

INCLUSION OF CONTRACT CLAUSE IN CONTRACTS
AWARDED BEFORE EFFECTIVE DATE

Pub. L. 114-261, §1(c), Dec. 14, 2016, 130 Stat. 1363, provided that: “At the time of any major modification to a contract that was awarded before the date of the enactment of this Act [Dec. 14, 2016], the head of the contracting agency shall make best efforts to include in the contract a contract clause providing for the applicability of the amendments made by this section [amending this section, section 2324 of this title, and sections 4304, 4310, and 4712 of Title 41, Public Contracts] and section 827 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239; 126 Stat. 1833) [amending this section and section 2324 of this title].”

INFORMATION FOR DEPARTMENT OF DEFENSE CONTRACTOR EMPLOYEES ON THEIR WHISTLEBLOWER RIGHTS

Pub. L. 110-417, [div. A], title VIII, §842, Oct. 14, 2008, 122 Stat. 4539, provided that:

“(a) IN GENERAL.—The Secretary of Defense shall ensure that contractors of the Department of Defense inform their employees in writing of employee whistleblower rights and protections under section 2409 of title 10, United States Code [now 10 U.S.C. 4701], as implemented by subpart 3.9 of part I of title 48, Code of Federal Regulations.

“(b) CONTRACTOR DEFINED.—In this section, the term ‘contractor’ has the meaning given that term in section 2409(e)(4) of title 10, United States Code [now 10 U.S.C. 4701(g)(4)].”

§ 4702. Incentives and consideration for qualified training programs

(a) INCENTIVES.—The Secretary of Defense shall develop workforce development investment incentives for a contractor that implements a qualified training program to develop the workforce of the contractor in a manner consistent with the needs of the Department of Defense.

(b) CONSIDERATION OF QUALIFIED TRAINING PROGRAMS.—The Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to require that the system used by the Federal Government to monitor or record contractor past performance includes an analysis of the availability, quality, and effectiveness of a qualified training program of an offeror as part of the past performance rating of such offeror.

(c) QUALIFIED TRAINING PROGRAM DEFINED.—The term “qualified training program” means any of the following:

(1) A program eligible to receive funds under the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.).

(2) A program eligible to receive funds under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.).

(3) A program registered under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664; chapter 663; 29 U.S.C. 50 et seq.).

(4) Any other program determined to be a qualified training program for purposes of this section, and that meets the workforce needs of the Department of Defense, as determined by the Secretary of Defense.

(Added Pub. L. 116-92, div. A, title VIII, §864(a), Dec. 20, 2019, 133 Stat. 1522, §2409a; renumbered §4702 and amended Pub. L. 116-283, div. A, title

X, §1081(a)(40), title XVIII, §1863(b), Jan. 1, 2021, 134 Stat. 3873, 4278.)

Editorial Notes

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in subsec. (c)(1), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, which enacted chapter 32 (§3101 et seq.) of Title 29, Labor, repealed chapter 30 (§2801 et seq.) of Title 29 and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (c)(2), is Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

The Act of August 16, 1937, referred to in subsec. (c)(3), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, popularly known as the National Apprenticeship Act, which is classified generally to chapter 4C (§50 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 50 of Title 29 and Tables.

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2409a of this title as this section.

Subsec. (c)(3). Pub. L. 116-283, §1081(a)(40), substituted “50 Stat. 664;” for “Stat. 664.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1863(b) 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.

§ 4703. Displaced contractor employees: assistance to obtain certification and employment as teachers or employment as teachers’ aides

(a) ASSISTANCE PROGRAM.—The Secretary of Defense may enter into a cooperative agreement with a defense contractor in order—

(1) to assist an eligible scientist or engineer employed by the contractor whose employment is terminated to obtain—

- (A) certification or licensure as an elementary or secondary school teacher; or
(B) the credentials necessary to serve as a teacher’s aide; and

(2) to facilitate the employment of the scientist or engineer by a local educational agency that—

- (A) is receiving a grant under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) as a result of having within its jurisdiction concentrations of children from low-income families; and
(B) is also experiencing a shortage of teachers or teachers’ aides.

(b) ELIGIBLE DEFENSE CONTRACTORS.—(1) The Secretary of Defense shall establish an application and selection process for the participation of defense contractors in a cooperative agreement authorized under subsection (a).

(2) The Secretary shall determine which defense contractors are eligible to participate in the placement program on the basis of applications submitted under subsection (c). The Secretary shall limit participation to those defense contractors or subcontractors that—

(A) produce goods or services for the Department of Defense pursuant to a defense contract or operate nuclear weapons manufacturing facilities for the Department of Energy; and

(B) have recently reduced operations, or are likely to reduce operations, due to the completion or termination of a defense contract or program or by reductions in defense spending.

(3) The Secretary shall give special consideration to defense contractors who are located in areas that have been hit particularly hard by reductions in defense spending.

(c) DEFENSE CONTRACTOR APPLICATIONS.—(1) A defense contractor desiring to enter into a cooperative agreement with the Secretary of Defense under subsection (a) shall submit an application to the Secretary containing the following:

(A) Evidence that the contractor has been, or is expected to be, adversely affected by the completion or termination of a defense contract or program or by reductions in defense spending.

(B) An explanation that scientists and engineers employed by the contractor have been terminated, laid off, or retired, or are likely to be terminated, laid off, or retired, as a result of the completion or termination of a defense contract or program or reductions in defense spending.

(C) A description of programs implemented or proposed by the contractor to assist these scientists and engineers.

(D) A commitment to help fund the costs associated with the placement program by paying 50 percent of the stipend provided under subsection (g) to an employee or former employee of the contractor selected to receive assistance under this section.

(2) Once a cooperative agreement is entered into under subsection (a) between the Secretary and the defense contractor, the contractor shall publicize the program and distribute applications to prospective participants, and assist the prospective participants with the State screening process.

(d) ELIGIBLE SCIENTISTS AND ENGINEERS.—An individual shall be eligible for selection by the Secretary of Defense to receive assistance under this section if the individual—

(1) is employed or has been employed for not less than five years as a scientist or engineer with a private defense contractor that has entered into an agreement under subsection (a);

(2) has received—

(A) in the case of an individual applying for assistance for placement as an elementary or secondary school teacher, a baccalaureate or advanced degree from an accredited institution of higher education; or

(B) in the case of an individual applying for assistance for placement as a teacher's aide in an elementary or secondary school, an associate, baccalaureate, or advanced de-

gree from an accredited institution of higher education or a junior or community college; and

(3) has been terminated or laid off (or received notice of termination or lay off) as a result of the completion or termination of a defense contract or program or reductions in defense spending; and

(4) satisfies such other criteria for selection as the Secretary may prescribe.

(e) SELECTION OF PARTICIPANTS.—(1) In selecting participants to receive assistance for placement as elementary or secondary school teachers, the Secretary shall give priority to individuals who—

(A) have educational, military, or employment experience in science, mathematics, or engineering and agree to seek employment as science, mathematics, or engineering teachers in elementary or secondary schools; or

(B) have educational, military, or employment experience in another subject area identified by the Secretary, in consultation with the Secretary of Education, as important for national educational objectives and agree to seek employment in that subject area in elementary or secondary schools.

(2) The Secretary may not select an individual under this section unless the Secretary has sufficient appropriations to carry out this section available at the time of the selection to satisfy the obligations to be incurred by the United States under this section with respect to that individual.

(f) AGREEMENT.—An individual selected under this section shall be required to enter into an agreement with the Secretary in which the participant agrees—

(1) to obtain, within such time as the Secretary may require, certification or licensure as an elementary or secondary school teacher or the necessary credentials to serve as a teacher's aide in an elementary or secondary school; and

(2) to accept—

(A) in the case of an individual selected for assistance for placement as a teacher, an offer of full-time employment as an elementary or secondary school teacher for not less than two school years with a local educational agency identified under section 1151(b)(2) of this title, as in effect on October 4, 1999, to begin the school year after obtaining that certification or licensure; or

(B) in the case of an individual selected for assistance for placement as a teacher's aide, an offer of full-time employment as a teacher's aide in an elementary or secondary school for not less than two school years with a local educational agency identified under section 1151(b)(3) of this title, as in effect on October 4, 1999, to begin the school year after obtaining the necessary credentials.

(g) STIPEND FOR PARTICIPANTS.—(1) The Secretary of Defense shall pay to each participant in the placement program a stipend in an amount equal to the lesser of—

(A) \$5,000; or

(B) the total costs of the type described in paragraphs (1), (2), (3), (8), and (9)¹ of section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087*ll*) incurred by the participant while obtaining teacher certification or licensure or the necessary credentials to serve as a teacher's aide and employment as an elementary or secondary school teacher or teacher aide.

(2) A stipend provided under this section shall be taken into account in determining the eligibility of the participant for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(h) PLACEMENT OF PARTICIPANTS AS TEACHERS AND TEACHERS' AIDES.—Subsections (h) through (k) of section 1151 of this title, as in effect on October 4, 1999, shall apply with respect to the placement as teachers and teachers' aides of individuals selected under this section.

(Added Pub. L. 102-484, div. D, title XLIV, § 4443(a), Oct. 23, 1992, 106 Stat. 2732, § 2410c; renumbered § 2410j and amended Pub. L. 103-35, title II, § 201(b)(1)(A), (g)(6), May 31, 1993, 107 Stat. 97, 100; Pub. L. 103-160, div. A, title XIII, § 1331(c)(3), Nov. 30, 1993, 107 Stat. 1792; Pub. L. 103-382, title III, § 391(b)(5), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 104-106, div. A, title XV, § 1503(a)(23), Feb. 10, 1996, 110 Stat. 512; Pub. L. 104-201, div. A, title V, § 576(c), Sept. 23, 1996, 110 Stat. 2535; Pub. L. 106-398, § 1 [[div. A], title X, § 1087(a)(14)], Oct. 30, 2000, 114 Stat. 1654, 1654A-291; renumbered § 4703, Pub. L. 116-283, div. A, title XVIII, § 1863(b), Jan. 1, 2021, 134 Stat. 4278.)

Editorial Notes

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(A), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

Section 1151 of this title, referred to in subsecs. (f)(2)(A), (B) and (h), was repealed by Pub. L. 106-65, div. A, title XVII, § 1707(a)(1), Oct. 5, 1999, 113 Stat. 823, and a new section 1151 of this title was subsequently added by Pub. L. 109-364, § 561(a).

Section 472 of the Higher Education Act of 1965, referred to in subsec. (g)(1)(B), which is classified to section 1087*ll* of Title 20, Education, was generally amended by Pub. L. 116-260, div. FF, title VII, § 702(b), Dec. 27, 2020, 134 Stat. 3138. For provisions similar to former pars. (1), (2), (3), (8), and (9), see subsec. (a)(1), (2), (5), (9), and (10), respectively, of section 1087*ll* of Title 20.

The Higher Education Act of 1965, referred to in subsec. (g)(2), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§ 1070 et seq.) of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2410j of this title as this section.

2000—Subsec. (f)(2). Pub. L. 106-398, § 1 [[div. A], title X, § 1087(a)(14)(A)], inserted “as in effect on October 4, 1999,” after “of this title,” in subpars. (A) and (B).

Subsec. (h). Pub. L. 106-398, § 1 [[div. A], title X, § 1087(a)(14)(B)], inserted “, as in effect on October 4, 1999,” after “of this title”.

1996—Subsec. (a)(2)(A). Pub. L. 104-106 substituted “6301” for “2701”.

Subsec. (f)(2)(A), (B). Pub. L. 104-201 substituted “two school years” for “five school years”.

1994—Subsec. (a)(2)(A). Pub. L. 103-382 struck out “chapter 1 of” after “grant under”.

1993—Pub. L. 103-35, § 201(b)(1)(A), renumbered section 2410c of this title as section 2410j.

Subsec. (f)(2)(A), (B). Pub. L. 103-160 substituted “five school years” for “two school years”.

Subsec. (f)(2)(B). Pub. L. 103-35, § 201(g)(6), substituted “aide” for “aid” after “for placement as a teacher’s”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

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.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-160 not applicable with respect to persons selected by Secretary of Defense before Nov. 30, 1993, to participate in teacher and teacher's aide placement programs established pursuant to sections 1598 and 4703 of this title and former section 1151 of this title or agreements entered into by Secretary before such date with local educational agencies under such sections, see section 1331(h) of Pub. L. 103-160, set out as a note under section 1598 of this title.

SAVINGS PROVISION

Amendments by section 576 of Pub. L. 104-201 not to affect obligations under agreements entered into in accordance with section 1598 or 4703 of this title or former section 1151 of this title before Sept. 23, 1996, see section 576(d) of Pub. L. 104-201, set out as a note under section 1598 of this title.

§ 4704. Defense contractors: listing of suitable employment openings with local employment service office

(a) REGULATIONS.—The Secretary of Defense shall promulgate regulations containing the requirement described in subsection (b) and such other provisions as the Secretary considers necessary to administer such requirement. Such regulations shall require that each contract described in subsection (c) shall contain a clause requiring the contractor to comply with such regulations.

(b) REQUIREMENT.—The regulations promulgated under this section shall require each contractor carrying out a contract described in subsection (c) to list immediately with the appropriate local employment service office, and where appropriate the Interstate Job Bank (established by the United States Employment Service), all of its suitable employment openings under such contract.

(c) COVERED CONTRACTS.—The regulations promulgated under this section shall apply to any contract entered into with the Department of Defense in an amount of \$500,000 or more.

(Added Pub. L. 102-484, div. D, title XLIV, § 4470(a)(1), Oct. 23, 1992, 106 Stat. 2753, § 2410d; renumbered § 2410k and amended Pub. L. 103-35, title II, §§ 201(b)(1)(A), 202(a)(18)(A), May 31, 1993, 107 Stat. 97, 102; renumbered § 4704, Pub. L.

¹ See References in Text note below.