

(E) The chairman of the Veterans' Advisory Committee on Education formed under section 3692 of this title.

(F) One person who has held the position of Under Secretary for Benefits (including service as Chief Benefits Director of the Veterans' Administration), if the Secretary determines that it is desirable for such person to be a member of the commission.

(3) A commission established under this subsection shall recommend at least three individuals for appointment to the position of Under Secretary for Benefits. The commission shall submit all recommendations to the Secretary. The Secretary shall forward the recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request the commission to recommend additional individuals for appointment.

(4) The Assistant Secretary or Deputy Assistant Secretary of Veterans Affairs who performs personnel management and labor relations functions shall serve as the executive secretary of a commission established under this subsection.

(Added and amended Pub. L. 102-83, §§2(a), 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 380, 404; Pub. L. 102-405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103-446, title XII, §1201(c)(2), (e)(2), Nov. 2, 1994, 108 Stat. 4683, 4685; Pub. L. 109-461, title II, §210(b), Dec. 22, 2006, 120 Stat. 3418.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 3(c) of Pub. L. 100-527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102-83, §3(3).

#### AMENDMENTS

2006—Subsecs. (c), (d). Pub. L. 109-461 redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: "The Under Secretary for Benefits shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Under Secretary for Benefits before the completion of the term for which the Under Secretary for Benefits was appointed, the President shall communicate the reasons for the removal to Congress."

1994—Subsec. (a). Pub. L. 103-446, §1201(c)(2)(A), substituted "an Under Secretary" for "a Under Secretary".

Subsec. (d)(2)(F). Pub. L. 103-446, §1201(c)(2)(B), (e)(2), substituted "Chief Benefits Director of the Veterans' Administration" for "Under Secretary for Benefits of the Department)" and "commission" for "Commission".

1992—Pub. L. 102-405 substituted "Under Secretary for Benefits" for "Chief Benefits Director" wherever appearing.

1991—Subsec. (d)(2)(F). Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration".

#### CHANGE OF NAME

Pub. L. 102-405, title III, §302(b), Oct. 9, 1992, 106 Stat. 1984, provided that: "The position of Chief Benefits Director of the Department of Veterans Affairs is hereby redesignated as Under Secretary for Benefits of the Department of Veterans Affairs."

### § 307. Under Secretary for Memorial Affairs

There is in the Department an Under Secretary for Memorial Affairs, who is appointed by

the President, by and with the advice and consent of the Senate. The Under Secretary is the head of the National Cemetery Administration as established in section 2400 of this title and shall perform such functions as may be assigned by the Secretary.

(Added Pub. L. 102-83, §2(a), Aug. 6, 1991, 105 Stat. 381; amended Pub. L. 105-368, title IV, §403(a)(3), (c)(1)(A), Nov. 11, 1998, 112 Stat. 3338.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 3(d) of Pub. L. 100-527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102-83, §3(3).

#### AMENDMENTS

1998—Pub. L. 105-368, §403(c)(1)(A), substituted "Under Secretary for Memorial Affairs" for "Director of the National Cemetery System" in section catchline.

Pub. L. 105-368, §403(a)(3), in first sentence, substituted "an Under Secretary for Memorial Affairs" for "a Director of the National Cemetery System" and, in second sentence, substituted "The Under Secretary is the head of the National Cemetery Administration" for "The Director is the head of the National Cemetery System".

### § 308. Assistant Secretaries; Deputy Assistant Secretaries

(a)(1) There shall be in the Department not more than seven Assistant Secretaries.

(2) Except as provided in paragraph (3), each Assistant Secretary appointed under paragraph (1) shall be appointed by the President, by and with the advice and consent of the Senate.

(3) The following Assistant Secretaries may be appointed without the advice and consent of the Senate:

(A) The Assistant Secretary for Management.

(B) The Assistant Secretary for Human Resources and Administration.

(C) The Assistant Secretary for Public and Intergovernmental Affairs.

(D) The Assistant Secretary for Operations, Security, and Preparedness.

(b) The Secretary shall assign to the Assistant Secretaries responsibility for the administration of such functions and duties as the Secretary considers appropriate, including the following functions:

(1) Budgetary and financial functions.

(2) Personnel management and labor relations functions.

(3) Planning, studies, and evaluations.

(4) Management, productivity, and logistic support functions.

(5) Information management functions as required by section 3506 of title 44.

(6) Capital facilities and real property program functions.

(7) Equal opportunity functions.

(8) Functions regarding the investigation of complaints of employment discrimination within the Department.

(9) Functions regarding intergovernmental, public, and consumer information and affairs.

(10) Procurement functions.

(11) Operations, preparedness, security, and law enforcement functions.

(c) Whenever the President nominates an individual for appointment as an Assistant Secretary, the President shall include in the communication to the Senate of the nomination a statement of the particular functions of the Department specified in subsection (b), and any other functions of the Department, the individual will exercise upon taking office.

(d)(1) There shall be in the Department such number of Deputy Assistant Secretaries, not exceeding 19, as the Secretary may determine. Each Deputy Assistant Secretary shall be appointed by the Secretary and shall perform such functions as the Secretary prescribes.

(2) At least two-thirds of the number of positions established and filled under paragraph (1) shall be filled by individuals who have at least five years of continuous service in the Federal civil service in the executive branch immediately preceding their appointment as a Deputy Assistant Secretary. For purposes of determining such continuous service of an individual, there shall be excluded any service by such individual in a position—

(A) of a confidential, policy-determining, policy-making, or policy-advocating character;

(B) in which such individual served as a non-career appointee in the Senior Executive Service, as such term is defined in section 3132(a)(7) of title 5; or

(C) to which such individual was appointed by the President.

(Added Pub. L. 102-83, §2(a), Aug. 6, 1991, 105 Stat. 381; amended Pub. L. 107-287, §5(a)-(c), Nov. 7, 2002, 116 Stat. 2030; Pub. L. 112-166, §2(m), Aug. 10, 2012, 126 Stat. 1287.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4(a), (b), (e) and 5 of Pub. L. 100-527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102-83, §3(3).

#### AMENDMENTS

2012—Subsec. (a). Pub. L. 112-166 designated existing provisions as par. (1), struck out at end of par. (1) “Each Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate.”, and added pars. (2) and (3).

2002—Subsec. (a). Pub. L. 107-287, §5(a), substituted “seven” for “six” in first sentence.

Subsec. (b)(11). Pub. L. 107-287, §5(b), added par. (11).

Subsec. (d)(1). Pub. L. 107-287, §5(c), substituted “19” for “18”.

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112-166, set out as a note under section 113 of Title 6, Domestic Security.

### § 309. Chief Financial Officer

The Secretary shall designate the Assistant Secretary whose functions include budgetary and financial functions as the Chief Financial Officer of the Department. The Chief Financial Officer shall advise the Secretary on financial management of the Department and shall exercise the authority and carry out the functions specified in section 902 of title 31.

(Added Pub. L. 102-83, §2(a), Aug. 6, 1991, 105 Stat. 382.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4(c) of Pub. L. 100-527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102-83, §3(3).

### § 310. Chief Information Officer

(a) The Chief Information Officer for the Department is designated pursuant to section 3506(a)(2) of title 44.

(b) The Chief Information Officer performs the duties provided for chief information officers of executive agencies under chapter 35 of title 44 and subtitle III of title 40.

(Added Pub. L. 102-83, §2(a), Aug. 6, 1991, 105 Stat. 382; amended Pub. L. 104-106, div. E, title LVI, §5604, Feb. 10, 1996, 110 Stat. 700; Pub. L. 105-85, div. A, title X, §1073(h)(3), Nov. 18, 1997, 111 Stat. 1907; Pub. L. 107-217, §3(j)(2), Aug. 21, 2002, 116 Stat. 1300.)

#### PRIOR PROVISIONS

Prior section 310 was renumbered section 1110 of this title.

Provisions similar to those in this section were contained in section 4(d) of Pub. L. 100-527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102-83, §3(3).

#### AMENDMENTS

2002—Subsec. (b). Pub. L. 107-217 substituted “subtitle III of title 40” for “division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)”.

1997—Subsec. (b). Pub. L. 105-85 substituted “division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)” for “the Information Technology Management Reform Act of 1996”.

1996—Pub. L. 104-106 substituted “Chief Information Officer” for “Chief Information Resources Officer” in section catchline and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (d), relating to designation, powers, and duties of the Chief Information Resources Officer.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104-106, Feb. 10, 1996, 110 Stat. 702.

### § 311. General Counsel

There is in the Department the Office of the General Counsel. There is at the head of the office a General Counsel, who is appointed by the President, by and with the advice and consent of the Senate. The General Counsel is the chief legal officer of the Department and provides legal assistance to the Secretary concerning the programs and policies of the Department.

(Added Pub. L. 102-83, §2(a), Aug. 6, 1991, 105 Stat. 383.)

#### PRIOR PROVISIONS

Prior section 311 was renumbered section 1111 of this title.

Provisions similar to those in this section were contained in section 8(a) of Pub. L. 100-527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102-83, §3(3).

### § 312. Inspector General

(a) There is in the Department an Inspector General, who is appointed by the President, by