

Subsec. (b)(2)(A)(ii). Pub. L. 108-136, § 831(b)(2)(B), substituted “possess” for “has been certified by the acquisition career program board of the employing military department as possessing”.

Subsec. (c)(2). Pub. L. 108-136, § 832(b)(2), struck out at end “The Secretary of Defense shall submit examinations to be given to civilian employees under this paragraph to the Director of the Office of Personnel Management for approval. If the Director does not disapprove an examination within 30 days after the date on which the Director receives the examination, the examination is deemed to be approved by the Director.”

Subsec. (d)(1). Pub. L. 108-136, § 831(b)(3)(A), substituted “the Secretary of Defense may waive any or all of the requirements of subsection (b) with respect to an employee if the Secretary determines” for “the acquisition career program board of a military department may waive any or all of the requirements of subsection (b) with respect to an employee of that military department if the board certifies” in first sentence, substituted “the Secretary” for “the board” in second sentence, and struck out third sentence which read “The document shall be submitted to and retained by the Director of Acquisition Education, Training, and Career Development.”

Subsec. (d)(2). Pub. L. 108-136, § 831(b)(3)(B), substituted “The Secretary” for “The acquisition career program board of a military department”.

Subsec. (e). Pub. L. 108-136, § 833(2), substituted “the Acquisition Corps” for “an Acquisition Corps” in pars. (1) and (2).

2001—Subsec. (a). Pub. L. 107-107, § 1048(e)(4), as amended by Pub. L. 108-375, § 1084(h)(2), struck out at end “Such criteria and procedures shall be in effect on and after October 1, 1993.”

Subsec. (c)(2). Pub. L. 107-107, § 824(b), inserted a comma after “business”.

1998—Subsec. (c)(3). Pub. L. 105-261 added par. (3).

1993—Subsec. (b)(1)(A). Pub. L. 103-89 substituted “Schedule” for “Schedule (including any employee covered by chapter 54 of title 5)”.

1992—Subsec. (b)(2)(B)(ii). Pub. L. 102-484 inserted before period at end “or equivalent training as prescribed by the Secretary to ensure proficiency in the disciplines listed in clause (i)”.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-375, div. A, title X, § 1084(h), Oct. 28, 2004, 118 Stat. 2064, provided that the amendment made by section 1084(h)(1) is effective as of Dec. 28, 2001, and as if included in Pub. L. 107-107 as enacted.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103-89, set out as a note under section 3372 of Title 5, Government Organization and Employees.

#### EQUIVALENT TRAINING UNDER SUBSECTION (b)(2)(B)(ii)

Pub. L. 102-484, div. A, title VIII, § 812(e)(2), Oct. 23, 1992, 106 Stat. 2451, provided that: “The Secretary of Defense shall prescribe equivalent training for purposes of clause (ii) of section 1732(b)(2)(B) of title 10, United States Code (as amended by paragraph (1)), not later than 120 days after the date of the enactment of this Act [Oct. 23, 1992].”

### § 1733. Critical acquisition positions

(a) REQUIREMENT FOR CORPS MEMBER.—A critical acquisition position may be filled only by a member of the Acquisition Corps.

(b) DESIGNATION OF CRITICAL ACQUISITION POSITIONS.—(1) The Secretary of Defense shall designate the acquisition positions in the Department of Defense that are critical acquisition positions. Such positions shall include the following:

(A) Any acquisition position which—

(i) in the case of employees, is required to be filled by an employee in a senior position in the National Security Personnel System, as determined in accordance with guidelines prescribed by the Secretary, or in the Senior Executive Service; or

(ii) in the case of members of the armed forces, is required to be filled by a commissioned officer of the Army, Navy, Air Force, or Marine Corps who is serving in the grade of lieutenant colonel, or, in the case of the Navy, commander, or a higher grade.

(B) Other selected acquisition positions not covered by subparagraph (A), including the following:

(i) Program executive officer.

(ii) Program manager of a major defense acquisition program (as defined in section 2430 of this title) or of a significant nonmajor defense acquisition program (as defined in section 1737(a)(3) of this title).

(iii) Deputy program manager of a major defense acquisition program.

(C) Any other acquisition position of significant responsibility in which the primary duties are supervisory or management duties.

(2) The Secretary shall periodically publish a list of the positions designated under this subsection.

(Added Pub. L. 101-510, div. A, title XII, § 1202(a), Nov. 5, 1990, 104 Stat. 1646; amended Pub. L. 102-484, div. A, title X, § 1052(22), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103-89, § 3(b)(3)(C), Sept. 30, 1993, 107 Stat. 983; Pub. L. 104-201, div. A, title X, § 1074(a)(9)(C), Sept. 23, 1996, 110 Stat. 2659; Pub. L. 108-136, div. A, title VIII, § 833(2), Nov. 24, 2003, 117 Stat. 1550; Pub. L. 108-375, div. A, title VIII, § 812(a)(2), Oct. 28, 2004, 118 Stat. 2013.)

#### AMENDMENTS

2004—Subsec. (b)(1)(A)(i). Pub. L. 108-375 substituted “in a senior position in the National Security Personnel System, as determined in accordance with guidelines prescribed by the Secretary,” for “in a position within grade GS-14 or above of the General Schedule.”

2003—Subsec. (a). Pub. L. 108-136 substituted “the Acquisition Corps” for “an Acquisition Corps”.

1996—Subsec. (a). Pub. L. 104-201 substituted “A critical” for “On and after October 1, 1993, a critical”.

1993—Subsec. (b)(1)(A)(i). Pub. L. 103-89 substituted “Schedule” for “Schedule (including an employee covered by chapter 54 of title 5)”.

1992—Subsec. (b)(1)(B)(ii). Pub. L. 102-484 substituted “1737(a)(3)” for “1736(a)(3)”.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103-89, set out as a note under section 3372 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE FOR REQUIREMENT FOR CORPS MEMBERS TO FILL CRITICAL ACQUISITION POSITIONS

Pub. L. 101-510, div. A, title XII, § 1209(f), Nov. 5, 1990, 104 Stat. 1666, as amended by Pub. L. 102-25, title VII, § 704(b)(3)(C), Apr. 6, 1991, 105 Stat. 119; Pub. L. 103-160, div. A, title IX, § 904(f), Nov. 30, 1993, 107 Stat. 1729, provided that the Secretaries of the military departments were to make every effort to fill critical acquisition positions by Acquisition Corps members as soon as possible after Nov. 5, 1990, and that for each of the first

three years after Nov. 5, 1990, the report of the Under Secretary of Defense for Acquisition and Technology to the Secretary of Defense under section 1762 of this title was to include the number of critical acquisition positions filled by Acquisition Corps members.

PUBLICATION OF LIST OF CRITICAL ACQUISITION POSITIONS

Pub. L. 101-510, div. A, title XII, §1209(g), Nov. 5, 1990, 104 Stat. 1666, directed the Secretary of Defense to publish the first list of positions designated as critical acquisition positions under subsec. (b)(2) of this section not later than Oct. 1, 1992.

**§ 1734. Career development**

(a) **THREE-YEAR ASSIGNMENT PERIOD.**—(1) Except as provided under subsection (b) and paragraph (3), the Secretary of each military department, acting through the service acquisition executive for that department, shall provide that any person who is assigned to a critical acquisition position shall be assigned to the position for not fewer than three years. Except as provided in subsection (d), the Secretary concerned may not reassign a person from such an assignment before the end of the three-year period.

(2) A person may not be assigned to a critical acquisition position unless the person executes a written agreement to remain on active duty (in the case of a member of the armed forces) or to remain in Federal service (in the case of an employee) in that position for at least three years. The service obligation contained in such a written agreement shall remain in effect unless and until waived by the Secretary concerned under subsection (b).

(3) The assignment period requirement of the first sentence of paragraph (1) is waived for any individual serving as a deputy program manager if the individual is assigned to a critical acquisition position upon completion of the individual's assignment as a deputy program manager.

(b) **ASSIGNMENT PERIOD FOR PROGRAM MANAGERS.**—(1) The Secretary of Defense shall prescribe in regulations—

(A) a requirement that a program manager and a deputy program manager (except as provided in paragraph (3)) of a major defense acquisition program be assigned to the position at least until completion of the major milestone that occurs closest in time to the date on which the person has served in the position for four years; and

(B) a requirement that, to the maximum extent practicable, a program manager who is the replacement for a reassigned program manager arrive at the assignment location before the reassigned program manager leaves.

Except as provided in subsection (d), the Secretary concerned may not reassign a program manager or deputy program manager from such an assignment until after such major milestone has occurred.

(2) A person may not be assigned to a critical acquisition position as a program manager or deputy program manager of a major defense acquisition program unless the person executes a written agreement to remain on active duty (in the case of a member of the armed forces) or to remain in Federal service (in the case of an employee) in that position at least until comple-

tion of the first major milestone that occurs closest in time to the date on which the person has served in the position for four years. The service obligation contained in such a written agreement shall remain in effect unless and until waived by the Secretary concerned under subsection (d).

(3) The assignment period requirement under subparagraph (A) of paragraph (1) is waived for any individual serving as a deputy program manager if the individual is assigned to a critical acquisition position upon completion of the individual's assignment as a deputy program manager.

(c) **MAJOR MILESTONE REGULATIONS.**—(1) The Secretary of Defense shall issue regulations defining what constitutes major milestones for purposes of this section. The service acquisition executive of each military department shall establish major milestones at the beginning of a major defense acquisition program consistent with such regulations and shall use such milestones to determine the assignment period for program managers and deputy program managers under subsection (b).

(2) The regulations shall require that major milestones be clearly definable and measurable events that mark the completion of a significant phase in a major defense acquisition program and that such milestones be the same as the milestones contained in the baseline description established for the program pursuant to section 2435(a) of this title. The Secretary shall require that the major milestones as defined in the regulations be included in the Selected Acquisition Report required for such program under section 2432 of this title.

(d) **WAIVER OF ASSIGNMENT PERIOD.**—(1) With respect to a person assigned to a critical acquisition position, the Secretary concerned may waive the prohibition on reassignment of that person (in subsection (a)(1) or (b)(1)) and the service obligation in an agreement executed by that person (under subsection (a)(2) or (b)(2)), but only in exceptional circumstances in which a waiver is necessary for reasons permitted in regulations prescribed by the Secretary of Defense.

(2) With respect to each waiver granted under this subsection, the service acquisition executive (or his delegate) shall set forth in a written document the rationale for the decision to grant the waiver.

(e) **ROTATION POLICY.**—(1) The Secretary of Defense shall establish a policy encouraging the rotation of members of the Acquisition Corps serving in critical acquisition positions to new assignments after completion of five years of service in such positions, or, in the case of a program manager, after completion of a major program milestone, whichever is longer. Such rotation policy shall be designed to ensure opportunities for career broadening assignments and an infusion of new ideas into critical acquisition positions.

(2) The Secretary of Defense shall establish a procedure under which the assignment of each person assigned to a critical acquisition position shall be reviewed on a case-by-case basis for the purpose of determining whether the Government and such person would be better served by a re-