

that have been employed under such a contract for a period greater than two years.

(5) With respect to each contract identified under paragraph (2)—

(A) identification of each appropriations account that supports the contract; and

(B) the amount obligated under the contract during the fiscal year, listed by each such account.

(6) With respect to each appropriations account identified under paragraph (5)(A), the total amount obligated for contracts identified under paragraph (2).

(Pub. L. 106–65, div. C, title XXXII, § 3241A, as added Pub. L. 112–239, div. C, title XXXI, § 3111(a)(1), Jan. 2, 2013, 126 Stat. 2168; amended Pub. L. 113–291, div. C, title XXXI, § 3116, Dec. 19, 2014, 128 Stat. 3888; Pub. L. 114–92, div. C, title XXXI, § 3138, Nov. 25, 2015, 129 Stat. 1215; Pub. L. 114–328, div. C, title XXXI, § 3136(a), Dec. 23, 2016, 130 Stat. 2771; Pub. L. 116–92, div. C, title XXXI, § 3111(a), Dec. 20, 2019, 133 Stat. 1949.)

#### AMENDMENTS

2019—Subsec. (a)(1). Pub. L. 116–92, § 3111(a)(1)(A), (B)(i), substituted “The” for “By October 1, 2015, the” and “1,890” for “1,690”.

Subsec. (a)(2). Pub. L. 116–92, § 3111(a)(1)(A), (B)(ii), substituted “2020” for “2016” and “1,890” for “1,690”.

Subsec. (f). Pub. L. 116–92, § 3111(a)(2)(A), substituted “for the most recent fiscal year for which data are available” for “as of the date of the report” in introductory provisions.

Subsec. (f)(5), (6). Pub. L. 116–92, § 3111(a)(2)(B), added pars. (5) and (6) and struck out former par. (5) which read as follows: “With respect to each contract identified under paragraph (2)—

“(A) the cost of the contract; and

“(B) identification of the program or program direction accounts that support the contract.”

2016—Subsec. (f)(5). Pub. L. 114–328 added par. (5).

2015—Subsec. (f). Pub. L. 114–92 added subsec. (f).

2014—Subsec. (a)(1). Pub. L. 113–291, § 3116(a)(1), substituted “2015” for “2014” and “1,690” for “1,825”.

Subsec. (a)(2). Pub. L. 113–291, § 3116(a)(2), substituted “2016” for “2015” and “1,690” for “1,825”.

Subsec. (e). Pub. L. 113–291, § 3116(b), added subsec. (e).

#### § 2442. Repealed. Pub. L. 112–239, div. C, title XXXI, § 3132(c)(1)(A), Jan. 2, 2013, 126 Stat. 2186

Section, Pub. L. 106–65, div. C, title XXXII, § 3242, Oct. 5, 1999, 113 Stat. 964, related to voluntary early retirement authority.

#### § 2443. Notification of employee practices affecting national security

##### (a) Annual notification

At or about the time that the President’s budget is submitted to Congress under section 1105(a) of title 31, the Secretary of Energy and the Administrator shall jointly notify the appropriate congressional committees of—

(1) the number of covered employees whose security clearance was revoked during the year prior to the year in which the notification is made; and

(2) for each employee counted under paragraph (1), the length of time such employee has been employed at the Department or the Administration, as the case may be, since such revocation.

##### (b) Notification to congressional committees

Whenever the Secretary or the Administrator terminates the employment of a covered employee or removes and reassigns a covered employee for cause, the Secretary or the Administrator, as the case may be, shall notify the appropriate congressional committees of such termination or reassignment by not later than 30 days after the date of such termination or reassignment.

##### (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 employee” means—

(A) an employee of the Administration; or

(B) an employee of an element of the Department of Energy (other than the Administration) involved in nuclear security.

(Pub. L. 106–65, div. C, title XXXII, § 3245, as added Pub. L. 114–92, div. C, title XXXI, § 3111(a)(1), Nov. 25, 2015, 129 Stat. 1186.)

#### PRIOR PROVISIONS

A prior section 2443, Pub. L. 106–65, div. C, title XXXII, § 3245, as added Pub. L. 106–377, § 1(a)(2) [title III, § 315], Oct. 27, 2000, 114 Stat. 1441, 1441A–81, related to prohibition on pay of personnel engaged in concurrent service or duties inside and outside Administration, prior to repeal by Pub. L. 107–107, div. C, title XXXI, § 3143, Dec. 28, 2001, 115 Stat. 1371.

#### § 2444. Nonproliferation and national security scholarship and fellowship program

##### (a) Establishment

The Administrator for Nuclear Security shall carry out a program to provide scholarships and fellowships for the purpose of enabling individuals to qualify for employment in the nonproliferation and national security programs of the Department of Energy.

##### (b) Eligible individuals

An individual shall be eligible for a scholarship or fellowship under the program established under this section if the individual—

(1) is a citizen or national of the United States or an alien lawfully admitted to the United States for permanent residence;

(2) has been accepted for enrollment or is currently enrolled as a full-time student at an institution of higher education (as defined in section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)));

(3) is pursuing a program of education that leads to an appropriate higher education degree in a qualifying field of study, as determined by the Administrator;

(4) enters into an agreement described in subsection (c); and

(5) meets such other requirements as the Administrator prescribes.

##### (c) Agreement

An individual seeking a scholarship or fellowship under the program established under this

section shall enter into an agreement, in writing, with the Administrator that includes the following:

(1) The agreement of the Administrator to provide such individual with a scholarship or fellowship in the form of educational assistance for a specified number of school years (not to exceed five school years) during which such individual is pursuing a program of education in a qualifying field of study, which educational assistance may include payment of tuition, fees, books, laboratory expenses, and a stipend.

(2) The agreement of such individual—

(A) to accept such educational assistance;

(B) to maintain enrollment and attendance in a program of education described in subsection (b)(2) until such individual completes such program;

(C) while enrolled in such program, to maintain satisfactory academic progress in such program, as determined by the institution of higher education in which such individual is enrolled; and

(D) after completion of such program, to serve as a full-time employee in a non-proliferation or national security position in the Department of Energy or at a laboratory of the Department for a period of not less than 12 months for each school year or part of a school year for which such individual receives a scholarship or fellowship under the program established under this section.

(3) The agreement of such individual with respect to the repayment requirements specified in subsection (d).

**(d) Repayment**

**(1) In general**

An individual receiving a scholarship or fellowship under the program established under this section shall agree to pay to the United States the total amount of educational assistance provided to such individual under such program, plus interest at the rate prescribed by paragraph (4), if such individual—

(A) does not complete the program of education agreed to pursuant to subsection (c)(2)(B);

(B) completes such program of education but declines to serve in a position in the Department of Energy or at a laboratory of the Department as agreed to pursuant to subsection (c)(2)(D); or

(C) is voluntarily separated from service or involuntarily separated for cause from the Department of Energy or a laboratory of the Department before the end of the period for which such individual agreed to continue in the service of the Department pursuant to subsection (c)(2)(D).

**(2) Failure to repay**

If an individual who received a scholarship or fellowship under the program established under this section is required to repay, pursuant to an agreement under paragraph (1), the total amount of educational assistance provided to such individual under such program, plus interest at the rate prescribed by paragraph (4), and fails to repay such amount, a

sum equal to such amount (plus such interest) is recoverable by the United States Government from such individual or the estate of such individual by—

(A) in the case of an individual who is an employee of the United States Government, setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; or

(B) such other method as is provided by law for the recovery of amounts owed to the Government.

**(3) Waiver of repayment**

The Administrator may waive, in whole or in part, repayment by an individual under this subsection if the Administrator determines that seeking recovery under paragraph (2) would be against equity and good conscience or would be contrary to the best interests of the United States.

**(4) Rate of interest**

For purposes of repayment under this subsection, the total amount of educational assistance provided to an individual under the program established under this section shall bear interest at the applicable rate of interest under section 427A(c) of the Higher Education Act of 1965 (20 U.S.C. 1077a(c)).

**(e) Preference for cooperative education students**

In evaluating individuals for the award of a scholarship or fellowship under the program established under this section, the Administrator may give a preference to an individual who is 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 subsection (f), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Title

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

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 determines 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: