

(Added Pub. L. 105-85, div. A, title IX, § 911(d)(1), Nov. 18, 1997, 111 Stat. 1859; amended Pub. L. 106-65, div. A, title IX, § 921(c), Oct. 5, 1999, 113 Stat. 723; Pub. L. 114-328, div. A, title IX, § 903(a), Dec. 23, 2016, 130 Stat. 2344; Pub. L. 116-92, div. A, title IX, § 901(a)(1), Dec. 20, 2019, 133 Stat. 1541.)

Editorial Notes

CODIFICATION

Section, as added by Pub. L. 105-85, consists of text of Pub. L. 104-201, div. A, title IX, § 903(a)-(f), Sept. 23, 1996, 110 Stat. 2617. Section 903 of Pub. L. 104-201, which was formerly set out as a note under section 131 of this title, was repealed by Pub. L. 105-85, div. A, title IX, § 911(d)(3), Nov. 18, 1997, 111 Stat. 1860.

AMENDMENTS

2019—Subsec. (a). Pub. L. 116-92, § 901(a)(1)(A), substituted ‘‘4,300’’ for ‘‘3,767’’.

Subsec. (b). Pub. L. 116-92, § 901(a)(1)(B), substituted ‘‘military and civilian personnel’’ for ‘‘military, civilian, and detailed personnel’’.

2016—Subsec. (b). Pub. L. 114-328 substituted ‘‘, civilian, and detailed personnel’’ for ‘‘and civilian personnel’’.

1999—Subsec. (a). Pub. L. 106-65, § 921(c)(1), substituted ‘‘The number’’ for ‘‘Effective October 1, 1999, the number’’ and ‘‘3,767’’ for ‘‘75 percent of the baseline number’’.

Subsec. (b). Pub. L. 106-65, § 921(c)(2), (3), redesignated subsec. (d) as (b) and struck out heading and text of former subsec. (b). Text read as follows: ‘‘The number of OSD personnel—

‘‘(1) as of October 1, 1997, may not exceed 85 percent of the baseline number; and

‘‘(2) as of October 1, 1998, may not exceed 80 percent of the baseline number.’’

Subsec. (c). Pub. L. 106-65, § 921(c)(2), (3), redesignated subsec. (e) as (c) and struck out heading and text of former subsec. (c). Text read as follows: ‘‘For purposes of this section, the term ‘baseline number’ means the number of OSD personnel as of October 1, 1994.’’

Subsecs. (d), (e). Pub. L. 106-65, § 921(c)(3), redesignated subsecs. (d) and (e) as (b) and (c), respectively.

Subsec. (f). Pub. L. 106-65, § 921(c)(2), struck out heading and text of subsec. (f). Text read as follows: ‘‘If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (b) with respect to any fiscal year would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (a) during fiscal year 1999 would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. The authority under this subsection may be used only once, with respect to a single fiscal year.’’

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title IX, § 921(c), Oct. 5, 1999, 113 Stat. 723, provided that the amendment made by section 921(c) is effective Oct. 1, 1999.

EXCEPTIONS AND ADJUSTMENTS TO LIMITATIONS ON PERSONNEL

Pub. L. 110-417, [div. A], title XI, § 1111, Oct. 14, 2008, 122 Stat. 4619, as amended by Pub. L. 111-84, div. A, title XI, § 1109(a), Oct. 28, 2009, 123 Stat. 2492; Pub. L. 111-383, div. A, title X, § 1075(e)(17), Jan. 7, 2011, 124 Stat. 4375; Pub. L. 115-232, div. A, title VIII, § 809(b)(1), Aug. 13, 2018, 132 Stat. 1840, provided that:

‘‘(a) EXCEPTION TO LIMITATIONS ON PERSONNEL.—For fiscal year 2009 and fiscal years thereafter, the baseline personnel limitations in sections 143, 194, 7014, 8014, and

9014 of title 10, United States Code (as adjusted pursuant to subsection (b)), shall not apply to—

‘‘(1) acquisition personnel hired pursuant to the expedited hiring authority provided in section 1705(h) [now 1705(g)] of title 10, United States Code, as amended by section 833 of this Act, or otherwise hired with funds in the Department of Defense Acquisition Workforce Development Fund established in accordance with section 1705(a) of such title; or

‘‘(2) personnel hired pursuant to a shortage category designation by the Secretary of Defense or the Director of the Office of Personnel Management.

‘‘(b) AUTHORITY TO ADJUST LIMITATIONS ON PERSONNEL.—For fiscal year 2009 and fiscal years thereafter, the Secretary of Defense or a Secretary of a military department may adjust the baseline personnel limitations in sections 143, 194, 3014, 5014 and 8014 of title 10, United States Code, to—

‘‘(1) fill a gap in the civilian workforce of the Department of Defense identified by the Secretary of Defense in a strategic human capital plan submitted to Congress in accordance with the requirements of [former] section 115b of such title; or

‘‘(2) accommodate increases in workload or modify the type of personnel required to accomplish work, for any of the following purposes:

‘‘(A) Performance of inherently governmental functions.

‘‘(B) Performance of work pursuant to section 2463 of title 10, United States Code.

‘‘(C) Ability to maintain sufficient organic expertise and technical capability.

‘‘(D) Performance of work that, while the position may not exercise an inherently governmental function, nevertheless should be performed only by officers or employees of the Federal Government or members of the Armed Forces because of the critical nature of the work.’’

§ 144. Director of Small Business Programs

(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of Defense. The Director is appointed by the Secretary of Defense.

(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of Defense is the office that is established within the Office of the Secretary of Defense under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of Defense, and shall exercise such powers regarding those programs, as the Secretary of Defense may prescribe.

(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.

(Added Pub. L. 109-163, div. A, title IX, § 904(b)(1), Jan. 6, 2006, 119 Stat. 3400.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Pub. L. 109-163, div. A, title IX, § 904(a), Jan. 6, 2006, 119 Stat. 3399, provided that:

‘‘(1) POSITIONS REDESIGNATED.—The following positions within the Department of Defense are redesignated as follows:

‘‘(A) The Director of Small and Disadvantaged Business Utilization of the Department of Defense is

redesignated as the Director of Small Business Programs of the Department of Defense.

“(B) The Director of Small and Disadvantaged Business Utilization of the Department of the Army is redesignated as the Director of Small Business Programs of the Department of the Army.

“(C) The Director of Small and Disadvantaged Business Utilization of the Department of the Navy is redesignated as the Director of Small Business Programs of the Department of the Navy.

“(D) The Director of Small and Disadvantaged Business Utilization of the Department of the Air Force is redesignated as the Director of Small Business Programs of the Department of the Air Force.

“(2) OFFICES REDESIGNATED.—The following offices within the Department of Defense are redesignated as follows:

“(A) The Office of Small and Disadvantaged Business Utilization of the Department of Defense is redesignated as the Office of Small Business Programs of the Department of Defense.

“(B) The Office of Small and Disadvantaged Business Utilization of the Department of the Army is redesignated as the Office of Small Business Programs of the Department of the Army.

“(C) The Office of Small and Disadvantaged Business Utilization of the Department of the Navy is redesignated as the Office of Small Business Programs of the Department of the Navy.

“(D) The Office of Small and Disadvantaged Business Utilization of the Department of the Air Force is redesignated as the Office of Small Business Programs of the Department of the Air Force.

“(3) REFERENCES.—Any reference in any law, regulation, document, paper, or other record of the United States to a position or office redesignated by paragraph (1) or (2) shall be deemed to be a reference to the position or office as so redesignated.”

ROLE OF THE DIRECTORS OF SMALL BUSINESS PROGRAMS IN ACQUISITION PROCESSES OF THE DEPARTMENT OF DEFENSE

Pub. L. 112-239, div. A, title XVI, §1611, Jan. 2, 2013, 126 Stat. 2063, provided that:

“(a) GUIDANCE REQUIRED.—The Secretary of Defense shall develop and issue guidance to ensure that the head of each Office of Small Business Programs of the Department of Defense is a participant as early as practicable in the acquisition processes—

“(1) of the Department, in the case of the Director of Small Business Programs in the Department of Defense; and

“(2) of the military department concerned, in the case of the Director of Small Business Programs in the Department of the Army, in the Department of the Navy, and in the Department of the Air Force.

“(b) MATTERS TO BE INCLUDED.—Such guidance shall, at a minimum—

“(1) require the Director of Small Business Programs in the Department of Defense—

“(A) to provide advice to the Defense Acquisition Board; and

“(B) to provide advice to the Information Technology Acquisition Board; and

“(2) require coordination between the chiefs of staff of the Armed Forces and the service acquisition executives, as appropriate (or their designees), and the Director of Small Business Programs in each military department as early as practical in the relevant acquisition processes.”

§ 145. Principal Advisor on Countering Weapons of Mass Destruction

The Secretary of Defense may designate, from among the personnel of the Office of the Secretary of Defense, a Principal Advisor on Countering Weapons of Mass Destruction. Such Principal Advisor shall coordinate the activities of

the Department of Defense relating to countering weapons of mass destruction. The individual designated to serve as such Principal Advisor shall be an individual who was appointed to the position held by the individual by and with the advice and consent of the Senate.

(Added Pub. L. 115-232, div. A, title X, § 1082(a)(1), Aug. 13, 2018, 132 Stat. 1987.)

[\$ 146. Renumbered § 198]

Statutory Notes and Related Subsidiaries

LIMITATION ON INVOLUNTARY SEPARATION OF PERSONNEL

Pub. L. 116-283, div. A, title IX, §905(b), Jan. 1, 2021, 134 Stat. 3799, which provided that personnel of the Office of Local Defense Community Cooperation could not be involuntarily separated from service during the one-year period beginning on Jan. 1, 2021, except for cause, was repealed by Pub. L. 117-81, div. A, title IX, § 902(d), Dec. 27, 2021, 135 Stat. 1869.

ADMINISTRATION OF PROGRAMS

Pub. L. 116-283, div. A, title IX, §905(c), Jan. 1, 2021, 134 Stat. 3799, which authorized the Office of Local Defense Community Cooperation to administer any program, project, or other activity administered by the Office of Economic Adjustment of the Department of Defense, was repealed by Pub. L. 117-81, div. A, title IX, § 902(d), Dec. 27, 2021, 135 Stat. 1869.

§ 147. Chief Diversity Officer

(a) CHIEF DIVERSITY OFFICER.—(1) There is a Chief Diversity Officer of the Department of Defense, who shall be appointed by the Secretary of Defense.

(2) The Chief Diversity Officer shall be appointed from among persons who have an extensive management or business background and experience with diversity and inclusion. A person may not be appointed as Chief Diversity Officer within three years after relief from active duty as a commissioned officer of a regular component of an armed force.

(3) The Chief Diversity Officer shall report directly to the Secretary of Defense in the performance of the duties of the Chief Diversity Officer under this section.

(b) DUTIES.—The Chief Diversity Officer—

(1) is responsible for providing advice on policy, oversight, guidance, and coordination for all matters of the Department of Defense related to diversity and inclusion;

(2) advises the Secretary of Defense, the Secretaries of the military departments, and the heads of all other elements of the Department with regard to matters of diversity and inclusion;

(3) shall establish and maintain a Department of Defense strategic plan that publicly states a diversity definition, vision, and goals for the Department;

(4) shall define a set of strategic metrics that are directly linked to key organizational priorities and goals, actionable, and actively used to implement the strategic plan under paragraph (3);

(5) shall advise in the establishment of training in diversity dynamics and training in practices for leading diverse groups effectively;

(6) shall advise in the establishment of a strategic plan for diverse participation by in-