

section before that date in accordance with the terms of such authorization.”

PILOT PROGRAM ON ASSIGNMENT TO DEFENSE ADVANCED RESEARCH PROJECTS AGENCY OF PRIVATE SECTOR PERSONNEL WITH CRITICAL RESEARCH AND DEVELOPMENT EXPERTISE

Pub. L. 113-291, div. A, title II, §232, Dec. 19, 2014, 128 Stat. 3332, as amended by Pub. L. 115-91, div. A, title X, §1051(t)(1), Dec. 12, 2017, 131 Stat. 1566; Pub. L. 117-286, §4(c)(20), Dec. 27, 2022, 136 Stat. 4356, provided that:

“(a) **PILOT PROGRAM AUTHORIZED.**—In accordance with the provisions of this section, the Director of the Defense Advanced Research Projects Agency may carry out a pilot program to assess the feasibility and advisability of temporarily assigning covered individuals with significant technical expertise in research and development areas of critical importance to defense missions to the Defense Advanced Research Projects Agency to lead research or development projects of the Agency.

“(b) **ASSIGNMENT OF COVERED INDIVIDUALS.**—

“(1) **NUMBER OF INDIVIDUALS ASSIGNED.**—Under the pilot program, the Director may assign covered individuals to the Agency as described in subsection (a), but may not have more than five covered individuals so assigned at any given time.

“(2) **PERIOD OF ASSIGNMENT.**—

“(A) Except as provided in subparagraph (B), the Director may, under the pilot program, assign a covered individual described in subsection (a) to lead research and development projects of the Agency for a period of not more than two years.

“(B) The Director may extend the assignment of a covered individual for one additional period of not more than two years as the Director considers appropriate.

“(3) **APPLICATION OF CERTAIN PROVISIONS OF LAW.**—

“(A) Except as otherwise provided in this section, the Director shall carry out the pilot program in accordance with the provisions of subchapter VI of chapter 33 of title 5, United States Code, except that, for purposes of the pilot program, the term ‘other organization’, as used in such subchapter, shall be deemed to include a covered entity.

“(B) A covered individual employed by a covered entity who is assigned to the Agency under the pilot program is deemed to be an employee of the Department of Defense for purposes of the following provisions of law:

“(i) Chapter 73 of title 5, United States Code.

“(ii) Sections 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913 of title 18, United States Code.

“(iii) Sections 1343, 1344, and 1349(b) of title 31, United States Code.

“(iv) Chapter 171 of title 28, United States Code (commonly known as the ‘Federal Tort Claims Act’), and any other Federal tort liability statute.

“(v) Chapter 131 of title 5, United States Code.

“(vi) Section 1043 of the Internal Revenue Code of 1986 [26 U.S.C. 1043].

“(vii) Chapter 21 of title 41, United States Code.

“(4) **PAY AND SUPERVISION.**—A covered individual employed by a covered entity who is assigned to the Agency under the pilot program—

“(A) may continue to receive pay and benefits from such covered entity with or without reimbursement by the Agency;

“(B) is not entitled to pay from the Agency; and

“(C) shall be subject to supervision by the Director in all duties performed for the Agency under the pilot program.

“(c) **CONFLICTS OF INTEREST.**—

“(1) **PRACTICES AND PROCEDURES REQUIRED.**—The Director shall develop practices and procedures to manage conflicts of interest and the appearance of conflicts of interest that could arise through assignments under the pilot program.

“(2) **ELEMENTS.**—The practices and procedures required by paragraph (1) shall include, at a minimum, the requirement that each covered individual assigned to the Agency under the pilot program shall sign an agreement that provides for the following:

“(A) The nondisclosure of any trade secrets or other nonpublic or proprietary information which is of commercial value to the covered entity from which such covered individual is assigned.

“(B) The assignment of rights to intellectual property developed in the course of any research or development project under the pilot program—

“(i) to the Agency and its contracting partners in accordance with applicable provisions of law regarding intellectual property rights; and

“(ii) not to the covered individual or the covered entity from which such covered individual is assigned.

“(C) Such additional measures as the Director considers necessary to carry out the program in accordance with Federal law.

“(d) **PROHIBITION ON CHARGES BY COVERED ENTITIES.**—

A covered entity may not charge the Federal Government, as direct or indirect costs under a Federal contract, the costs of pay or benefits paid by the covered entity to a covered individual assigned to the Agency under the pilot program.

“(e) **TERMINATION OF AUTHORITY.**—The authority provided in this section shall expire on September 30, 2025, except that any covered individual assigned to the Agency under the pilot program shall continue in such assignment until the terms of such assignment have been satisfied.

“(f) **DEFINITIONS.**—In this section:

“(1) The term ‘covered individual’ means any individual who is employed by a covered entity.

“(2) The term ‘covered entity’ means any non-Federal, nongovernmental entity that, as of the date on which a covered individual employed by the entity is assigned to the Agency under the pilot program, is a nontraditional defense contractor (as defined in section 2302 of title 10, United States Code [see 10 U.S.C. 3014]).”

§ 4091. Authorities for certain positions at science and technology reinvention laboratories

(a) **AUTHORITY TO MAKE DIRECT APPOINTMENTS.**—

(1) **CANDIDATES FOR SCIENTIFIC AND ENGINEERING POSITIONS AT SCIENCE AND TECHNOLOGY REINVENTION LABORATORIES.**—The director of any Science and Technology Reinvention Laboratory (hereinafter in this section referred to as an “STRL”) may appoint qualified candidates possessing a bachelor’s or advanced degree to positions described in paragraph (1) of subsection (b) as an employee in a laboratory described in that paragraph without regard to the provisions of subchapter I of chapter 33 of title 5 (other than sections 3303 and 3328 of such title).

(2) **VETERAN CANDIDATES FOR SIMILAR POSITIONS AT RESEARCH AND ENGINEERING FACILITIES.**—The director of any STRL may appoint qualified veteran candidates to positions described in paragraph (2) of subsection (b) as an employee at a laboratory, agency, or organization specified in that paragraph without regard to the provisions of subchapter I of chapter 33 of title 5.

(3) **STUDENTS ENROLLED IN SCIENTIFIC AND ENGINEERING PROGRAMS.**—The director of any STRL may appoint qualified candidates enrolled in a program of undergraduate or grad-

uate instruction leading to a bachelor's or an advanced degree in a scientific, technical, engineering or mathematical course of study at an institution of higher education (as that term is defined in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001, 1002)) to positions described in paragraph (3) of subsection (b) as an employee in a laboratory described in that paragraph without regard to the provisions of subchapter I of chapter 33 of title 5 (other than sections 3303 and 3328 of such title).

(4) **NONCOMPETITIVE CONVERSION OF APPOINTMENTS.**—With respect to any student appointed by the director of an STRL under paragraph (3) to a temporary or term appointment, upon graduation from the applicable institution of higher education (as defined in such paragraph), the director may non-competitively convert such student to another temporary appointment or to a term or permanent appointment within the STRL without regard to the provisions of subchapter I of chapter 33 of title 5 (other than sections 3303 and 3328 of such title), provided the student meets all eligibility and Office of Personnel Management qualification requirements for the position.

(b) **COVERED POSITIONS.**—

(1) **CANDIDATES FOR SCIENTIFIC AND ENGINEERING POSITIONS.**—The positions described in this paragraph are scientific and engineering positions that may be temporary, term, or permanent in any laboratory designated by section 4121(b) of this title as a Department of Defense science and technology reinvention laboratory.

(2) **QUALIFIED VETERAN CANDIDATES.**—The positions described in this paragraph are scientific, technical, engineering, and mathematics positions, including technicians, in the following:

(A) Any laboratory referred to in paragraph (1).

(B) Any other Department of Defense research and engineering agency or organization designated by the Secretary for purposes of subsection (a)(2).

(3) **CANDIDATES ENROLLED IN SCIENTIFIC AND ENGINEERING PROGRAMS.**—The positions described in this paragraph are scientific and engineering positions that may be temporary or term in any laboratory designated by section 4121(b) of this title as a Department of Defense science and technology reinvention laboratory.

(c) **LIMITATION ON NUMBER OF APPOINTMENTS ALLOWABLE IN A FISCAL YEAR.**—The authority under subsection (a) may not, in any fiscal year and with respect to any laboratory, agency, or organization described in subsection (b), be exercised with respect to a number of candidates greater than the following:

(1) In the case of a laboratory described in subsection (b)(1), with respect to appointment authority under subsection (a)(1), the number equal to 11 percent of the total number of scientific and engineering positions in such laboratory that are filled as of the close of the preceding fiscal year.

(2) In the case of a laboratory, agency, or organization described in subsection (b)(2), with respect to appointment authority under subsection (a)(2), the number equal to 3 percent of the total number of scientific, technical, engineering, mathematics, and technician positions in such laboratory, agency, or organization that are filled as of the close of the preceding fiscal year.

(3) In the case of a laboratory described in subsection (b)(3), with respect to appointment authority under subsection (a)(3), the number equal to 10 percent of the total number of scientific and engineering positions in such laboratory that are filled as of the close of the preceding fiscal year.

(d) **SENIOR SCIENTIFIC TECHNICAL MANAGERS.**—

(1) **ESTABLISHMENT.**—There is hereby established in each STRL, each facility of the Major Range and Test Facility Base, and the Defense Test Resource Management Center a category of senior professional scientific and technical positions, the incumbents of which shall be designated as “senior scientific technical managers” and which shall be positions classified above GS-15 of the General Schedule, notwithstanding section 5108(a) of title 5. The primary functions of such positions shall be—

(A) to engage in research and development in the physical, biological, medical, or engineering sciences, or another field closely related to the mission of such STRL, of such facility of the Major Range and Test Facility Base, or the Defense Test Resource Management Center; and

(B) to carry out technical supervisory responsibilities.

(2) **APPOINTMENTS.**—(A) The laboratory positions described in paragraph (1) may be filled, and shall be managed, by the director of the STRL involved, under criteria established pursuant to section 4121(a) of this title, relating to personnel demonstration projects at laboratories of the Department of Defense, except that the director of the laboratory involved shall determine the number of such positions at such laboratory, not to exceed 2 percent of the number of scientists and engineers employed at such laboratory as of the close of the last fiscal year before the fiscal year in which any appointments subject to that numerical limitation are made.

(B) The test and evaluation positions described in paragraph (1) may be filled, and shall be managed, by the director of the Major Range and Test Facility Base, in the case of a position at a facility of the Major Range and Test Facility Base, and the director of the Defense Test Resource Management Center, in the case of a position at such center, under criteria established pursuant to section 4121(a) of this title, relating to personnel demonstration projects at laboratories of the Department of Defense, except that the director involved shall determine the number of such positions at each facility of the Major Range and Test Facility Base and the Defense Test Resource Management Center, not to exceed two percent of the number of scientists and engi-

neers, but at least one position, employed at the Major Range and Test Facility Base or the Defense Test Resource Management Center, as the case may be, as of the close of the last fiscal year before the fiscal year in which any appointments subject to those numerical limitations are made.

(e) **EXCLUSION FROM PERSONNEL LIMITATIONS.**—

(1) **IN GENERAL.**—The director of an STRL shall manage the workforce strength, structure, positions, and compensation of such STRL—

(A) without regard to any limitation on appointments, positions, or funding with respect to such STRL, subject to subparagraph (B); and

(B) in a manner consistent with the budget available with respect to such STRL.

(2) **EXCEPTIONS.**—Paragraph (1) shall not apply to Senior Executive Service positions (as defined in section 3132(a) of title 5) or scientific and professional positions authorized under section 3104 of such title.

(f) **DEFINITIONS.**—In this section:

(1) The term “Defense Test Resource Management Center” means the Department of Defense Test Resource Management Center established under section 4173 of this title.

(2) The term “employee” has the meaning given that term in section 2105 of title 5.

(3) The term “Major Range and Test Facility Base” means the test and evaluation facilities and resources that are designated by the Secretary of Defense as facilities and resources comprising the Major Range and Test Facility Base.

(4) The term “veteran” has the meaning given that term in section 101 of title 38.

(Added Pub. L. 114-328, div. A, title XI, §1122(a)(1), Dec. 23, 2016, 130 Stat. 2453, §2358a; amended Pub. L. 115-91, div. A, title XI, §1111, Dec. 12, 2017, 131 Stat. 1636; Pub. L. 115-232, div. A, title XI, §1112(a), Aug. 13, 2018, 132 Stat. 2012; renumbered §4091, Pub. L. 116-283, div. A, title XVIII, §1843(a), as added Pub. L. 117-81, div. A, title XVII, §1701(u)(4)(A), Dec. 27, 2021, 135 Stat. 2153; Pub. L. 116-283, div. A, title XVIII, §§1843(b)(2), 1845(c)(5), Jan. 1, 2021, 134 Stat. 4245, 4247; Pub. L. 117-81, div. A, title II, §§212(a), 215(d)(13), Dec. 27, 2021, 135 Stat. 1588, 1595; Pub. L. 118-31, div. A, title XI, §1103, Dec. 22, 2023, 137 Stat. 427.)

Editorial Notes

AMENDMENTS

2023—Subsec. (a)(1). Pub. L. 118-31, §1103(1), substituted “bachelor’s or advanced degree” for “bachelor’s degree”.

Subsec. (c). Pub. L. 118-31, §1103(2)(A), (B), (D), substituted “Fiscal Year” for “Calendar Year” in heading, “fiscal year” for “calendar year” in introductory provisions, and “the preceding fiscal year” for “the fiscal year last ending before the start of such calendar year” in pars. (1) to (3).

Subsec. (c)(1). Pub. L. 118-31, §1103(2)(C), substituted “11 percent” for “6 percent”.

Subsecs. (f), (g). Pub. L. 118-31, §1103(3), (4), redesignated subsec. (g) as (f) and struck out former subsec. (f) which related to direct hire authority at personnel demonstration laboratories for advanced degree holders.

2021—Pub. L. 116-283, §1843(a), as added by Pub. L. 117-81, §1701(u)(4)(A), renumbered section 2358a of this title as this section.

Pub. L. 116-283, §1843(b)(2), which directed the renumbering of section 2358a of this title as section 4111 instead of this section, was repealed by Pub. L. 117-81, §1701(u)(4)(A), effective as if included therein, so that such renumbering was no longer directed.

Subsec. (b)(1), (3). Pub. L. 117-81, §215(d)(13)(A), substituted “designated by section 4121(b) of this title” for “designated by section 1105(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 10 U.S.C. 2358 note)”.

Subsec. (d)(2)(A), (B). Pub. L. 117-81, §215(d)(13)(B), substituted “pursuant to section 4121(a) of this title” for “pursuant to section 342(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 10 U.S.C. 2358 note)”.

Subsec. (f). Pub. L. 117-81, §212(a)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 117-81, §212(a)(1), redesignated subsec. (f) as (g).

Subsec. (g)(1). Pub. L. 116-283, §1845(c)(5), which directed amendment of subsec. (f)(1) of this section, as transferred and redesignated by section 503(b)(2) of Pub. L. 116-283, by substituting “section 4173” for “section 196”, was executed to subsec. (g)(1) of this section, as transferred and redesignated by section 1843(a) of Pub. L. 116-283, to reflect the probable intent of Congress and the amendments by Pub. L. 117-81, §§212(a)(1), 1701(u)(4)(A). See notes above.

2018—Subsec. (a)(4). Pub. L. 115-232 substituted “of appointments” for “to permanent appointment” in heading and “to another temporary appointment or to a term or permanent appointment” for “to a permanent appointment” in text.

2017—Subsec. (d)(1). Pub. L. 115-91, §1111(1)(A)(i), inserted “, each facility of the Major Range and Test Facility Base, and the Defense Test Resource Management Center” after “each STRL” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 115-91, §1111(1)(A)(ii), which directed insertion of “, of such facility of the Major Range and Test Facility Base, or the Defense Test Resource Management Center”, was executed by making the insertion after “such STRL”, to reflect the probable intent of Congress.

Subsec. (d)(2). Pub. L. 115-91, §1111(1)(B), designated existing provisions as subpar. (A), substituted “The laboratory positions” for “The positions”, and added subpar. (B).

Subsec. (f). Pub. L. 115-91, §1111(2), added pars. (1) and (3) and redesignated former pars. (1) and (2) as (2) and (4), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117-81, div. A, title II, §215(e), Dec. 27, 2021, 135 Stat. 1595, provided that: “This section [enacting section 4121 of this title, amending this section and sections 4094 and 4124 of this title, amending provisions set out as notes preceding section 1580 of this title and under sections 2223a, 2358, 4001, and 4121 of this title, and repealing provisions set out as notes under section 2358 of this title] and the amendments and repeals made by this section shall take effect immediately after the effective date of the amendments made by title XVIII of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116-283) [Jan. 1, 2022].”

Amendment by section 1701(u)(4)(A) of Pub. L. 117-81 applicable as if included in the enactment of title XVIII of Pub. L. 116-283 as enacted, see section 1701(a)(2) of Pub. L. 117-81, set out in a note preceding section 3001 of this title and note below.

Amendment by 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.

§ 4092. Personnel management authority to attract experts in science, engineering, and certain other disciplines

(a) PROGRAMS AUTHORIZED.—

(1) LABORATORIES OF THE MILITARY DEPARTMENTS.—The Secretary of Defense may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for such laboratories of the military departments as the Secretary shall designate for purposes of the program for research and development projects of such laboratories.

(2) DARPA.—The Director of the Defense Advanced Research Projects Agency may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for research and development projects and to enhance the administration and management of the Agency.

(3) DOTE.—The Director of the Office of Operational Test and Evaluation may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering to support operational test and evaluation missions of the Office.

(4) STRATEGIC CAPABILITIES OFFICE.—The Director of the Strategic Capabilities Office may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for the Office.

(5) DIU.—The Director of the Defense Innovation Unit may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for the Unit.

(6) JOINT ARTIFICIAL INTELLIGENCE.—The official designated under section 238(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232) may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering to support the activities of such official under section 238 of such Act. The authority to carry out the program under this paragraph shall terminate on December 31, 2024.

(7) NGA.—The Director of the National Geospatial-Intelligence Agency may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for research and development projects and to enhance the administration and management of the Agency.

(8) SDA.—The Director of the Space Development Agency may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for research and development projects and to enhance the administration and man-

agement of the Agency. The authority to carry out the program under this paragraph shall terminate on December 31, 2030.

(9) UNITED STATES CYBER COMMAND.—The Commander of United States Cyber Command may carry out a program of personnel management authority provided in subsection (b) in order to facilitate the recruitment of eminent experts in computer science, data science, engineering, mathematics, and computer network exploitation within the headquarters of United States Cyber Command and the Cyber National Mission Force.

(10) OFFICE OF THE UNDER SECRETARY OF DEFENSE FOR RESEARCH AND ENGINEERING.—The Under Secretary of Defense for Research and Engineering may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for the Office of the Under Secretary.

(11) OFFICE OF STRATEGIC CAPITAL.—The Director of the Office of Strategic Capital may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in finance and investment for the Office.

(b) PERSONNEL MANAGEMENT AUTHORITY.—Under a program under subsection (a), the official responsible for administration of the program may—

(1) without regard to any provision of title 5 governing the appointment of employees in the civil service—

(A) in the case of the laboratories of the military departments designated pursuant to subsection (a)(1), appoint scientists and engineers to a total of not more than 40 scientific and engineering positions in such laboratories;

(B) in the case of the Defense Advanced Research Projects Agency, appoint individuals to a total of not more than 140 positions in the Agency;

(C) in the case of the Office of Operational Test and Evaluation, appoint scientists and engineers to a total of not more than 10 scientific and engineering positions in the Office;

(D) in the case of the Strategic Capabilities Office, appoint scientists and engineers to a total of not more than 20 scientific and engineering positions in the Office, of which not more than 5 such positions may be positions of administration or management of the Office;

(E) in the case of the Defense Innovation Unit, appoint scientists and engineers to a total of not more than 35 scientific and engineering positions in the Unit, of which not more than 5 such positions may be positions of administration or management of the Unit;

(F) in the case of the office of the official designated under section 238(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232), appoint scientists and engineers to a total of not more than 5 scientific and engineering positions in support of the activities of such official under section 238 of such Act;