

**10 USC Ch. 87: DEFENSE ACQUISITION WORKFORCE**

Text contains those laws in effect on September 18, 2013

**From Title 10—ARMED FORCES**

Subtitle A—General Military Law

PART II—PERSONNEL

**CHAPTER 87—DEFENSE ACQUISITION WORKFORCE**

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**AMENDMENTS**

**1991**—Pub. L. 102–25, title VII, §704(b)(1), Apr. 6, 1991, 105 Stat. 119, made technical amendment to directory language of Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1638, which enacted this chapter.

**SUBCHAPTER I—GENERAL AUTHORITIES AND RESPONSIBILITIES**

Sec.	
1701.	Management policies.
1701a.	Management for acquisition workforce excellence.
1702.	Under Secretary of Defense for Acquisition, Technology, and Logistics: authorities and responsibilities.
[1703.]	Repealed.]
1704.	Service acquisition executives: authorities and responsibilities.
1705.	Department of Defense Acquisition Workforce Development Fund.
1706.	Government performance of certain acquisition functions.
[1707.]	Repealed.]

**AMENDMENTS**

**2013**—Pub. L. 112–239, div. A, title VIII, §824(a)(2), Jan. 2, 2013, 126 Stat. 1833, added item 1706.

**2011**—Pub. L. 111–383, div. A, title VIII, §871(b), Jan. 7, 2011, 124 Stat. 4300, added item 1701a.

**2008**—Pub. L. 110–181, div. A, title VIII, §852(a)(2), Jan. 28, 2008, 122 Stat. 250, added item 1705.

**2003**—Pub. L. 108–136, div. A, title VIII, §836(1), Nov. 24, 2003, 117 Stat. 1551, struck out items 1703 “Director of Acquisition Education, Training, and Career Development”, 1705 “Directors of Acquisition Career Management in the military departments”, 1706 “Acquisition career program boards”, and 1707 “Personnel in the Office of the Secretary of Defense and in the Defense Agencies”.

**2001**—Pub. L. 107–107, div. A, title X, §1048(b)(3)(B), Dec. 28, 2001, 115 Stat. 1225, substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics: authorities and responsibilities” for “Under Secretary of Defense for Acquisition and Technology: authorities and responsibilities” in item 1702.

**1993**—Pub. L. 103–160, div. A, title IX, §904(d)(2), Nov. 30, 1993, 107 Stat. 1728, inserted “and Technology” after “Acquisition” in item 1702.

**§1701. Management policies**

(a) Policies and Procedures.—The Secretary of Defense shall establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in

acquisition positions in the Department of Defense.

(b) Uniform Implementation.—The Secretary shall ensure that, to the maximum extent practicable, acquisition workforce policies and procedures established in accordance with this chapter are uniform in their implementation throughout the Department of Defense.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1638.)

### **EFFECTIVE DATE**

Pub. L. 101–510, div. A, title XII, §1211, Nov. 5, 1990, 104 Stat. 1667, provided that: “Except as otherwise provided in this title [see Short Title note below], this title and the amendments made by this title, including chapter 87 of title 10, United States Code (as added by section 1202), shall take effect on the date of the enactment of this Act [Nov. 5, 1990].”

### **SHORT TITLE**

Pub. L. 101–510, div. A, title XII, §1201, Nov. 5, 1990, 104 Stat. 1638, provided that: “This title [enacting this chapter, sections 5379 and 5380 of Title 5, Government Organization and Employees, and section 317 of Title 37, Pay and Allowances of the Uniformed Services, amending sections 101 and 2435 of this title and sections 4107, 4301, 5102, 5532, 5724, 5742, 5924, 5942, 8344, and 8468 of Title 5, repealing sections 1621 to 1624 of this title, enacting provisions set out as notes under this section and sections 1621 to 1623, 1705, 1721, 1722, 1724, 1733, 1734, 1746, 1761, 1762, and 2435 of this title, sections 3326, 5380, and 5532 of Title 5, and section 317 of Title 37, and repealing provisions set out as a note under section 2304 of this title] may be cited as the ‘Defense Acquisition Workforce Improvement Act’.”

### **REGULATIONS**

Pub. L. 101–510, div. A, title XII, §1210(a), Nov. 5, 1990, 104 Stat. 1667, provided that: “Unless otherwise provided in this title [see Short Title note above] and in subsection (b) [set out below], the Secretary of Defense shall promulgate regulations to implement this title and the amendments made by this title not later than one year after the date of the enactment of this Act [Nov. 5, 1990].”

### **COORDINATION OF HUMAN SYSTEMS INTEGRATION ACTIVITIES RELATED TO ACQUISITION PROGRAMS**

Pub. L. 110–181, div. A, title II, §231, Jan. 28, 2008, 122 Stat. 45, provided that:

“(a) In General.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall coordinate and manage human systems integration activities throughout the acquisition programs of the Department of Defense.

“(b) Administration.—In carrying out subsection (a), the Secretary shall designate a senior official to be responsible for the effort.

“(c) Responsibilities.—In carrying out this section, the senior official designated in subsection (b) shall—

“(1) coordinate the planning, management, and execution of such activities; and

“(2) identify and recommend, as appropriate, resource requirements for human systems integration activities.

“(d) Designation.—The designation required by subsection (b) shall be made not later than 60 days after the date of the enactment of this Act [Jan. 28, 2008].”

### **REQUIREMENTS FOR SENIOR DEPARTMENT OF DEFENSE OFFICIALS SEEKING EMPLOYMENT WITH DEFENSE CONTRACTORS**

Pub. L. 110–181, div. A, title VIII, §847, Jan. 28, 2008, 122 Stat. 243, provided that:

“(a) Requirement to Seek and Obtain Written Opinion.—

“(1) Request.—An official or former official of the Department of Defense described in subsection (c) who, within two years after leaving service in the Department of Defense, expects to receive compensation from a Department of Defense contractor, shall, prior to accepting such compensation, request a written opinion regarding the applicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

“(2) Submission of request.—A request for a written opinion under paragraph (1) shall be submitted in writing to an ethics official of the Department of Defense having responsibility for the organization in which the official or former official serves or served and shall set forth all information relevant to the request, including information relating to government positions held and major duties in those positions, actions taken concerning future employment, positions sought, and

future job descriptions, if applicable.

“(3) Written opinion.—Not later than 30 days after receiving a request by an official or former official of the Department of Defense described in subsection (c), the appropriate ethics counselor shall provide such official or former official a written opinion regarding the applicability or inapplicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

“(4) Contractor requirement.—A Department of Defense contractor may not knowingly provide compensation to a former Department of Defense official described in subsection (c) within two years after such former official leaves service in the Department of Defense, without first determining that the former official has sought and received (or has not received after 30 days of seeking) a written opinion from the appropriate ethics counselor regarding the applicability of post-employment restrictions to the activities that the former official is expected to undertake on behalf of the contractor.

“(5) Administrative actions.—In the event that an official or former official of the Department of Defense described in subsection (c), or a Department of Defense contractor, knowingly fails to comply with the requirements of this subsection, the Secretary of Defense may take any of the administrative actions set forth in section 27(e) of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 423(e)) [now 41 U.S.C. 2105] that the Secretary of Defense determines to be appropriate.

“(b) Recordkeeping Requirement.—

“(1) Database.—Each request for a written opinion made pursuant to this section, and each written opinion provided pursuant to such a request, shall be retained by the Department of Defense in a central database or repository for not less than five years beginning on the date on which the written opinion was provided.

“(2) Inspector general review.—The Inspector General of the Department of Defense shall conduct periodic reviews to ensure that written opinions are being provided and retained in accordance with the requirements of this section. The first such review shall be conducted no later than two years after the date of the enactment of this Act [Jan. 28, 2008].

“(c) Covered Department of Defense Officials.—An official or former official of the Department of Defense is covered by the requirements of this section if such official or former official—

“(1) participated personally and substantially in an acquisition as defined in section 4(16) of the Office of Federal Procurement Policy Act [now 41 U.S.C. 131] with a value in excess of \$10,000,000 and serves or served—

“(A) in an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code;

“(B) in a position in the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code; or

“(C) in a general or flag officer position compensated at a rate of pay for grade O–7 or above under section 201 of title 37, United States Code; or

“(2) serves or served as a program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, member of the source selection evaluation board, or chief of a financial or technical evaluation team for a contract in an amount in excess of \$10,000,000.

“(d) Definition.—In this section, the term ‘post-employment restrictions’ includes—

“(1) section 27 of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 423) [now 41 U.S.C. 2101 et seq.];

“(2) section 207 of title 18, United States Code; and

“(3) any other statute or regulation restricting the employment or activities of individuals who leave government service in the Department of Defense.”

## **GOVERNMENT PERFORMANCE OF CRITICAL ACQUISITION FUNCTIONS**

Pub. L. 109–364, div. A, title VIII, §820, Oct. 17, 2006, 120 Stat. 2330, as amended by Pub. L. 111–84, div. A, title VIII, §805(c), Oct. 28, 2009, 123 Stat. 2403; Pub. L. 112–81, div. A, title VIII, §835(a), Dec. 31, 2011, 125 Stat. 1507, which related to government performance of critical acquisition functions, was repealed by Pub. L. 112–239, div. A, title VIII, §824(b), Jan. 2, 2013, 126 Stat. 1833.

## **DEMONSTRATION PROJECT RELATING TO CERTAIN PERSONNEL MANAGEMENT POLICIES AND PROCEDURES**

Pub. L. 104–106, div. D, title XLIII, §4308, Feb. 10, 1996, 110 Stat. 669, as amended by Pub. L. 105–85, div. A, title VIII, §845, Nov. 18, 1997, 111 Stat. 1845; Pub. L. 107–314, div. A, title VIII, §813 (b), Dec. 2, 2002, 116 Stat. 2609; Pub. L. 108–136, div. A, title XI, §1112, Nov. 24, 2003, 117 Stat. 1634, which encouraged the Secretary of Defense to commence a demonstration project relating to improving the personnel management policies or procedures that apply to the acquisition workforce of the Department of Defense and supporting personnel, was repealed and restated as section 1762 of this title by Pub. L. 111–383, div. A, title VIII, §872(a)(1), (b), Jan. 17, 2011, 124 Stat. 4300, 4302.

### EVALUATION BY COMPTROLLER GENERAL

Pub. L. 101–510, div. A, title XII, §1208, Nov. 5, 1990, 104 Stat. 1665, as amended by Pub. L. 102–25, title VII, §704(b)(2), Apr. 6, 1991, 105 Stat. 119; Pub. L. 102–484, div. A, title VIII, §812(g), Oct. 23, 1992, 106 Stat. 2452; Pub. L. 104–106, div. A, title XV, §1502(c)(4)(A), Feb. 10, 1996, 110 Stat. 507, provided for evaluation by Comptroller General of actions taken by Secretary of Defense to carry out requirements of Defense Acquisition Workforce Improvement Act and submission of annual reports to Congress, prior to repeal by Pub. L. 104–66, title I, §1031(b)(1), Dec. 21, 1995, 109 Stat. 714.

### DEADLINES FOR QUALIFICATION REQUIREMENTS

Pub. L. 101–510, div. A, title XII, §1210(b), Nov. 5, 1990, 104 Stat. 1667, provided that: “Not later than October 1, 1992, the Secretary of Defense shall prescribe regulations to implement sections 1723, 1724, and 1732 of title 10, United States Code (as added by section 1202).”

## §1701a. Management for acquisition workforce excellence

(a) Purpose.—The purpose of this chapter is to require the Department of Defense to develop and manage a highly skilled professional acquisition workforce—

- (1) in which excellence and contribution to mission is rewarded;
- (2) which has the technical expertise and business skills to ensure the Department receives the best value for the expenditure of public resources;
- (3) which serves as a model for performance management of employees of the Department; and
- (4) which is managed in a manner that complements and reinforces the management of the defense acquisition system pursuant to chapter 149 of this title.

(b) Performance Management.—In order to achieve the purpose set forth in subsection (a), the Secretary of Defense shall—

- (1) use the full authorities provided in subsections (a) through (d) of section 9902 of title 5, including flexibilities related to performance management and hiring and to training of managers;
- (2) require managers to develop performance plans for individual members of the acquisition workforce in order to give members an understanding of how their performance contributes to their organization's mission and the success of the defense acquisition system (as defined in section 2545 of this title);
- (3) to the extent appropriate, use the lessons learned from the acquisition demonstration project carried out under section 1762 of this title related to contribution-based compensation and appraisal, and how those lessons may be applied within the General Schedule system;
- (4) develop attractive career paths;
- (5) encourage continuing education and training;
- (6) develop appropriate procedures for warnings during performance evaluations for members of the acquisition workforce who consistently fail to meet performance standards;
- (7) take full advantage of the Defense Civilian Leadership Program established under section 1112 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2496; 10 U.S.C. 1580 note prec.);
- (8) use the authorities for highly qualified experts under section 9903 of title 5, to hire experts who are skilled acquisition professionals to—
  - (A) serve in leadership positions within the acquisition workforce to strengthen management and oversight;
  - (B) provide mentors to advise individuals within the acquisition workforce on their career paths and opportunities to advance and excel within the acquisition workforce; and
  - (C) assist with the design of education and training courses and the training of individuals in the acquisition workforce; and

- (9) use the authorities for expedited security clearance processing pursuant to section 1564 of this title.

(c) Negotiations.—Any action taken by the Secretary under this section, or to implement this section, shall be subject to the requirements of chapter 71 of title 5.

(d) Regulations.—Any rules or regulations prescribed pursuant to this section shall be deemed an agency rule

or regulation under section 7117(a)(2) of title 5, and shall not be deemed a Government-wide rule or regulation under section 7117(a)(1) of such title.

(Added Pub. L. 111–383, div. A, title VIII, §871(a), Jan. 7, 2011, 124 Stat. 4299.)

## **§1702. Under Secretary of Defense for Acquisition, Technology, and Logistics: authorities and responsibilities**

Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall carry out all powers, functions, and duties of the Secretary of Defense with respect to the acquisition workforce in the Department of Defense. The Under Secretary shall ensure that the policies of the Secretary of Defense established in accordance with this chapter are implemented throughout the Department of Defense. The Under Secretary shall prescribe policies and requirements for the educational programs of the defense acquisition university structure established under section 1746 of this title.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1638; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 105–261, div. A, title VIII, §815, Oct. 17, 1998, 112 Stat. 2088; Pub. L. 107–107, div. A, title X, §1048(b)(2), (3)(A), Dec. 28, 2001, 115 Stat. 1225.)

### **AMENDMENTS**

**2001**—Pub. L. 107–107 substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology” in section catchline and in text.

**1998**—Pub. L. 105–261 inserted at end “The Under Secretary shall prescribe policies and requirements for the educational programs of the defense acquisition university structure established under section 1746 of this title.”

**1993**—Pub. L. 103–160 substituted “Under Secretary of Defense for Acquisition and Technology” for “Under Secretary of Defense for Acquisition” in section catchline and in text.

### **QUICK-REACTION SPECIAL PROJECTS ACQUISITION TEAM**

Pub. L. 107–314, div. A, title VIII, §807, Dec. 2, 2002, 116 Stat. 2608, provided that:

“(a) Establishment.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall establish a team of highly qualified acquisition professionals who shall be available to advise the Under Secretary on actions that can be taken to expedite the acquisition of urgently needed systems.

“(b) Duties.—The issues on which the team may provide advice shall include the following:

“(1) Industrial base issues, including the limited availability of suppliers.

“(2) Technology development and technology transition issues.

“(3) Issues of acquisition policy, including the length of the acquisition cycle.

“(4) Issues of testing policy and ensuring that weapon systems perform properly in combat situations.

“(5) Issues of procurement policy, including the impact of socio-economic requirements.

“(6) Issues relating to compliance with environmental requirements.”

## **[§1703. Repealed. Pub. L. 108–136, div. A, title VIII, §831(a), Nov. 24, 2003, 117 Stat. 1549]**

Section, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1639; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225, related to Director of Acquisition Education, Training, and Career Development.

## **§1704. Service acquisition executives: authorities and responsibilities**

Subject to the authority, direction, and control of the Secretary of the military department concerned, the service acquisition executive for each military department shall carry out all powers, functions, and duties of the Secretary concerned with respect to the acquisition workforce within the military department concerned and shall ensure that the policies of the Secretary of Defense established in accordance with this chapter are implemented in that department.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1639.)

## §1705. Department of Defense Acquisition Workforce Development Fund

(a) Establishment.—The Secretary of Defense shall establish a fund to be known as the “Department of Defense Acquisition Workforce Development Fund” (in this section referred to as the “Fund”) to provide funds, in addition to other funds that may be available, for the recruitment, training, and retention of acquisition personnel of the Department of Defense.

(b) Purpose.—The purpose of the Fund is to ensure that the Department of Defense acquisition workforce has the capacity, in both personnel and skills, needed to properly perform its mission, provide appropriate oversight of contractor performance, and ensure that the Department receives the best value for the expenditure of public resources.

(c) Management.—The Fund shall be managed by a senior official of the Department of Defense designated by the Under Secretary of Defense for Acquisition, Technology, and Logistics for that purpose, from among persons with an extensive background in management relating to acquisition and personnel.

(d) Elements.—

(1) In general.—The Fund shall consist of amounts as follows:

(A) Amounts credited to the Fund under paragraph (2).

(B) Amounts transferred to the Fund pursuant to paragraph (3).

(C) Any other amounts appropriated to, credited to, or deposited into the Fund by law.

(2) Credits to the fund.—(A) There shall be credited to the Fund an amount equal to the applicable percentage for a fiscal year of all amounts expended by the Department of Defense in such fiscal year for contract services from amounts available for contract services for operation and maintenance.

(B) Subject to paragraph (4), not later than 30 days after the end of the first quarter of each fiscal year, the head of each military department and Defense Agency shall remit to the Secretary of Defense, from amounts available to such military department or Defense Agency, as the case may be, for contract services for operation and maintenance, an amount equal to the applicable percentage for such fiscal year of the amount expended by such military department or Defense Agency, as the case may be, during such fiscal year for services covered by subparagraph (A). Any amount so remitted shall be credited to the Fund under subparagraph (A).

(C) For purposes of this paragraph, the applicable percentage for a fiscal year is the percentage that results in the credit to the Fund in such fiscal year of an amount as follows:

(i) For fiscal year 2013, \$500,000,000.

(ii) For fiscal year 2014, \$800,000,000.

(iii) For fiscal year 2015, \$700,000,000.

(iv) For fiscal year 2016, \$600,000,000.

(v) For fiscal year 2017, \$500,000,000.

(vi) For fiscal year 2018, \$400,000,000.

(D) The Secretary of Defense may reduce an amount specified in subparagraph (C) for a fiscal year if the Secretary determines that the amount is greater than is reasonably needed for purposes of the Fund for such fiscal year. The Secretary may not reduce the amount for a fiscal year to an amount that is less than 80 percent of the amount otherwise specified in subparagraph (C) for such fiscal year.

(3) Transfer of certain unobligated balances.—To the extent provided in appropriations Acts, the Secretary of Defense may, during the 24-month period following the expiration of availability for obligation of any appropriations made to the Department of Defense for procurement, research, development, test, and evaluation, or operation and maintenance, transfer to the Fund any unobligated balance of such appropriations. Any amount so transferred shall be credited to the Fund.

(4) Additional requirements and limitations on remittances.—(A) In the event amounts are transferred to the Fund during a fiscal year pursuant to paragraph (1)(B) or appropriated to the Fund for a fiscal year pursuant to paragraph (1)(C), the aggregate amount otherwise required to be remitted to the Fund for that fiscal year pursuant to paragraph (2)(B) shall be reduced by the amount equal to the amounts so transferred or appropriated to the Fund during or for that fiscal year. Any reduction in the aggregate amount required to be remitted to the Fund for a fiscal year under this subparagraph shall be allocated as provided in applicable provisions of appropriations Acts or, absent such provisions, on a pro rata basis among the military departments and Defense Agencies required to make remittances to the Fund for that fiscal year under paragraph (2)(B), subject to any exclusions the Secretary of Defense determines to be necessary in the best interests of the Department of Defense.

(B) Any remittance of amounts to the Fund for a fiscal year under paragraph (2) shall be subject to the availability of appropriations for that purpose.

(e) Availability of Funds.—

(1) In general.—Subject to the provisions of this subsection, amounts in the Fund shall be available to the Secretary of Defense for expenditure, or for transfer to a military department or Defense Agency, for the recruitment, training, and retention of acquisition personnel of the Department of Defense for the purpose of the

Fund, including for the provision of training and retention incentives to the acquisition workforce of the Department. In the case of temporary members of the acquisition workforce designated pursuant to subsection (h)(2), such funds shall be available only for the limited purpose of providing training in the performance of acquisition-related functions and duties.

(2) Prohibition.—Amounts in the Fund may not be obligated for any purpose other than purposes described in paragraph (1) or otherwise in accordance with this subsection.

(3) Guidance.—The Under Secretary of Defense for Acquisition, Technology, and Logistics, acting through the senior official designated to manage the Fund, shall issue guidance for the administration of the Fund. Such guidance shall include provisions—

(A) identifying areas of need in the acquisition workforce for which amounts in the Fund may be used, including—

- (i) changes to the types of skills needed in the acquisition workforce;
- (ii) incentives to retain in the acquisition workforce qualified, experienced acquisition workforce personnel; and
- (iii) incentives for attracting new, high-quality personnel to the acquisition workforce;

(B) describing the manner and timing for applications for amounts in the Fund to be submitted;

(C) describing the evaluation criteria to be used for approving or prioritizing applications for amounts in the Fund in any fiscal year; and

(D) describing measurable objectives of performance for determining whether amounts in the Fund are being used in compliance with this section.

(4) Limitation on payments to or for contractors.—Amounts in the Fund shall not be available for payments to contractors or contractor employees, other than for the purpose of providing advanced training to Department of Defense employees.

(5) Prohibition on payment of base salary of current employees.—Amounts in the Fund may not be used to pay the base salary of any person who was an employee of the Department serving in a position in the acquisition workforce as of January 28, 2008, and who has continued in the employment of the Department since such time without a break in such employment of more than a year.

(6) Duration of availability.—Amounts credited to the Fund in accordance with subsection (d)(2), transferred to the Fund pursuant to subsection (d)(3), appropriated to the Fund, or deposited to the Fund shall remain available for obligation in the fiscal year for which credited, transferred, appropriated, or deposited and the two succeeding fiscal years.

(f) Annual Report.—Not later than 60 days after the end of each fiscal year, the Secretary of Defense shall submit to the congressional defense committees a report on the operation of the Fund during such fiscal year. Each report shall include, for the fiscal year covered by such report, the following:

(1) A statement of the amounts remitted to the Secretary for crediting to the Fund for such fiscal year by each military department and Defense Agency, and a statement of the amounts credited to the Fund for such fiscal year.

(2) A description of the expenditures made from the Fund (including expenditures following a transfer of amounts in the Fund to a military department or Defense Agency) in such fiscal year, including the purpose of such expenditures.

(3) A description and assessment of improvements in the Department of Defense acquisition workforce resulting from such expenditures.

(4) Recommendations for additional authorities to fulfill the purpose of the Fund.

(5) A statement of the balance remaining in the Fund at the end of such fiscal year.

(g) Expedited Hiring Authority.—

(1) For purposes of sections 3304, 5333, and 5753 of title 5, the Secretary of Defense may—

(A) designate any category of acquisition workforce positions as positions for which there exists a shortage of candidates or there is a critical hiring need; and

(B) utilize the authorities in such sections to recruit and appoint qualified persons directly to positions so designated.

(2) The Secretary may not appoint a person to a position of employment under this subsection after September 30, 2017.

(h) Acquisition Workforce Defined.—In this section, the term “acquisition workforce” means the following:

(1) Personnel in positions designated under section 1721 of this title as acquisition positions for purposes of this chapter.

(2) Other military personnel or civilian employees of the Department of Defense who—

(A) contribute significantly to the acquisition process by virtue of their assigned duties; and

(B) are designated as temporary members of the acquisition workforce by the Under Secretary of Defense for Acquisition, Technology, and Logistics, or by the senior acquisition executive of a military department, for the limited purpose of receiving training for the performance of acquisition-related functions and duties.

(Added Pub. L. 110–181, div. A, title VIII, §852(a)(1), Jan. 28, 2008, 122 Stat. 248; amended Pub. L. 110–417, [div. A], title VIII, §833, Oct. 14, 2008, 122 Stat. 4535; Pub. L. 111–84, div. A, title VIII, §§831, 832(a)–(g), Oct. 28, 2009, 123 Stat. 2414, 2415; Pub. L. 112–81, div. A, title VIII, §804(a), Dec. 31, 2011, 125 Stat. 1486; Pub. L. 112–239, div. A, title VIII, §803(a), (b), Jan. 2, 2013, 126 Stat. 1825.)

## PRIOR PROVISIONS

A prior section 1705, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1639, related to Directors of Acquisition Career Management in the military departments, prior to repeal by Pub. L. 108–136, div. A, title VIII, §831(a), Nov. 24, 2003, 117 Stat. 1549.

## AMENDMENTS

**2013**—Subsec. (d)(2)(C). Pub. L. 112–239, §803(a)(1), added cls. (i) to (vi) and struck out former cls. (i) to (vi) which established applicable amounts for fiscal years 2010 to 2015.

Subsec. (e)(1). Pub. L. 112–239, §803(a)(2)(A), inserted at end “In the case of temporary members of the acquisition workforce designated pursuant to subsection (h)(2), such funds shall be available only for the limited purpose of providing training in the performance of acquisition-related functions and duties.”

Subsec. (e)(5). Pub. L. 112–239, §803(a)(2)(B), inserted before period at end “, and who has continued in the employment of the Department since such time without a break in such employment of more than a year”.

Subsec. (g). Pub. L. 112–239, §803(a)(3), (4), struck out subsec. (g) which defined “acquisition workforce” and redesignated subsec. (h) as (g).

Subsec. (g)(2). Pub. L. 112–239, §803(b), substituted “September 30, 2017” for “September 30, 2015”.

Subsec. (h). Pub. L. 112–239, §803(a)(5), added subsec. (h). Former subsec. (h) redesignated (g).

**2011**—Subsec. (e)(6). Pub. L. 112–81 amended par. (6) generally. Prior to amendment, text read as follows: “Amounts credited to the Fund under subsection (d)(2) shall remain available for expenditure in the fiscal year for which credited and the two succeeding fiscal years.”

**2009**—Subsec. (a). Pub. L. 111–84, §832(g)(1), inserted “Development” after “Workforce”.

Subsec. (d)(1)(B), (C). Pub. L. 111–84, §832(a)(1), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (d)(2)(A). Pub. L. 111–84, §832(b), substituted “from amounts available for contract services for operation and maintenance.” for “, other than services relating to research and development and services relating to military construction.”

Subsec. (d)(2)(B). Pub. L. 111–84, §832(d)(1), (2)(A), substituted “Subject to paragraph (4), not later than” for “Not later than” and “the first quarter of each fiscal year” for “the third fiscal year quarter of fiscal year 2008, and 30 days after the end of each fiscal year quarter thereafter” and struck out “quarter” before “for services”.

Pub. L. 111–84, §832(c), inserted “, from amounts available to such military department or Defense Agency, as the case may be, for contract services for operation and maintenance,” after “remit to the Secretary of Defense”.

Subsec. (d)(2)(C), (D). Pub. L. 111–84, §832(e), added subpars. (C) and (D) and struck out former subpars. (C) and (D), which established applicable percentages for fiscal years 2008 to 2010 and thereafter and authorized the Secretary of Defense to reduce such percentages under certain circumstances and to a certain limit.

Subsec. (d)(3). Pub. L. 111–84, §832(a)(2), added par. (3).

Subsec. (d)(4). Pub. L. 111–84, §832(d)(2)(B), added par. (4).

Subsec. (e)(5). Pub. L. 111–84, §832(f), substituted “serving in a position in the acquisition workforce as of January 28, 2008” for “as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008”.

Subsec. (f). Pub. L. 111–84, §832(g)(2), struck out “beginning with fiscal year 2008” after “each fiscal year” in introductory provisions.

Subsec. (h)(1). Pub. L. 111–84, §831(c), struck out “United States Code,” after “title 5,” in introductory provisions.

Subsec. (h)(1)(A). Pub. L. 111–84, §831(a)(1), substituted “acquisition workforce positions as positions for which there exists a shortage of candidates or there is a critical hiring need” for “acquisition positions within the Department of Defense as shortage category positions”.

Subsec. (h)(1)(B). Pub. L. 111–84, §831(a)(2), struck out “highly” after “appoint”.

Subsec. (h)(2). Pub. L. 111–84, §831(b), substituted “September 30, 2015” for “September 30,



2012”.

**2008**—Subsec. (h). Pub. L. 110–417 added subsec. (h).

### **EFFECTIVE DATE OF 2011 AMENDMENT**

Pub. L. 112–81, div. A, title VIII, §804(b), Dec. 31, 2011, 125 Stat. 1486, provided that: “Paragraph (6) of such section [10 U.S.C. 1705(e)(6)], as amended by subsection (a), shall not apply to funds directly appropriated to the Fund before the date of the enactment of this Act [Dec. 31, 2011].”

### **EFFECTIVE DATE OF 2009 AMENDMENT**

Pub. L. 111–84, div. A, title VIII, §832(h), Oct. 28, 2009, 123 Stat. 2416, provided that:

“(1) Funding amendments.—The amendments made by subsections (a) through (c) [amending this section] shall take effect as of October 1, 2009.

“(2) Technical amendments.—The amendments made by subsections (f) and (g) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 28, 2009].”

### **EFFECTIVE DATE**

Pub. L. 110–181, div. A, title VIII, §852(b), Jan. 28, 2008, 122 Stat. 250, provided that: “Section 1705 of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act [Jan. 28, 2008].”

### **PLAN REQUIRED FOR TEMPORARY MEMBERS OF DEFENSE ACQUISITION WORKFORCE**

Pub. L. 112–239, div. A, title VIII, §803(c), Jan. 2, 2013, 126 Stat. 1825, provided that: “Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Under Secretary of Defense for Acquisition, Technology, and Logistics shall develop a plan for the implementation of the authority provided by the amendments made by subsection (a) [amending this section] with regard to temporary members of the defense acquisition workforce. The plan shall include policy, criteria, and processes for designating temporary members and appropriate safeguards to prevent the abuse of such authority.”

## **§1706. Government performance of certain acquisition functions**

(a) Goal.—It shall be the goal of the Department of Defense and each of the military departments to ensure that, for each major defense acquisition program and each major automated information system program, each of the following positions is performed by a properly qualified member of the armed forces or full-time employee of the Department of Defense:

- (1) Program executive officer.
- (2) Deputy program executive officer.
- (3) Program manager.
- (4) Deputy program manager.
- (5) Senior contracting official.
- (6) Chief developmental tester.
- (7) Program lead product support manager.
- (8) Program lead systems engineer.
- (9) Program lead cost estimator.
- (10) Program lead contracting officer.
- (11) Program lead business financial manager.
- (12) Program lead production, quality, and manufacturing.
- (13) Program lead information technology.

(b) Plan of Action.—The Secretary of Defense shall develop and implement a plan of action for recruiting, training, and ensuring appropriate career development of military and civilian personnel to achieve the objective established in subsection (a).

(c) Definitions.—In this section:

(1) The term “major defense acquisition program” has the meaning given such term in section 2430(a) of this title.

(2) The term “major automated information system program” has the meaning given such term in section 2445a(a) of this title.

(Added Pub. L. 112–239, div. A, title VIII, §824(a)(1), Jan. 2, 2013, 126 Stat. 1832.)

### **PRIOR PROVISIONS**

A prior section 1706, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat.

1639, which related to acquisition career program boards, was repealed by Pub. L. 108–136, div. A, title VIII, §831(a), Nov. 24, 2003, 117 Stat. 1549.

### SIMILAR PROVISIONS

Provisions similar to this section were contained in section 820 of Pub. L. 109–364, which was set out as a note under section 1701 of this title prior to repeal by Pub. L. 112–239, div. A, title VIII, §824 (b), Jan. 2, 2013, 126 Stat. 1833.

### **[§1707. Repealed. Pub. L. 108–136, div. A, title VIII, §831(a), Nov. 24, 2003, 117 Stat. 1549]**

Section 1707, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1639; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225, related to personnel in the Office of the Secretary of Defense and in the Defense Agencies.

### SUBCHAPTER II—DEFENSE ACQUISITION POSITIONS

Sec.	
1721.	Designation of acquisition positions.
1722.	Career development.
1722a.	Special requirements for military personnel in the acquisition field.
1722b.	Special requirements for civilian employees in the acquisition field.
1723.	General education, training, and experience requirements.
1724.	Contracting positions: qualification requirements.
[1725.	Repealed.]

### AMENDMENTS

**2011**—Pub. L. 111–383, div. A, title VIII, §873(a)(2), Jan. 7, 2011, 124 Stat. 4303, added item 1722b.

**2009**—Pub. L. 111–84, div. A, title X, §1073(c)(6), Oct. 28, 2009, 123 Stat. 2474, amended Pub. L. 110–417, §834(a)(2). See 2008 Amendment note below.

**2008**—Pub. L. 110–417, [div. A], title VIII, §834(a)(2), Oct. 14, 2008, 122 Stat. 4537, as amended by Pub. L. 111–84, div. A, title X, §1073(c)(6), Oct. 28, 2009, 123 Stat. 2474, added item 1722a.

**2003**—Pub. L. 108–136, div. A, title VIII, §836(2), Nov. 24, 2003, 117 Stat. 1551, struck out item 1725 “Office of Personnel Management approval”.

### **§1721. Designation of acquisition positions**

(a) Designation.—The Secretary of Defense shall designate in regulations those positions in the Department of Defense that are acquisition positions for purposes of this chapter.

(b) Required Positions.—In designating the positions under subsection (a), the Secretary shall include, at a minimum, all acquisition-related positions in the following areas:

- (1) Program management.
- (2) Systems planning, research, development, engineering, and testing.
- (3) Procurement, including contracting.
- (4) Industrial property management.
- (5) Logistics.
- (6) Quality control and assurance.
- (7) Manufacturing and production.
- (8) Business, cost estimating, financial management, and auditing.
- (9) Education, training, and career development.
- (10) Construction.
- (11) Joint development and production with other government agencies and foreign countries.

(c) Management Headquarters Activities.—The Secretary also shall designate as acquisition positions under subsection (a) those acquisition-related positions which are in management headquarters activities and in management headquarters support activities. For purposes of this subsection, the terms “management headquarters activities” and “management headquarters support activities” have the meanings given those terms

in Department of Defense Directive 5100.73, entitled "Department of Defense Management Headquarters and Headquarters Support Activities", dated November 12, 1996.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1640; amended Pub. L. 102–25, title VII, §701(j)(1), Apr. 6, 1991, 105 Stat. 116; Pub. L. 105–85, div. A, title IX, §912(f), Nov. 18, 1997, 111 Stat. 1862.)

## AMENDMENTS

**1997**—Subsec. (c). Pub. L. 105–85 substituted "November 12, 1996" for "November 25, 1988".

**1991**—Subsec. (c). Pub. L. 102–25 substituted "Activities', dated" for "Activities,' dated" in last sentence.

## TWENTY PERCENT REDUCTION IN DEFENSE ACQUISITION WORKFORCE

Pub. L. 101–510, div. A, title IX, §905, Nov. 5, 1990, 104 Stat. 1621, required Secretary of Defense to reduce number of employees in Department of Defense acquisition workforce on last day of each of fiscal years 1991 through 1995 below number of employees in such workforce on last day of preceding fiscal year by not less than number equal to 4 percent of number of employees in such workforce on Sept. 30, 1990, and which defined "Department of Defense acquisition workforce", prior to repeal by Pub. L. 102–190, div. A, title IX, §904, Dec. 5, 1991, 105 Stat. 1451.

## DEADLINE FOR DESIGNATION OF ACQUISITION POSITIONS

Pub. L. 101–510, div. A, title XII, §1209(b), Nov. 5, 1990, 104 Stat. 1666, as amended by Pub. L. 102–25, title VII, §704(b)(3)(B), 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 designation of acquisition positions required by this section was to be made by the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Technology, not later than Oct. 1, 1991.

## §1722. Career development

(a) Career Paths.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall ensure that appropriate career paths for civilian and military personnel who wish to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression of civilians and members of the armed forces to the most senior acquisition positions. The Secretary shall make available published information on such career paths.

(b) Limitation on Preference for Military Personnel.—(1) The Secretary of Defense shall ensure that no requirement or preference for a member of the armed forces is used in the consideration of persons for acquisition positions, except as provided in the policy established under paragraph (2).

(2)(A) The Secretary shall establish a policy permitting a particular acquisition position to be specified as available only to members of the armed forces if a determination is made, under criteria specified in the policy, that a member of the armed forces is required for that position by law, is essential for performance of the duties of the position, or is necessary for another compelling reason.

(B) Not later than December 15 of each year, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the Secretary a report that lists each acquisition position that is restricted to members of the armed forces under such policy and the recommendation of the Under Secretary as to whether such position should remain so restricted.

(c) Opportunities for Civilians To Qualify.—The Secretary of Defense shall ensure that civilian personnel are provided the opportunity to acquire the education, training, and experience necessary to qualify for senior acquisition positions.

(d) Best Qualified.—The Secretary of Defense shall ensure that the policies established under this chapter are designed to provide for the selection of the best qualified individual for a position, consistent with other applicable law.

[(e) Repealed. Pub. L. 107–107, div. A, title X, §1048(e)(3), Dec. 28, 2001, 115 Stat. 1227.]

(f) Assignments Policy.—(1) The Secretary of Defense shall establish a policy on assigning military personnel to acquisition positions that provides for a balance between (A) the need for personnel to serve in career broadening positions, and (B) the need for requiring service in each such position for sufficient time to provide the stability necessary to effectively carry out the duties of the position and to allow for the establishment of responsibility and accountability for actions taken in the position.

(2) In implementing the policy established under paragraph (1), the Secretaries of the military departments shall provide, as appropriate, for longer lengths of assignments to acquisition positions than assignments to other positions.

(g) Performance Appraisals.—The Secretary of each military department, acting through the service acquisition executive for that department, shall provide an opportunity for review and inclusion of any comments on any appraisal of the performance of a person serving in an acquisition position by a person serving in an acquisition

position in the same acquisition career field.

(h) **Balanced Workforce Policy.**—In the development of defense acquisition workforce policies under this chapter with respect to any civilian employees or applicants for employment, the Secretary of Defense or the Secretary of a military department (as applicable) shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1641; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, §1048(b)(2), (e)(3), Dec. 28, 2001, 115 Stat. 1225, 1227.)

## AMENDMENTS

**2001**—Subsecs. (a), (b)(2)(B). Pub. L. 107–107, §1048(b)(2), substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology”.

Subsec. (e). Pub. L. 107–107, §1048(e)(3), struck out heading and text of subsec. (e). Text read as follows: “The Secretary of Defense shall ensure that the acquisition workforce is managed such that, for each fiscal year from October 1, 1991, through September 30, 1996, there is a substantial increase in the proportion of civilians (as compared to armed forces personnel) serving in critical acquisition positions in general, in program manager positions, and in division head positions over the proportion of civilians (as compared to armed forces personnel) in such positions on October 1, 1990.”

**1993**—Subsecs. (a), (b)(2)(B). Pub. L. 103–160 substituted “Under Secretary of Defense for Acquisition and Technology” for “Under Secretary of Defense for Acquisition”.

## MILITARY POSITIONS AND ASSIGNMENTS POLICY DEADLINES

Pub. L. 101–510, div. A, title XII, §1209(c), (d), Nov. 5, 1990, 104 Stat. 1666, provided that:  
“(c) **Military Positions Policy Deadlines.**—(1) The policy required by paragraph (2) of section 1722 (b) of title 10, United States Code (as added by section 1202), shall be established by the Secretary of Defense not later than October 1, 1991.

“(2) The first report required by section 1722(b)(2)(B) of title 10, United States Code (as added by section 1202), shall be submitted to the Secretary of Defense not later than September 30, 1993.

“(d) **Assignments Policy Deadline.**—Not later than October 1, 1991, the Secretary of Defense shall establish, and require commencement of implementation of, an assignments policy pursuant to section 1722(f) of title 10, United States Code (as added by section 1202).”

## **§1722a. Special requirements for military personnel in the acquisition field**

(a) **Requirement for Policy and Guidance Regarding Military Personnel in Acquisition.**—The Secretary of Defense shall require the Secretary of each military department (with respect to such military department) and the Under Secretary of Defense for Acquisition, Technology, and Logistics (with respect to the Office of the Secretary of Defense, the unified combatant commands, the Defense Agencies, and the Defense Field Activities) to establish policies and issue guidance to ensure the proper development, assignment, and employment of members of the armed forces in the acquisition field to achieve the objectives of this section as specified in subsection (b).

(b) **Objectives.**—Policies established and guidance issued pursuant to subsection (a) shall ensure, at a minimum, the following:

(1) A career path in the acquisition field that attracts the highest quality officers and enlisted personnel.

(2) A number of command positions and senior noncommissioned officer positions, including acquisition billets reserved for general officers and flag officers under subsection (c), sufficient to ensure that members of the armed forces have opportunities for promotion and advancement in the acquisition field.

(3) A number of qualified, trained members of the armed forces eligible for and active in the acquisition field sufficient to ensure the optimum management of the acquisition functions of the Department of Defense and the appropriate use of military personnel in contingency contracting.

(c) **Reservation of Acquisition Billets for General Officers and Flag Officers.**—(1) The Secretary of Defense shall—

(A) establish for each military department a sufficient number of billets coded or classified for acquisition personnel that are reserved for general officers and flag officers that are needed for the purpose of ensuring the optimum management of the acquisition functions of the Department of Defense; and

(B) ensure that the policies established and guidance issued pursuant to subsection (a) by the Secretary of each military department reserve at least that minimum number of billets and fill the billets with qualified and

trained general officers and flag officers who have significant acquisition experience.

(2) The Secretary of Defense shall ensure—

(A) a sufficient number of billets for acquisition personnel who are general officers or flag officers exist within the Office of the Secretary of Defense, the unified combatant commands, the Defense Agencies, and the Defense Field Activities to ensure the optimum management of the acquisition functions of the Department of Defense; and

(B) that the policies established and guidance issued pursuant to subsection (a) by the Secretary reserve within the Office of the Secretary of Defense, the unified combatant commands, the Defense Agencies, and the Defense Field Activities at least that minimum number of billets and fill the billets with qualified and trained general officers and flag officers who have significant acquisition experience.

(3) The Secretary of Defense shall ensure that a portion of the billets referred to in paragraphs (1) and (2) involve command of organizations primarily focused on contracting and are reserved for general officers and flag officers who have significant contracting experience.

(d) Relationship to Limitation on Preference for Military Personnel.—Any designation or reservation of a position for a member of the armed forces as a result of a policy established or guidance issued pursuant to this section shall be deemed to meet the requirements for an exception under paragraph (2) of section 1722(b) of this title from the limitation in paragraph (1) of such section.

(e) Report.—Not later than January 1 of each year, the Secretary of each military department shall submit to the Under Secretary of Defense for Acquisition, Technology, and Logistics a report describing how the Secretary fulfilled the objectives of this section in the preceding calendar year. The report shall include information on the reservation of acquisition billets for general officers and flag officers within the department concerned.

(Added Pub. L. 110–417, [div. A], title VIII, §834(a)(1), Oct. 14, 2008, 122 Stat. 4535.)

## **§1722b. Special requirements for civilian employees in the acquisition field**

(a) Requirement for Policy and Guidance Regarding Civilian Personnel in Acquisition.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall establish policies and issue guidance to ensure the proper development, assignment, and employment of civilian members of the acquisition workforce to achieve the objectives specified in subsection (b).

(b) Objectives.—Policies established and guidance issued pursuant to subsection (a) shall ensure, at a minimum, the following:

(1) A career path in the acquisition field that attracts the highest quality civilian personnel, from either within or outside the Federal Government.

(2) A deliberate workforce development strategy that increases attainment of key experiences that contribute to a highly qualified acquisition workforce.

(3) Sufficient opportunities for promotion and advancement in the acquisition field.

(4) A sufficient number of qualified, trained members eligible for and active in the acquisition field to ensure adequate capacity, capability, and effective succession for acquisition functions, including contingency contracting, of the Department of Defense.

(5) A deliberate workforce development strategy that ensures diversity in promotion, advancement, and experiential opportunities commensurate with the general workforce outlined in this section.

(c) Inclusion of Information in Annual Report.—The Secretary of Defense shall include in the report to Congress required under section 115b(d) of this title the following information related to the acquisition workforce for the period covered by the report (which shall be shown for the Department of Defense as a whole and separately for the Army, Navy, Air Force, Marine Corps, Defense Agencies, and Office of the Secretary of Defense):

(1) The total number of persons serving in the Acquisition Corps, set forth separately for members of the armed forces and civilian employees, by grade level and by functional specialty.

(2) The total number of critical acquisition positions held, set forth separately for members of the armed forces and civilian employees, by grade level and by other appropriate categories (including by program manager, deputy program manager, and division head positions), including average length of time served in each position. For each such category, the report shall specify the number of civilians holding such positions compared to the total number of positions filled.

(3) The number of employees to whom the requirements of subsections (b)(1)(A) and (b)(1)(B) of section 1732 of this title did not apply because of the exceptions provided in paragraphs (1) and (2) of section 1732(c) of this title, set forth separately by type of exception.

(4) The number of times a waiver authority was exercised under section 1724(d), 1732(d), or 1734(d) of this title or any other provision of this chapter (or other provision of law) which permits the waiver of any requirement relating to the acquisition workforce, and in the case of each such authority, the reasons for exercising the authority. The Secretary may present the information provided under this paragraph by category or grouping of types of waivers and reasons.

(Added Pub. L. 111–383, div. A, title VIII, §873(a)(1), Jan. 7, 2011, 124 Stat. 4302; amended Pub. L. 112–239, div. A, title X, §1076(d)(1), Jan. 2, 2013, 126 Stat. 1951.)

## AMENDMENTS

**2013**—Subsec. (c)(3). Pub. L. 112–239, §1076(d)(1)(A), substituted “subsections (b)(1)(A) and (b)(1)(B)” for “subsections (b)(2)(A) and (b)(2)(B)”.

Subsec. (c)(4). Pub. L. 112–239, §1076(d)(1)(B), substituted “or 1734(d)” for “1734(d), or 1736(c)”.

### §1723. General education, training, and experience requirements

(a) **Qualification Requirements.**—(1) The Secretary of Defense shall establish education, training, and experience requirements for each acquisition position, based on the level of complexity of duties carried out in the position. In establishing such requirements, the Secretary shall ensure the availability and sufficiency of training in all areas of acquisition, including additional training courses with an emphasis on services contracting, market research strategies (including assessments of local contracting capabilities), long-term sustainment strategies, information technology, and rapid acquisition.

(2) In establishing such requirements for positions other than critical acquisition positions designated pursuant to section 1733 of this title, the Secretary may state the requirements by categories of positions.

(3) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall establish requirements for continuing education and periodic renewal of an individual's certification. Any requirement for a certification renewal shall not require a renewal more often than once every five years.

(b) **Career Path Requirements.**—For each career path, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall establish requirements for the completion of course work and related on-the-job training and demonstration of qualifications in the critical acquisition-related duties and tasks of the career path. The Secretary of Defense, acting through the Under Secretary, shall also—

(1) encourage individuals in the acquisition workforce to maintain the currency of their acquisition knowledge and generally enhance their knowledge of related acquisition management disciplines through academic programs and other self-developmental activities; and

(2) develop key work experiences, including the creation of a program sponsored by the Department of Defense that facilitates the periodic interaction between individuals in the acquisition workforce and the end user in such end user's environment to enhance the knowledge base of such workforce, for individuals in the acquisition workforce so that the individuals may gain in-depth knowledge and experience in the acquisition process and become seasoned, well-qualified members of the acquisition workforce.

(c) **Limitation on Credit for Training or Education.**—Not more than one year of a period of time spent pursuing a program of academic training or education in acquisition may be counted toward fulfilling any requirement established under this chapter for a certain period of experience.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1642; amended Pub. L. 104–201, div. A, title X, §1074(a)(9)(A), Sept. 23, 1996, 110 Stat. 2659; Pub. L. 111–383, div. A, title VIII, §§873(b), 874(a), Jan. 7, 2011, 124 Stat. 4303, 4304.)

## AMENDMENTS

**2011**—Subsec. (a). Pub. L. 111–383, §874(a), amended subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary of Defense shall establish education, training, and experience requirements for each acquisition position, based on the level of complexity of duties carried out in the position. In establishing such requirements for positions other than critical acquisition positions designated pursuant to section 1733 of this title, the Secretary may state the requirements by categories of positions.”

Subsecs. (b), (c). Pub. L. 111–383, §873(b), added subsec. (b) and redesignated former subsec. (b) as (c).

**1996**—Subsec. (a). Pub. L. 104–201 struck out “Unless otherwise provided in this chapter, such requirements shall take effect not later than October 1, 1993.” after first sentence.

### INFORMATION TECHNOLOGY ACQUISITION WORKFORCE

Pub. L. 111–383, div. A, title VIII, §875, Jan. 7, 2011, 124 Stat. 4305, provided that:

“(a) **Plan Required.**—The Secretary of Defense shall develop and carry out a plan to strengthen the part of the acquisition workforce that specializes in information technology. The plan shall include the following:

“(1) Defined targets for billets devoted to information technology acquisition.

“(2) Specific certification requirements for individuals in the acquisition workforce who specialize in information technology acquisition.

“(3) Defined career paths for individuals in the acquisition workforce who specialize in

information technology acquisitions.

“(b) Definitions.—In this section:

“(1) The term ‘information technology’ has the meaning provided such term in section 11101 of title 40, United States Code, and includes information technology incorporated into a major weapon system.

“(2) The term ‘major weapon system’ has the meaning provided such term in section 2379(f) of title 10, United States Code.

“(c) Deadline.—The Secretary of Defense shall develop the plan required under this section not later than 270 days after the date of the enactment of this Act [Jan. 7, 2011].”

## **GUIDANCE AND STANDARDS FOR DEFENSE ACQUISITION WORKFORCE TRAINING REQUIREMENTS**

Pub. L. 105–85, div. A, title VIII, §853, Nov. 18, 1997, 111 Stat. 1851, which related to guidance and standards for defense acquisition workforce training requirements, was repealed and restated as section 1748 of this title by Pub. L. 111–383, div. A, title VIII, §874(b)(1), (4), Jan. 7, 2011, 124 Stat. 4304, 4305.

## **FULFILLMENT STANDARDS FOR MANDATORY TRAINING**

Pub. L. 102–484, div. A, title VIII, §812(c), Oct. 23, 1992, 106 Stat. 2451, as amended by Pub. L. 105–85, div. A, title X, §1073(d)(2)(A), Nov. 18, 1997, 111 Stat. 1905, provided that the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Technology, was to develop, not later than 90 days after Oct. 23, 1992, fulfillment standards, and implement a program, for purposes of the training requirements of sections 1723, 1724, and 1735 of this title, and that the standards were to take effect as of Nov. 5, 1990, and cease to be in effect on Oct. 1, 1997.

### **§1724. Contracting positions: qualification requirements**

(a) Contracting Officers.—The Secretary of Defense shall require that, in order to qualify to serve in an acquisition position as a contracting officer with authority to award or administer contracts for amounts above the simplified acquisition threshold referred to in section 2304(g) of this title, an employee of the Department of Defense or member of the armed forces (other than the Coast Guard) must, except as provided in subsections (c) and (d)—

(1) have completed all contracting courses required for a contracting officer (A) in the case of an employee, serving in the position within the grade of the General Schedule in which the employee is serving, and (B) in the case of a member of the armed forces, in the member's grade;

(2) have at least two years of experience in a contracting position;

(3)(A) have received a baccalaureate degree from an accredited educational institution authorized to grant baccalaureate degrees, and (B) have completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education in any of the following disciplines: accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management; and

(4) meet such additional requirements, based on the dollar value and complexity of the contracts awarded or administered in the position, as may be established by the Secretary of Defense for the position.

(b) GS–1102 Series Positions and Similar Military Positions.—(1) The Secretary of Defense shall require that in order to qualify to serve in a position in the Department of Defense that is in the GS–1102 occupational series an employee or potential employee of the Department of Defense meet the requirements set forth in paragraph (3) of subsection (a). The Secretary may not require that in order to serve in such a position an employee or potential employee meet any of the requirements of paragraphs (1) and (2) of that subsection.

(2) The Secretary of Defense shall require that in order for a member of the armed forces to be selected for an occupational specialty within the armed forces that (as determined by the Secretary) is similar to the GS–1102 occupational series a member of the armed forces meet the requirements set forth in paragraph (3) of subsection (a). The Secretary may not require that in order to be selected for such an occupational specialty a member meet any of the requirements of paragraphs (1) and (2) of that subsection.

(c) Exceptions.—The qualification requirements imposed by the Secretary of Defense pursuant to subsections (a) and (b) shall not apply to an employee of the Department of Defense or member of the armed forces who—

(1) served as a contracting officer with authority to award or administer contracts in excess of the simplified acquisition threshold on or before September 30, 2000;

(2) served, on or before September 30, 2000, in a position either as an employee in the GS–1102 series or as a member of the armed forces in a similar occupational specialty;

(3) is in the contingency contracting force; or

(4) is described in subsection (e)(1)(B).

(d) Waiver.—The Secretary of Defense may waive any or all of the requirements of subsections (a) and (b) with respect to an employee of the Department of Defense or member of the armed forces if the Secretary determines that the individual possesses significant potential for advancement to levels of greater responsibility and authority, based on demonstrated job performance and qualifying experience. With respect to each waiver granted under this subsection, the Secretary shall set forth in a written document the rationale for the decision of the Secretary to waive such requirements.

(e) Developmental Opportunities.—(1) The Secretary of Defense may—

(A) establish or continue one or more programs for the purpose of recruiting, selecting, appointing, educating, qualifying, and developing the careers of individuals to meet the requirements in subparagraphs (A) and (B) of subsection (a)(3);

(B) appoint individuals to developmental positions in those programs; and

(C) separate from the civil service after a three-year probationary period any individual appointed under this subsection who fails to meet the requirements described in subsection (a)(3).

(2) To qualify for any developmental program described in paragraph (1)(B), an individual shall have—

(A) been awarded a baccalaureate degree, with a grade point average of at least 3.0 (or the equivalent), from an accredited institution of higher education authorized to grant baccalaureate degrees; or

(B) completed at least 24 semester credit hours or the equivalent of study from an accredited institution of higher education in any of the disciplines of accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, or organization and management.

(f) Contingency Contracting Force.—The Secretary shall establish qualification requirements for the contingency contracting force consisting of members of the armed forces whose mission is to deploy in support of contingency operations and other operations of the Department of Defense, including—

(1) completion of at least 24 semester credit hours or the equivalent of study from an accredited institution of higher education or similar educational institution in any of the disciplines of accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, or organization and management; or

(2) passing an examination that demonstrates skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours or the equivalent of study in any of the disciplines described in paragraph (1).

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1642; amended Pub. L. 103–35, title I, §101, May 31, 1993, 107 Stat. 97; Pub. L. 104–201, div. A, title X, §1074(a)(9)(B), Sept. 23, 1996, 110 Stat. 2659; Pub. L. 106–398, §1 [[div. A], title VIII, §808(a)–(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–208; Pub. L. 107–107, div. A, title VIII, §824(a), Dec. 28, 2001, 115 Stat. 1183; Pub. L. 108–136, div. A, title VIII, §831(b)(1), Nov. 24, 2003, 117 Stat. 1549; Pub. L. 108–375, div. A, title X, §1084(d)(14), (h)(1), Oct. 28, 2004, 118 Stat. 2062, 2064.)

## REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a)(1)(A), is set out under section 5332 of Title 5, Government Organization and Employees.

## AMENDMENTS

**2004**—Subsec. (a)(3)(B). Pub. L. 108–375, §1084(h)(1), amended directory language of Pub. L. 107–107, §824(a)(1)(C). See 2001 Amendment note below.

Subsec. (d). Pub. L. 108–375, §1084(d)(14), substituted “the decision of the Secretary” for “its decision” before “to waive such requirements”.

**2003**—Subsec. (d). Pub. L. 108–136 substituted “The Secretary of Defense may waive any or all of the requirements of subsections (a) and (b) with respect to an employee of the Department of Defense or member of the armed forces if the Secretary determines” for “The acquisition career program board concerned may waive any or all of the requirements of subsections (a) and (b) with respect to an employee of the Department of Defense or member of the armed forces if the board certifies” in first sentence and “the Secretary” for “the board” in second sentence, and struck out third sentence which read “Such document shall be submitted to and retained by the Director of Acquisition Education, Training, and Career Development.”

**2001**—Subsec. (a). Pub. L. 107–107, §824(a)(1)(A), reenacted heading without change and substituted introductory provisions for provisions which read “The Secretary of Defense shall require that in order to qualify to serve in an acquisition position as a contracting officer with authority to award or administer contracts for amounts above the simplified acquisition threshold referred to in section 2304(g) of this title, a person must—”.

Subsec. (a)(1). Pub. L. 107–107, §824(a)(1)(B), struck out “mandatory” before “contracting courses” and substituted cls. (A) and (B) for “at the grade level, or in the position within the grade of the General Schedule (in the case of an employee), that the person is serving in;”.



Subsec. (a)(3)(B). Pub. L. 107–107, §824(a)(1)(C), as amended by Pub. L. 108–375, §1084(h)(1), inserted comma after “business”.

Subsec. (b). Pub. L. 107–107, §824(a)(2), added subsec. (b) and struck out former subsec. (b) which read as follows:

“(b) GS–1102 Series Positions and Similar Military Positions.—The Secretary of Defense shall require that a person meet the requirements set forth in paragraph (3) of subsection (a), but not the other requirements set forth in that subsection, in order to qualify to serve in a position in the Department of Defense in—

“(1) the GS–1102 occupational series; or

“(2) a similar occupational specialty if the position is to be filled by a member of the armed forces.”

Subsecs. (c) to (f). Pub. L. 107–107, §824(a)(3), added subsecs. (c) to (f) and struck out former subsecs. (c) and (d) which related to requirements of subsecs. (a) and (b) and waiver of such requirements, respectively.

**2000**—Subsec. (a). Pub. L. 106–398, §1 [[div. A], title VIII, §808(d)], struck out “(except as provided in subsections (c) and (d))” after “a person must” in introductory provisions.

Subsec. (a)(3). Pub. L. 106–398, §1 [[div. A], title VIII, §808(b)(1)], inserted “and” before “(B) have completed” and struck out “, or (C) have passed an examination considered by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education in any of the disciplines listed in subparagraph (B)” after “organization and management”.

Subsec. (b). Pub. L. 106–398, §1 [[div. A], title VIII, §808(b)(2)], amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “The Secretary of Defense shall require that a person may not be employed by the Department of Defense in the GS–1102 occupational series unless the person (except as provided in subsections (c) and (d)) meets the requirements set forth in subsection (a)(3).”

Subsec. (c). Pub. L. 106–398, §1 [[div. A], title VIII, §808(c)], amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows:

“(1) The requirements set forth in subsections (a)(3) and (b) shall not apply to any employee who, on October 1, 1991, has at least 10 years of experience in acquisition positions, in comparable positions in other government agencies or the private sector, or in similar positions in which an individual obtains experience directly relevant to the field of contracting.

“(2) The requirements of subsections (a) and (b) shall not apply to any employee for purposes of qualifying to serve in the position in which the employee is serving on October 1, 1993, or any other position in the same or lower grade and involving the same or lower level of responsibilities as the position in which the employee is serving on such date.”

Subsec. (d). Pub. L. 106–398, §1 [[div. A], title VIII, §808(a)], in first sentence, substituted “employee or member of” for “employee of” and “employee or member possesses” for “employee possesses”.

**1996**—Subsec. (a). Pub. L. 104–201, in introductory provisions, struck out “, beginning on October 1, 1993,” after “require that” and substituted “simplified acquisition threshold” for “small purchase threshold”.

Subsec. (b). Pub. L. 104–201, §1074(a)(9)(B)(ii), struck out “, beginning on October 1, 1993,” after “require that”.

**1993**—Subsec. (c)(2). Pub. L. 103–35 inserted “or lower” before “grade” and before “level”.

### **EFFECTIVE DATE OF 2004 AMENDMENT**

Pub. L. 108–375, div. A, title X, §1084(h), Oct. 28, 2004, 118 Stat. 2064, provided that the amendment made by section 1084(h) [amending this section, section 1732 of this title, and provisions set out as a note under section 5949 of Title 5, Government Organization and Employees] is effective as of Dec. 28, 2001, and as if included in Pub. L. 107–107 as enacted.

### **EFFECTIVE DATE OF 2000 AMENDMENT**

Pub. L. 106–398, §1 [[div. A], title VIII, §808(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A–208, provided that: “This section [amending this section], and the amendments made by this section, shall take effect on October 1, 2000, and shall apply to appointments and assignments to contracting positions made on or after that date.”

## TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## FULFILLMENT STANDARDS FOR MANDATORY TRAINING

For provisions relating to development of fulfillment standards for purposes of the training requirements of this section, see section 812(c) of Pub. L. 102–484, set out as a note under section 1723 of this title.

## CREDIT FOR EXPERIENCE IN CERTAIN POSITIONS

Pub. L. 101–510, div. A, title XII, §1209(i), Nov. 5, 1990, 104 Stat. 1667, as amended by Pub. L. 102–25, title VII, §704(b)(3)(D), Apr. 6, 1991, 105 Stat. 119, provided that: “For purposes of meeting any requirement under chapter 87 of title 10, United States Code (as added by section 1202), for a period of experience (such as requirements for experience in acquisition positions or in critical acquisition positions) and for purposes of coverage under the exceptions established by section 1724(c)(1) and section 1732(c)(1) of such title, any period of time spent serving in a position later designated as an acquisition position or a critical acquisition position under such chapter may be counted as experience in such a position for such purposes.”

**[§1725. Repealed. Pub. L. 108–136, div. A, title VIII, §832(a), Nov. 24, 2003, 117 Stat. 1550; amended Pub. L. 108–375, div. A, title X, §1084(f)(1), Oct. 28, 2004, 118 Stat. 2064]**

Section, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1643, related to Office of Personnel Management approval.

## EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title X, §1084(f), Oct. 28, 2004, 118 Stat. 2064, provided that the amendment made by section 1084(f) (amending section 832(a) of Pub. L. 108–136, which repealed this section, and sections 1742 and 2611 of this title) is effective as of Nov. 24, 2003, and as if included in Pub. L. 108–136 as enacted.

## SUBCHAPTER III—ACQUISITION CORPS

Sec.	
1731.	Acquisition Corps: in general.
1732.	Selection criteria and procedures.
1733.	Critical acquisition positions.
1734.	Career development.
1735.	Education, training, and experience requirements for critical acquisition positions.
[1736.	Repealed.]
1737.	Definitions and general provisions.

## AMENDMENTS

**2001**—Pub. L. 107–107, div. A, title X, §1048(e)(6)(B), Dec. 28, 2001, 115 Stat. 1227, struck out item 1736 “Applicability”.

### **§1731. Acquisition Corps: in general**

(a) Acquisition Corps.—The Secretary of Defense shall ensure that an Acquisition Corps is established for the Department of Defense.

(b) Promotion Rate for Officers in Acquisition Corps.—The Secretary of Defense shall ensure that the qualifications of commissioned officers selected for the Acquisition Corps 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.

(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.)

## AMENDMENTS

**2003**—Subsec. (a). Pub. L. 108–136, §833(1)(A), struck out “each of the military departments and one or more Corps, as he considers appropriate, for the other components of” after “established for” in first sentence, and struck out last sentence which read “A separate Acquisition Corps may be established for each of the Navy and the Marine Corps.”

Subsec. (b). Pub. L. 108–136, §833(1)(B), substituted “the Acquisition Corps” for “an Acquisition Corps”.

Subsec. (c). Pub. L. 108–136, §832(b)(1), struck out heading and text of subsec. (c). Text read as follows: “The Secretary of Defense shall submit any requirement with respect to civilian employees established under section 1732 of this title to the Director of the Office of Personnel Management for approval. If the Director does not disapprove the requirement within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director.”

## PROMOTION RATE FOR OFFICERS IN AN ACQUISITION CORPS

Pub. L. 105–85, div. A, title VIII, §849, Nov. 18, 1997, 111 Stat. 1846, as amended by Pub. L. 106–65, div. A, title IX, §911(a)(1), title X, §1067(4), Oct. 5, 1999, 113 Stat. 717, 774, directed the Secretary of a military department, upon approval, to submit to the Under Secretary of Defense for Acquisition, Technology, and Logistics a copy for review of the report of a selection board which had considered members of an Acquisition Corps of a military department for promotion to a grade above O–4, directed such Under Secretary to submit to committees of Congress a report containing the Under Secretary's assessment of the extent to which each military department was complying with the requirement set forth in section 1731(b) of this title, and provided that this section would cease to be effective on Oct. 1, 2000.

## §1732. Selection criteria and procedures

(a) Selection Criteria and Procedures.—Selection for membership in the Acquisition Corps shall be made in accordance with criteria and procedures established by the Secretary of Defense.

(b) Eligibility Criteria.—Except as provided in subsections (c) and (d), only persons who meet all of the following requirements may be considered for service in the Corps:

(1) The person must meet the educational requirements prescribed by the Secretary of Defense. Such requirements, at a minimum, shall include both of the following:

(A) A requirement that the person—

(i) has received a baccalaureate degree at an accredited educational institution authorized to grant baccalaureate degrees, or

(ii) possess significant potential for advancement to levels of greater responsibility and authority, based on demonstrated analytical and decisionmaking capabilities, job performance, and qualifying experience.

(B) A requirement that the person has completed—

(i) at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education from among the following disciplines: accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management; or

(ii) at least 24 semester credit hours (or the equivalent) from an accredited institution of higher education in the person's career field and 12 semester credit hours (or the equivalent) from such an institution from among the disciplines listed in clause (i) or equivalent training as prescribed by the Secretary to ensure proficiency in the disciplines listed in clause (i).

(2) The person must meet experience requirements prescribed by the Secretary of Defense. Such requirements shall, at a minimum, include a requirement for at least four years of experience in an acquisition position in the Department of Defense or in a comparable position in industry or government.

(3) The person must meet such other requirements as the Secretary of Defense or the Secretary of the military department concerned prescribes by regulation.

(c) Exceptions.—(1) The requirements of subsections (b)(1)(A) and (b)(1)(B) shall not apply to any employee who, on October 1, 1991, has at least 10 years of experience in acquisition positions or in comparable positions in other government agencies or the private sector.

(2) The requirements of subsections (b)(1)(A) and (b)(1)(B) shall not apply to any employee who is serving in an acquisition position on October 1, 1991, and who does not have 10 years of experience as described in paragraph (1) if the employee passes an examination considered by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education from among the following disciplines: accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management.

(d) Waiver.—(1) Except as provided in paragraph (2), the Secretary of Defense may waive any or all of the requirements of subsection (b) with respect to an employee if the Secretary determines that the employee possesses significant potential for advancement to levels of greater responsibility and authority, based on demonstrated analytical and decisionmaking capabilities, job performance, and qualifying experience. With respect to each waiver granted under this subsection, the Secretary shall set forth in a written document the rationale for the decision of the Secretary to waive such requirements.

(2) The Secretary may not waive the requirements of subsection (b)(1)(A)(ii).

(e) Mobility Statements.—(1) The Secretary of Defense is authorized to require civilians in the Acquisition Corps to sign mobility statements.

(2) The Secretary of Defense shall identify which categories of civilians in the Acquisition Corps, as a condition of serving in the Corps, 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. 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.)

## AMENDMENTS

**2006**—Subsec. (c)(1), (2). Pub. L. 109–163, §1056(c)(3)(A)(i), substituted “(b)(1)(A) and (b)(1)(B)” for “(b)(2)(A) and (b)(2)(B)”.

Subsec. (c)(3). Pub. L. 109–163, §1056(c)(3)(A)(ii), struck out par. (3) which read as follows: “Paragraph (1) of subsection (b) shall not apply to an employee who—

“(A) having previously served in a position within a grade referred to in subparagraph (A) of that paragraph, is currently serving in the same position within a grade below GS–13 of the General Schedule, or in another position within that grade, by reason of a reduction in force or the closure or realignment of a military installation, or for any other reason other than by reason of an adverse personnel action for cause; and

“(B) except as provided in paragraphs (1) and (2), satisfies the educational, experience, and other requirements prescribed under paragraphs (2), (3), and (4) of that subsection.”

Subsec. (d)(2). Pub. L. 109–163, §1056(c)(3)(B), substituted “(b)(1)(A)(ii)” for “(b)(2)(A)(ii)”.

**2004**—Subsec. (a). Pub. L. 108–375, §1084(h)(2), amended directory language of Pub. L. 107–107, §1048(e)(4). See 2001 Amendment note below.

Subsec. (b). Pub. L. 108–375, §812(a)(1), redesignated pars. (2) to (4) as pars. (1) to (3), respectively, and struck out former par. (1) which read as follows:

“(1)(A) In the case of an employee, the person must be currently serving in a position within grade GS–13 or above of the General Schedule.

“(B) In the case of a member of the armed forces, the person must be currently serving in the grade of major or, in the case of the Navy, lieutenant commander, or a higher grade.

“(C) In the case of an applicant for employment, the person must have experience in government or industry equivalent to the experience of a person in a position described in subparagraph (A) or (B).”

Subsec. (d)(1). Pub. L. 108–375, §1084(d)(14), substituted “the decision of the Secretary” for “its decision” before “to waive such requirements.”

**2003**—Subsec. (a). Pub. L. 108–136, §833(2), substituted “the Acquisition Corps” for “an Acquisition Corps”.

Subsec. (b)(1)(C). Pub. L. 108–136, §831(b)(2)(A), struck out “, as validated by the appropriate career program management board” after “subparagraph (A) or (B)”.

Subsec. (b)(2)(A)(ii). Pub. L. 108–136, §831(b)(2)(B), substituted “possess” for “has been certified by the acquisition career program board of the employing military department as possessing”.

Subsec. (c)(2). Pub. L. 108–136, §832(b)(2), struck out at end “The Secretary of Defense shall submit examinations to be given to civilian employees under this paragraph to the Director of the

Office of Personnel Management for approval. If the Director does not disapprove an examination within 30 days after the date on which the Director receives the examination, the examination is deemed to be approved by the Director.”

Subsec. (d)(1). Pub. L. 108–136, §831(b)(3)(A), substituted “the Secretary of Defense may waive any or all of the requirements of subsection (b) with respect to an employee if the Secretary determines” for “the acquisition career program board of a military department may waive any or all of the requirements of subsection (b) with respect to an employee of that military department if the board certifies” in first sentence, substituted “the Secretary” for “the board” in second sentence, and struck out third sentence which read “The document shall be submitted to and retained by the Director of Acquisition Education, Training, and Career Development.”

Subsec. (d)(2). Pub. L. 108–136, §831(b)(3)(B), substituted “The Secretary” for “The acquisition career program board of a military department”.

Subsec. (e). Pub. L. 108–136, §833(2), substituted “the Acquisition Corps” for “an Acquisition Corps” in pars. (1) and (2).

**2001**—Subsec. (a). Pub. L. 107–107, §1048(e)(4), as amended by Pub. L. 108–375, §1084(h)(2), struck out at end “Such criteria and procedures shall be in effect on and after October 1, 1993.”

Subsec. (c)(2). Pub. L. 107–107, §824(b), inserted a comma after “business”.

**1998**—Subsec. (c)(3). Pub. L. 105–261 added par. (3).

**1993**—Subsec. (b)(1)(A). Pub. L. 103–89 substituted “Schedule” for “Schedule (including any employee covered by chapter 54 of title 5)”.

**1992**—Subsec. (b)(2)(B)(ii). Pub. L. 102–484 inserted before period at end “or equivalent training as prescribed by the Secretary to ensure proficiency in the disciplines listed in clause (i)”.

### **EFFECTIVE DATE OF 2004 AMENDMENT**

Pub. L. 108–375, div. A, title X, §1084(h), Oct. 28, 2004, 118 Stat. 2064, provided that the amendment made by section 1084(h)(1) is effective as of Dec. 28, 2001, and as if included in Pub. L. 107–107 as enacted.

### **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.

### **EQUIVALENT TRAINING UNDER SUBSECTION (B)(2)(B)(II)**

Pub. L. 102–484, div. A, title VIII, §812(e)(2), Oct. 23, 1992, 106 Stat. 2451, provided that: “The Secretary of Defense shall prescribe equivalent training for purposes of clause (ii) of section 1732(b)(2)(B) of title 10, United States Code (as amended by paragraph (1)), not later than 120 days after the date of the enactment of this Act [Oct. 23, 1992].”

## **§1733. Critical acquisition positions**

(a) Requirement for Corps Member.—A critical acquisition position may be filled only by a member of the Acquisition Corps.

(b) 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, or Marine Corps 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 2430 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.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1646; 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.)

## AMENDMENTS

**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)”.

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

## PUBLICATION OF LIST OF CRITICAL ACQUISITION POSITIONS

Pub. L. 101–510, div. A, title XII, §1209(g), Nov. 5, 1990, 104 Stat. 1666, directed the Secretary of Defense to publish the first list of positions designated as critical acquisition positions under subsec. (b)(2) of this section not later than Oct. 1, 1992.

## §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 2435(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 2432 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 service obligation in an agreement executed by that person (under subsection (a)(2) or (b)(2)), but only in exceptional circumstances in which a waiver is necessary for reasons permitted in regulations prescribed by the Secretary of Defense.

(2) With respect to each waiver granted under this subsection, the service acquisition executive (or his delegate) shall set forth in a written document the rationale for the decision to grant the waiver.

(e) Rotation Policy.—(1) The Secretary of Defense shall establish a policy encouraging the rotation of members of the Acquisition Corps serving in critical acquisition positions to new assignments after completion of five years of service in such positions, or, in the case of a program manager, after completion of a major program milestone, whichever is longer. Such rotation policy shall be designed to ensure opportunities for career broadening assignments and an infusion of new ideas into critical acquisition positions.

(2) The Secretary of Defense shall establish a procedure under which the assignment of each person assigned to a critical acquisition position shall be reviewed on a case-by-case basis for the purpose of determining whether the Government and such person would be better served by a reassignment to a different position. Such a review shall be carried out with respect to each such person not later than five years after that person is assigned to a critical position.

(f) Centralized Job Referral System.—The Secretary of Defense shall prescribe regulations providing for the use of centralized lists to ensure that persons are selected for critical positions without regard to geographic location of applicants for such positions.

(g) Exchange Program.—The Secretary of Defense shall establish, for purposes of broadening the experience of members of the Acquisition Corps, a test program in which members of the Corps serving in a military department or Defense Agency are assigned or detailed to an acquisition position in another department or agency. Under the test program, the Secretary of Defense shall ensure that, to the maximum extent practicable, at least 5 percent of the members of the Acquisition Corps shall serve in such exchange assignments each year. The test program shall operate for not less than a period of three years.

(h) Responsibility for Assignments.—The Secretary of each military department, acting through the service acquisition executive for that department, is responsible for making assignments of civilian and military personnel of that military department who are members of the Acquisition Corps to critical acquisition positions.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1646; amended Pub. L. 102–484, div. A, title VIII, §812(a), (b), Oct. 23, 1992, 106 Stat. 2450; Pub. L. 104–201, div. A, title X, §1074(a)(9)(D), Sept. 23, 1996, 110 Stat. 2659; Pub. L. 107–107, div. A, title X, §1048(e)(5), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 108–136, div. A, title VIII, §§831(b)(4), 832(b)(3), 833(2), (3), Nov. 24, 2003, 117 Stat. 1549, 1550.)

## AMENDMENTS

**2003**—Subsec. (d)(2). Pub. L. 108–136, §831(b)(4)(A)(ii), redesignated par. (3) as (2) and struck out at end “The document shall be submitted to the Director of Acquisition Education, Training, and Career Development.”

Pub. L. 108–136, §831(b)(4)(A)(i), struck out par. (2) which read as follows: “The authority to grant such waivers may be delegated by the service acquisition executive of a military department only to the Director of Acquisition Career Management for the military department.”

Subsec. (d)(3). Pub. L. 108–136, §831(b)(4)(A)(ii), redesignated par. (3) as (2).

Subsec. (e)(1). Pub. L. 108–136, §833(2), substituted “the Acquisition Corps” for “an Acquisition

Corps”

Subsec. (e)(2). Pub. L. 108–136, §831(b)(4)(B), struck out “, by the acquisition career program board of the department concerned,” after “case-by-case basis”.

Subsec. (g). Pub. L. 108–136, §833(3)(A), substituted “the Acquisition Corps, a test program in which members of the Corps” for “each Acquisition Corps, a test program in which members of a Corps”.

Pub. L. 108–136, §832(b)(3), substituted “The Secretary” for “(1) The Secretary” and struck out par. (2) which read as follows: “The Secretary of Defense shall submit the portion of the test program applicable to civilian employees to the Director of the Office of Personnel Management for approval. If the Director does not disapprove that portion of the test program within 30 days after the date on which the Director receives it, that portion of the test program is deemed to be approved by the Director.”

Subsec. (h). Pub. L. 108–136, §833(3)(B), substituted “making assignments of civilian and military personnel of that military department who are members of the Acquisition Corps” for “making assignments of civilian and military members of the Acquisition Corps of that military department”.

2001—Subsec. (b)(1)(B). Pub. L. 107–107, §1048(e)(5)(A), struck out “on and after October 1, 1991,” before “to the maximum extent practicable”.

Subsec. (e)(2). Pub. L. 107–107, §1048(e)(5)(B), struck out at end “Reviews under this subsection shall be carried out after October 1, 1995, but may be carried out before that date.”

1996—Subsec. (a)(1). Pub. L. 104–201, §1074(a)(9)(D)(i), struck out “, on and after October 1, 1993,” after “provide that”.

Subsec. (b)(1)(A). Pub. L. 104–201, §1074(a)(9)(D)(ii), struck out “, on and after October 1, 1991,” after “requirement that”.

1992—Subsec. (a)(1). Pub. L. 102–484, §812(b)(1)(A), inserted before first comma “and paragraph (3)”.

Subsec. (a)(3). Pub. L. 102–484, §812(b)(1)(B), added par. (3).

Subsec. (b)(1)(A). Pub. L. 102–484, §812(b)(2)(A), inserted “(except as provided in paragraph (3))” after “deputy program manager”.

Subsec. (b)(3). Pub. L. 102–484, §812(b)(2)(B), added par. (3).

Subsec. (e)(2). Pub. L. 102–484, §812(a), inserted at end “Reviews under this subsection shall be carried out after October 1, 1995, but may be carried out before that date.”

### **JOB REFERRAL SYSTEM DEADLINE**

Pub. L. 101–510, div. A, title XII, §1209(e), Nov. 5, 1990, 104 Stat. 1666, provided that: “Not later than October 1, 1991, the Secretary of Defense shall prescribe regulations required under section 1734(f) of title 10, United States Code (as added by section 1202).”

## **§1735. Education, training, and experience requirements for critical acquisition positions**

(a) Qualification Requirements.—In establishing the education, training, and experience requirements under section 1723 of this title for critical acquisition positions, the Secretary of Defense shall, at a minimum, include the requirements set forth in subsections (b) through (e).

(b) Program Managers and Deputy Program Managers.—Before being assigned to a position as a program manager or deputy program manager of a major defense acquisition program or a significant nonmajor defense acquisition program, a person—

(1) must have completed the program management course at the Defense Systems Management College or a management program at an accredited educational institution determined to be comparable by the Secretary of Defense;

(2) must have executed a written agreement as required in section 1734(b)(2); and

(3) in the case of—

(A) a program manager of a major defense acquisition program, must have at least eight years of experience in acquisition, at least two years of which were performed in a systems program office or similar organization;

(B) a program manager of a significant nonmajor defense acquisition program, must have at least six years of experience in acquisition;

(C) a deputy program manager of a major defense acquisition program, must have at least six years of experience in acquisition, at least two years of which were performed in a systems program office or similar organization; and

(D) a deputy program manager of a significant nonmajor defense acquisition program, must have at least



four years of experience in acquisition.

(c) Program Executive Officers.—Before being assigned to a position as a program executive officer, a person—

(1) must have completed the program management course at the Defense Systems Management College or a management program at an accredited educational institution in the private sector determined to be comparable by the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics;

(2) must have at least 10 years experience in an acquisition position, at least four years of which were performed while assigned to a critical acquisition position; and

(3) must have held a position as a program manager or a deputy program manager.

(d) General and Flag Officers and Civilians in Equivalent Positions.—Before a general or flag officer, or a civilian serving in a position equivalent in grade to the grade of such an officer, may be assigned to a critical acquisition position, the person must have at least 10 years experience in an acquisition position, at least four years of which were performed while assigned to a critical acquisition position.

(e) Senior Contracting Officials.—Before a person may be assigned to a critical acquisition position as a senior contracting official, the person must have at least four years experience in contracting.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1648; amended Pub. L. 102–484, div. A, title VIII, §812(d), Oct. 23, 1992, 106 Stat. 2451; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225.)

## AMENDMENTS

**2001**—Subsec. (c)(1). Pub. L. 107–107 substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology”.

**1993**—Subsec. (c)(1). Pub. L. 103–160 substituted “Under Secretary of Defense for Acquisition and Technology” for “Under Secretary of Defense for Acquisition”.

**1992**—Subsec. (b)(3). Pub. L. 102–484 struck out “or deputy program manager” after “program manager” in subpars. (A) and (B), struck out “and” at end of subpar. (A), substituted semicolon for period at end of subpar. (B), and added subpars. (C) and (D).

## FULFILLMENT STANDARDS FOR MANDATORY TRAINING

For provisions relating to development of fulfillment standards for purposes of the training requirements of this section, see section 812(c) of Pub. L. 102–484, set out as a note under section 1723 of this title.

### **[§1736. Repealed. Pub. L. 107–107, div. A, title X, §1048(e)(6)(A), Dec. 28, 2001, 115 Stat. 1227]**

Section, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1649, related to applicability of the qualification requirements.

### **§1737. Definitions and general provisions**

(a) Definitions.—In this subchapter:

(1) The term “program manager” means, with respect to a defense acquisition program, the member of the Acquisition Corps responsible for managing the program, regardless of the title given the member.

(2) The term “deputy program manager” means the person who has authority to act on behalf of the program manager in the absence of the program manager.

(3) The term “significant nonmajor defense acquisition program” means a Department of Defense acquisition program that is not a major defense acquisition program (as defined in section 2430 of this title) and that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than the dollar threshold set forth in section 2302(5)(A) of this title for such purposes for a major system or an eventual total expenditure for procurement of more than the dollar threshold set forth in section 2302(5)(A) of this title for such purpose for a major system.

(4) The term “program executive officer” has the meaning given such term in regulations prescribed by the Secretary of Defense.

(5) The term “senior contracting official” means a director of contracting, or a principal deputy to a director of contracting, serving in the office of the Secretary of a military department, the headquarters of a military department, the head of a Defense Agency, a subordinate command headquarters, or in a major systems or logistics contracting activity in the Department of Defense.

(b) Limitation.—Any civilian or military member of the Corps who does not meet the education, training, and experience requirements for a critical acquisition position established under this subchapter may not carry out the duties or exercise the authorities of that position, except for a period not to exceed six months, unless a waiver of the requirements is granted under subsection (c).

(c) Waiver.—The Secretary of each military department (acting through the service acquisition executive for that department) or the Secretary of Defense (acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics) for Defense Agencies and other components of the Department of Defense may waive, on a case-by-case basis, the requirements established under this subchapter with respect to the assignment of an individual to a particular critical acquisition position. Such a waiver may be granted only if unusual circumstances justify the waiver or if the Secretary concerned (or official to whom the waiver authority is delegated) determines that the individual's qualifications obviate the need for meeting the education, training, and experience requirements established under this subchapter.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1650; amended Pub. L. 102–190, div. A, title X, §1061(a)(8), (c), Dec. 5, 1991, 105 Stat. 1472, 1475; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 108–136, div. A, title VIII, §§831(b)(5), 832(b)(4), 833(2), Nov. 24, 2003, 117 Stat. 1549, 1550.)

## AMENDMENTS

**2003**—Subsec. (a)(1). Pub. L. 108–136, §833(2), substituted “the Acquisition Corps” for “an Acquisition Corps”.

Subsec. (c). Pub. L. 108–136, §831(b)(5), substituted “The Secretary” for “(1) The Secretary” and struck out par. (2) which read as follows: “The authority to grant such waivers may be delegated—

“(A) in the case of the service acquisition executives of the military departments, only to the Director of Acquisition Career Management for the military department concerned; and

“(B) in the case of the Under Secretary of Defense for Acquisition, Technology, and Logistics, only to the Director of Acquisition Education, Training, and Career Development.”

Subsec. (d). Pub. L. 108–136, §832(b)(4), struck out heading and text of subsec. (d). Text read as follows: “The Secretary of Defense shall submit any requirement with respect to civilian employees established under this subchapter to the Director of the Office of Personnel Management for approval. If the Director does not disapprove the requirement within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director.”

**2001**—Subsec. (c)(1), (2)(B). Pub. L. 107–107 substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology”.

**1993**—Subsec. (c)(1), (2)(B). Pub. L. 103–160 substituted “Under Secretary of Defense for Acquisition and Technology” for “Under Secretary of Defense for Acquisition”.

**1991**—Subsec. (a)(3). Pub. L. 102–190, §1061(c), substituted “the dollar threshold set forth in section 2302(5)(A) of this title for such purposes for a major system” for “\$50,000,000 (based on fiscal year 1980 constant dollars)” and “the dollar threshold set forth in section 2302(5)(A) of this title for such purpose for a major system” for “\$250,000,000 (based on fiscal year 1980 constant dollars)”.

Subsec. (c)(2)(B). Pub. L. 102–190, §1061(a)(8), struck out comma after “Director of Acquisition”.

## SUBCHAPTER IV—EDUCATION AND TRAINING

Sec.

1741. Policies and programs: establishment and implementation.

1742. Internship, cooperative education, and scholarship programs.

[1743, 1744. Repealed.]

1745. Additional education and training programs available to acquisition personnel.

1746. Defense Acquisition University.

1747. Acquisition fellowship program.

1748. Fulfillment standards for acquisition workforce training.

## AMENDMENTS

**2011**—Pub. L. 111–383, div. A, title VIII, §§874(b)(2), 877(c)(2)(B), Jan. 7, 2011, 124 Stat. 4305, 4306, substituted “Defense Acquisition University” for “Defense acquisition university structure” in item 1746 and added item 1748.

**2003**—Pub. L. 108–136, div. A, title VIII, §836(3), Nov. 24, 2003, 117 Stat. 1552, substituted

“Internship, cooperative education, and scholarship programs” for “Intern program” in item 1742 and struck out items 1743 “Cooperative education program” and 1744 “Scholarship program”.

**2002**—Pub. L. 107–314, div. A, title X, §1062(a)(10)(B), Dec. 2, 2002, 116 Stat. 2650, transferred former item 2410h from chapter 141 to this subchapter and redesignated it as item 1747.

### **§1741. Policies and programs: establishment and implementation**

(a) Policies and Procedures.—The Secretary of Defense shall establish policies and procedures for the establishment and implementation of the education and training programs authorized by this subchapter.

(b) Funding Levels.—The Under Secretary of Defense for Acquisition, Technology, and Logistics each year shall recommend to the Secretary of Defense the funding levels to be requested in the defense budget to implement the education and training programs under this subchapter. The Secretary of Defense shall set forth separately the funding levels requested for such programs in the Department of Defense budget justification documents submitted in support of the President's budget submitted to Congress under section 1105 of title 31.

(c) Programs.—The Secretary of each military department, acting through the service acquisition executive for that department, shall establish and implement the education and training programs authorized by this subchapter. In carrying out such requirement, the Secretary concerned shall ensure that such programs are established and implemented throughout the military department concerned and, to the maximum extent practicable, uniformly with the programs of the other military departments.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1651; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225.)

#### **AMENDMENTS**

**2001**—Subsec. (b). Pub. L. 107–107 substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology”.

**1993**—Subsec. (b). Pub. L. 103–160 substituted “Under Secretary of Defense for Acquisition and Technology” for “Under Secretary of Defense for Acquisition”.

### **§1742. Internship, cooperative education, and scholarship programs**

(a) Programs.—The Secretary of Defense shall conduct the following education and training programs:

(1) An intern program for purposes of providing highly qualified and talented individuals an opportunity for accelerated promotions, career broadening assignments, and specified training to prepare them for entry into the Acquisition Corps.

(2) A cooperative education credit program under which the Secretary arranges, through cooperative arrangements entered into with one or more accredited institutions of higher education, for such institutions to grant undergraduate credit for work performed by students who are employed by the Department of Defense in acquisition positions.

(3) A scholarship program for the purpose of qualifying personnel for acquisition positions in the Department of Defense.

(b) Scholarship Program Requirements.—Each recipient of a scholarship under a program conducted under subsection (a)(3) shall be required to sign a written agreement that sets forth the terms and conditions of the scholarship. The agreement shall be in a form prescribed by the Secretary and shall include terms and conditions, including terms and conditions addressing reimbursement in the event that a recipient fails to fulfill the requirements of the agreement, that are comparable to those set forth as a condition for providing advanced education assistance under section 2005. The obligation to reimburse the United States under an agreement under this subsection is, for all purposes, a debt owing the United States.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1651; amended Pub. L. 108–136, div. A, title VIII, §834(a), Nov. 24, 2003, 117 Stat. 1550; Pub. L. 108–375, div. A, title VIII, §812(b), title X, §1084(f)(1), Oct. 28, 2004, 118 Stat. 2013, 2064.)

#### **AMENDMENTS**

**2004**—Pub. L. 108–375, §1084(f)(1), amended directory language of Pub. L. 108–136, §834(a). See 2003 Amendment note below.

Pub. L. 108–375, §812(b), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**2003**—Pub. L. 108–136, §834(a), as amended by Pub. L. 108–375, §1084(f)(1), amended section catchline and text generally. Prior to amendment, text read as follows: “The Secretary of Defense shall require that each military department conduct an intern program for purposes of providing

highly qualified and talented individuals an opportunity for accelerated promotions, career broadening assignments, and specified training to prepare them for entry into the Acquisition Corps.”

### **EFFECTIVE DATE OF 2004 AMENDMENT**

Pub. L. 108–375, div. A, title X, §1084(f), Oct. 28, 2004, 118 Stat. 2064, provided that the amendment made by section 1084(f)(1) is effective as of Nov. 24, 2003, and as if included in Pub. L. 108–136 as enacted.

### **[§§1743, 1744. Repealed. Pub. L. 108–136, div. A, title VIII, §834(b), Nov. 24, 2003, 117 Stat. 1551]**

Section 1743, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1651, related to cooperative education program.

Section 1744, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1652; amended Pub. L. 102–484, div. A, title VIII, §812(f), Oct. 23, 1992, 106 Stat. 2451; Pub. L. 108–136, div. A, title VIII, §832(c), Nov. 24, 2003, 117 Stat. 1550, related to scholarship program.

### **§1745. Additional education and training programs available to acquisition personnel**

(a) Tuition Reimbursement and Training.—(1) The Secretary of Defense shall provide for tuition reimbursement and training (including a full-time course of study leading to a degree) for acquisition personnel in the Department of Defense.

(2) For civilian personnel, the reimbursement and training shall be provided under section 4107(b) of title 5 for the purposes described in that section. For purposes of such section 4107(b), there is deemed to be, until September 30, 2010, a shortage of qualified personnel to serve in acquisition positions in the Department of Defense.

(3) In the case of members of the armed forces, the limitation in section 2007(a) of this title shall not apply to tuition reimbursement and training provided for under this subsection.

(b) Repayment of Student Loans.—The Secretary of Defense may repay all or part of a student loan under section 5379 of title 5 for an employee of the Department of Defense appointed to an acquisition position.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1653; amended Pub. L. 104–106, div. A, title XV, §1503(a)(15), Feb. 10, 1996, 110 Stat. 511; Pub. L. 106–65, div. A, title IX, §925(a), Oct. 5, 1999, 113 Stat. 726; Pub. L. 106–398, §1 [[div. A], title XI, §1123], Oct. 30, 2000, 114 Stat. 1654, 1654A–317.)

### **AMENDMENTS**

**2000**—Subsec. (a)(2). Pub. L. 106–398 substituted “September 30, 2010” for “September 30, 2001”.

**1999**—Subsec. (a). Pub. L. 106–65 amended heading and text of subsec. (a) generally. Text read as follows: “The Secretary of Defense shall provide for tuition reimbursement and training (including a full-time course of study leading to a degree) under section 4107(b) of title 5 for acquisition personnel in the Department of Defense for the purposes described in that section. For purposes of such section 4107(b), there is deemed to be, until September 30, 2001, a shortage of qualified personnel to serve in acquisition positions in the Department of Defense.”

**1996**—Subsec. (a). Pub. L. 104–106 substituted “section 4107(b)” for “section 4107(d)” in two places.

### **EFFECTIVE DATE OF 1999 AMENDMENT**

Pub. L. 106–65, div. A, title IX, §925(b), Oct. 5, 1999, 113 Stat. 726, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to charges for tuition or expenses incurred after the date of the enactment of this Act [Oct. 5, 1999].”

### **§1746. Defense Acquisition University**

(a) Defense Acquisition University Structure.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall establish and maintain a defense acquisition university structure to provide for—

- (1) the professional educational development and training of the acquisition workforce; and
- (2) research and analysis of defense acquisition policy issues from an academic perspective.

(b) Civilian Faculty Members.—(1) The Secretary of Defense may employ as many civilians as professors, instructors, and lecturers in the defense acquisition university structure as the Secretary considers necessary.

(2) The compensation of persons employed under this subsection shall be as prescribed by the Secretary.

(3) In this subsection, the term “defense acquisition university” includes the Defense Systems Management College.

(c) Curriculum Development.—The President of the Defense Acquisition University shall work with the relevant professional schools and degree-granting institutions of the Department of Defense and military departments to ensure that best practices are used in curriculum development to support acquisition workforce positions.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1653; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 104–106, div. A, title XV, §1503(a)(16), Feb. 10, 1996, 110 Stat. 512; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 111–383, div. A, title VIII, §877(c)(1), (2)(A), Jan. 7, 2011, 124 Stat. 4306.)

## AMENDMENTS

**2011**—Pub. L. 111–383, §877(c)(2)(A), substituted “Defense Acquisition University” for “Defense acquisition university structure” in section catchline.

Subsec. (c). Pub. L. 111–383, §877(c)(1), added subsec. (c).

**2001**—Subsec. (a). Pub. L. 107–107 substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology” in introductory provisions.

**1996**—Subsec. (a). Pub. L. 104–106 struck out “(1)” before “The Secretary of Defense” and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

**1993**—Subsec. (a)(1). Pub. L. 103–160 substituted “Under Secretary of Defense for Acquisition and Technology” for “Under Secretary of Defense for Acquisition”.

## EFFECTIVE DATE

Pub. L. 101–510, div. A, title XII, §1209(h)(1), Nov. 5, 1990, 104 Stat. 1667, provided that: “Subsection (b) of section 1746 of title 10, United States Code (as added by section 1202), shall take effect with respect to the Defense Systems Management College on the date of the enactment of this Act [Nov. 5, 1990].”

## ESTABLISHMENT OF INITIAL DEFENSE ACQUISITION UNIVERSITY STRUCTURE

Pub. L. 101–510, div. A, title XII, §1205, Nov. 5, 1990, 104 Stat. 1658, as amended by Pub. L. 105–85, div. A, title X, §1073(d)(4)(A), Nov. 18, 1997, 111 Stat. 1905, provided that, not later than Oct. 1, 1991, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Technology, was to prescribe regulations for the initial structure for a defense acquisition university under this section and to prescribe and submit to the Committees on Armed Services of the Senate and House of Representatives an implementation plan, including a charter, for the university structure, and not later than Aug. 1, 1992, the Secretary was to carry out the implementation plan.

## §1747. Acquisition fellowship program

(a) Establishment.—The Secretary of Defense shall establish and carry out an acquisition fellowship program in accordance with this section in order to enhance the ability of the Department of Defense to recruit employees who are highly qualified in fields of acquisition.

(b) Number of Fellowships.—The Secretary of Defense may designate up to 25 prospective employees of the Department of Defense as acquisition fellows.

(c) Eligibility.—In order to be eligible for designation as an acquisition fellow, an employee—

(1) must complete at least 2 years of Federal Government service as an employee in an acquisition position in the Department of Defense; and

(2) must be serving in an acquisition position in the Department of Defense that involves the performance of duties likely to result in significant restrictions under law on the employment activities of that employee after leaving Government service.

(d) Two-Year Period of Research and Teaching.—Under the fellowship program, the Secretary of Defense shall pay designated acquisition fellows to engage in research or teaching for a 2-year period in a field related to Federal Government acquisition policy. Such research or teaching may be conducted in the defense acquisition university structure of the Department of Defense, any other institution of professional education of the Federal Government, or a nonprofit institution of higher education. Each fellow shall be paid at a rate equal to the rate of

pay payable for the level of the position in which the fellow served in the Department of Defense before undertaking such research or teaching.

(Added Pub. L. 102–484, div. A, title VIII, §841(a), Oct. 23, 1992, 106 Stat. 2468, §2410h; renumbered §1747, Pub. L. 107–314, div. A, title X, §1062(a)(10)(A), Dec. 2, 2002, 116 Stat. 2650.)

## AMENDMENTS

**2002**—Pub. L. 107–314 renumbered section 2410h of this title as this section.

### §1748. Fulfillment standards for acquisition workforce training

The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall develop fulfillment standards, and implement and maintain a program, for purposes of the training requirements of sections 1723, 1724, and 1735 of this title. Such fulfillment standards shall consist of criteria for determining whether an individual has demonstrated competence in the areas that would be taught in the training courses required under those sections. If an individual meets the appropriate fulfillment standard, the applicable training requirement is fulfilled.

(Added Pub. L. 111–383, div. A, title VIII, §874(b)(1), Jan. 7, 2011, 124 Stat. 4304.)

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 105–85, div. A, title VIII, §853, Nov. 18, 1997, 111 Stat. 1851, which was set out as a note under section 1723 of this title, prior to repeal by Pub. L. 111–383, §874(b)(4).

## DEADLINE FOR FULFILLMENT STANDARDS

Pub. L. 111–383, div. A, title VIII, §874(b)(3), Jan. 7, 2011, 124 Stat. 4305, provided that: “The fulfillment standards required under section 1748 of title 10, United States Code, as added by paragraph (1), shall be developed not later than 270 days after the date of the enactment of this Act [Jan. 7, 2011].”

## SUBCHAPTER V—GENERAL MANAGEMENT PROVISIONS

Sec.

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|---------|---|
| 1761.   | Management information system.  |
| 1762.   | Demonstration project relating to certain acquisition personnel management policies and procedures. |
| [1763.] | Repealed.]  |
| 1764.   | Authority to establish different minimum requirements.  |

## AMENDMENTS

**2011**—Pub. L. 111–383, div. A, title VIII, §872(a)(2), Jan. 7, 2011, 124 Stat. 4302, added item 1762.

**2003**—Pub. L. 108–136, div. A, title VIII, §836(4), Nov. 24, 2003, 117 Stat. 1552, added item 1764 and struck out item 1763 “Reassignment of authority”.

**2001**—Pub. L. 107–107, div. A, title X, §1048(e)(7)(B), Dec. 28, 2001, 115 Stat. 1228, struck out items 1762 “Report to Secretary of Defense” and 1764 “Authority to establish different minimum experience requirements”.

### §1761. Management information system

(a) In General.—The Secretary of Defense shall prescribe regulations to ensure that the military departments and Defense Agencies establish a management information system capable of providing standardized information to the Secretary on persons serving in acquisition positions.

(b) Minimum Information.—The management information system shall, at a minimum, provide for the following:

- (1) The collection and retention of information concerning the qualifications, assignments, and tenure of persons in the acquisition workforce.
- (2) Any exceptions and waivers granted with respect to the application of qualification, assignment, and tenure policies, procedures, and practices to such persons.
- (3) Relative promotion rates for military personnel in the acquisition workforce.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1653; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 108–375, div. A, title X, §1084(d)(15), Oct. 28, 2004, 118 Stat. 2062.)

## AMENDMENTS

**2004**—Subsec. (b). Pub. L. 108–375 substituted “provide for the following:” for “provide for—” in introductory provisions, capitalized first letter of first word in pars. (1) to (3), substituted period for semicolon at end in pars. (1) and (2), substituted period for “; and” at end in par. (3), and struck out par. (4) which read as follows: “collection of the information necessary for the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Secretary of Defense to comply with the requirements of section 1762 for the years in which that section is in effect.”

**2001**—Subsec. (b)(4). Pub. L. 107–107 substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology”.

**1993**—Subsec. (b)(4). Pub. L. 103–160 substituted “Under Secretary of Defense for Acquisition and Technology” for “Under Secretary of Defense for Acquisition”.

## ESTABLISHMENT OF MANAGEMENT INFORMATION SYSTEM

Pub. L. 101–510, div. A, title XII, §1209(k), Nov. 5, 1990, 104 Stat. 1667, provided that:

“(1) Not later than October 1, 1991, the Secretary of Defense shall prescribe in regulations the requirements under section 1761 of title 10, United States Code (as added by section 1202), including data elements, for the uniform management information system.

“(2) The Secretary of Defense shall ensure that the requirements prescribed pursuant to paragraph (1) are implemented not later than October 1, 1992.”

## §1762. Demonstration project relating to certain acquisition personnel management policies and procedures

(a) Commencement.—The Secretary of Defense is authorized to carry out a demonstration project, the purpose of which is to determine the feasibility or desirability of one or more proposals for improving the personnel management policies or procedures that apply with respect to the acquisition workforce of the Department of Defense and supporting personnel assigned to work directly with the acquisition workforce.

(b) Terms and Conditions.—(1) Except as otherwise provided in this subsection, any demonstration project described in subsection (a) shall be subject to section 4703 of title 5 and all other provisions of such title that apply with respect to any demonstration project under such section.

(2) Subject to paragraph (3), in applying section 4703 of title 5 with respect to a demonstration project described in subsection (a)—

- (A) “180 days” in subsection (b)(4) of such section shall be deemed to read “120 days”;
- (B) “90 days” in subsection (b)(6) of such section shall be deemed to read “30 days”; and
- (C) subsection (d)(1) of such section shall be disregarded.

(3) Paragraph (2) shall not apply with respect to a demonstration project unless—

- (A) for each organization or team participating in the demonstration project—
  - (i) at least one-third of the workforce participating in the demonstration project consists of members of the acquisition workforce; and
  - (ii) at least two-thirds of the workforce participating in the demonstration project consists of members of the acquisition workforce and supporting personnel assigned to work directly with the acquisition workforce; and
- (B) the demonstration project commences before October 1, 2007.

(c) Limitation on Number of Participants.—The total number of persons who may participate in the demonstration project under this section may not exceed 120,000.

(d) Effect of Reorganizations.—The applicability of paragraph (2) of subsection (b) to an organization or team shall not terminate by reason that the organization or team, after having satisfied the conditions in paragraph (3) of such subsection when it began to participate in a demonstration project under this section, ceases to meet one or both of the conditions set forth in subparagraph (A) of such paragraph (3) as a result of a reorganization, restructuring, realignment, consolidation, or other organizational change.

(e) Assessments.—(1) The Secretary of Defense shall designate an independent organization to conduct two assessments of the acquisition workforce demonstration project described in subsection (a).

(2) Each such assessment shall include the following:

- (A) A description of the workforce included in the project.
- (B) An explanation of the flexibilities used in the project to appoint individuals to the acquisition workforce and whether those appointments are based on competitive procedures and recognize veteran's preferences.

- (C) An explanation of the flexibilities used in the project to develop a performance appraisal system that recognizes excellence in performance and offers opportunities for improvement.
- (D) The steps taken to ensure that such system is fair and transparent for all employees in the project.
- (E) How the project allows the organization to better meet mission needs.
- (F) An analysis of how the flexibilities in subparagraphs (B) and (C) are used, and what barriers have been encountered that inhibit their use.
- (G) Whether there is a process for—
  - (i) ensuring ongoing performance feedback and dialogue among supervisors, managers, and employees throughout the performance appraisal period; and
  - (ii) setting timetables for performance appraisals.
- (H) The project's impact on career progression.
- (I) The project's appropriateness or inappropriateness in light of the complexities of the workforce affected.
- (J) The project's sufficiency in terms of providing protections for diversity in promotion and retention of personnel.
- (K) The adequacy of the training, policy guidelines, and other preparations afforded in connection with using the project.
- (L) Whether there is a process for ensuring employee involvement in the development and improvement of the project.

(3) The first assessment under this subsection shall be completed not later than September 30, 2012. The second and final assessment shall be completed not later than September 30, 2016. The Secretary shall submit to the covered congressional committees a copy of each assessment within 30 days after receipt by the Secretary of the assessment.

(f) Covered Congressional Committees.—In this section, the term “covered congressional committees” means—

- (1) the Committees on Armed Services of the Senate and the House of Representatives;
- (2) the Committee on Homeland Security and Governmental Affairs of the Senate; and
- (3) the Committee on Oversight and Government Reform of the House of Representatives.

(g) Termination of Authority.—The authority to conduct a demonstration program under this section shall terminate on September 30, 2017.

(h) Conversion.—Within 6 months after the authority to conduct a demonstration project under this section is terminated as provided in subsection (g), employees in the project shall convert to the civilian personnel system created pursuant to section 9902 of title 5.

(Added Pub. L. 111–383, div. A, title VIII, §872(a)(1), Jan. 7, 2011, 124 Stat. 4300.)

## PRIOR PROVISIONS

A prior section 1762, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1654; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 106–65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717, related to report by the Under Secretary of Defense for Acquisition, Technology, and Logistics to the Secretary of Defense on the status of the defense acquisition workforce, prior to repeal by Pub. L. 107–107, div. A, title X, §1048(e)(7)(A), Dec. 28, 2001, 115 Stat. 1227.

Provisions similar to those in this section were contained in Pub. L. 104–106, div. D, title XLIII, §4308, Feb. 10, 1996, 110 Stat. 669, which was set out as a note under section 1701 of this title, prior to repeal by Pub. L. 111–383, §872(b).

### **[§1763. Repealed. Pub. L. 108–136, div. A, title VIII, §835(1), Nov. 24, 2003, 117 Stat. 1551]**

Section, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1656; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 105–85, div. A, title X, §1073(a)(33), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225, related to reassignment of authority by Secretary of Defense.

### **§1764. Authority to establish different minimum requirements**

(a) Authority.—(1) The Secretary of Defense may prescribe a different minimum number of years of experience, different minimum education qualifications, and different tenure of service qualifications to be required for eligibility for appointment or advancement to an acquisition position referred to in subsection (b) than is required for such position under or pursuant to any provision of this chapter.



(2) Any requirement prescribed under paragraph (1) for a position referred to in any paragraph of subsection (b) shall be applied uniformly to all positions referred to in such paragraph.

(b) Applicability.—This section applies to the following acquisition positions in the Department of Defense:

(1) Contracting officer, except a position referred to in paragraph (6).

(2) Program executive officer.

(3) Senior contracting official.

(4) Program manager.

(5) Deputy program manager.

(6) A position in the contract contingency force of an armed force that is filled by a member of that armed force.

(c) Definition.—In this section, the term “contract contingency force”, with respect to an armed force, has the meaning given such term in regulations prescribed by the Secretary concerned.

(Added Pub. L. 108–136, div. A, title VIII, §835(2), Nov. 24, 2003, 117 Stat. 1551; amended Pub. L. 108–375, div. A, title VIII, §812(c), Oct. 28, 2004, 118 Stat. 2013.)

### **PRIOR PROVISIONS**

A prior section 1764, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1656, related to authority to establish different minimum experience requirements, prior to repeal by Pub. L. 107–107, div. A, title X, §1048(e)(7)(A), Dec. 28, 2001, 115 Stat. 1227.

### **AMENDMENTS**

**2004**—Subsec. (b)(1). Pub. L. 108–375, §812(c)(2), substituted “in paragraph (6)” for “in paragraph (5)”.

Subsec. (b)(5), (6). Pub. L. 108–375, §812(c)(1), added par. (5) and redesignated former par. (5) as (6).