

**§ 1731. Critical acquisition positions**

(a) 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, Marine Corps, or Space Force 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 4201 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.

(b) PROMOTION RATE FOR OFFICERS IN THE ACQUISITION WORKFORCE.—The Secretary of Defense shall ensure that the qualifications of commissioned officers in the acquisition workforce are such that those officers are expected, as a group, to be promoted at a rate not less than the rate for all line (or the equivalent) officers of the same armed force (both in the zone and below the zone) in the same grade.

(c) MOBILITY STATEMENTS.—(1) The Secretary of Defense is authorized to require civilians in critical acquisition positions to sign mobility statements.

(2) The Secretary of Defense shall identify which categories of civilians in critical acquisition positions, as a condition of employment, shall be required to sign mobility statements. The Secretary shall make available published information on such identification of categories.

(Added Pub. L. 101-510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1646, §1733; 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; renumbered §1731 and amended Pub. L. 116-92, div. A, title VIII, §861(j)(2)–(4), (6)(A), Dec. 20, 2019, 133 Stat. 1519; Pub. L. 116-283, div. A, title IX,

§924(b)(3)(AA), title XVIII, §1846(i)(4), Jan. 1, 2021, 134 Stat. 3821, 4252.)

**Editorial Notes**

## CODIFICATION

The text of former section 1731(b) of this title, which was transferred to section 1733(b) of this title and then to subsec. (b) of this section by Pub. L. 116-92, §861(j)(3), (6)(A), was based on Pub. L. 101-510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1644; Pub. L. 108-136, div. A, title VIII, §833(1)(B), Nov. 24, 2003, 117 Stat. 1550.

The text of section 1732(e) of this title, which was transferred to section 1733(c) of this title and then to subsec. (c) of this section by Pub. L. 116-92, §861(j)(4), (6)(A), was based on Pub. L. 101-510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1644; Pub. L. 108-136, div. A, title VIII, §833(2), Nov. 24, 2003, 117 Stat. 1550.

## PRIOR PROVISIONS

A prior section 1731, added Pub. L. 101-510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1644; amended Pub. L. 108-136, div. A, title VIII, §§832(b)(1), 833(1), Nov. 24, 2003, 117 Stat. 1550; Pub. L. 116-92, div. A, title VIII, §861(j)(3), Dec. 20, 2019, 133 Stat. 1519, related to establishment of the Acquisition Corps, prior to repeal by Pub. L. 116-92, div. A, title VIII, §861(j)(5), Dec. 20, 2019, 133 Stat. 1519.

## AMENDMENTS

2021—Subsec. (a)(1)(A)(ii). Pub. L. 116-283, §924(b)(3)(AA), substituted “Marine Corps, or Space Force” for “or Marine Corps”.

Subsec. (a)(1)(B)(ii). Pub. L. 116-283, §1846(i)(4), which directed amendment of subsec. (b)(1)(B)(ii) of this section by substituting “section 4201” for “section 2430”, was executed to subsec. (a)(1)(B)(ii) of this section, to reflect the probable intent of Congress.

2019—Pub. L. 116-92, §861(j)(6)(A), renumbered section 1733 of this title as this section.

Subsec. (a). Pub. L. 116-92, §861(j)(2), in section 1733 of this title prior to renumbering as this section, redesignated subsec. (b) as (a) and struck out former subsec. (a). Prior to amendment, text of subsec. (a) of section 1733 read as follows: “A critical acquisition position may be filled only by a member of the Acquisition Corps.”

Subsec. (b). Pub. L. 116-92, §861(j)(3), prior to repeal of former section 1731, transferred subsec. (b) of that section to section 1733 of this title and substituted “the Acquisition Workforce” for “Acquisition Corps” in heading and “in the acquisition workforce” for “selected for the Acquisition Corps” in text. See Codification note above. Section 1733 was subsequently renumbered as this section.

Subsec. (c). Pub. L. 116-92, §861(j)(4), prior to repeal of section 1732 of this title, transferred subsec. (e) of that section to section 1733 of this title, redesignated it as (c), and substituted “in critical acquisition positions” for “in the Acquisition Corps” in pars. (1) and (2) and “employment” for “serving in the Corps” in par. (2). See Codification note above. Section 1733 was subsequently renumbered as this section.

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)”.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by section 1846(i)(4) of Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

**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 former section 1762 of this title was to include the number of critical acquisition positions filled by Acquisition Corps members.

**TERMINATION OF DEFENSE ACQUISITION CORPS**

Pub. L. 116-92, div. A, title VIII, §861(j)(1), Dec. 20, 2019, 133 Stat. 1519, provided that: “The Acquisition Corps for the Department of Defense referred to in [former] section 1731(a) of title 10, United States Code, is terminated.”

**TENURE AND ACCOUNTABILITY OF PROGRAM MANAGERS FOR PROGRAM DEFINITION PERIODS**

Pub. L. 114-92, div. A, title VIII, §826, Nov. 25, 2015, 129 Stat. 908, as amended by Pub. L. 114-328, div. A, title VIII, §862(a), Dec. 23, 2016, 130 Stat. 2302; Pub. L. 116-92, div. A, title IX, §902(64), Dec. 20, 2019, 133 Stat. 1550, provided that:

“(a) REVISED GUIDANCE REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall revise Department of Defense guidance for major defense acquisition programs to address the tenure and accountability of program managers for the program definition period of major defense acquisition programs.

“(b) PROGRAM DEFINITION PERIOD.—For the purposes of this section, the term ‘program definition period’, with respect to a major defense acquisition program, means the period beginning with initiation of the program and ending with Milestone B approval (or Key Decision Point B approval in the case of a space program).

“(c) RESPONSIBILITIES.—The revised guidance required by subsection (a) shall provide that the program manager for the program definition period of a major defense acquisition program is responsible for—

“(1) bringing technologies to maturity and identifying the manufacturing processes that will be needed to carry out the program;

“(2) ensuring continuing focus during program development on meeting stated mission requirements and other requirements of the Department of Defense;

“(3) recommending trade-offs between program cost, schedule, and performance for the life-cycle of the program;

“(4) developing a business case for the program; and

“(5) ensuring that appropriate information is available to the milestone decision authority to make a decision on Milestone B approval (or Key Decision Point B approval in the case of a space program), including information necessary to make the certification required by section 2366a of title 10, United States Code [now 10 U.S.C. 4251].

“(d) QUALIFICATIONS, RESOURCES, AND TENURE.—The Secretary of Defense shall ensure that each program manager for the program definition period of a major defense acquisition program—

“(1) has the appropriate management, engineering, technical, and financial expertise needed to meet the responsibilities assigned pursuant to subsection (c);

“(2) is provided the resources and support (including systems engineering expertise, cost-estimating expertise, and software development expertise) needed to meet such responsibilities; and

“(3) is assigned to the program manager position for such program until such time as such program receives Milestone B approval (or Key Decision Point B approval in the case of a space program), unless removed for cause or due to exceptional circumstances.

“(e) WAIVER AUTHORITY.—The service acquisition executive, in the case of a major defense acquisition program of a military department, or the Under Secretary of Defense for Acquisition and Sustainment, in the case of a Defense-wide or Defense Agency major defense acquisition program, may waive the requirement in paragraph (3) of subsection (d) upon a determination that the program definition period will take so long that it would not be appropriate for a single individual to serve as program manager for the entire period covered by such paragraph.”

**TENURE AND ACCOUNTABILITY OF PROGRAM MANAGERS FOR PROGRAM EXECUTION PERIODS**

Pub. L. 114-92, div. A, title VIII, §827, Nov. 25, 2015, 129 Stat. 909, as amended by Pub. L. 114-328, div. A, title VIII, §862(b), Dec. 23, 2016, 130 Stat. 2302; Pub. L. 116-92, div. A, title IX, §902(65), Dec. 20, 2019, 133 Stat. 1550, provided that:

“(a) REVISED GUIDANCE REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall revise Department of Defense guidance for major defense acquisition programs to address the tenure and accountability of program managers for the program execution period of major defense acquisition programs.

“(b) PROGRAM EXECUTION PERIOD.—For purposes of this section, the term ‘program execution period’, with respect to a major defense acquisition program, means the period beginning with Milestone B approval (or Key Decision Point B approval in the case of a space program) and ending with declaration of initial operational capability.

“(c) RESPONSIBILITIES.—The revised guidance required by subsection (a) shall—

“(1) require the program manager for the program execution period of a major defense acquisition program to enter into a performance agreement with the manager’s immediate supervisor for such program within six months of assignment, that—

“(A) establishes expected parameters for the cost, schedule, and performance of the program consistent with the business case for the program;

“(B) provides the commitment of the supervisor to provide the level of funding and resources required to meet such parameters; and

“(C) provides the assurance of the program manager that such parameters are achievable and that the program manager will be accountable for meeting such parameters; and

“(2) provide the program manager with the authority to—

“(A) consult on the addition of new program requirements that would be inconsistent with the parameters established in the performance agreement entered into pursuant to paragraph (1);

“(B) recommend trade-offs between cost, schedule, and performance, provided that such trade-offs are consistent with the parameters established in the performance agreement entered into pursuant to paragraph (1); and

“(C) develop such interim goals and milestones as may be required to achieve the parameters established in the performance agreement entered into pursuant to paragraph (1).

“(d) QUALIFICATIONS, RESOURCES, AND TENURE.—The Secretary shall ensure that each program manager for the program execution period of a defense acquisition program—

“(1) has the appropriate management, engineering, technical, and financial expertise needed to meet the responsibilities assigned pursuant to subsection (c);

“(2) is provided the resources and support (including systems engineering expertise, cost estimating expertise, and software development expertise) needed to meet such responsibilities; and

“(3) is assigned to the program manager position for such program during the program execution period, unless removed for cause or due to exceptional circumstances.

“(e) WAIVER AUTHORITY.—The service acquisition executive, in the case of a major defense acquisition program of a military department, or the Under Secretary of Defense for Acquisition and Sustainment, in the case of a Defense-wide or Defense Agency major defense acquisition program, may waive the requirement in paragraph (3) of subsection (d) upon a determination that the program execution period will take so long that it would not be appropriate for a single individual to serve as program manager for the entire program execution period.”

**[§ 1732. Repealed. Pub. L. 116-92, div. A, title VIII, § 861(j)(5), Dec. 20, 2019, 133 Stat. 1519]**

Section, added Pub. L. 101-510, div. A, title XII, § 1202(a), Nov. 5, 1990, 104 Stat. 1644; amended Pub. L. 102-484, div. A, title VIII, § 812(e)(1), Oct. 23, 1992, 106 Stat. 2451; Pub. L. 103-89, § 3(b)(3)(B), Sept. 30, 1993, 107 Stat. 982; Pub. L. 105-261, div. A, title VIII, § 811, Oct. 17, 1998, 112 Stat. 2086; Pub. L. 107-107, div. A, title VIII, § 824(b), title X, § 1048(e)(4), Dec. 28, 2001, 115 Stat. 1185, 1227; Pub. L. 108-136, div. A, title VIII, §§ 831(b)(2), (3), 832(b)(2), 833(2), Nov. 24, 2003, 117 Stat. 1549, 1550; Pub. L. 108-375, div. A, title VIII, § 812(a)(1), title X, § 1084(d)(14), (h)(2), Oct. 28, 2004, 118 Stat. 2013, 2062, 2064; Pub. L. 109-163, div. A, title X, § 1056(c)(3), Jan. 6, 2006, 119 Stat. 3439; Pub. L. 116-92, div. A, title VIII, § 861(b)(2), (j)(4), Dec. 20, 2019, 133 Stat. 1516, 1519, related to selection criteria and procedures for membership in the Acquisition Corps.

**[§ 1733. Renumbered § 1731]**

**§ 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 completion 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 4214(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 4351 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