

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

- “(1) chapter 21 of title 41, United States Code;
- “(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§ 835(a), Dec. 31, 2011, 125 Stat. 1507, which related to government performance of critical acquisition functions, was repealed by Pub.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or procedures that apply to the acquisition workforce of the Department of Defense and supporting personnel, was repealed and restated as section 1762 of this title by Pub.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. 7, 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 205 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 3001 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 and implement a career path, as described in section 1722(a) of this title, for each career field designated by the Secretary under section 1721(a) of this title as an acquisition workforce career field;

(5) direct continuing education and training;

(6) authorize a member of the acquisition workforce to participate in professional associations, consistent with the performance plan of such a member in order to provide the member with the opportunity to gain leadership and management skills;

(7) develop appropriate procedures for warnings and consequences during performance evaluations for members of the acquisition workforce who consistently fail to meet performance standards;

(8) 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.);

(9) 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;

(10) use the authorities for expedited security clearance processing pursuant to section 1564 of this title; and

(11) ensure the participation in the public-private talent exchange program established under section 1599g of this title of up to 250 members of the acquisition workforce in each fiscal year.

(c) PROFESSIONAL CERTIFICATION.—(1) The Secretary of Defense shall implement a certification program to provide for a professional certification requirement for all members of the acquisition workforce. Except as provided in paragraph (2), the certification requirement for

any acquisition workforce career field shall be based on standards developed by a third-party accredited program based on nationally or internationally recognized standards.

(2) If the Secretary determines that, for a particular acquisition workforce career field, a third-party accredited program based on nationally or internationally recognized standards does not exist, the Secretary shall establish the certification requirement for that career field that conforms with the practices of national or international accrediting organizations. The Secretary shall determine the best approach for meeting the certification requirement for any such career field, including by implementing such certification requirement through entities outside the Department of Defense, and may design and implement such certification requirement without regard to section 1746 of this title.

(d) **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.

(e) **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; amended Pub. L. 116-92, div. A, title VIII, § 861(a)(1)–(3), (e)(1), Dec. 20, 2019, 133 Stat. 1515, 1517; Pub. L. 116-283, div. A, title X, § 1081(a)(31), title XVIII, §§ 1808(d)(2), 1883(b)(2), Jan. 1, 2021, 134 Stat. 3872, 4160, 4294; Pub. L. 117-263, div. A, title VIII, § 831(a), Dec. 23, 2022, 136 Stat. 2711.)

### Editorial Notes

#### AMENDMENTS

2022—Subsec. (b)(2). Pub. L. 117-263, § 831(a)(2), substituted “as defined in section 3001 of this title” for “as defined in section 2545 of this title”.

Subsec. (b)(11). Pub. L. 117-263, § 831(a)(1), added par. (11).

2021—Subsec. (a)(4). Pub. L. 116-283, § 1808(d)(2), substituted “chapter 205” for “chapter 149”.

Subsec. (b)(2). Pub. L. 116-283, § 1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116-283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to “section 2545”, which was redesignated as multiple sections.

Subsec. (b)(6). Pub. L. 116-283, § 1081(a)(31)(A), substituted a semicolon for the period at end.

Subsec. (c). Pub. L. 116-283, § 1081(a)(31)(B), struck out par. (1) heading “In General” and par. (2) heading “Requirements for Secretary”.

2019—Subsec. (b)(4). Pub. L. 116-92, § 861(e)(1), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “develop attractive career paths;”.

Subsec. (b)(5). Pub. L. 116-92, § 861(a)(2)(A), substituted “direct” for “encourage”.

Subsec. (b)(6). Pub. L. 116-92, § 861(a)(3)(B), added par. (6). Former par. (6) redesignated (7).

Pub. L. 116-92, § 861(a)(2)(B), inserted “and consequences” after “warnings”.

Subsec. (b)(7) to (10). Pub. L. 116-92, § 861(a)(3)(A), redesignated pars. (6) to (9) as (7) to (10), respectively.

Subsecs. (c) to (e). Pub. L. 116-92, § 861(a)(1), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by sections 1808(d)(2) and 1883(b)(2) of Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

#### DEADLINE FOR IMPLEMENTATION OF PROCEDURES TO INSTITUTE CERTIFICATION PROGRAM

Pub. L. 116-92, div. A, title VIII, § 861(a)(5), Dec. 20, 2019, 133 Stat. 1516, provided that: “The Secretary of Defense shall implement procedures to institute the program required by subsection (c) of section 1701a of title 10, United States Code, as added by paragraph (1), not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019].”

#### DEADLINE FOR IMPLEMENTATION OF CAREER PATHS

Pub. L. 116-92, div. A, title VIII, § 861(e)(3), Dec. 20, 2019, 133 Stat. 1517, provided that: “Not later than the end of the two-year period beginning on the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall carry out the requirements of paragraph (4) of section 1701a(b) of title 10, United States Code (as amended by paragraph (1)).”

#### FLEXIBILITY IN CONTRACTING AWARD PROGRAM

Pub. L. 114-328, div. A, title VIII, § 834, Dec. 23, 2016, 130 Stat. 2285, which established an award to recognize acquisition programs and professionals making the best use of flexibilities and authorities granted by Federal Acquisition Regulation and Department of Defense Instruction 5000.02, was repealed by Pub. L. 117-263, div. A, title VIII, § 801(c), Dec. 23, 2022, 136 Stat. 2693. See section 1743 of this title.

#### AWARDS FOR DEPARTMENT OF DEFENSE PERSONNEL FOR EXCELLENCE IN THE ACQUISITION OF PRODUCTS AND SERVICES

Pub. L. 111-23, title III, § 301, May 22, 2009, 123 Stat. 1730, provided that:

“(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act [May 22, 2009], the Secretary of Defense shall commence carrying out a program to recognize excellent performance by individuals and teams of members of the Armed Forces and civilian personnel of the Department of Defense in the acquisition of products and services for the Department of Defense.

“(b) **ELEMENTS.**—The program required by subsection (a) shall include the following:

“(1) Procedures for the nomination by the personnel of the military departments and the Defense Agencies of individuals and teams of members of the Armed Forces and civilian personnel of the Department of Defense for eligibility for recognition under the program.

“(2) Procedures for the evaluation of nominations for recognition under the program by one or more panels of individuals from the Government, academia, and the private sector who have such expertise, and are appointed in such manner, as the Secretary shall establish for purposes of the program.

“(c) **AWARD OF CASH BONUSES.**—As part of the program required by subsection (a), the Secretary may award to any individual recognized pursuant to the program a cash bonus authorized by any other provision of law to the extent that the performance of such individual so recognized warrants the award of such bonus under such provision of law.”

### § 1701b. Enhanced pay authority for certain acquisition and technology positions

(a) **IN GENERAL.**—The Secretary of Defense may carry out a program using the pay author-