

title. The officials serving in positions specified in such section and the Chief Information Officer take precedence among themselves in the order prescribed by the Secretary of Defense.

(Added and amended Pub. L. 113–291, div. A, title IX, §901(b)(1), (j)(1)(B), Dec. 19, 2014, 128 Stat. 3463, 3467; Pub. L. 114–328, div. A, title IX, §902(a), Dec. 23, 2016, 130 Stat. 2343; Pub. L. 115–91, div. A, title IX, §909(a)–(d), title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1514, 1515, 1597; Pub. L. 115–232, div. A, title IX, §903, Aug. 13, 2018, 132 Stat. 1922.)

REFERENCES IN TEXT

Section 131(b)(4) of this title, referred to in subsec. (c), was redesignated section 131(b)(5) of this title by Pub. L. 115–91, div. A, title IX, §910(c)(1)(A), Dec. 12, 2017, 131 Stat. 1518.

PRIOR PROVISIONS

A prior section 142 of this title was renumbered section 138d of this title and subsequently repealed.

Another prior section 142 of this title was contained in chapter 5 of this title, prior to amendment by Pub. L. 99–433. See note preceding section 151 of this title.

AMENDMENTS

2018—Subsec. (b)(1)(A). Pub. L. 115–232, §903(1), inserted “(other than with respect to business systems and management)” after “sections 3506(a)(2)”.

Subsec. (b)(1)(B). Pub. L. 115–232, §903(2), substituted “sections 11315 and 11319 of title 40 (other than with respect to business systems and management)” for “section 11315 of title 40”.

Subsec. (b)(1)(C). Pub. L. 115–232, §903(3), substituted “sections 2223(a) (other than with respect to business systems and management) and 2224” for “sections 2222, 2223(a), and 2224”.

2017—Subsec. (a). Pub. L. 115–91, §909(a), inserted before period at end “, who shall be appointed by the President, by and with the advice and consent of the Senate, from among civilians who are qualified to serve as such officer”.

Subsec. (b)(1)(I). Pub. L. 115–91, §909(b), substituted “the information technology, networking, information assurance, cybersecurity, and cyber capability architectures” for “the networking and cyber defense architecture”.

Subsec. (b)(2) to (4). Pub. L. 115–91, §909(c), added pars. (2) and (3) and redesignated former par. (2) as (4).

Subsec. (c). Pub. L. 115–91, §1081(b)(1)(A), repealed Pub. L. 113–291, §901(j)(1)(B). See 2014 Amendment note below.

Pub. L. 115–91, §909(d), added subsec. (c), relating to the direct report of the Chief Information Officer to the Secretary of Defense.

Subsec. (d). Pub. L. 115–91, §909(d), added subsec. (d).

2016—Subsec. (b)(1)(E) to (I). Pub. L. 114–328 added subpars. (E) to (I).

2014—Subsec. (c). Pub. L. 113–291, §901(j)(1)(B), which directed striking out subsec. (c), was repealed by Pub. L. 115–91, §1081(b)(1)(A).

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title IX, §909(g), Dec. 12, 2017, 131 Stat. 1516, provided that: “The amendments made by this section [amending this section] shall take effect on January 1, 2019.”

Pub. L. 115–91, div. A, title X, §1081(b), Dec. 12, 2017, 131 Stat. 1597, provided that the amendment made by section 1081(b)(1)(A) is effective as of Dec. 23, 2016.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title IX, §901(j)(1), Dec. 19, 2014, 128 Stat. 3467, which provided that the amendment made by section 901(j)(1)(B) is effective on the effective date specified in former section 901(a)(1) of Pub. L.

113–291, which was Feb. 1, 2017, was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597.

SERVICE OF INCUMBENT WITHOUT FURTHER APPOINTMENT

Pub. L. 115–91, div. A, title IX, §909(f), Dec. 12, 2017, 131 Stat. 1516, provided that: “The individual serving in the position of Chief Information Officer of the Department of Defense as of January 1, 2019, may continue to serve in such position commencing as of that date without further appointment pursuant to section 142 of title 10, United States Code, as amended by this section.”

§ 143. Office of the Secretary of Defense personnel: limitation

(a) PERMANENT LIMITATION ON OSD PERSONNEL.—The number of OSD personnel may not exceed 3,767.

(b) OSD PERSONNEL DEFINED.—For purposes of this section, the term “OSD personnel” means military, civilian, and detailed personnel of the Department of Defense who are assigned to, or employed in, functions in the Office of the Secretary of Defense (including Direct Support Activities of that Office and the Washington Headquarters Services of the Department of Defense).

(c) LIMITATION ON REASSIGNMENT OF FUNCTIONS.—In carrying out reductions in the number of personnel assigned to, or employed in, the Office of the Secretary of Defense in order to comply with this section, the Secretary of Defense may not reassign functions solely in order to evade the requirements contained in this section.

(Added Pub. L. 105–85, div. A, title IX, §911(d)(1), Nov. 18, 1997, 111 Stat. 1859; amended Pub. L. 106–65, div. A, title IX, §921(c), Oct. 5, 1999, 113 Stat. 723; Pub. L. 114–328, div. A, title IX, §903(a), Dec. 23, 2016, 130 Stat. 2344.)

CODIFICATION

Section, as added by Pub. L. 105–85, consists of text of Pub. L. 104–201, div. A, title IX, §903(a)–(f), Sept. 23, 1996, 110 Stat. 2617. Section 903 of Pub. L. 104–201, which was formerly set out as a note under section 131 of this title, was repealed by Pub. L. 105–85, div. A, title IX, §911(d)(3), Nov. 18, 1997, 111 Stat. 1860.

AMENDMENTS

2016—Subsec. (b). Pub. L. 114–328 substituted “, civilian, and detailed personnel” for “and civilian personnel”.

1999—Subsec. (a). Pub. L. 106–65, §921(c)(1), substituted “The number” for “Effective October 1, 1999, the number” and “3,767” for “75 percent of the baseline number”.

Subsec. (b). Pub. L. 106–65, §921(c)(2), (3), redesignated subsec. (d) as (b) and struck out heading and text of former subsec. (b). Text read as follows: “The number of OSD personnel—

“(1) as of October 1, 1997, may not exceed 85 percent of the baseline number; and

“(2) as of October 1, 1998, may not exceed 80 percent of the baseline number.”

Subsec. (c). Pub. L. 106–65, §921(c)(2), (3), redesignated subsec. (e) as (c) and struck out heading and text of former subsec. (c). Text read as follows: “For purposes of this section, the term ‘baseline number’ means the number of OSD personnel as of October 1, 1994.”

Subsecs. (d), (e). Pub. L. 106–65, §921(c)(3), redesignated subsecs. (d) and (e) as (b) and (c), respectively.

Subsec. (f). Pub. L. 106–65, §921(c)(2), struck out heading and text of subsec. (f). Text read as follows: “If the

Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (b) with respect to any fiscal year would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (a) during fiscal year 1999 would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. The authority under this subsection may be used only once, with respect to a single fiscal year.”

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title IX, §921(c), Oct. 5, 1999, 113 Stat. 723, provided that the amendment made by section 921(c) is effective Oct. 1, 1999.

EXCEPTIONS AND ADJUSTMENTS TO LIMITATIONS ON PERSONNEL

Pub. L. 110-417, [div. A], title XI, §1111, Oct. 14, 2008, 122 Stat. 4619, as amended by Pub. L. 111-84, div. A, title XI, §1109(a), Oct. 28, 2009, 123 Stat. 2492; Pub. L. 111-383, div. A, title X, §1075(e)(17), Jan. 7, 2011, 124 Stat. 4375; Pub. L. 115-232, div. A, title VIII, §809(b)(1), Aug. 13, 2018, 132 Stat. 1840, provided that:

“(a) EXCEPTION TO LIMITATIONS ON PERSONNEL.—For fiscal year 2009 and fiscal years thereafter, the baseline personnel limitations in sections 143, 194, 7014, 8014, and 9014 of title 10, United States Code (as adjusted pursuant to subsection (b)), shall not apply to—

“(1) acquisition personnel hired pursuant to the expedited hiring authority provided in section 1705(h) [now 1705(g)] of title 10, United States Code, as amended by section 833 of this Act, or otherwise hired with funds in the Department of Defense Acquisition Workforce Development Fund established in accordance with section 1705(a) of such title; or

“(2) personnel hired pursuant to a shortage category designation by the Secretary of Defense or the Director of the Office of Personnel Management.

“(b) AUTHORITY TO ADJUST LIMITATIONS ON PERSONNEL.—For fiscal year 2009 and fiscal years thereafter, the Secretary of Defense or a Secretary of a military department may adjust the baseline personnel limitations in sections 143, 194, 3014, 5014 and 8014 of title 10, United States Code, to—

“(1) fill a gap in the civilian workforce of the Department of Defense identified by the Secretary of Defense in a strategic human capital plan submitted to Congress in accordance with the requirements of [former] section 115b of such title; or

“(2) accommodate increases in workload or modify the type of personnel required to accomplish work, for any of the following purposes:

“(A) Performance of inherently governmental functions.

“(B) Performance of work pursuant to section 2463 of title 10, United States Code.

“(C) Ability to maintain sufficient organic expertise and technical capability.

“(D) Performance of work that, while the position may not exercise an inherently governmental function, nevertheless should be performed only by officers or employees of the Federal Government or members of the Armed Forces because of the critical nature of the work.”

§ 144. Director of Small Business Programs

(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of Defense. The Director is appointed by the Secretary of Defense.

(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of Defense is the office that is established within the Office of the Secretary of Defense under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of Defense, and shall exercise such powers regarding those programs, as the Secretary of Defense may prescribe.

(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.

(Added Pub. L. 109-163, div. A, title IX, §904(b)(1), Jan. 6, 2006, 119 Stat. 3400.)

CHANGE OF NAME

Pub. L. 109-163, div. A, title IX, §904(a), Jan. 6, 2006, 119 Stat. 3399, provided that:

“(1) POSITIONS REDESIGNATED.—The following positions within the Department of Defense are redesignated as follows:

“(A) The Director of Small and Disadvantaged Business Utilization of the Department of Defense is redesignated as the Director of Small Business Programs of the Department of Defense.

“(B) The Director of Small and Disadvantaged Business Utilization of the Department of the Army is redesignated as the Director of Small Business Programs of the Department of the Army.

“(C) The Director of Small and Disadvantaged Business Utilization of the Department of the Navy is redesignated as the Director of Small Business Programs of the Department of the Navy.

“(D) The Director of Small and Disadvantaged Business Utilization of the Department of the Air Force is redesignated as the Director of Small Business Programs of the Department of the Air Force.

“(2) OFFICES REDESIGNATED.—The following offices within the Department of Defense are redesignated as follows:

“(A) The Office of Small and Disadvantaged Business Utilization of the Department of Defense is redesignated as the Office of Small Business Programs of the Department of Defense.

“(B) The Office of Small and Disadvantaged Business Utilization of the Department of the Army is redesignated as the Office of Small Business Programs of the Department of the Army.

“(C) The Office of Small and Disadvantaged Business Utilization of the Department of the Navy is redesignated as the Office of Small Business Programs of the Department of the Navy.

“(D) The Office of Small and Disadvantaged Business Utilization of the Department of the Air Force is redesignated as the Office of Small Business Programs of the Department of the Air Force.

“(3) REFERENCES.—Any reference in any law, regulation, document, paper, or other record of the United States to a position or office redesignated by paragraph (1) or (2) shall be deemed to be a reference to the position or office as so redesignated.”

ROLE OF THE DIRECTORS OF SMALL BUSINESS PROGRAMS IN ACQUISITION PROCESSES OF THE DEPARTMENT OF DEFENSE

Pub. L. 112-239, div. A, title XVI, §1611, Jan. 2, 2013, 126 Stat. 2063, provided that:

“(a) GUIDANCE REQUIRED.—The Secretary of Defense shall develop and issue guidance to ensure that the head of each Office of Small Business Programs of the Department of Defense is a participant as early as practicable in the acquisition processes—

“(1) of the Department, in the case of the Director of Small Business Programs in the Department of Defense; and

“(2) of the military department concerned, in the case of the Director of Small Business Programs in