

enrolled in, or accepted for enrollment in, an institution of higher education that has a cooperative education program with the Department of Energy.

**(f) Coordination of benefits**

A scholarship or fellowship awarded under the program established under this section shall be taken into account in determining the eligibility of an individual receiving such scholarship or fellowship for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

**(g) Report to Congress**

Not later than January 1, 2010, the Administrator shall submit to the congressional defense committees a report on the activities carried out under the program established under this section, including any recommendations for future activities under such program.

**(h) Funding**

Of the amounts authorized to be appropriated by section 3101(a)(2)<sup>1</sup> for defense nuclear non-proliferation activities, \$3,000,000 shall be available to carry out the program established under this section.

(Pub. L. 110-417, div. C, title XXXI, § 3113, Oct. 14, 2008, 122 Stat. 4754; Pub. L. 111-383, div. A, title X, § 1075(e)(19), Jan. 7, 2011, 124 Stat. 4375.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (f), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

Section 3101(a)(2), referred to in subsec. (h), is section 3101(a)(2) of Pub. L. 110-417, div. C, title XXXI, Oct. 14, 2008, 122 Stat. 4752, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, and not as part of the National Nuclear Security Administration Act which comprises this chapter.

AMENDMENTS

2011—Subsec. (b)(2). Pub. L. 111-383, § 1075(e)(19)(A), inserted closing parenthesis before semicolon.

Subsec. (d)(2). Pub. L. 111-383, § 1075(e)(19)(B), substituted “fails to repay” for “fails repay”.

“CONGRESSIONAL DEFENSE COMMITTEES” DEFINED

Congressional defense committees has the meaning given that term in section 101(a)(16) of Title 10, Armed Forces, see section 3 of Pub. L. 110-417, Oct. 14, 2008, 122 Stat. 4372. See note under section 101 of Title 10.

**§ 2445. Limitation on bonuses for employees who engage in improper program management**

**(a) Limitation**

**(1) In general**

The Secretary of Energy or the Administrator may not pay to a covered employee a bonus during the one-year period beginning on the date on which the Secretary or the Administrator, as the case may be, determines that

the covered employee engaged in improper program management that resulted in a notification under section 2753 of this title or significantly and detrimentally affected the cost, scope, or schedule associated with the approval of critical decision 3 in the acquisition process for a project (as defined in Department of Energy Order 413.3B (relating to program management and project management for the acquisition of capital assets)).

**(2) Implementation guidance**

Not later than one year after November 25, 2015, the Secretary shall issue guidance for the implementation of paragraph (1).

**(b) Guidance prohibiting bonuses for additional employees**

Not later than 180 days after November 25, 2015, the Secretary and the Administrator shall each issue guidance prohibiting the payment of a bonus to a covered employee during the one-year period beginning on the date on which the Secretary or the Administrator, as the case may be, determines that the covered employee engaged in improper program management—

(1) that jeopardized the health, safety, or security of employees or facilities of the Administration or another element of the Department of Energy involved in nuclear security; or

(2) in carrying out defense nuclear non-proliferation activities.

**(c) Waiver**

The Secretary or the Administrator, as the case may be, may waive the limitation on the payment of a bonus under subsection (a) or (b) on a case-by-case basis if—

(1) the Secretary or the Administrator, as the case may be, notifies the appropriate congressional committees of such waiver; and

(2) a period of 60 days elapses following such notification.

**(d) Definitions**

In this section:

(1) The term “appropriate congressional committees” means—

(A) the congressional defense committees; and

(B) the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) The term “bonus” means a bonus or award paid under title 5, including under chapters 45 or 53 of such title, or any other provision of law.

(3) The term “covered employee” has the meaning given that term in section 2443 of this title.

(Pub. L. 106-65, div. C, title XXXII, § 3246, as added Pub. L. 114-92, div. C, title XXXI, § 3111(b)(1), Nov. 25, 2015, 129 Stat. 1187.)

**§ 2446. Treatment of contractors who engage in improper program management**

**(a) In general**

Except as provided by subsection (b), if the Secretary of Energy or the Administrator deter-

<sup>1</sup> See References in Text note below.

mines that a covered contractor engaged in improper program management that resulted in a notification under section 2753 of this title or significantly and detrimentally affected the cost, scope, or schedule associated with the approval of critical decision 3 in the acquisition process for a project (as defined in Department of Energy Order 413.3B (relating to program management and project management for the acquisition of capital assets)), the Secretary or the Administrator, as the case may be, shall submit to the appropriate congressional committees—

- (1) an explanation as to whether termination of the contract is an appropriate remedy;
- (2) a description of the terms of the contract regarding award fees and performance; and
- (3) a description of how the Secretary or the Administrator, as the case may be, plans to exercise options under the contract.

**(b) Exception**

If the Secretary or the Administrator, as the case may be, is not able to submit the information described in paragraphs (1) through (3) of subsection (a) by reason of a contract enforcement action, the Secretary or the Administrator, as the case may be, shall submit to the appropriate congressional committees a notification of such contract enforcement action and the date on which the Secretary or the Administrator, as the case may be, plans to submit the information described in such paragraphs.

**(c) Definitions**

In this section:

(1) The term “appropriate congressional committees” means—

- (A) the congressional defense committees; and
- (B) the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) The term “covered contractor” means—

- (A) a contractor of the Administration; or
- (B) a contractor of an element of the Department of Energy (other than the Administration) involved in nuclear security.

(Pub. L. 106-65, div. C, title XXXII, §3247, as added Pub. L. 114-92, div. C, title XXXI, §3111(c)(1), Nov. 25, 2015, 129 Stat. 1188.)

SUBCHAPTER IV—BUDGET AND FINANCIAL MANAGEMENT

**§ 2451. Separate treatment in budget**

**(a) President’s budget**

In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for the Administration shall be set forth separately within the other amounts requested for the Department of Energy.

**(b) Budget justification materials**

(1) In the budget justification materials submitted to Congress in support of each such budget, the amounts requested for the Administration shall be specified in individual, dedicated program elements.

(2) In the budget justification materials submitted to Congress in support of each such bud-

et, the Administrator shall include an assessment of how the budget maintains the core nuclear weapons skills of the Administration, including nuclear weapons design, engineering, production, testing, and prediction of stockpile aging.

(Pub. L. 106-65, div. C, title XXXII, §3251, Oct. 5, 1999, 113 Stat. 966; Pub. L. 112-239, div. C, title XXXI, §3112, Jan. 2, 2013, 126 Stat. 2169; Pub. L. 113-66, div. C, title XXXI, §3145(e), Dec. 26, 2013, 127 Stat. 1071.)

AMENDMENTS

2013—Subsec. (a). Pub. L. 113-66 substituted “Congress” for “the Congress”.

Subsec. (b). Pub. L. 112-239 designated existing provisions as par. (1) and added par. (2).

TEN-YEAR PLAN FOR USE AND FUNDING OF CERTAIN DEPARTMENT OF ENERGY FACILITIES

Pub. L. 111-84, div. C, title XXXI, §3141, Oct. 28, 2009, 123 Stat. 2715, provided that:

“(a) IN GENERAL.—The Administrator for Nuclear Security and the Under Secretary for Science of the Department of Energy shall jointly develop a plan to use and fund, over a ten-year period, the following facilities of the Department of Energy:

“(1) The National Ignition Facility at the Lawrence Livermore National Laboratory, California.

“(2) The Los Alamos Neutron Science Center at the Los Alamos National Laboratory, New Mexico.

“(3) The Z Machine at the Sandia National Laboratories, New Mexico.

“(4) The Microsystems and Engineering Sciences Application Facility at the Sandia National Laboratories, New Mexico.

“(b) SUBMITTAL OF PLAN.—Not later than 45 days after the date of the enactment of this Act [Oct. 28, 2009], the Administrator for Nuclear Security and the Under Secretary for Science of the Department of Energy shall submit to the appropriate congressional committees the plan required by subsection (a).

“(c) REQUIREMENT TO SPECIFY SOURCE OF FACILITY FUNDING IN BUDGET REQUESTS.—In any budget request for the Department of Energy for a fiscal year that is submitted to Congress after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Energy shall identify for that fiscal year the portion of the funding for each facility specified in subsection (a) that is to be provided by the National Nuclear Security Administration and by the Office of Science of the Department of Energy.

“(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ means—

“(1) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Science and Technology [now Committee on Science, Space, and Technology] of the House of Representatives; and

“(2) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Energy and Natural Resources of the Senate.”

**§ 2452. Planning, programming, and budgeting process**

**(a) Procedures required**

The Administrator shall establish procedures to ensure that the planning, programming, budgeting, and financial activities of the Administration comport with sound financial and fiscal management principles. Those procedures shall, at a minimum, provide for the planning, programming, and budgeting of activities of the Administration using funds that are available for obligation for a limited number of years.