sec. and Description. 1701. Management policies. 1701a. Management for acquisition workforce excellence. 1702. Under Secretary of Defense for Acquisition, Technology, and Logistics: authorities and responsibilities. [1703. Repealed.] 1704. Service acquisition executives: authorities and responsibilities. 1705. Department of Defense Acquisition Workforce Development Fund. [1706, 1707. Repealed.]

AMENDMENTS

2011—Pub. L. 111-383, div. A, title VIII, § 871(b), Jan. 7, 2011, 124 Stat. 4300, added item 1701a.

2008—Pub. L. 110-181, div. A, title VIII, § 852(a)(2), Jan. 28, 2008, 122 Stat. 250, added item 1705.

2003—Pub. L. 108-136, div. A, title VIII, § 836(1), Nov. 24, 2003, 117 Stat. 1551, struck out items 1703 “Director of Acquisition Education, Training, and Career Development”, 1705 “Directors of Acquisition Career Management in the military departments”, 1706 “Acquisition career program boards”, and 1707 “Personnel in the Office of the Secretary of Defense and in the Defense Agencies”.

2001—Pub. L. 107-107, div. A, title X, § 1048(b)(3)(B), Dec. 28, 2001, 115 Stat. 1225, substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics: authorities and responsibilities” for “Under Secretary of Defense for Acquisition and Technology: authorities and responsibilities” in item 1702.

1993—Pub. L. 103-160, div. A, title IX, § 904(d)(2), Nov. 30, 1993, 107 Stat. 1728, inserted “and Technology” after “Acquisition” in item 1702.

§ 1701. Management policies

(a) POLICIES AND PROCEDURES.—The Secretary of Defense shall establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in acquisition positions in the Department of Defense.

(b) UNIFORM IMPLEMENTATION.—The Secretary shall ensure that, to the maximum extent practicable, acquisition workforce policies and procedures established in accordance with this chapter are uniform in their implementation throughout the Department of Defense.

(Added Pub. L. 101-510, div. A, title XII, § 1202(a), Nov. 5, 1990, 104 Stat. 1638.)

EFFECTIVE DATE

Section 1211 of title XII of Pub. L. 101-510 provided that: “Except as otherwise provided in this title [see

Short Title note below], this title and the amendments made by this title, including chapter 87 of title 10, United States Code (as added by section 1202), shall take effect on the date of the enactment of this Act [Nov. 5, 1990].”

SHORT TITLE

Section 1201 of title XII of Pub. L. 101-510 provided that: “This title [enacting this chapter, sections 5379 and 5380 of Title 5, Government Organization and Employees, and section 317 of Title 37, Pay and Allowances of the Uniformed Services, amending sections 101 and 2435 of this title and sections 4107, 4301, 5102, 5532, 5724, 5742, 5924, 5942, 8344, and 8468 of Title 5, repealing sections 1621 to 1624 of this title, enacting provisions set out as notes under this section and sections 1621 to 1623, 1705, 1721, 1722, 1724, 1733, 1734, 1746, 1761, 1762, and 2435 of this title, sections 3326, 5380, and 5532 of Title 5, and section 317 of Title 37, and repealing provisions set out as a note under section 2304 of this title] may be cited as the ‘Defense Acquisition Workforce Improvement Act’.”

REGULATIONS

Section 1210(a) of title XII of Pub. L. 101-510 provided that: “Unless otherwise provided in this title [see Short Title note above] and in subsection (b) [set out below], the Secretary of Defense shall promulgate regulations to implement this title and the amendments made by this title not later than one year after the date of the enactment of this Act [Nov. 5, 1990].”

COORDINATION OF HUMAN SYSTEMS INTEGRATION ACTIVITIES RELATED TO ACQUISITION PROGRAMS

Pub. L. 110-181, div. A, title II, §231, Jan. 28, 2008, 122 Stat. 45, provided that:

“(a) IN GENERAL.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall coordinate and manage human systems integration activities throughout the acquisition programs of the Department of Defense.

“(b) ADMINISTRATION.—In carrying out subsection (a), the Secretary shall designate a senior official to be responsible for the effort.

“(c) RESPONSIBILITIES.—In carrying out this section, the senior official designated in subsection (b) shall—

“(1) coordinate the planning, management, and execution of such activities; and

“(2) identify and recommend, as appropriate, resource requirements for human systems integration activities.

“(d) DESIGNATION.—The designation required by subsection (b) shall be made not later than 60 days after the date of the enactment of this Act [Jan. 28, 2008].”

REQUIREMENTS FOR SENIOR DEPARTMENT OF DEFENSE OFFICIALS SEEKING EMPLOYMENT WITH DEFENSE CONTRACTORS

Pub. L. 110-181, div. A, title VIII, §847, Jan. 28, 2008, 122 Stat. 243, provided that:

“(a) REQUIREMENT TO SEEK AND OBTAIN WRITTEN OPINION.—

“(1) REQUEST.—An official or former official of the Department of Defense described in subsection (c) who, within two years after leaving service in the Department of Defense, expects to receive compensation from a Department of Defense contractor, shall, prior to accepting such compensation, request a written opinion regarding the applicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

“(2) SUBMISSION OF REQUEST.—A request for a written opinion under paragraph (1) shall be submitted in writing to an ethics official of the Department of Defense having responsibility for the organization in which the official or former official serves or served and shall set forth all information relevant to the re-

quest, including information relating to government positions held and major duties in those positions, actions taken concerning future employment, positions sought, and future job descriptions, if applicable.

“(3) WRITTEN OPINION.—Not later than 30 days after receiving a request by an official or former official of the Department of Defense described in subsection (c), the appropriate ethics counselor shall provide such official or former official a written opinion regarding the applicability or inapplicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

“(4) CONTRACTOR REQUIREMENT.—A Department of Defense contractor may not knowingly provide compensation to a former Department of Defense official described in subsection (c) within two years after such former official leaves service in the Department of Defense, without first determining that the former official has sought and received (or has not received after 30 days of seeking) a written opinion from the appropriate ethics counselor regarding the applicability of post-employment restrictions to the activities that the former official is expected to undertake on behalf of the contractor.

“(5) ADMINISTRATIVE ACTIONS.—In the event that an official or former official of the Department of Defense described in subsection (c), or a Department of Defense contractor, knowingly fails to comply with the requirements of this subsection, the Secretary of Defense may take any of the administrative actions set forth in section 27(e) of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 423(e)) [now 41 U.S.C. 2105] that the Secretary of Defense determines to be appropriate.

“(b) RECORDKEEPING REQUIREMENT.—

“(1) DATABASE.—Each request for a written opinion made pursuant to this section, and each written opinion provided pursuant to such a request, shall be retained by the Department of Defense in a central database or repository for not less than five years beginning on the date on which the written opinion was provided.

“(2) INSPECTOR GENERAL REVIEW.—The Inspector General of the Department of Defense shall conduct periodic reviews to ensure that written opinions are being provided and retained in accordance with the requirements of this section. The first such review shall be conducted no later than two years after the date of the enactment of this Act [Jan. 28, 2008].

“(c) COVERED DEPARTMENT OF DEFENSE OFFICIALS.—An official or former official of the Department of Defense is covered by the requirements of this section if such official or former official—

“(1) participated personally and substantially in an acquisition as defined in section 4(16) of the Office of Federal Procurement Policy Act [now 41 U.S.C. 131] with a value in excess of \$10,000,000 and serves or served—

“(A) in an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code;

“(B) in a position in the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code; or

“(C) in a general or flag officer position compensated at a rate of pay for grade O-7 or above under section 201 of title 37, United States Code; or

“(2) serves or served as a program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, member of the source selection evaluation board, or chief of a financial or technical evaluation team for a contract in an amount in excess of \$10,000,000.

“(d) DEFINITION.—In this section, the term ‘post-employment restrictions’ includes—

“(1) section 27 of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 423) [now 41 U.S.C. 2101 et seq.];

“(2) section 207 of title 18, United States Code; and
 “(3) any other statute or regulation restricting the employment or activities of individuals who leave government service in the Department of Defense.”

GOVERNMENT PERFORMANCE OF CRITICAL ACQUISITION FUNCTIONS

Pub. L. 109-364, div. A, title VIII, § 820, Oct. 17, 2006, 120 Stat. 2330, as amended by Pub. L. 111-84, div. A, title VIII, § 805(c), Oct. 28, 2009, 123 Stat. 2403; Pub. L. 112-81, div. A, title VIII, § 835(a), Dec. 31, 2011, 125 Stat. 1507, provided that:

“(a) GOAL.—It shall be the goal of the Department of Defense and each of the military departments to ensure that, within five years after the date of the enactment of this Act [Oct. 17, 2006], for each major defense acquisition program and each major automated information system program, each of the following positions is performed by a properly qualified member of the Armed Forces or full-time employee of the Department of Defense:

- “(1) Program manager.
- “(2) Deputy program manager.
- “(3) Product support manager.
- “(4) Chief engineer.
- “(5) Systems engineer.
- “(6) Chief developmental tester.
- “(7) Cost estimator.

“(b) PLAN OF ACTION.—Not later than six months after the date of enactment of this Act [Oct. 17, 2006], the Secretary of Defense shall develop and begin implementation of a plan of action for recruiting, training, and ensuring appropriate career development of military and civilian personnel to achieve the objective established in subsection (a). The plan of action required by this subsection shall include specific, measurable interim milestones.

“(c) REPORTS.—Not later than one year after the date of the enactment of this Act [Oct. 17, 2006] and each year thereafter, 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 the progress made by the Department of Defense and the military departments toward achieving the goal established in subsection (a).

“(d) DEFINITIONS.—In this section:

“(1) The term ‘major defense acquisition program’ has the meaning given such term in section 2430(a) of title 10, United States Code.

“(2) The term ‘major automated information system program’ has the meaning given such term in section 2445a(a) of title 10, United States Code (as added by section 816 of this Act).”

DEMONSTRATION PROJECT RELATING TO CERTAIN PERSONNEL MANAGEMENT POLICIES AND PROCEDURES

Pub. L. 104-106, div. D, title XLIII, § 4308, Feb. 10, 1996, 110 Stat. 669, as amended by Pub. L. 105-85, div. A, title VIII, § 845, Nov. 18, 1997, 111 Stat. 1845; Pub. L. 107-314, div. A, title VIII, § 813(b), Dec. 2, 2002, 116 Stat. 2609; Pub. L. 108-136, div. A, title XI, § 1112, Nov. 24, 2003, 117 Stat. 1634, which encouraged the Secretary of Defense to commence a demonstration project relating to improving the personnel management policies or procedures that apply to the acquisition workforce of the Department of Defense and supporting personnel, was repealed and restated as section 1762 of this title by Pub. L. 111-383, div. A, title VIII, § 872(a)(1), (b), Jan. 17, 2011, 124 Stat. 4300, 4302.

EVALUATION BY COMPTROLLER GENERAL

Section 1208 of title XII of Pub. L. 101-510, as amended by Pub. L. 102-25, title VII, § 704(b)(2), Apr. 6, 1991, 105 Stat. 119; Pub. L. 102-484, div. A, title VIII, § 812(g), Oct. 23, 1992, 106 Stat. 2452; Pub. L. 104-106, div. A, title XV, § 1502(c)(4)(A), Feb. 10, 1996, 110 Stat. 507, provided for evaluation by Comptroller General of actions taken by Secretary of Defense to carry out requirements of De-

fense Acquisition Workforce Improvement Act and submission of annual reports to Congress, prior to repeal by Pub. L. 104-66, title I, § 1031(b)(1), Dec. 21, 1995, 109 Stat. 714.

DEADLINES FOR QUALIFICATION REQUIREMENTS

Section 1210(b) of Pub. L. 101-510 provided that: “Not later than October 1, 1992, the Secretary of Defense shall prescribe regulations to implement sections 1723, 1724, and 1732 of title 10, United States Code (as added by section 1202).”

§ 1701a. Management for acquisition workforce excellence

(a) PURPOSE.—The purpose of this chapter is to require the Department of Defense to develop and manage a highly skilled professional acquisition workforce—

(1) in which excellence and contribution to mission is rewarded;

(2) which has the technical expertise and business skills to ensure the Department receives the best value for the expenditure of public resources;

(3) which serves as a model for performance management of employees of the Department; and

(4) which is managed in a manner that complements and reinforces the management of the defense acquisition system pursuant to chapter 149 of this title.

(b) PERFORMANCE MANAGEMENT.—In order to achieve the purpose set forth in subsection (a), the Secretary of Defense shall—

(1) use the full authorities provided in subsections (a) through (d) of section 9902 of title 5, including flexibilities related to performance management and hiring and to training of managers;

(2) require managers to develop performance plans for individual members of the acquisition workforce in order to give members an understanding of how their performance contributes to their organization’s mission and the success of the defense acquisition system (as defined in section 2545 of this title);

(3) to the extent appropriate, use the lessons learned from the acquisition demonstration project carried out under section 1762 of this title related to contribution-based compensation and appraisal, and how those lessons may be applied within the General Schedule system;

(4) develop attractive career paths;

(5) encourage continuing education and training;

(6) develop appropriate procedures for warnings during performance evaluations for members of the acquisition workforce who consistently fail to meet performance standards;

(7) take full advantage of the Defense Civilian Leadership Program established under section 1112 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2496; 10 U.S.C. 1580 note prec.);

(8) use the authorities for highly qualified experts under section 9903 of title 5, to hire experts who are skilled acquisition professionals to—

(A) serve in leadership positions within the acquisition workforce to strengthen management and oversight;