

REFERENCES IN TEXT

Section 5051(c) of the Federal Acquisition Streamlining Act of 1994, referred to in subsec. (c)(2)(A), is section 5051(c) of Pub. L. 103-305, which is set out as a note under this section.

AMENDMENTS

2013—Subsec. (i)(6). Pub. L. 112-239, §1076(a)(15), amended Pub. L. 112-81, §864(d)(2). See 2011 Amendment note below.

Subsec. (j)(2). Pub. L. 112-239, §1103, substituted “September 30, 2017” for “September 30, 2012”.

2011—Subsec. (c)(2). Pub. L. 112-81, §864(c)(1), designated existing provisions as subpar. (A), inserted subpar. heading, and added subpar. (B).

Subsec. (i)(2). Pub. L. 112-81, §864(d)(1), substituted “to support the activities set forth in section 1201(a) of this title” for “to support the training of the acquisition workforce of the executive agencies”.

Subsec. (i)(6). Pub. L. 112-81, §864(d)(2), as amended by Pub. L. 112-239, §1076(a)(15), substituted “ensure that amounts collected under this section are not used for a purpose other than the activities set forth in section 1201(a) of this title.” for “ensure that amounts collected under this subsection are not used for a purpose other than the purpose specified in subparagraphs (A) and (C) to (J) of section 1122(a)(5) of this title.”

Pub. L. 112-74 struck out “for training” after “amounts collected” and substituted “subparagraphs (A) and (C) to (J) of section 1122(a)(5) of this title” for “paragraph (2)”.

Subsec. (l). Pub. L. 112-81, §864(c)(2), added subsec. (l).

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(15) is effective Dec. 31, 2011, and as if included in Pub. L. 112-81 as enacted.

EFFECTIVE COMMUNICATION BETWEEN GOVERNMENT AND INDUSTRY

Pub. L. 114-92, div. A, title VIII, §887, Nov. 25, 2015, 129 Stat. 949, provided that: “Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Federal Acquisition Regulatory Council shall prescribe a regulation making clear that agency acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry, so long as those exchanges are consistent with existing law and regulation and do not promote an unfair competitive advantage to particular firms.”

TRAINING FOR CONTRACTING AND ENFORCEMENT PERSONNEL

Pub. L. 111-240, title I, §1343(a), Sept. 27, 2010, 124 Stat. 2545, provided that: “Not later than 1 year after the date of enactment of this Act [Sept. 27, 2010], the Federal Acquisition Institute, in consultation with the Administrator for Federal Procurement Policy, the Defense Acquisition University, and the Administrator [of the Small Business Administration], shall develop courses for acquisition personnel concerning proper classification of business concerns and small business size and status for purposes of Federal contracts, subcontracts, grants, cooperative agreements, and cooperative research and development agreements.”

DEFENSE ACQUISITION UNIVERSITY FUNDING

Pub. L. 109-163, div. A, title VIII, §821(c), Jan. 6, 2006, 119 Stat. 3386, provided that: “Amounts transferred under section 37(h)(3)(D) of the Office of Federal Procurement Policy Act [now 41 U.S.C. 1703(i)(5)] (as amended by subsection (a)) for use by the Defense Acquisition University shall be in addition to other amounts authorized for the University.”

ENHANCED SYSTEM OF PERFORMANCE INCENTIVES

Pub. L. 103-355, title V, §5051(c), Oct. 13, 1994, 108 Stat. 3351, provided that: “Within one year after the date of

the enactment of this Act [Oct. 13, 1994], the Deputy Director for Management of the Office of Management and Budget, in consultation with appropriate officials in other departments and agencies of the Federal Government, shall, to the maximum extent consistent with applicable law—

“(1) establish policies and procedures for the heads of such departments and agencies to designate acquisition positions and manage employees (including the accession, education, training and career development of employees) in the designated acquisition positions; and

“(2) review the incentives and personnel actions available to the heads of departments and agencies of the Federal Government for encouraging excellence in the acquisition workforce of the Federal Government and provide an enhanced system of incentives for the encouragement of excellence in such workforce which—

“(A) relates pay to performance (including the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs pursuant to section 313(b) of the Federal Property and Administrative Services Act of 1949, as added by subsection (a) [now 41 U.S.C. 3103(b)]; and

“(B) provides for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such workforce contributes to achieving such cost goals, schedule goals, and performance goals.”

§ 1704. Planning and policy-making for acquisition workforce

(a) DEFINITIONS.—In this section:

(1) ASSOCIATE ADMINISTRATOR.—The term “Associate Administrator” means the Associate Administrator for Acquisition Workforce Programs as designated by the Administrator pursuant to subsection (b).

(2) CHIEF ACQUISITION OFFICER.—The term “Chief Acquisition Officer” means a Chief Acquisition Officer for an executive agency appointed pursuant to section 1702 of this title.

(b) ASSOCIATE ADMINISTRATOR FOR ACQUISITION WORKFORCE PROGRAMS.—The Administrator shall designate a member of the Senior Executive Service as the Associate Administrator for Acquisition Workforce Programs. The Associate Administrator shall be chosen on the basis of demonstrated knowledge and expertise in acquisition, human capital, and management. The Associate Administrator shall be located in the Office of Federal Procurement Policy. The Associate Administrator shall be responsible for—

(1) supervising the acquisition workforce training fund established under section 1703(i) of this title;

(2) developing, in coordination with Chief Acquisition Officers and Chief Human Capital Officers, a strategic human capital plan for the acquisition workforce of the Federal Government;

(3) reviewing and providing input to individual agency acquisition workforce succession plans;

(4) recommending to the Administrator and other senior government officials appropriate programs, policies, and practices to increase the quantity and quality of the Federal acquisition workforce;

(5) implementing workforce programs under subsections (f) through (l) of section 1703 of this title; and

(6) carrying out other functions that the Administrator may assign.

(c) ACQUISITION AND CONTRACTING TRAINING PROGRAMS WITHIN EXECUTIVE AGENCIES.—

(1) CHIEF ACQUISITION OFFICER AUTHORITIES AND RESPONSIBILITIES.—Subject to the authority, direction, and control of the head of an executive agency, the Chief Acquisition Officer for that agency shall carry out all powers, functions, and duties of the head of the agency with respect to implementation of this subsection. The Chief Acquisition Officer shall ensure that the policies established by the head of the agency in accordance with this subsection are implemented throughout the agency.

(2) REQUIREMENT.—The head of each executive agency, after consultation with the Associate Administrator, shall establish and operate acquisition and contracting training programs. The programs shall—

(A) have curricula covering a broad range of acquisition and contracting disciplines corresponding to the specific acquisition and contracting needs of the agency involved;

(B) be developed and applied according to rigorous standards; and

(C) be designed to maximize efficiency, through the use of self-paced courses, online courses, on-the-job training, and the use of remote instructors, wherever those features can be applied without reducing the effectiveness of the training or negatively affecting academic standards.

(d) GOVERNMENT-WIDE POLICIES AND EVALUATION.—The Administrator shall issue policies to promote the development of performance standards for training and uniform implementation of this section by executive agencies, with due regard for differences in program requirements among agencies that may be appropriate and warranted in view of the agency mission. The Administrator shall evaluate the implementation of the provisions of subsection (c) by executive agencies.

(e) INFORMATION ON ACQUISITION AND CONTRACTING TRAINING.—The Administrator shall ensure that the heads of executive agencies collect and maintain standardized information on the acquisition and contracting workforce related to the implementation of subsection (c).

(f) ACQUISITION WORKFORCE HUMAN CAPITAL SUCCESSION PLAN.—

(1) IN GENERAL.—Each Chief Acquisition Officer for an executive agency shall develop, in consultation with the Chief Human Capital Officer for the agency and the Associate Administrator, a succession plan consistent with the agency's strategic human capital plan for the recruitment, development, and retention of the agency's acquisition workforce, with a particular focus on warranted contracting officers and program managers of the agency.

(2) CONTENT OF PLAN.—The acquisition workforce succession plan shall address—

(A) recruitment goals for personnel from procurement intern programs;

(B) the agency's acquisition workforce training needs;

(C) actions to retain high performing acquisition professionals who possess critical relevant skills;

(D) recruitment goals for personnel from the Federal Career Intern Program; and

(E) recruitment goals for personnel from the Presidential Management Fellows Program.

(g) ACQUISITION WORKFORCE DEVELOPMENT STRATEGIC PLAN.—

(1) PURPOSE.—The purpose of this subsection is to authorize the preparation and completion of the Acquisition Workforce Development Strategic Plan, which is a plan for Federal agencies other than the Department of Defense to—

(A) develop a specific and actionable 5-year plan to increase the size of the acquisition workforce; and

(B) operate a government-wide acquisition intern program for the Federal agencies.

(2) ESTABLISHMENT OF PLAN.—The Associate Administrator shall be responsible for the management, oversight, and administration of the Acquisition Workforce Development Strategic Plan in cooperation and consultation with the Office of Federal Procurement Policy and with the assistance of the Federal Acquisition Institute.

(3) CRITERIA.—The Acquisition Workforce Development Strategic Plan shall include an examination of the following matters:

(A) The variety and complexity of acquisitions conducted by each Federal agency covered by the plan, and the workforce needed to effectively carry out the acquisitions.

(B) The development of a sustainable funding model to support efforts to hire, retain, and train an acquisition workforce of appropriate size and skill to effectively carry out the acquisition programs of the Federal agencies covered by the plan, including an examination of interagency funding methods and a discussion of how the model of the Defense Acquisition Workforce Development Fund could be applied to civilian agencies.

(C) Any strategic human capital planning necessary to hire, retain, and train an acquisition workforce of appropriate size and skill at each Federal agency covered by the plan.

(D) Methodologies that Federal agencies covered by the plan can use to project future acquisition workforce personnel hiring requirements, including an appropriate distribution of such personnel across each category of positions designated as acquisition workforce personnel under section 1703(g) of this title.

(E) Government-wide training standards and certification requirements necessary to enhance the mobility and career opportunities of the Federal acquisition workforce within the Federal agencies covered by the plan.

(F) If the Associate Administrator recommends as part of the plan a growth in the acquisition workforce of the Federal agencies covered by the plan below 25 percent over the next 5 years, an examination of each of the matters specified in subparagraphs (A) to (E) in the context of a 5-year plan that increases the size of such acquisition workforce by not less than 25 percent,

or an explanation why such a level of growth would not be in the best interest of the Federal Government.

(4) DEADLINE FOR COMPLETION.—The Acquisition Workforce Development Strategic Plan shall be completed not later than one year after October 14, 2008, and in a fashion that allows for immediate implementation of its recommendations and guidelines.

(5) FUNDS.—The acquisition workforce development strategic plan shall be funded from the acquisition workforce training fund under section 1703(i) of this title.

(h) TRAINING IN THE ACQUISITION OF ARCHITECT AND ENGINEERING SERVICES.—The Administrator shall ensure that a sufficient number of Federal employees are trained in the acquisition of architect and engineering services.

(i) UTILIZATION OF RECRUITMENT AND RETENTION AUTHORITIES.—The Administrator, in coordination with the Director of the Office of Personnel Management, shall encourage executive agencies to use existing authorities, including direct hire authority and tuition assistance programs, to recruit and retain acquisition personnel and consider recruiting acquisition personnel who may be retiring from the private sector, consistent with existing laws and regulations.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3706; Pub. L. 111-383, div. A, title X, §1075(e)(15), Jan. 7, 2011, 124 Stat. 4375; Pub. L. 112-81, div. A, title VIII, §864(a), Dec. 31, 2011, 125 Stat. 1522; Pub. L. 112-239, div. A, title X, §1076(a)(14), Jan. 2, 2013, 126 Stat. 1948.)

AMENDMENTS NOT SHOWN IN TEXT

Subsec. (g) of this section was derived from Pub. L. 110-417, [div. A], title VIII, §869, Oct. 14, 2008, 122 Stat. 4553, which was set out as a note under section 433a of former Title 41, Public Contracts, prior to being repealed and reenacted as subsec. (g) of this section by Pub. L. 111-350, §§3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. Section 869 of Pub. L. 110-417 was amended by Pub. L. 111-383, div. A, title X, §1075(e)(15), Jan. 7, 2011, 124 Stat. 4375. For applicability of that amendment to this section, see section 6(a) of Pub. L. 111-350, set out as a Transitional and Savings Provisions note preceding section 101 of this title. Section 869 of Pub. L. 110-417 was amended as follows:

- (1) in subsection (b), by striking “433(a)” and inserting “433a(a)”;
- (2) in subsection (c)(4)—
 - (A) by striking “37(j)” and inserting “37(g)”;
 - and
 - (B) by striking “433(j)” and inserting “433(g)”.

Such references did not appear in the text of subsec. (g) as enacted. See Historical and Revision Notes below.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1704(g)	41:433a note.	Pub. L. 110-417, [div. A], title VIII, §869, Oct. 14, 2008, 122 Stat. 4553.
1704(h), (i) ..	41:433a(f), (g).	

In subsection (a), the definition of “executive agency” is omitted as unnecessary.

In subsection (f)(1), the words “Not later than 1 year after the date of the enactment of this Act” are omitted as obsolete.

In subsection (g)(2), the words “Associate Administrator” are substituted for “Associate Administrator for Acquisition Workforce Programs designated under section 855(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 251; 41 U.S.C. 433(a))” because of subsection (a)(1).

In subsection (g)(3)(D), the reference to “section 37(j) of the Office of Federal Procurement Policy Act” is changed to “section 1703(g) of this title” to correct an error in the law.

AMENDMENTS

2013—Subsec. (b). Pub. L. 112-239, §1076(a)(14), made technical amendment to directory language of Pub. L. 112-81, §864(a)(2). See 2011 Amendment note below.

2011—Subsec. (b). Pub. L. 112-81, §864(a)(2), as amended by Pub. L. 112-239, §1076(a)(14), substituted “The Associate Administrator shall be located in the Office of Federal Procurement Policy.” for “The Associate Administrator shall be located in the Federal Acquisition Institute (or its successor).” in introductory provisions.

Pub. L. 112-81, §864(a)(1), inserted “The Associate Administrator shall be chosen on the basis of demonstrated knowledge and expertise in acquisition, human capital, and management.” after “Programs.” in introductory provisions.

Subsec. (b)(5), (6). Pub. L. 112-81, §864(a)(3)–(5), added par. (5) and redesignated former par. (5) as (6).

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(14) is effective Dec. 31, 2011, and as if included in Pub. L. 112-81 as enacted.

EXPANSION OF TRAINING AND USE OF INFORMATION TECHNOLOGY CADRES

Pub. L. 113-291, div. A, title VIII, §835, Dec. 19, 2014, 128 Stat. 3449, provided that:

“(a) PURPOSE.—The purpose of this section is to ensure timely progress by Federal agencies toward developing, strengthening, and deploying information technology acquisition cadres consisting of personnel with highly specialized skills in information technology acquisition, including program and project managers.

“(b) STRATEGIC PLANNING.—

“(1) IN GENERAL.—The Administrator for Federal Procurement Policy, in consultation with the Administrator for E-Government and Information Technology, shall work with Federal agencies, other than the Department of Defense, to update their acquisition human capital plans that were developed pursuant to the October 27, 2009, guidance issued by the Administrator for Federal Procurement Policy in furtherance of section 1704(g) of title 41, United States Code (originally enacted as section 869 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4553)), to address how the agencies are meeting their human capital requirements to support the timely and effective acquisition of information technology.

“(2) ELEMENTS.—The updates required by paragraph (1) shall be submitted to the Administrator for Federal Procurement Policy and shall address, at a minimum, each Federal agency’s consideration or use of the following procedures:

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1704(a)(1)	no source.	
1704(a)(2)	41:433a(h).	Pub. L. 110-181, div. A, title VIII, §855, Jan. 28, 2008, 122 Stat. 251.
1704(b)–(f) ..	41:433a(a)–(e).	

“(A) Development of an information technology acquisition cadre within the agency or use of memoranda of understanding with other agencies that have such cadres or personnel with experience relevant to the agency’s information technology acquisition needs.

“(B) Development of personnel assigned to information technology acquisitions, including cross-functional training of acquisition information technology and program personnel.

“(C) Use of the specialized career path for information technology program managers as designated by the Office of Personnel Management and plans for strengthening information technology program management.

“(D) Use of direct hire authority.

“(E) Conduct of peer reviews.

“(F) Piloting of innovative approaches to information technology acquisition workforce development, such as industry-government rotations.

“(c) FEDERAL AGENCY DEFINED.—In this section, the term ‘Federal agency’ means each agency listed in section 901(b) of title 31, United States Code.”

§ 1705. Advocates for competition

(a) ESTABLISHMENT AND DESIGNATION.—

(1) ESTABLISHMENT.—Each executive agency has an advocate for competition.

(2) DESIGNATION.—The head of each executive agency shall—

(A) designate for the executive agency and for each procuring activity of the executive agency one officer or employee serving in a position authorized for the executive agency on July 18, 1984 (other than the senior procurement executive designated pursuant to section 1702(c) of this title) to serve as the advocate for competition;

(B) not assign those officers or employees duties or responsibilities that are inconsistent with the duties and responsibilities of the advocates for competition; and

(C) provide those officers or employees with the staff or assistance necessary to carry out the duties and responsibilities of the advocate for competition, such as individuals who are specialists in engineering, technical operations, contract administration, financial management, supply management, and utilization of small and disadvantaged business concerns.

(b) DUTIES AND FUNCTIONS.—The advocate for competition of an executive agency shall—

(1) be responsible for challenging barriers to, and promoting full and open competition in, the procurement of property and services by the executive agency;

(2) review the procurement activities of the executive agency;

(3) identify and report to the senior procurement executive of the executive agency—

(A) opportunities and actions taken to achieve full and open competition in the procurement activities of the executive agency; and

(B) any condition or action which has the effect of unnecessarily restricting competition in the procurement actions of the executive agency;

(4) prepare and transmit to the senior procurement executive an annual report describing—

(A) the advocate’s activities under this section;

(B) new initiatives required to increase competition; and

(C) remaining barriers to full and open competition;

(5) recommend to the senior procurement executive—

(A) goals and the plans for increasing competition on a fiscal year basis; and

(B) a system of personal and organizational accountability for competition, which may include the use of recognition and awards to motivate program managers, contracting officers, and others in authority to promote competition in procurement programs; and

(6) describe other ways in which the executive agency has emphasized competition in programs for procurement training and research.

(c) RESPONSIBILITIES.—The advocate for competition for each procuring activity is responsible for promoting full and open competition, promoting the acquisition of commercial items, and challenging barriers to acquisition, including unnecessarily restrictive statements of need, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3709.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1705	41:418.	Pub. L. 93–400, §20, as added Pub. L. 98–369, title VII, §2732(a), July 18, 1984, 98 Stat. 1197; Pub. L. 103–355, title VIII, §8303(a), Oct. 13, 1994, 108 Stat. 3398.

§ 1706. Personnel evaluation

The head of each executive agency subject to division C shall ensure, with respect to the employees of that agency whose primary duties and responsibilities pertain to the award of contracts subject to the provisions of the Small Business and Federal Procurement Competition Enhancement Act of 1984 (Public Law 98–577, 98 Stat. 3066), that the performance appraisal system applicable to those employees affords appropriate recognition to, among other factors, efforts to—

(1) increase competition and achieve cost savings through the elimination of procedures that unnecessarily inhibit full and open competition;

(2) further the purposes of the Small Business and Federal Procurement Competition Enhancement Act of 1984 (Public Law 98–577, 98 Stat. 3066) and the Defense Procurement Reform Act of 1984 (Public Law 98–525, title XII, 98 Stat. 2588); and

(3) further other objectives and purposes of the Federal acquisition system authorized by law.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3710.)