

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-

ity specified in subsection (d) to fix the rate of basic pay for positions described in subsection (c) in order to assist the Office of the Secretary of Defense and the military departments in attracting and retaining high-quality acquisition and technology experts in positions responsible for managing and developing complex, high-cost, technological acquisition efforts of the Department of Defense.

(b) APPROVAL REQUIRED.—The program may be carried out only with approval as follows:

(1) Approval of the Under Secretary of Defense for Acquisition and Sustainment, in the case of positions in the Office of the Secretary of Defense.

(2) Approval of the service acquisition executive of the military department concerned, in the case of positions in a military department.

(c) POSITIONS.—The positions described in this subsection are positions that—

(1) require expertise of an extremely high level in a scientific, technical, professional, or acquisition management field; and

(2) are critical to the successful accomplishment of an important acquisition or technology development mission.

(d) RATE OF BASIC PAY.—The pay authority specified in this subsection is authority as follows:

(1) Authority to fix the rate of basic pay for a position at a rate not to exceed 150 percent of the rate of basic pay payable for level I of the Executive Schedule, upon the approval of the Under Secretary of Defense for Acquisition and Sustainment or the service acquisition executive concerned, as applicable.

(2) Authority to fix the rate of basic pay for a position at a rate in excess of 150 percent of the rate of basic pay payable for level I of the Executive Schedule, upon the approval of the Secretary of Defense.

(e) LIMITATIONS.—

(1) IN GENERAL.—The authority in subsection (a) may be used only to the extent necessary to competitively recruit or retain individuals exceptionally well qualified for positions described in subsection (c).

(2) NUMBER OF POSITIONS.—The authority in subsection (a) may not be used at any one time with respect to—

(A) more than five positions, in total, in Department of Defense Field Activities and Defense Agencies;

(B) more than five positions in the Office of the Secretary of Defense; and

(C) more than five positions in each military department.

(3) TERM OF POSITIONS.—The authority in subsection (a) may be used only for positions having terms less than five years.

(Added Pub. L. 116-283, div. A, title XI, §1114(a), Jan. 1, 2021, 134 Stat. 3894; amended Pub. L. 117-263, div. A, title VIII, §831(b), Dec. 23, 2022, 136 Stat. 2711.)

Editorial Notes

REFERENCES IN TEXT

Level I of the Executive Schedule, referred to in subsec. (d), is set out in section 5312 of Title 5, Government Organization and Employees.

AMENDMENTS

2022—Subsec. (e)(2). Pub. L. 117-263 amended par. (2) generally. Prior to amendment, text read as follows: “The authority in subsection (a) may not be used with respect to more than five positions in the Office of the Secretary of Defense and more than five positions in each military department at any one time.”

§ 1702. Under Secretary of Defense for Acquisition and Sustainment: authorities and responsibilities

Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment 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; Pub. L. 116-92, div. A, title IX, §902(11), Dec. 20, 2019, 133 Stat. 1544.)

Editorial Notes

AMENDMENTS

2019—Pub. L. 116-92 substituted “Under Secretary of Defense for Acquisition and Sustainment” for “Under Secretary of Defense for Acquisition, Technology, and Logistics” in section catchline and in text.

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.

Statutory Notes and Related Subsidiaries

QUICK-REACTION SPECIAL PROJECTS ACQUISITION TEAM

Pub. L. 107-314, div. A, title VIII, §807, Dec. 2, 2002, 116 Stat. 2608, as amended by Pub. L. 116-92, div. A, title IX, §902(12), Dec. 20, 2019, 133 Stat. 1544, provided that:

“(a) ESTABLISHMENT.—The Under Secretary of Defense for Acquisition and Sustainment 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.