

perts who are skilled acquisition professionals to—

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

(B) provide mentors to advise individuals within the acquisition workforce on their career paths and opportunities to advance and excel within the acquisition workforce; and

(C) assist with the design of education and training courses and the training of individuals in the acquisition workforce; and

(9) use the authorities for expedited security clearance processing pursuant to section 1564 of this title.

(c) **NEGOTIATIONS.**—Any action taken by the Secretary under this section, or to implement this section, shall be subject to the requirements of chapter 71 of title 5.

(d) **REGULATIONS.**—Any rules or regulations prescribed pursuant to this section shall be deemed an agency rule or regulation under section 7117(a)(2) of title 5, and shall not be deemed a Government-wide rule or regulation under section 7117(a)(1) of such title.

(Added Pub. L. 111-383, div. A, title VIII, §871(a), Jan. 7, 2011, 124 Stat. 4299.)

FLEXIBILITY IN CONTRACTING AWARD PROGRAM

Pub. L. 114-328, div. A, title VIII, §834, Dec. 23, 2016, 130 Stat. 2285, provided that:

“(a) **ESTABLISHMENT OF AWARD PROGRAM.**—The Secretary of Defense shall create an award to recognize those acquisition programs and professionals that make the best use of the flexibilities and authorities granted by the Federal Acquisition Regulation and Department of Defense Instruction 5000.02 (Operation of the Defense Acquisition System).

“(b) **PURPOSE OF AWARD.**—The award established under subsection (a) shall recognize outstanding performers whose approach to program management emphasizes innovation and local adaptation, including the use of—

- “(1) simplified acquisition procedures;
- “(2) inherent flexibilities within the Federal Acquisition Regulation;
- “(3) commercial contracting approaches;
- “(4) public-private partnership agreements and practices;
- “(5) cost-sharing arrangements;
- “(6) innovative contractor incentive practices; and
- “(7) other innovative implementations of acquisition flexibilities.”

§ 1702. Under Secretary of Defense for Acquisition, Technology, and Logistics: authorities and responsibilities

Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall carry out all powers, functions, and duties of the Secretary of Defense with respect to the acquisition workforce in the Department of Defense. The Under Secretary shall ensure that the policies of the Secretary of Defense established in accordance with this chapter are implemented throughout the Department of Defense. The Under Secretary shall prescribe policies and requirements for the educational programs of the defense acquisition university structure established under section 1746 of this title.

(Added Pub. L. 101-510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1638; amended Pub. L. 103-160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 105-261, div. A, title VIII, §815, Oct. 17, 1998, 112 Stat. 2088; Pub. L. 107-107, div. A, title X, §1048(b)(2), (3)(A), Dec. 28, 2001, 115 Stat. 1225.)

AMENDMENTS

2001—Pub. L. 107-107 substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology” in section catchline and in text.

1998—Pub. L. 105-261 inserted at end “The Under Secretary shall prescribe policies and requirements for the educational programs of the defense acquisition university structure established under section 1746 of this title.”

1993—Pub. L. 103-160 substituted “Under Secretary of Defense for Acquisition and Technology” for “Under Secretary of Defense for Acquisition” in section catchline and in text.

QUICK-REACTION SPECIAL PROJECTS ACQUISITION TEAM

Pub. L. 107-314, div. A, title VIII, §807, Dec. 2, 2002, 116 Stat. 2608, provided that:

“(a) **ESTABLISHMENT.**—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall establish a team of highly qualified acquisition professionals who shall be available to advise the Under Secretary on actions that can be taken to expedite the acquisition of urgently needed systems.

“(b) **DUTIES.**—The issues on which the team may provide advice shall include the following:

- “(1) Industrial base issues, including the limited availability of suppliers.
- “(2) Technology development and technology transition issues.
- “(3) Issues of acquisition policy, including the length of the acquisition cycle.
- “(4) Issues of testing policy and ensuring that weapon systems perform properly in combat situations.
- “(5) Issues of procurement policy, including the impact of socio-economic requirements.
- “(6) Issues relating to compliance with environmental requirements.”

§ 1703. Repealed. Pub. L. 108-136, div. A, title VIII, § 831(a), Nov. 24, 2003, 117 Stat. 1549]

Section, added Pub. L. 101-510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1639; amended Pub. L. 103-160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107-107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225, related to Director of Acquisition Education, Training, and Career Development.

§ 1704. Service acquisition executives: authorities and responsibilities

Subject to the authority, direction, and control of the Secretary of the military department concerned, the service acquisition executive for each military department shall carry out all powers, functions, and duties of the Secretary concerned with respect to the acquisition workforce within the military department concerned and shall ensure that the policies of the Secretary of Defense established in accordance with this chapter are implemented in that department.

(Added Pub. L. 101-510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1639.)

§ 1705. Department of Defense Acquisition Workforce Development Fund

(a) **ESTABLISHMENT.**—The Secretary of Defense shall establish a fund to be known as the “De-

partment of Defense Acquisition Workforce Development Fund” (in this section referred to as the “Fund”) to provide funds, in addition to other funds that may be available, for the recruitment, training, and retention of acquisition personnel of the Department of Defense.

(b) PURPOSE.—The purpose of the Fund is to ensure that the Department of Defense acquisition workforce has the capacity, in both personnel and skills, needed to properly perform its mission, provide appropriate oversight of contractor performance, and ensure that the Department receives the best value for the expenditure of public resources.

(c) MANAGEMENT.—The Fund shall be managed by a senior official of the Department of Defense designated by the Under Secretary of Defense for Acquisition, Technology, and Logistics for that purpose, from among persons with an extensive background in management relating to acquisition and personnel.

(d) ELEMENTS.—

(1) IN GENERAL.—The Fund shall consist of amounts as follows:

(A) Amounts credited to the Fund under paragraph (2).

(B) Amounts transferred to the Fund pursuant to paragraph (3).

(C) Any other amounts appropriated to, credited to, or deposited into the Fund by law.

(2) CREDITS TO THE FUND.—(A) There shall be credited to the Fund an amount equal to the applicable percentage for a fiscal year of all amounts expended by the Department of Defense in such fiscal year for contract services from amounts available for contract services for operation and maintenance.

(B) Subject to paragraph (4), not later than 30 days after the end of the first quarter of each fiscal year, the head of each military department and Defense Agency shall remit to the Secretary of Defense, from amounts available to such military department or Defense Agency, as the case may be, for contract services for operation and maintenance, an amount equal to the applicable percentage for such fiscal year of the amount expended by such military department or Defense Agency, as the case may be, during such fiscal year for services covered by subparagraph (A). Any amount so remitted shall be credited to the Fund under subparagraph (A).

(C) For purposes of this paragraph, the applicable percentage for a fiscal year is the percentage that results in the credit to the Fund of \$500,000,000 in such fiscal year.

(D) The Secretary of Defense may reduce the amount specified in subparagraph (C) for a fiscal year if the Secretary determines that the amount is greater than is reasonably needed for purposes of the Fund for such fiscal year. The Secretary may not reduce the amount for a fiscal year to an amount that is less than \$400,000,000.

(3) TRANSFER OF CERTAIN UNOBLIGATED BALANCES.—To the extent provided in appropriations Acts, the Secretary of Defense may, during the 36-month period following the expiration of availability for obligation of any appropriations made to the Department of De-

fense for procurement, research, development, test, and evaluation, or operation and maintenance, transfer to the Fund any unobligated balance of such appropriations. Any amount so transferred shall be credited to the Fund.

(4) ADDITIONAL REQUIREMENTS AND LIMITATIONS ON REMITTANCES.—(A) In the event amounts are transferred to the Fund during a fiscal year pursuant to paragraph (1)(B) or appropriated to the Fund for a fiscal year pursuant to paragraph (1)(C), the aggregate amount otherwise required to be remitted to the Fund for that fiscal year pursuant to paragraph (2)(B) shall be reduced by the amount equal to the amounts so transferred or appropriated to the Fund during or for that fiscal year. Any reduction in the aggregate amount required to be remitted to the Fund for a fiscal year under this subparagraph shall be allocated as provided in applicable provisions of appropriations Acts or, absent such provisions, on a pro rata basis among the military departments and Defense Agencies required to make remittances to the Fund for that fiscal year under paragraph (2)(B), subject to any exclusions the Secretary of Defense determines to be necessary in the best interests of the Department of Defense.

(B) Any remittance of amounts to the Fund for a fiscal year under paragraph (2) shall be subject to the availability of appropriations for that purpose.

(e) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Subject to the provisions of this subsection, amounts in the Fund shall be available to the Secretary of Defense for expenditure, or for transfer to a military department or Defense Agency, for the recruitment, training, and retention of acquisition personnel of the Department of Defense for the purpose of the Fund, including for the provision of training and retention incentives to the acquisition workforce of the Department and to develop acquisition tools and methodologies, and undertake research and development activities, leading to acquisition policies and practices that will improve the efficiency and effectiveness of defense acquisition efforts. In the case of temporary members of the acquisition workforce designated pursuant to subsection (h)(2), such funds shall be available only for the limited purpose of providing training in the performance of acquisition-related functions and duties.

(2) PROHIBITION.—Amounts in the Fund may not be obligated for any purpose other than purposes described in paragraph (1) or otherwise in accordance with this subsection.

(3) GUIDANCE.—The Under Secretary of Defense for Acquisition, Technology, and Logistics, acting through the senior official designated to manage the Fund, shall issue guidance for the administration of the Fund. Such guidance shall include provisions—

(A) identifying areas of need in the acquisition workforce for which amounts in the Fund may be used, including—

(i) changes to the types of skills needed in the acquisition workforce;

(ii) incentives to retain in the acquisition workforce qualified, experienced acquisition workforce personnel; and

(iii) incentives for attracting new, high-quality personnel to the acquisition workforce;

(B) describing the manner and timing for applications for amounts in the Fund to be submitted;

(C) describing the evaluation criteria to be used for approving or prioritizing applications for amounts in the Fund in any fiscal year; and

(D) describing measurable objectives of performance for determining whether amounts in the Fund are being used in compliance with this section.

(4) LIMITATION ON PAYMENTS TO OR FOR CONTRACTORS.—Amounts in the Fund shall not be available for payments to contractors or contractor employees, other than for the purposes of—

(A) providing advanced training to Department of Defense employees;

(B) developing acquisition tools and methodologies and performing research on acquisition policies and best practices that will improve the efficiency and effectiveness of defense acquisition efforts; and

(C) supporting human capital and talent management of the acquisition workforce, including benchmarking studies, assessments, and requirements planning.

(5) PROHIBITION ON PAYMENT OF BASE SALARY OF CURRENT EMPLOYEES.—Amounts in the Fund may not be used to pay the base salary of any person who was an employee of the Department serving in a position in the acquisition workforce as of January 28, 2008, and who has continued in the employment of the Department since such time without a break in such employment of more than a year.

(6) DURATION OF AVAILABILITY.—Amounts credited to the Fund in accordance with subsection (d)(2), transferred to the Fund pursuant to subsection (d)(3), appropriated to the Fund, or deposited to the Fund shall remain available for obligation in the fiscal year for which credited, transferred, appropriated, or deposited and the two succeeding fiscal years.

(f) ANNUAL REPORT.—Not later than February 1 each year, the Secretary of Defense shall submit to the congressional defense committees a report on the operation of the Fund during the preceding fiscal year.

(g) EXPEDITED HIRING AUTHORITY.—For purposes of sections 3304, 5333, and 5753 of title 5, the Secretary of Defense may—

(1) designate any category of positions in the acquisition workforce as positions for which there exists a shortage of candidates or there is a critical hiring need; and

(2) utilize the authorities in such sections to recruit and appoint qualified persons directly to positions so designated.

(h) ACQUISITION WORKFORCE DEFINED.—In this section, the term “acquisition workforce” means the following:

(1) Personnel in positions designated under section 1721 of this title as acquisition positions for purposes of this chapter.

(2) Other military personnel or civilian employees of the Department of Defense who—

(A) contribute significantly to the acquisition process by virtue of their assigned duties; and

(B) are designated as temporary members of the acquisition workforce by the Under Secretary of Defense for Acquisition, Technology, and Logistics, or by the senior acquisition executive of a military department, for the limited purpose of receiving training for the performance of acquisition-related functions and duties.

(Added Pub. L. 110–181, div. A, title VIII, §852(a)(1), Jan. 28, 2008, 122 Stat. 248; amended Pub. L. 110–417, [div. A], title VIII, §833, Oct. 14, 2008, 122 Stat. 4535; Pub. L. 111–84, div. A, title VIII, §§831, 832(a)–(g), Oct. 28, 2009, 123 Stat. 2414, 2415; Pub. L. 112–81, div. A, title VIII, §804(a), Dec. 31, 2011, 125 Stat. 1486; Pub. L. 112–239, div. A, title VIII, §803(a), (b), Jan. 2, 2013, 126 Stat. 1825; Pub. L. 114–92, div. A, title VIII, §841(a), Nov. 25, 2015, 129 Stat. 913; Pub. L. 114–328, div. A, title VIII, §863(a), (b), title X, §1081(a)(5), Dec. 23, 2016, 130 Stat. 2302, 2303, 2417.)

PRIOR PROVISIONS

A prior section 1705, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1639, related to Directors of Acquisition Career Management in the military departments, prior to repeal by Pub. L. 108–136, div. A, title VIII, §831(a), Nov. 24, 2003, 117 Stat. 1549.

AMENDMENTS

2016—Subsec. (d)(2)(C). Pub. L. 114–328, §863(b)(1), substituted “in such” for “in each”.

Subsec. (e)(1). Pub. L. 114–328, §863(a)(1)(A), inserted “and to develop acquisition tools and methodologies, and undertake research and development activities, leading to acquisition policies and practices that will improve the efficiency and effectiveness of defense acquisition efforts” after “workforce of the Department”.

Subsec. (e)(4). Pub. L. 114–328, §863(a)(1)(B), substituted “other than for the purposes of—” for “other than for the purpose of providing advanced training to Department of Defense employees.” and added subpars. (A) to (C).

Subsec. (f). Pub. L. 114–328, §863(a)(2), (b)(2), substituted “Not later than February 1 each year” for “Not later than 120 days after the end of each fiscal year” and “the preceding fiscal year” for “such fiscal year” and struck out at end “Each report shall include, for the fiscal year covered by such report, the following:

“(1) A statement of the amounts remitted to the Secretary for crediting to the Fund for such fiscal year by each military department and Defense Agency, and a statement of the amounts credited to the Fund for such fiscal year.

“(2) A description of the expenditures made from the Fund (including expenditures following a transfer of amounts in the Fund to a military department or Defense Agency) in such fiscal year, including the purpose of such expenditures.

“(3) A description and assessment of improvements in the Department of Defense acquisition workforce resulting from such expenditures.

“(4) Recommendations for additional authorities to fulfill the purpose of the Fund.

“(5) A statement of the balance remaining in the Fund at the end of such fiscal year.”

Subsec. (g)(1). Pub. L. 114–328, §863(b)(3)(B), struck out “, as defined in subsection (h),” after “acquisition workforce”.

Pub. L. 114–328, §§863(b)(3)(A), 1081(a)(5), amended par. (1) identically, substituting “of positions” for “of positions”.

2015—Subsec. (d)(2)(C). Pub. L. 114–92, § 841(a)(1)(A), amended subpar. (C) generally. Prior to amendment, subpar. (C) defined the applicable percentage for fiscal years 2013 to 2018.

Subsec. (d)(2)(D). Pub. L. 114–92, § 841(a)(1)(B), substituted “the amount specified in subparagraph (C)” for “an amount specified in subparagraph (C)” and “an amount that is less than \$400,000,000.” for “an amount that is less than 80 percent of the amount otherwise specified in subparagraph (C) for such fiscal year.”

Subsec. (d)(3). Pub. L. 114–92, § 841(a)(1)(C), substituted “36-month period” for “24-month period”.

Subsec. (f). Pub. L. 114–92, § 841(a)(2), substituted “120 days” for “60 days” in introductory provisions.

Subsec. (g). Pub. L. 114–92, § 841(a)(3), struck out par. (1) designation before “For purposes of”; redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, and realigned margins; substituted “of positions in the acquisition workforce, as defined in subsection (h),” for “acquisition workforce positions” in par. (1); and struck out former par. (2) which read as follows: “The Secretary may not appoint a person to a position of employment under this subsection after September 30, 2017.”

2013—Subsec. (d)(2)(C). Pub. L. 112–239, § 803(a)(1), added cls. (i) to (vi) and struck out former cls. (i) to (vi) which established applicable amounts for fiscal years 2010 to 2015.

Subsec. (e)(1). Pub. L. 112–239, § 803(a)(2)(A), inserted at end “In the case of temporary members of the acquisition workforce designated pursuant to subsection (h)(2), such funds shall be available only for the limited purpose of providing training in the performance of acquisition-related functions and duties.”

Subsec. (e)(5). Pub. L. 112–239, § 803(a)(2)(B), inserted before period at end “, and who has continued in the employment of the Department since such time without a break in such employment of more than a year”.

Subsec. (g). Pub. L. 112–239, § 803(a)(3), (4), struck out subsec. (g) which defined “acquisition workforce” and redesignated subsec. (h) as (g).

Subsec. (g)(2). Pub. L. 112–239, § 803(b), substituted “September 30, 2017” for “September 30, 2015”.

Subsec. (h). Pub. L. 112–239, § 803(a)(5), added subsec. (h). Former subsec. (h) redesignated (g).

2011—Subsec. (e)(6). Pub. L. 112–81 amended par. (6) generally. Prior to amendment, text read as follows: “Amounts credited to the Fund under subsection (d)(2) shall remain available for expenditure in the fiscal year for which credited and the two succeeding fiscal years.”

2009—Subsec. (a). Pub. L. 111–84, § 832(g)(1), inserted “Development” after “Workforce”.

Subsec. (d)(1)(B), (C). Pub. L. 111–84, § 832(a)(1), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (d)(2)(A). Pub. L. 111–84, § 832(b), substituted “from amounts available for contract services for operation and maintenance.” for “, other than services relating to research and development and services relating to military construction.”

Subsec. (d)(2)(B). Pub. L. 111–84, § 832(d)(1), (2)(A), substituted “Subject to paragraph (4), not later than” for “Not later than” and “the first quarter of each fiscal year” for “the third fiscal year quarter of fiscal year 2008, and 30 days after the end of each fiscal year quarter thereafter” and struck out “quarter” before “for services”.

Pub. L. 111–84, § 832(c), inserted “, from amounts available to such military department or Defense Agency, as the case may be, for contract services for operation and maintenance,” after “remit to the Secretary of Defense”.

Subsec. (d)(2)(C), (D). Pub. L. 111–84, § 832(e), added subpars. (C) and (D) and struck out former subpars. (C) and (D), which established applicable percentages for fiscal years 2008 to 2010 and thereafter and authorized the Secretary of Defense to reduce such percentages under certain circumstances and to a certain limit.

Subsec. (d)(3). Pub. L. 111–84, § 832(a)(2), added par. (3).

Subsec. (d)(4). Pub. L. 111–84, § 832(d)(2)(B), added par. (4).

Subsec. (e)(5). Pub. L. 111–84, § 832(f), substituted “serving in a position in the acquisition workforce as of January 28, 2008” for “as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008”.

Subsec. (f). Pub. L. 111–84, § 832(g)(2), struck out “beginning with fiscal year 2008” after “each fiscal year” in introductory provisions.

Subsec. (h)(1). Pub. L. 111–84, § 831(c), struck out “United States Code,” after “title 5,” in introductory provisions.

Subsec. (h)(1)(A). Pub. L. 111–84, § 831(a)(1), substituted “acquisition workforce positions as positions for which there exists a shortage of candidates or there is a critical hiring need” for “acquisition positions within the Department of Defense as shortage category positions”.

Subsec. (h)(1)(B). Pub. L. 111–84, § 831(a)(2), struck out “highly” after “appoint”.

Subsec. (h)(2). Pub. L. 111–84, § 831(b), substituted “September 30, 2015” for “September 30, 2012”.

2008—Subsec. (h). Pub. L. 110–417 added subsec. (h).

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–81, div. A, title VIII, § 804(b), Dec. 31, 2011, 125 Stat. 1486, provided that: “Paragraph (6) of such section [10 U.S.C. 1705(e)(6)], as amended by subsection (a), shall not apply to funds directly appropriated to the Fund before the date of the enactment of this Act [Dec. 31, 2011].”

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title VIII, § 832(h), Oct. 28, 2009, 123 Stat. 2416, provided that:

“(1) FUNDING AMENDMENTS.—The amendments made by subsections (a) through (c) [amending this section] shall take effect as of October 1, 2009.

“(2) TECHNICAL AMENDMENTS.—The amendments made by subsections (f) and (g) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 28, 2009].”

EFFECTIVE DATE

Pub. L. 110–181, div. A, title VIII, § 852(b), Jan. 28, 2008, 122 Stat. 250, provided that: “Section 1705 of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act [Jan. 28, 2008].”

PLAN REQUIRED FOR TEMPORARY MEMBERS OF DEFENSE ACQUISITION WORKFORCE

Pub. L. 112–239, div. A, title VIII, § 803(c), Jan. 2, 2013, 126 Stat. 1825, provided that: “Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Under Secretary of Defense for Acquisition, Technology, and Logistics shall develop a plan for the implementation of the authority provided by the amendments made by subsection (a) [amending this section] with regard to temporary members of the defense acquisition workforce. The plan shall include policy, criteria, and processes for designating temporary members and appropriate safeguards to prevent the abuse of such authority.”

§ 1706. Government performance of certain acquisition functions

(a) GOAL.—It shall be the goal of the Department of Defense and each of the military departments to ensure that, 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 executive officer.
- (2) Deputy program executive officer.
- (3) Program manager.