

(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)¹ 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.)

Editorial Notes

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”.

Statutory Notes and Related Subsidiaries

“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

¹ See References in Text note below.

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:

(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 budg-