

Recommendation 25: Streamline and adapt hiring authorities to support the acquisition workforce.

Problem

The primary dilemma confronting the hiring process for the defense AWF is the need to fill critical skill gaps. The AWF experiences shortfalls in certain positions and career fields that require specialized skills and backgrounds. The slow pace and rigidity of the hiring process undermines DoD's ability to successfully recruit desirable candidates. Hiring authorities are an important aspect of those process shortcomings. Hiring authorities should allow DoD to hire with speed and flexibility, particularly for high-priority positions. Instead, DoD hiring authorities are too complex to take full advantage of the flexibility offered, and the hiring authorities with the greatest potential for creating speed and flexibility are hindered by internal limitations. As a result, DoD struggles to hire the right applicants with the right skills for the AWF. Hiring authorities must be streamlined and adapted to address the current and evolving AFW needs.¹

Background

Different government institutions have assigned meanings to the term *hiring authority*, but these definitions are neither precise nor consistent. According to the Government Accountability Office (GAO), a hiring authority is "the law, executive order, or regulation that allows an agency to hire a person into the federal civil service."² In broader terms, hiring authorities determine the rules that a federal agency must adhere to during the hiring process. The traditional federal hiring process, codified in Title 5 of the U.S. Code, is the Competitive Examining Hiring Authority, which establishes uniform hiring rules and procedures across the entire Executive Branch.³ All other hiring authorities permit federal agencies to fill open positions under different procedures, as opposed to the traditional competitive examining process. The Congressional Research Service (CRS) defines these flexible hiring authorities as "a suite of tools that are intended to simplify, and sometimes accelerate, the hiring process."⁴ The fundamental purpose of flexible hiring authorities is to modify the traditional competitive hiring process to make a particular type of hiring easier for the federal government. Most flexible hiring authorities advance one of two goals: to promote a certain category of applicants in the federal hiring process, such as technical acquisition experts, or to ease the hiring process for certain positions, such as scientific and engineering positions in certain DoD laboratories.⁵ Flexible hiring authorities can take many different forms and be used to pursue many different specific objectives. Some flexible hiring authorities grant exemptions from aspects of competitive hiring; others provide an agency with greater hiring autonomy. Some flexible hiring authorities apply to the entire Executive

¹ The composition of the defense acquisition workforce is established at 10 U.S.C. § 1721 (Designation of Acquisition Positions).

² GAO, *Federal Hiring: OPM Needs to Improve Management and Oversight of Hiring Authorities*, August 2016, accessed September 29, 2017, <https://www.gao.gov/assets/680/678814.pdf>.

³ Ibid.

⁴ CRS, *The Civil Defense Acquisition Workforce: Enhancing Recruitment Through Hiring Flexibilities*, November 2016, accessed August 14, 2017, <https://fas.org/sgp/crs/natsec/R44695.pdf>.

⁵ Management Policies, 10 U.S.C. § 1701. Research and Development Projects, 10 U.S.C. § 2358.

Branch; others apply solely to a particular agency. Some authorities are temporary; others are permanent.⁶ Most federal hiring authorities are statutory, rather than regulatory.

The entire federal government used 105 different hiring authorities in FY 2014. Most federal hiring authorities do not apply to the defense AWF. A 2016 CRS report, supplemented by a Section 809 Panel analysis of subsequent NDAAAs, determined that 44 separate hiring authorities can be applied to the civilian AWF.⁷ Among those 44 hiring authorities, five are solely available to the AWF; another 15 are available to DoD as a whole; and 24 are available to the entire federal government.⁸ The 44 hiring authorities constitute the universe of alternatives to the competitive examining process for the AWF. This landscape has changed rapidly in recent years, as Congress has become increasingly active in using hiring authorities to shape the hiring process for the AWF. Congress has created 12 hiring authorities that are unique to DoD and the AWF since the FY 2016 NDAA. Congress appears to be highly attuned to the use of hiring authorities as a tool to improve the AWF.

Discussion

Shifting Challenges Confronting the AWF Hiring Process

The defense AWF has undergone a substantial overhaul during the past decade. Targeted policy responses have supported overcoming some problems, yet other problems have persisted and become more prominent. The current AWF hiring process arose in response to a widespread employee shortfall that occurred after budget cuts in the 1990s, combined with an increased willingness to outsource acquisition activities to contractors in the 1990s and 2000s.⁹ Between 1998 and 2008, the size of the AWF decreased by 14 percent from 146,000 to 126,000 employees.¹⁰ Concurrent with those downsizing efforts, the burden placed on the AWF increased substantially due to the wars in Iraq and Afghanistan, which defined the role of the U.S. military in the 2000s.¹¹ By 2008, both Congress and DoD recognized the AWF lacked capacity to fulfill its responsibilities and jointly committed to reversing the cuts of the previous decade. DoD pledged to increase the AWF by 20,000 employees by FY 2015. Congress created DAWDF in the FY 2008 NDAA and the Expedited Hiring Authority (EHA) in the FY 2009 NDAA.¹² EHA provides substantial hiring flexibility, at the Secretary of Defense's discretion, for AWF positions that are experiencing a *shortage of candidates* or a *critical hiring need*.¹³ The combination of EHA, DAWDF, and DoD's AWF hiring efforts erased the overall employee shortfall. By March 2015, the AWF had

⁶ CRS, *The Civil Defense Acquisition Workforce: Enhancing Recruitment Through Hiring Flexibilities*, November 2016, accessed August 14, 2017, <https://fas.org/sgp/crs/natsec/R44695.pdf>.

⁷ Ibid.

⁸ Ibid.

⁹ GAO, *Defense Acquisition Workforce: Actions Needed to Guide Planning Efforts and Improve Workforce Capability*, GAO-16-80, December 2015, accessed August 14, 2017, <https://www.gao.gov/assets/680/674152.pdf>.

¹⁰ Ibid.

¹¹ RAND, *The Defense Acquisition Workforce Growth Initiative: Changing Workforce Characteristics and the Implications for Workforce Retention*, September 2016, accessed March 23, 2018, https://www.rand.org/pubs/rgs_dissertations/RGSD383.html.

¹² Section 833 of FY 2009 NDAA, Pub. L. No. 110-417, 122 Stat. 4535 (2008).

¹³ Department of Defense Acquisition Workforce Development Fund, 10 U.S.C. § 1705.

increased from 126,000 to 153,000 employees, exceeding DoD's growth goal by a sizeable margin.¹⁴ EHA was the most frequently-used hiring authority for the AWF during this period.¹⁵

The broad realization of the AWF's growth goals did not extend evenly throughout the workforce. As the overall employee shortfall ended, shortfalls in certain career fields and positions emerged. Between September 2008 and March 2015, six out of 13 career fields missed their growth goals, including the priority career fields of contracting, business, and engineering, which fell more than 3,500 combined employees short.¹⁶ Contracting and engineering, in particular, suffered from "high attrition rates and difficulty in hiring qualified personnel."¹⁷ As a result, competency gaps in critical skills and career fields have become the most pressing challenge confronting the AWF hiring process.

GAO identified the problem as early as December 2015. Because DoD had successfully "surpassed its overall growth goals," the agency urged DoD to emphasize "reshaping career fields to ensure the most critical acquisition needs are being met" and "focus future hiring efforts on priority career fields."¹⁸ AWF stakeholders confirmed that competency gaps remain an ongoing hiring dilemma. One DoD official identified "current and emerging technical skill gaps" as one of the two greatest challenges facing a career field, describing an imperative need to hire the right people with the appropriate skill sets.¹⁹ Another DoD official maintained the key challenge facing the AWF was managing career field skill deficits through "the ability to attract and retain excellent talent."²⁰ A third DoD official emphasized the need to aggressively identify competency gaps in AWF functional areas to "hire the right people with the right competencies for the right positions."²¹

The existing hiring process has failed to address persistent skill gaps in the AWF. Although hiring authorities are not the only relevant factor in the AWF hiring process—the role of human resources and its relationship to hiring offices is another critical element—the shortcomings in the framework of hiring authorities constitute a key concern that must be reformed.²²

Excessive Complexity and Undue Constraints on AWF Hiring Authorities

As noted above, the AWF has access to 44 distinct hiring authorities. Rather than benefitting the hiring process, however, the large number of hiring authorities has hindered the AWF's ability to exploit the hiring flexibilities at its disposal. There are two primary factors undermining the effectiveness of AWF

¹⁴ GAO, *Defense Acquisition Workforce: Actions Needed to Guide Planning Efforts and Improve Workforce Capability*, GAO-16-80, December 2015, accessed August 14, 2017, <https://www.gao.gov/assets/680/674152.pdf>.

¹⁵ CRS, *The Civil Defense Acquisition Workforce: Enhancing Recruitment Through Hiring Flexibilities*, November 2016, accessed August 14, 2017, <https://fas.org/sgp/crs/natsec/R44695.pdf>. According to a 2016 GAO report, EHA was the 17th most frequently-used hiring authority in the entire federal government in FY 2014, despite being limited to a portion of the DoD workforce.

¹⁶ GAO, *Defense Acquisition Workforce: Actions Needed to Guide Planning Efforts and Improve Workforce Capability*, GAO-16-80, December 2015, accessed August 14, 2017, <https://www.gao.gov/assets/680/674152.pdf>. In 2010, the "business" career field was divided into two separate career fields: business-cost estimating and business-financial management. Nevertheless, GAO reported both career fields under "business" to maintain consistency within the data, and this paper will follow that convention.

¹⁷ GAO, *Defense Acquisition Workforce: Actions Needed to Guide Planning Efforts and Improve Workforce Capability*, GAO-16-80, December 2015, accessed August 14, 2017, <https://www.gao.gov/assets/680/674152.pdf>.

¹⁸ *Ibid.*

¹⁹ DoD official, meeting with Section 809 Panel, November 13, 2017.

²⁰ DoD official, meeting with Section 809 Panel, December 6, 2017.

²¹ DoD official, meeting with Section 809 Panel, January 30, 2018.

²² The Section 809 Panel plans to address the role of human resources in the AWF hiring process in a future report. This report will focus entirely on AWF hiring authorities.

hiring authorities: the excessive complexity of the existing array of hiring authorities and the unnecessary constraints under which many of them operate.

Officials at every level of the AWF support hiring flexibility, which presents an alternative to a competitive examining process, featuring mandatory procedures for job posting, ranking and rating, and candidate referral, which is universally derided as too slow, cumbersome, and restrictive to support the hiring process the AWF requires. DoD's annual time-to-hire under competitive examining exceeded 100 days on average during 4 of the 6 years between FY 2009 and FY 2014. By contrast, annual time-to-hire exceeded 100 days on average only twice for EHA and once for Direct-Hire Authority (DHA) during the same period.²³ One human resources official described competitive examining as an authority to be avoided at all costs.²⁴ Nevertheless, an unintended irony continues to sustain competitive examining beyond DoD's intent. Although dozens of hiring authorities exist to serve as alternatives to competitive examining, the very number of hiring authorities has created enough confusion to maintain competitive examining's presence in the hiring process.

Representatives from across the Military Services argued the number and variety of hiring authorities available to the AWF was overwhelming and bred confusion among human resources personnel and hiring offices alike.²⁵ Multiple officials asserted the large number of hiring authorities has created excessive complexity, leaving both local human resources personnel and hiring offices struggling to fully realize the potential of the hiring flexibilities at their disposal.²⁶ Officials also said the number of different hiring authorities contributed to tension between human resources personnel and hiring offices over the proper authority to use for a particular job opening.²⁷ Even when hiring offices are determined to use a particular hiring authority, overly cautious legal guidance can induce them to revert back to the traditional competitive process. As a practical consequence, confusion over hiring authorities has undermined DoD's ability to address critical skill gaps in the AWF by reducing the effectiveness of the hiring authorities that exist for that purpose. Opportunities to use the faster, more flexible EHA or DHA processes have been forsaken in favor of competitive examining; between FY 2012 and FY 2014, a form of competitive examining with no hiring exemptions constituted the second-most frequently used hiring authority for the AWF.²⁸ One human resources official lamented, "Some folks have not taken advantage of these authorities even though they are sitting right in front of them."²⁹ The complexity caused by the large number of AWF hiring authorities drives human resources officials to use competitive examining even when they could use hiring authorities designed to accelerate and simplify the hiring process.

²³ CRS, *The Civil Defense Acquisition Workforce: Enhancing Recruitment Through Hiring Flexibilities*, November 2016, accessed August 14, 2017, <https://fas.org/sgp/crs/natsec/R44695.pdf>.

²⁴ DoD official, meeting with Section 809 Panel, January 25, 2018.

²⁵ DoD officials, interviews conducted by Section 809 Panel, from January to April 2018.

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ CRS, *The Civil Defense Acquisition Workforce: Enhancing Recruitment Through Hiring Flexibilities*, November 2016, accessed August 14, 2017, <https://fas.org/sgp/crs/natsec/R44695.pdf>. The form of competitive examining currently used by DoD is Delegated Examining Authority, which allows DoD (rather than OPM) to oversee its own hiring procedures but otherwise does not alter the requirements established by Title 5 in any way. For the sake of simplicity, and due to the fact that the two authorities uphold the same Title 5 competitive hiring structure, this paper includes Delegated Examining Authority under the broader term "competitive examining."

²⁹ DoD official, meeting with Section 809 Panel, January 30, 2018.

A number of potentially vital hiring authorities are stymied by statutory constraints. In the past three NDAAAs, Congress has created 12 new hiring authorities that can be applied to the AWF. The new hiring authorities have contributed to the problem of excessive complexity, yet they also contain potentially powerful new tools to streamline the AWF hiring process. Among these recently enacted hiring authorities are multiple new DoD-unique DHAs, a type of authority that expedites the hiring process by providing exemptions from provisions of Title 5, including competitive rating and ranking procedures and veterans' preference.³⁰

DoD officials have expressed eagerness to maximize the potential of these new hiring authorities, which are directed at key competencies and applicant groups such as science, technology, engineering, and math (STEM) researchers; financial management experts; and recent college graduates. One military official said the Military Service intended to go "full throttle" in maximizing the new DHAs.³¹ This top-level enthusiasm on the part of acquisition leaders is starting to produce results. For example, hiring data provided by the Air Force Personnel Center revealed that in FY 2017, the first year many of the new DHAs were implemented, the Air Force hired 125 AWF employees through the new DHAs despite a hiring freeze.³² The effect of the new hiring authorities is circumscribed, however, by their statutory language. Each of the hiring authorities contains strict limitations on the scope of implementation. Most authorities impose ceilings on the number of applicants that can be hired annually, either in the form of a hard numerical cap or as a percentage of the existing workforce in a respective category during the previous fiscal year. Most authorities are also temporary, with authorizations that expire in the early 2020s. As DoD fully implements these hiring authorities over the next few years, statutory constraints will limit their ability to simplify and accelerate the AWF hiring process. In conversations with the Section 809 Panel, multiple senior AWF officials endorsed eliminating statutory constraints by lifting hiring caps and removing sunset dates. One official summed up the prevailing attitude declaring that in terms of hiring authorities, "if it's a skill shortage category, the fewer restrictions, the better."³³

The current state of AWF hiring authorities defies a simple diagnosis. The total number of hiring authorities applicable to the AWF is too large, and the ensuing complexity has hindered DoD's ability to properly use the flexibilities at its disposal. Simultaneously, however, recently enacted hiring authorities offer considerable potential that is impeded by constraints in their statutory language. In seeking a policy solution, these dilemmas must be addressed in a complementary manner that strengthens DoD's ability to use the hiring process to address persistent AWF critical skill gaps.

New Horizon for Expedited Hiring Authority

As the AWF hiring process reorients itself to prioritize competency shortfalls, EHA's role must also be evaluated. EHA has been a critical instrument in DoD's recent AWF hiring, and its widespread implementation has succeeded, partially offsetting the complexities described above. In FY 2015,

³⁰ GAO, *Federal Hiring: OPM Needs to Improve Management and Oversight of Hiring Authorities*, GAO-16-521, August 2016, accessed September 29, 2017, <https://www.gao.gov/assets/680/678814.pdf>.

³¹ DoD official, meeting with Section 809 Panel, January 25, 2018.

³² Air Force Personnel Center email to Section 809 Panel, January 23, 2018. DoD's difficulty in quickly implementing new AWF hiring authorities was raised several times in Panel discussions with DoD stakeholders. The Panel plans to address this issue in a future report as a part of its recommendations regarding the role of human resources in the AWF hiring process.

³³ DoD official, meeting with Section 809 Panel, January 30, 2018.

FY 2016, and FY 2017, for example, the Air Force used EHA to hire about 62 percent of all new external AWF hires.³⁴ EHA's ascent as the only hiring authority that has been used more often than competitive examining has also exposed its limitations. It is a tool devised to solve the problem of a general employee shortage, yet the most pressing workforce issue now is critical skill gaps.

Congress created EHA in the FY 2009 NDAA to address a distinct problem: the overall AWF employee shortfall. EHA was designed to mitigate this problem by allowing DoD—at its own discretion, rather than the Office of Personnel Management's (OPM's)—to use a streamlined, accelerated hiring process for any AWF position that was experiencing a “shortage of candidates” or a “critical hiring need.”³⁵ EHA accomplished its objective, and senior AWF officials expressed support for the authority, which they described in glowing terms as “huge,” an authority that DoD was “really lucky” to possess, and an authority that should be the preferred option for hiring “every time, all the time, no matter what.”³⁶ EHA played an essential role in solving the problem for which it was designed: increasing the total size of the AWF from 126,000 to 153,000 employees in a little more than 6 years. It has proven to be less effective in confronting the persistent critical skill gaps. Even as EHA has benefitted the AWF as a whole, these skill gaps have remained.

EHA's weakness in this regard is structural. EHA emphasizes the position itself, rather than the types of applicants that DoD wishes to hire. Under the current authority, a Military Service or Defense Agency must prove that positions are experiencing a shortage of candidates or a critical hiring need to gain access to EHA. As a result, DoD uses EHA for specific occupational series and positions in the AWF, but those positions are dictated by the hiring difficulties of the position rather than a strategic understanding of AWF hiring needs. This structure is effective at accelerating the overall pace of hiring, but less effective at advancing the individuals with competencies DoD needs to fill critical skill gaps. Such applicants often do not fit within the contours of EHA as currently applied.

This shortcoming of EHA explains the limits of its present-day effectiveness; yet EHA's ongoing centrality to the AWF hiring process and its potential to have an even greater effect cannot be overstated. EHA is a successful hiring authority that enjoys broad appeal among both congressional and DoD stakeholders. DoD is experienced at implementing EHA, having successfully applied the hiring authority for nearly a decade.³⁷ Because of this popularity and familiarity, reorienting EHA to support hiring to fill critical skill gaps appears more practical than creating a new hiring authority. If EHA can be adapted to address competency shortfalls as effectively as it addressed overall employee shortfalls, it would become an even more powerful tool for the AWF. An effective policy would modify

³⁴ Air Force Personnel Center email to Section 809 Panel, January 23, 2018. In FY 2015, 2016, and 2017, the Air Force used EHA to hire 4,556 new external employees out of 7,374 total external hires.

³⁵ Department of Defense Acquisition Workforce Development Fund, 10 U.S.C. § 1705. Under the original statutory authority of EHA, DoD's authority was more narrowly tailored to exclusively hire “highly qualified” applicants for positions experiencing a “severe shortage of candidates.” In subsequent years, Congress expanded EHA to permit the hiring of all qualified applicants, rather than merely highly qualified applicants, and to encompass positions facing a “critical hiring need” as well as a shortage of candidates. Congress also changed EHA's status from a temporary to a permanent hiring authority in 2015. See CRS, *The Civil Defense Acquisition Workforce: Enhancing Recruitment Through Hiring Flexibilities*, November 2016, accessed August 14, 2017, <https://fas.org/sgp/crs/natsec/R44695.pdf>.

³⁶ DoD official, meeting with Section 809 Panel, December 6, 2017. DoD official, meeting with Section 809 Panel, January 25, 2018.

³⁷ OSD Memorandum, *Extension of Expedited Hiring Authority for Select Defense Acquisition Workforce Positions – Removal of Sunset Date*, September 6, 2017, accessed May 8, 2018, [http://www.hci.mil/docs/Policy/OUUSD\(AT&L\)%20Memoranda/09-06-2017_JointATL_PR_Memo-Expedited_Hiring_Auth_Permanence.pdf](http://www.hci.mil/docs/Policy/OUUSD(AT&L)%20Memoranda/09-06-2017_JointATL_PR_Memo-Expedited_Hiring_Auth_Permanence.pdf).

EHA to meet the challenges of the moment while maintaining the characteristics that have made it so valuable since its creation.

Conclusions

The existing framework of hiring authorities for the AWF fails to support DoD's efforts to address critical skill gaps through the hiring process. The Section 809 Panel's proposed response is twofold: streamlining the total number of hiring authorities used by the AWF, and introducing a new element to expedited hiring authority specifically designed to confront the AWF's critical skill deficiencies. The two parts of the proposal pursue the same objective and complement each other. Streamlining would simplify use of hiring authorities and allow DoD to emphasize hiring authorities that exist to mitigate present-day critical skill gaps. Broader authority under EHA would allow DoD to quickly respond to emerging critical skill gaps within this familiar framework. Streamlining hiring authorities strengthens DoD's ability to realize the potential of its current hiring tools; broadening EHA provides DoD with the flexibility it needs to adapt hiring tools for the future. The two elements work together to ensure hiring authorities target critical skill gaps, the primary challenge confronting today's AWF hiring process. The proposed recommendations are structured to avoid unintended consequences. They are designed to increase flexibility in the AWF hiring process and broaden EHA, yet maintain existing flexibilities.

A Streamlined List of Hiring Authorities for the Acquisition Workforce

DoD aspires to maximize use of its hiring authorities to eliminate critical skill gaps within today's AWF. Its efforts are undermined by a framework that features too many applicable hiring authorities and too many statutory constraints. The solution to these problems requires action on the part of both DoD and Congress. DoD should act on its own initiative to streamline the hiring authorities available to the AWF. At the same time, Congress should act to lift the limitations on the hiring authorities that remain. By acting in tandem, AWF hiring authorities can be simultaneously simplified and enhanced, with a small number of hiring authorities providing greater speed and flexibility to the AWF hiring process in addressing competency shortfalls. Simplicity and scope can be complementary, rather than contradictory, for AWF hiring authorities.

A streamlined framework for DoD's AWF hiring authorities, with fewer hiring authorities, would offer greater latitude for DoD in addressing critical skill gaps and supporting general AWF hiring. The central element of this framework should be a master list of primary hiring authorities, established through DoD regulatory guidance, which would elevate the selected authorities to a paramount position in the hiring process for civilian external hires. DoD's guidance would direct human resources agencies and hiring managers to use the primary hiring authorities to the greatest extent possible when filling AWF positions through external hires. Under the guidance, hiring officials would be required to consult the list of primary hiring authorities first when attempting to hire externally.

As part of its regulatory guidance, DoD could support human resources personnel and hiring managers charged with implementing the master list. The guidance should explain why the hiring authorities were included on the master list and direct employees to training resources that are generated by the Office of the Secretary of Defense (OSD), Defense Acquisition University (DAU), or the Military Services.

Only after determining that no primary hiring authority could feasibly be used would other, nonprimary hiring authorities provide a last resort. Congress should act in concert with DoD by expanding the scope of primary hiring authorities, where necessary, by lifting caps that limit the number of annual hires and repealing existing sunset dates. Congressional action to remove the restrictions on key AWF hiring authorities would ensure DoD’s streamlined set of authorities would still provide the hiring speed and flexibility essential to addressing critical skill gaps. DoD stakeholders are amenable to both regulatory action to streamline AWF hiring authorities and statutory action to eliminate restrictions. Regulatory action to create a list of primary AWF hiring authorities is preferable to streamlining through the statutory repeal of nonprimary authorities. The reason is straightforward: Hiring authorities that are redundant or unnecessary for DoD’s AWF may nonetheless serve important functions for other elements of the DoD workforce, and other departments and agencies throughout the federal government. In seeking to avoid unintended consequences, DoD regulatory guidance is the most tailored mechanism to achieve the benefits of streamlining.

Primary AWF hiring authorities should prioritize mitigating competency shortfalls throughout the AWF while maintaining the general hiring rate. The logical focus of DoD’s master list of AWF hiring authorities lies in directing flexible hiring authorities toward desirable applicant categories and positions suffering from critical skill gaps. These goals shaped the panel’s assessment of existing AWF hiring authorities. The following table details the seven AWF hiring authorities the panel supports for inclusion on the master list for civilian external hires, as well as any recommended statutory changes to those hiring authorities:

Table 2-1. Master List of Primary AWF Hiring Authorities

Primary Hiring Authority	Rationale for Inclusion	Recommended Statutory Changes
Expedited Hiring Authority	EHA is vital to general AWF hiring.	See EHA section, below
“Super-DHA”: A new, consolidated hiring authority encompassing five existing DHAs (Technical Acquisition Experts; Financial Management Experts; Post-Secondary Students and Recent Graduates; Domestic Defense Industrial Base Facilities, Major Range and Test Facilities Base, and Office of DOT&E; Business Transformation and Management Innovation) and an existing pilot program (Enhanced Personnel Management System for Cybersecurity and Legal Professionals)	The Super-DHA would unite six different hiring authorities targeting specific gaps in the civilian AWF and establish a consistent set of hiring flexibilities for all of them. As a result, a single DHA would become the focal point for the hiring flexibilities intended to address critical skill gaps, and the use of DHA would be streamlined for the hiring process. The existing requirements governing applicable categories of positions and applicants would remain unchanged.	Consolidate statutory authorities into one hiring authority Technical Acquisition Experts DHA: Lift Annual Hiring Cap; Repeal Sunset Financial Management Experts DHA: Lift Annual Hiring Cap; Repeal Sunset Post-Secondary Students and Recent Graduates DHA: Lift Annual Hiring Cap; Repeal Sunset; Harmonize Title 5 Exemption with other DHAs Domestic Defense Industrial Base Facilities, Major Range and Test Facilities Base, and Office of DOT&E DHA: Repeal Sunset; Harmonize Title 5 Exemption with other DHAs

Primary Hiring Authority	Rationale for Inclusion	Recommended Statutory Changes
DoD ST: A new, DoD-unique Scientific and Professional Positions (ST) hiring authority	A DoD-unique ST hiring authority would provide greater flexibility to DoD in using ST to hire for advanced scientific research positions, which is a critical competency for DoD. The current rules governing ST would remain unchanged, but would be administered by the Secretary of Defense rather than OPM.	<p>Business Transformation and Management Innovation DHA: Lift Overall Hiring Cap; Repeal Sunset</p> <p>Cybersecurity and Legal Professionals Pilot Program: Convert into permanent DHA for Cyber and IT positions in civilian AWF with no hiring cap and similar Title 5 exemption as other DHAs</p>
Pathways Program	Even after the creation of the Post-Secondary Students and Recent Graduates DHA, Pathways internships remain critical to DoD’s recruitment of certain types of applicants, including high school graduates and vocational school graduates.	No change
Science, Mathematics, and Research for Transformation (SMART) Defense Education Program	The SMART Scholarship Program is an important recruitment tool for STEM undergraduate and graduate students, which represents an ongoing critical skill gap for the AWF.	No Change
Cyber Scholarship Program	The Cyber Scholarship Program is an important recruitment tool for IT undergraduate and graduate students. They represent an ongoing critical skill gap for the AWF.	No Change
AcqDemo	AcqDemo possesses unique hiring authorities that pertain solely to positions covered by the demonstration project. At the same time, positions covered by AcqDemo can still use the full suite of hiring authorities available to the broader AWF. This distinct arrangement should remain unchanged at present.	No change (see the AcqDemo proposal in this chapter for recommended statutory changes to the AcqDemo program and further discussion of AcqDemo hiring authorities)

The master list consolidates existing AWF hiring authorities. The Section 809 Panel advocates several substantial changes, but none of the seven primary hiring authorities have been invented wholesale, and each of them is based in existing hiring authorities. The panel selected these hiring authorities for two broad reasons: their ability to introduce greater speed and flexibility into the AWF hiring process, particularly in regards to critical competencies, and the large extent to which they render other AWF hiring authorities redundant or unnecessary, in turn facilitating streamlining and easing the complexity of the hiring process. The benefits of the primary hiring authorities in terms of addressing critical skill gaps are highlighted above. Those benefits would be diminished if other, similarly useful hiring authorities were excluded from common use.

The Section 809 Panel sought to ensure the primary hiring authorities, despite their small number, still encompassed the entire range of necessary hiring flexibilities that currently serve the AWF. For example, different types of applicants to scientific and engineering positions at DoD Science and Technology Reinvention Laboratories (STRL) currently benefit from DHA hiring flexibilities. Comparable flexibility for those STRL positions in the AWF is conveyed through the Technical Acquisition Experts DHA, which is consolidated into the Super-DHA and therefore renders the STRL DHAs redundant. A DHA for positions involved in Iraqi reconstruction efforts has existed for more than a decade and focuses solely on relevant linguistic skills at a time when the scale of DoD's acquisition requirements in Iraq have dramatically declined. Finally, the highly qualified experts (HQE) hiring authority is simply underused due to confusion surrounding its requirements on the part of hiring managers.³⁸ These examples represent the large number of hiring authorities that offer insufficiently unique value to the AWF, increase the complexity of the hiring process, and undermine the small number of hiring authorities that should be prioritized.³⁹ By contrast, a master list would provide a simplified set of primary AWF hiring authorities that human resources personnel and hiring managers would find easier to understand and implement.

The proposed framework for AWF hiring authorities, centered on a master list of seven primary hiring authorities, offers substantial benefits to DoD. By removing dozens of AWF hiring authorities from common consideration, the framework would ease the complexity of the hiring process, minimize confusion for officials involved in hiring decisions, and elevate use of DoD's preferred hiring authorities. By promoting use of the seven primary hiring authorities described above, the framework would emphasize the speed and flexibility of the AWF hiring process for critical skill positions (such as STEM and financial management) and desirable categories of applicants (such as college and graduate students). Setting clear regulatory guidance to create a set of paramount hiring authorities, would allow DoD to send a strong message to human resources personnel regarding the priorities for AWF hiring. The message would help to ensure that human resources entities are aligned with DoD hiring objectives by assisting human resources and hiring offices in using the tools provided to them in support of those objectives.

³⁸ CRS, *The Civil Defense Acquisition Workforce: Enhancing Recruitment Through Hiring Flexibilities*, November 2016, accessed August 14, 2017, <https://fas.org/sgp/crs/natsec/R44695.pdf>.

³⁹ A comprehensive table of hiring authorities applicable to the AWF can be found in Appendix C.

A Broader Orientation for Expedited Hiring Authority

EHA occupies a unique position in the current framework of AWF hiring authorities. It is the single most important hiring authority for AWF general hiring and must remain in any reorganization. As the AWF hiring process confronts the fundamental challenge of the present moment—the need to eliminate critical skill gaps by hiring the right candidates, with the right skill sets, to the right positions—EHA should be equipped to play an even larger role. To do so, EHA must be updated to reflect the current priorities of the AWF hiring process. To fully realize its potential, EHA must do more than accelerate the pace of general AWF hiring; it must also provide DoD with the adaptability it needs to quickly direct hiring flexibilities toward emerging competency shortfalls as they are identified. EHA can provide the AWF with the necessary hiring tools to overcome unexpected problems of the future, as well as acknowledged shortcomings of the present.

EHA can be reoriented to prioritize AWF critical skill gaps by adding a new category designation to the EHA statutory authority: *critical skill deficiency (CSD)*. Unlike the two existing EHA category designations, which cover AWF positions that are experiencing a *shortage of candidates* or a *critical hiring need*, CSD authority would explicitly focus on the characteristics of the applicants rather than the hiring conditions of the position. Under the proposal, Congress would authorize DoD to designate up to 10 CSDs within each Military Service and the 4th Estate on an annual basis.⁴⁰ The CSD designation would permit the Military Services and the 4th Estate to use EHA to hire applicants who possess the identified critical skill. A single CSD designation would cover much more than a single hire; each CSD could encompass a broad swath of the AWF, depending on the nature of the critical skill and its value to different kinds of positions within the AWF. The CSD designation could be applied across different occupational series, position categories, and career fields, as long as the critical skill was lacking. Allowing each Military Service to designate no more than 10 CSDs would be a manageable number to ensure senior DoD officials can maintain effective oversight during the authority's implementation. The number of CSDs could be reevaluated to determine if an increase would benefit DoD.

DoD would be permitted to delegate the designation authority for the 10 CSDs to the Military Services and the 4th Estate, which would allow them to define their own critical skill deficiencies according to their own AWF competency shortfalls. Under that scenario, each Military Service and the 4th Estate would be authorized to designate up to 10 CSDs annually, which would apply only to their own workforce. The number of CSDs would remain 10 for each year, regardless of the previous year's activity; if a Military Service or the 4th Estate failed to designate the maximum 10 CSDs in a given year, it would not be able to roll over the unused CSDs to the following year, but it would also not be at risk of losing the unused CSDs permanently. The purpose of the CSD designation process would be to identify critical skill deficiencies in the AWF and create a set of criteria related to the respective critical skills, such as educational credentials or professional experience, which could be used during the hiring process to evaluate whether an applicant possessed the critical skill. Beyond that requirement, however, the Military Services and 4th Estate would possess considerable latitude to develop the annual CSD designation process in accordance with their own internal structures. Each Military Service and the 4th Estate would be able to select its own office to oversee the process, create its own method for identifying critical skill deficiencies in the AWF, and forge its own consultative practices to ensure

⁴⁰ The 4th Estate encompasses the DoD components outside of the Military Services and consists of 33 separate Defense Agencies.

that hiring offices and senior leaders reached a consensus regarding the qualifications of a critical skill. Freedom for the Military Services and 4th Estate in implementing the CSD authority would allow them to develop a nimble process that would be capable of rapidly responding to AWF skill gaps.

The Military Services and 4th Estate would also be free to apply CSD authority creatively. A variety of skill gaps exist in the AWF, some of which might not be considered conventional acquisition skill sets. Through the CSD designation process, DoD would possess a tool to use EHA to address both orthodox and unorthodox AWF skill gaps. Thus, CSD authority could assist the AWF in recruiting candidates with skills that are widely acknowledged as desirable, such as private-sector negotiating experience and quantitative data competence. At the same time, it could also assist the AWF in recruiting candidates with skills that fill emerging or less obvious gaps, such as experts from the commercial innovation sector, or individuals with experience in the use of cloud computing services, or skilled supply chain managers, or even talented writers. The need for these kinds of critical skills exists throughout the AWF. For example, a CSD designation for supply chain management expertise could benefit positions in multiple acquisition career fields such as contracting, program management, purchasing, and business. The CSD designation process would allow each Military Service and the 4th Estate to broaden its assessments of critical skills for the AWF and take tangible action to acquire those skills.

After a Military Service or the 4th Estate had designated its annual CSDs, the organization would declare which types of positions stood to benefit from employees who possess corresponding critical skills. Those declared positions, which could extend across multiple occupational series, position categories, and career fields, would subsequently be covered by that CSD. A single position could be covered by multiple CSDs if it would benefit from multiple critical skills. For the remainder of that year, if an office had a job opening in a CSD-covered position, EHA would be available to fill the position. The decision to use EHA would belong solely to the hiring manager.

If a hiring manager opted to use EHA for a CSD-covered position, human resources personnel would be required to accept the use of EHA for that position and would not possess any leeway to suggest otherwise. From that point on, the process could proceed on one of two different tracks. If a hiring manager was prepared to directly select a candidate, which is permitted under EHA, human resources personnel would simply be required to verify the candidate possessed the relevant critical skill, as defined by the aforementioned critical skill criteria. If a hiring manager was not prepared to directly select a candidate and requested the assistance of human resources in generating a group of candidates to choose from, human resources personnel could only advance those applicants who possess the relevant critical skill. The hiring manager could then select a candidate from the group produced by human resources. In either case, the candidate selected by the hiring manager would subsequently be processed by human resources, and the hiring process would be complete. The CSD process would ensure that offices could harness the benefits of EHA for the sake of hiring particularly qualified candidates with precisely the skill sets required for the open position. It would guarantee that for CSD-covered positions, hiring managers would be able to prioritize applicants with desirable skill sets and act on those priorities.

An expansion of EHA to include CDS authority would benefit the AWF. In a meeting with the Section 809 Panel, one senior AWF official argued in favor of “a blanket hiring authority for the critical skills

we need,” because skill gaps can extend across the AWF and pose “larger issues across career fields” than the current hiring process is equipped to address.⁴¹ CSD authority is designed to provide such capability. The structure of EHA would be reoriented toward the applicants’ qualifications, which would align the hiring authority more effectively with the goals of the current AWF hiring process. Rather than emphasizing the need to hire for certain positions, CSD authority would emphasize the need to hire certain types of candidates. The Military Services and the 4th Estate would possess the capability to identify their own AWF hiring needs and quickly redirect hiring flexibilities to address them. By extension, they would also gain a stronger incentive to develop more effective mechanisms for measuring competency shortfalls in the AWF, as well as a rationale for using them systematically and frequently to take full advantage of the CSD authority.

The scope of EHA would expand as well, because every AWF position would enjoy the possibility of benefiting from CSD authority in any given year, based on the annual CSD designations. Hiring managers would be empowered through the CSD process. CSD designations would provide hiring managers with a simple framework for using EHA: Positions covered by a CSD designation would be clearly defined, and if hiring managers for a CSD-covered position sought to use EHA, they would understand that they possessed the authority to do so on their own prerogative. They would also be guaranteed to review applicants who possessed the critical skills that they sought for the position. This clarity would address much of the current disconnect between hiring managers and human resources personnel over using EHA and evaluating applicants.

CSD authority is a preferred vehicle in pursuing hiring flexibility for persistent and emerging AWF skill gaps. As a part of EHA, CSD authority would benefit from the broad support among stakeholders that EHA has earned since its enactment. CSD authority would also be enhanced by the experience DoD has acquired through its successful implementation of EHA during the previous decade. The flexibility that CSD authority would provide to DoD—the ability to identify its own critical skill gaps and act on its own initiative to direct hiring flexibilities toward those areas of the AWF—would preclude the need for constant congressional action in the same sphere. Rather than requiring a new hiring authority for each critical skill gap in the AWF, DoD would possess the authority to act on its own. DoD would be capable of achieving the same ends that Congress has desired in recent years at a much faster pace, and through a permanent structure that would be agile enough to respond to new and unanticipated competency shortfalls in the AWF in the years to come.

Implementation

Legislative Branch

- Consolidate six hiring authorities—Technical Acquisition Experts DHA; Financial Management Experts DHA; Post-Secondary Students and Recent Graduates DHA; Domestic Defense Industrial Base Facilities, Major Range and Test Facilities Base, and Office of DOT&E DHA; Business Transformation and Management Innovation DHA; and Enhanced Personnel Management System for Cybersecurity and Legal Professionals Pilot Program into a single

⁴¹ DoD Official, meeting with Section 809 Panel, January 31, 2018.

Super-DHA statutory hiring authority at 10 U.S.C. XXX and repeal restrictions on Super-DHA hiring flexibilities.

- Technical Acquisition Experts DHA (10 U.S.C. § 1701 note): Lift 5 percent annual hiring cap and repeal December 31, 2020 sunset date.
- Financial Management Experts DHA (10 U.S.C. Ch. 81): Lift 10 percent annual hiring cap and repeal December 31, 2022 sunset date.
- Post-Secondary Students and Recent Graduates DHA (10 U.S.C. Ch. 81): Lift 15 percent annual hiring cap, extend statutory exemption to encompass all of Subchapter I of Chapter 33 of Title 5, and repeal September 30, 2021 sunset date.
- Domestic Defense Industrial Base Facilities, Major Range and Test Facilities Base, and Office of DOT&E DHA (10 U.S.C. Ch. 81): Extend statutory exemption to encompass all of Subchapter I of Chapter 33 of Title 5 and repeal sunset date at the end of FY 2021.
- Business Transformation and Management Innovation DHA (10 U.S.C. Ch. 81): Lift 10-employee hiring cap and repeal September 30, 2021 sunset date.
- Enhanced Personnel Management System for Cybersecurity and Legal Professionals Pilot Program (10 U.S.C. Ch. 81): Convert into a permanent DHA for cyber and information technology positions in civilian AWF, exempt from Subchapter I of Chapter 33 of Title 5 and without a hiring cap.
- Create a DoD-unique Scientific and Professional Positions (ST) hiring authority, based in Title 10, under the authority of the Secretary of Defense.
 - Limit the number of DoD ST positions to the corresponding number of traditional ST positions that are allocated to DoD by OPM at the date of enactment
- Amend Expedited Hiring Authority at 10 U.S.C. § 1705(f) to add critical skill deficiency category of positions, alongside existing shortage of candidates and critical hiring need categories.
 - Authorize DoD to designate 10 critical skill deficiencies annually within each of the Military Services and the 4th Estate
 - Allow each critical skill deficiency designation to permit use of EHA for AWF positions in need of the critical skill.
 - Provide the Military Services and the 4th Estate 10 critical skill deficiency designations each year, regardless of whether they used all 10 during the previous year.

Executive Branch

- Create a master list of seven primary AWF hiring authorities within 6 months: Expedited Hiring Authority (10 U.S.C. § 1705(f)); Super-DHA (10 U.S.C. XXX); DoD Scientific and Professional Positions (10 U.S.C. XXX); Pathways Program (EO 13562 and 5 CFR Part 362); Science, Mathematics and Research for Transformation (SMART) Defense Education Program (10 U.S.C. § 2192a); Cyber Scholarship Program (10 U.S.C. § 2200a); AcqDemo (10 U.S.C. § 1762).
 - Promulgate the master list throughout Military Services and the 4th Estate
 - Direct human resources personnel and hiring managers to prioritize master list primary hiring authorities for all civilian AWF external hires.

- Instruct human resources personnel and hiring managers that non-master-list hiring authorities should only be utilized as a last resort for all civilian AWF external hires.

Implications for Other Agencies

- There are no cross-agency implications for this recommendation.

Recommendations 25, 26, and 27

RECOMMENDED REPORT LANGUAGE

SEC. 1001. Consolidation, Codification and Revision of Certain Direct Hire Authorities

This section would amend title 10, United States Code, by inserting a new section 1590 to consolidate and streamline several direct-hire authorities applicable to the defense acquisition workforce. This section also would lift restrictions on their use.

Currently, the defense acquisition workforce is authorized to utilize a large number of hiring authorities to support its hiring process. The committee is aware that the complexity of the numerous hiring authorities may hinder the ability of hiring managers and human resources personnel to use the flexibilities provided, undermining the authorities' impact. Consolidating and streamlining the varying direct-hire authorities into a single hiring authority will facilitate its use for the benefit of the defense acquisition workforce.

The committee also notes that the scope of the direct-hire authorities is limited by statutory restrictions, such as sunset dates and ceilings on the number of individuals who can be hired annually. The committee acknowledges that these restrictions constrain the direct-hire authorities and limit the extent to which they can be exploited by the defense acquisition workforce. Elimination of the restrictions would allow the full potential of the underlying direct-hire authorities to be realized.

This section would make several conforming repeals to legislative provisions associated with hiring authorities in title 10, United States Code.

RECOMMENDED REPORT LANGUAGE

SEC. 1002. Employment by Department of Defense of Specially Qualified Scientific and Professional Personnel

This section would amend title 10, United States Code, by inserting a new section 1599i to provide the Department of Defense with special authority to hire individuals to positions in scientific and engineering research and development.

The committee is aware that the Department confronts a highly competitive environment in its attempts to hire skilled researchers in scientific and engineering fields. Currently, the government-wide Scientific and Professional Positions hiring authority at section 3104, title 5, United States Code, includes the Department of Defense. The committee recognizes that the Department's unique workforce requirements necessitate a hiring approach managed directly by the Department, providing greater flexibility in the Department's pursuit of qualified individuals. The committee notes the status quo regarding the number of covered positions would remain unchanged.

This section would also make a conforming amendment to section 3104, title 5, United States Code, to exempt the Department of Defense from coverage under that section.

RECOMMENDED REPORT LANGUAGE

SEC. 1003. Expedited Hiring Authority for Certain Acquisition Workforce Positions

This section would create a new section 1765, title 10, United States Code, for Expedited Hiring Authority, and amend the current expedited hiring authority to add a new category of eligible candidates based upon critical skill deficiencies in the defense acquisition workforce.

The committee recognizes that eliminating critical skill deficiencies is an important objective for the defense acquisition workforce hiring process. The committee acknowledges that the expedited hiring authority, while successful at accelerating the overall rate of hiring, has not targeted specific critical skill deficiencies. This section would authorize a process designed to support the use of the expedited hiring authority for individuals in possession of skills that the defense acquisition workforce requires to ameliorate its skill gaps. Authority would be given to the Secretary of Defense, each military department and the defense agencies to identify its own critical skill deficiencies and to utilize the expedited hiring authority accordingly.

This section would make a conforming amendment to section 1705, title 10, United States Code.

RECOMMENDED REPORT LANGUAGE

SEC. 1004. Personnel System for Civilian Acquisition Workforce

This section would amend title 10, United States Code, by inserting a new section 1763 that would authorize the Secretary of Defense to establish a single mandatory personnel system for the Department of Defense acquisition workforce.

The committee is aware that, since 1999, the Department has been conducting a personnel demonstration project for its acquisition workforce, allowing the Department greater managerial control over personnel processes and functions. The committee acknowledges the demonstration project has yielded successful mission outcomes. This section would make permanent the existing defense acquisition workforce demonstration project. This section also would allow a five-year phase-in period to transition the entire acquisition workforce into the new personnel system and for any existing collective bargaining agreements to expire.

This section would also make a conforming amendment to repeal section 1762, title 10, United States Code, the defense acquisition workforce personnel demonstration project.

RECOMMENDED REPORT LANGUAGE

SEC. 1005. Department of Defense Acquisition Workforce Development Fund

This section would amend section 1705, title 10, United States Code, to provide multi-year funding for the Defense Acquisition Workforce Development Fund (DAWDF), resourced by expiring, unobligated dollars.

The committee notes that DAWDF was established for the recruitment, training, and retention of acquisition personnel in the Department of Defense with the purpose of ensuring the defense acquisition workforce has the capacity, in both personnel and skills, needed to properly perform its mission, provide appropriate oversight of contractor performance, and ensure that the Department receives best value for the expenditure of public resources. The committee is aware that the funding structure for DAWDF has undergone three changes since its inception in 2008, which has undermined the Fund's ability to fully execute its funding. The committee acknowledges that multi-year funding with expiring, unobligated dollars as opposed to a one year appropriated funding source would allow DAWDF the flexibility of crossing over fiscal years to achieve its strategic objective of improving the acquisition workforce. The committee further notes that multi-year funding provides DAWDF resiliency against issues such as sequestrations, continuing resolutions, and other budget constraints. The committee acknowledges multi-year funding with expired, unobligated funds provides greater stability for the fund and increases confidence of the fund's users.

RECOMMENDED REPORT LANGUAGE

SEC. 1006. Codification of Certain Acquisition Workforce-related Provisions of Law

This section would codify several statutory provisions currently included as legislative “note” sections under Chapter 87 of title 10, United States Code. This section also would repeal obsolete or otherwise expired legislative “note” sections in Chapter 87.

ACQUISITION WORKFORCE — LEGISLATIVE PROVISIONS

[NOTE: The draft legislative text below is followed by a “Sections Affected” display, showing in “redline” form how the text of current provisions of law would be affected by the draft legislative text.]

1 **TITLE X—ACQUISITION WORKFORCE**

Sec. 1001. Consolidation, codification, and revision of certain direct hiring authorities.
Sec. 1002. Employment by Department of Defense of specially qualified scientific and professional personnel.
Sec. 1003. Expedited hiring authority for certain acquisition workforce positions.
Sec. 1004. Personnel system for civilian acquisition workforce.
Sec. 1005. Department of Defense Acquisition Workforce Development Fund.
Sec. 1006. Codification of certain acquisition workforce-related provisions of law.

2 **SEC. 1001. CONSOLIDATION, CODIFICATION, AND REVISION OF CERTAIN**

3 **DIRECT HIRING AUTHORITIES.**

4 (a) NEW TITLE 10 SECTIONS.—

5 (1) CONSOLIDATION, ETC.—Chapter 81 of title 10, United States Code, is amended
6 by inserting after section 1589 the following new sections:

7 **“§1590. Direct hiring authorities**

8 **“(a) AUTHORITY.—**

9 **“(1) SECRETARY OF DEFENSE.—**The Secretary of Defense may make appointments
10 without regard to the provisions of subchapter I of chapter 33 of title 5 as follows:

11 **“(A) Appointment of qualified candidates to positions specified in**
12 **paragraphs (2) through (5) of subsection (b).**

13 **“(B) Appointment of individuals described in subsection (d) for the**
14 **purpose of assisting and facilitating the efforts of the Department in business**
15 **transformation and management innovation.**

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1 “(C) Appointment in the Defense Agencies, under the program carried out
2 under section 1590a of this title, of cybersecurity and legal professionals
3 described in subsection (b) of that section.

4 “(2) SECRETARIES OF THE MILITARY DEPARTMENTS.—The Secretaries of the
5 military departments may make appointments of qualified candidates in their respective
6 military departments without regard to the provisions of subchapter I of chapter 33 of title
7 5 as follows:

8 “(A) Appointment to positions specified in paragraphs (1) and (2) of
9 subsection (b).

10 “(B) Appointment, under the program carried out under section 1590a of
11 this title, of cybersecurity and legal professionals described in subsection (b) of
12 such section.

13 “(b) POSITIONS.—Positions specified in this subsection are the following:

14 “(1) Scientific and engineering positions within the defense acquisition workforce
15 of the military departments.

16 “(2) The following positions within the Department of Defense workforce:

17 “(A) Financial management positions.

18 “(B) Accounting positions.

19 “(C) Auditing positions.

20 “(D) Actuarial positions.

21 “(E) Cost estimation positions.

22 “(F) Operational research positions.

23 “(G) Business and business administration positions.

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1 “(3) Competitive service positions in professional and administrative occupations
2 within the Department of Defense.

3 “(4) Positions in the competitive service at any defense industrial base facility or
4 the Major Range and Test Facilities Base.

5 “(5) Scientific and engineering positions within the Office of the Director of
6 Operational Test and Evaluation.

7 “(c) QUALIFICATIONS.—For appointment under subsection (a) to positions specified in
8 subsection (b) (other than paragraph (4)), an individual must possess qualifications as follows:

9 “(1) For appointment to a position specified in subsection (b)(1), an individual
10 must possess a scientific or engineering degree.

11 “(2) For appointment to a position specified in subsection (b)(2), an individual
12 must possess a finance, accounting, management, or actuarial science degree, or a related
13 degree or equivalent experience.

14 “(3) For appointment to a position specified in subsection (b)(3), an individual
15 must be a recent graduate or a current post-secondary student.

16 “(4) For appointment to a position specified in subsection (b)(5), an individual
17 must possess an advanced degree.

18 “(d) COVERED INDIVIDUALS FOR BUSINESS TRANSFORMATION AND MANAGEMENT

19 INNOVATION APPOINTMENTS.—The individuals described in this subsection are individuals who
20 have all of the following:

21 “(1) A management or business background.

22 “(2) Experience working with large or complex organizations.

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1 “(3) Expertise in management and organizational change, data analytics, or
2 business process design.

3 “(e) SECRETARY OF DEFENSE APPOINTMENTS.—The authority of the Secretary of Defense
4 under subsection (a) with respect to appointments to positions specified in subsection (b)(2) may
5 be exercised only for positions in the following components of the Department of Defense:

6 “(1) A Defense Agency.

7 “(2) The Office of the Chairman of the Joint Chiefs of Staff.

8 “(3) The Joint Staff.

9 “(4) A combatant command.

10 “(5) The Office of the Inspector General of the Department of Defense.

11 “(6) A Field Activity of the Department of Defense.

12 “(f) NATURE OF APPOINTMENT.—

13 “(1) An appointment under this section to a position specified in paragraph (1) or
14 (2) of subsection (b) shall be treated as an appointment on a full-time equivalent basis,
15 unless the appointment is made on a term or temporary basis.

16 “(2) An appointment under subsection (a)(1)(B) of an individual described in
17 subsection (d) shall be on a term basis and shall be subject to the term appointment
18 regulations in part 316 of title 5, Code of Federal Regulations (other than requirements in
19 such regulations relating to competitive hiring). The term of any such appointment shall
20 be specified by the Secretary at the time of the appointment.

21 “(g) PUBLIC NOTICE AND ADVERTISING FOR POSITIONS FOR RECENT AND POST-
22 GRADUATES.—To the extent practical, as determined by the Secretary, the Secretary shall
23 publicly advertise positions specified in subsection (b)(3) to which an appointment may be made

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1 under this section and which are available for appointment under this section. In carrying out the
2 preceding sentence, the Secretary shall—

3 “(1) take into account merit system principles, mission requirements, costs, and
4 organizational benefits of any advertising of positions; and

5 “(2) advertise such positions in the manner the Secretary determines is most likely
6 to provide diverse and qualified candidates and ensure potential applicants have
7 appropriate information relevant to the positions available.

8 “(h) DEFINITIONS.—In this section:

9 “(1) The term ‘recent graduate’, with respect to appointment of a person under
10 this section to a position specified in subsection (b)(3), means a person who was awarded
11 a degree by an institution of higher education not more than two years before the date of
12 the appointment of such person, except that in the case of a person who has completed a
13 period of obligated service in a uniformed service of more than four years, such term
14 means a person who was awarded a degree by an institution of higher education not more
15 than four years before the date of the appointment of such person.

16 “(2) The term ‘current post-secondary student’ means a person who—

17 “(A) is currently enrolled in, and in good academic standing at, a full-time
18 program at an institution of higher education;

19 “(B) is making satisfactory progress toward receipt of a baccalaureate or
20 graduate degree; and

21 “(C) has completed at least one year of the program.

22 “(3) The term ‘institution of higher education’ has the meaning given that term in
23 section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

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1 “(4) The term 'defense industrial base facility' means any Department of Defense
2 depot, arsenal, or shipyard located within the United States.

3 **“§1590a. Enhanced personnel management system for cybersecurity and legal**
4 **professionals: pilot program**

5 “(a) PILOT PROGRAM.—The Secretary of Defense shall carry out within the Department
6 of Defense a pilot program to assess the feasibility and advisability of an enhanced personnel
7 management system in accordance with this section for cybersecurity and legal professionals
8 described in subsection (b) who enter civilian service with the Department on or after the date of
9 the enactment of this section.

10 “(b) CYBERSECURITY AND LEGAL PROFESSIONALS.—

11 “(1) IN GENERAL.—The cybersecurity and legal professionals described in this
12 subsection are the following:

13 “(A) CIVILIAN CYBERSECURITY PROFESSIONALS.—Civilian personnel
14 engaged in or directly supporting planning, commanding and controlling, training,
15 developing, acquiring, modifying, and operating systems and capabilities, and
16 military units and intelligence organizations (other than those funded by the
17 National Intelligence Program) that are directly engaged in or used for offensive
18 and defensive cyber and information warfare or intelligence activities in support
19 thereof.

20 “(B) CIVILIAN LEGAL PROFESSIONALS.—Civilian personnel occupying
21 legal or similar positions, as determined by the Secretary of Defense for purposes
22 of the pilot program, that require eligibility to practice law in a State or territory

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1 of the United States, the District of Colombia, or the Commonwealth of Puerto
2 Rico.

3 "(2) INAPPLICABILITY TO SES POSITIONS.—The pilot program does not apply to
4 positions within the Senior Executive Service under subchapter VIII of chapter 53 of title
5 5.

6 "(c) APPOINTMENT ON A DIRECT-HIRE BASIS.—An appointment of an individual as a
7 cybersecurity or legal professional under the program under this section shall be made as
8 provided in section 1590 of this title.

9 "(d) TERM APPOINTMENTS.—

10 "(1) RENEWABLE TERM APPOINTMENTS.—Each individual shall serve with the
11 Department of Defense as a cybersecurity or legal professional under the pilot program
12 pursuant to an initial appointment to service with the Department for a term of not less
13 than two years nor more than eight years. Any term of appointment under the pilot
14 program may be renewed for one or more additional terms of not less than two years nor
15 more than eight years as provided in subsection (f).

16 "(2) LENGTH OF TERMS.—The length of the term of appointment to a position
17 under the pilot program shall be prescribed by the Secretary of Defense taking into
18 account the national security, mission, and other applicable requirements of the position.
19 Positions having identical or similar requirements or terms may be grouped into
20 categories for purposes of the pilot program. The authority of the Secretary under this
21 paragraph may not be delegated to an officer or employee in the Department who is not
22 appointed by the President or in the Senior Executive Service or to a commissioned

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1 officer of the armed forces in a grade below the grade of brigadier general or rear admiral
2 (lower half).

3 “(j) REGULATIONS.—The Secretary of Defense shall administer the pilot program under
4 regulations prescribed by the Secretary. The regulations shall ensure flexibility and expedited
5 appointment of cybersecurity and legal professionals in the Department of Defense under the
6 pilot program.

7 “(k) TERMINATION.—The provisions of subsections (e), (g), (h), and (i) of this section do
8 not apply with respect to an individual appointed after December 31, 2029, as a cybersecurity or
9 legal professional as provided in section 1590 of this title.

10 “(l) REPORTS.—

11 “(1) REPORTS REQUIRED.—Not later than January 30 of each of 2022, 2025, and
12 2028, the Secretary of Defense shall submit to the appropriate committees of Congress a
13 report on the carrying out of the pilot program. Each report shall include the following:

14 “(A) A description and assessment of the carrying out of the pilot program
15 during the period since the commencement of the pilot program or the previous
16 submittal of a report under this subsection, as applicable.

17 “(B) A description and assessment of the successes in and impediments to
18 carrying out the pilot program system during such period.

19 “(C) Such recommendations as the Secretary considers appropriate for
20 legislative action to improve the pilot program and to otherwise improve civilian
21 personnel management of cybersecurity and legal professionals by the
22 Department of Defense.

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1 "(D) In the case of the report submitted in 2028, an assessment and
2 recommendations by the Secretary on whether to make the pilot program
3 permanent.

4 “(2) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the
5 term 'appropriate committees of Congress' means—

6 “(A) the Committee on Armed Services and the Committee on Homeland
7 Security and Governmental Affairs of the Senate; and

8 “(B) the Committee on Armed Services and the Committee on Oversight
9 and Government Reform of the House of Representatives.”.

10 (2) TRANSFER OF PROVISIONS.—Subsections (g), (h), (f), (i), and (j) of section
11 1110 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115-
12 91; 10 U.S.C. 1580 note prec.) are transferred to section 1590a of title 10, United States
13 Code, as added by paragraph (1), inserted (in that order) after subsection (d), and
14 redesignated as subsections (e), (f), (g), (h), and (i), respectively.

15 (3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 81
16 of such title is amended by inserting after the item relating to section 1589 the following
17 new items:

“1590. Direct hiring authorities.

“1590a. Enhanced personnel management system for cybersecurity and legal professionals: pilot program.”.

18 (b) CONFORMING REPEALS.—The following provisions of law are repealed:

19 (1) Section 1113 of the National Defense Authorization Act for Fiscal Year 2016
20 (Public Law 114-92; 10 U.S.C. 1701 note).

21 (2) Section 1110 of the National Defense Authorization Act for Fiscal Year 2017
22 (Public Law 114-328; 10 U.S.C. 1580 note prec.).

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1 (3) Section 1106 of the National Defense Authorization Act for Fiscal Year 2017
2 (Public Law 114-328; 10 U.S.C. 1580 note prec.).

3 (4) Section 1125 of the National Defense Authorization Act for Fiscal Year 2017
4 (Public Law 114-328; 10 U.S.C. 1580 note prec.).

5 (5) Section 1101 of the National Defense Authorization Act for Fiscal Year 2018
6 (Public Law 115-91; 10 U.S.C. 1580 note prec.).

7 (6) Section 1110 of the National Defense Authorization Act for Fiscal Year 2018
8 (Public Law 115-91; 10 U.S.C. 1580 note prec.).

9 **SEC. 1002. EMPLOYMENT BY DEPARTMENT OF DEFENSE OF SPECIALLY**

10 **QUALIFIED SCIENTIFIC AND PROFESSIONAL PERSONNEL.**

11 (a) DEPARTMENT OF DEFENSE TITLE 10 AUTHORITY.—

12 (1) IN GENERAL.—Chapter 81 of title 10, United States Code, is amended by
13 adding at the end of subchapter V the following new section:

14 **“§1599i. Employment of specially qualified scientific and professional personnel**

15 “(a) AUTHORITY.—(1) The Secretary of Defense may establish, and from time to time
16 revise, the maximum number of covered scientific or professional positions which may be
17 established in the Department of Defense outside of the General Schedule. Such number may not
18 exceed the number of positions in effect under section 3104(a) of title 5 with respect to the
19 Department of Defense as of the date of the enactment of this section.

20 “(2) Paragraph (1) does not apply to a Senior Executive Service position (as defined in
21 section 3132(a) of title 5).

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1 “(3) In this subsection, the term ‘covered scientific or professional positions’ means
2 scientific or professional positions for carrying out research and development functions of the
3 Department of Defense which require the services of specially qualified personnel.

4 “(b) APPOINTMENTS.—(1) Positions established under subsection (a) are in the
5 competitive service. However, appointments to those positions are made without competitive
6 examination on approval of the qualifications of the proposed appointee by the Secretary of
7 Defense on the basis of standards developed by the Secretary.

8 “(c) PRIOR APPOINTMENTS.—Any individual serving in the Department of Defense on the
9 day before the date of the enactment of this section in a position established under section 3104
10 of title 5 shall be considered as of the date of the enactment of this section to have been
11 appointed to a position established under this section.”.

12 (2) CLERICAL AMENDMENT.—The table of sections at the beginning of such
13 chapter is amended by adding at the end the following new item:

“1599i. Employment of specially qualified scientific and professional personnel.”.

14 (b) REMOVAL OF DEPARTMENT OF DEFENSE FROM TITLE 5 AUTHORITY.—Section 3104(b)
15 of title 5, United States Code, is amended by inserting “or to any position in the Department of
16 Defense” before the period at the end.

17 **SEC. 1003. EXPEDITED HIRING AUTHORITY FOR CERTAIN ACQUISITION**

18 **WORKFORCE POSITIONS.**

19 (a) POSITIONS FOR WHICH THERE IS A CRITICAL SKILLS DEFICIENCY.—

20 (1) IN GENERAL.—Chapter 87 of title 10, United States Code, is amended by
21 adding at the end of subchapter V the following new section:

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1 “§1765. Expedited hiring authority: positions for which there is a shortage of candidates, a
2 critical hiring need, or a critical skills deficiency

3 “(a) AUTHORITY.—(1) The Secretary of Defense may use the authorities in sections 3304,
4 5333, and 5753 of title 5 to recruit and appoint qualified persons directly to positions in a
5 category of positions designated by the Secretary under paragraph (2).

6 “(2) The Secretary of Defense may designate for purposes of paragraph (1) any category
7 of positions in the acquisition workforce as positions for which there is —

8 “(A) a shortage of candidates;

9 “(B) a critical hiring need; or

10 “(C) a critical skills deficiency.

11 “(b) CRITICAL SKILLS DEFICIENCY DESIGNATIONS.—(1) The Secretary of Defense shall
12 designate critical skills for which there is a deficiency in the acquisition workforce. Such
13 designations shall be made separately for each of the military departments and for the elements
14 of the Department of Defense outside the military departments. For each fiscal year, there may
15 be in effect—

16 “(A) no more than 10 such designations for each military department; and

17 “(B) no more than 10 such designations for the elements of the Department of
18 Defense outside the military departments.

19 “(2) If a designation under paragraph (1) in effect for a fiscal year is terminated before
20 the end of that fiscal year, the applicable number of designations that may be in effect for the
21 remainder of the fiscal year is reduced by one.

22 “(3) For each skill which the Secretary identifies as a critical skill for which there is a
23 deficiency in the acquisition workforce, the Secretary—

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1 “(A) shall establish criteria related to such critical skill (such as educational
2 credentials or professional experience) in order to evaluate whether an applicant has the
3 critical skill; and

4 “(B) shall apply the designation across different occupational series, position
5 categories, and career fields in which the critical skill is lacking.

6 “(4) The Secretary shall periodically evaluate the number of designations of critical skill
7 deficiencies under this subsection to determine whether an increase in the number would benefit
8 the acquisition workforce.”.

9 (2) CLERICAL AMENDMENT.—The table of sections at the beginning of such
10 subchapter is amended by adding at the end the following new item:

“1765. Expedited hiring authority: positions for which there is a shortage of candidates, a critical hiring need, or a
critical skills deficiency.”.

11 (b) CONFORMING AMENDMENT.—Section 1705 of title 10, United States Code, is
12 amended by striking subsection (f).

13 **SEC. 1004. PERSONNEL SYSTEM FOR CIVILIAN ACQUISITION WORKFORCE.**

14 (a) REPLACEMENT FOR ACQUISITION DEMONSTRATION PROJECT.—Chapter 87 of title 10,
15 United States Code, is amended by inserting after section 1762 the following new section:

16 **“§ 1763. Personnel system for civilian acquisition workforce**

17 “(a) PERSONNEL SYSTEM FOR CIVILIAN ACQUISITION WORKFORCE.—The Secretary of
18 Defense shall manage the employees in the civilian acquisition workforce of the Department of
19 Defense in accordance with the personnel system established pursuant to this section.

20 “(b) AUTHORITY.—

21 “(1) AUTHORITIES.—The Secretary shall establish a personnel system for purposes
22 of this section. In establishing and carrying out such system, the Secretary may exercise

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1 any of the authorities under section 4703 of title 5 that the Secretary was authorized to
2 exercise with respect to the demonstration project under section 1762 of this title as of the
3 day before the effective date of this section.

4 “(2) LIMITATIONS.—The provisions of subsection (c) of section 4703 of title 5
5 shall apply to the personnel system under this section in the same manner as such
6 provisions applied to the demonstration project under section 1762 of this title as of the
7 day before the effective date of this section.

8 “(c) IMPLEMENTATION.—

9 “(1) INITIAL IMPLEMENTATION.— The system established under the demonstration
10 project authority under section 1762 of title 10, United States Code, as in effect on the
11 day before the effective date of this section, shall be considered to be established under
12 this section and shall apply as of that effective date to any employee in the civilian
13 acquisition workforce who on the day before that date was covered by the demonstration
14 project under section 1762 of this title.

15 “(2) DEADLINE FOR FULL IMPLEMENTATION.—The Secretary shall carry out the
16 implementation of the personnel system established under this section so that all
17 employees in the civilian acquisition workforce are covered by that system not later than
18 the end of the five-year period beginning on the effective date of this section.

19 “(d) COLLECTIVE BARGAINING AGREEMENTS.—

20 “(1) Nothing in this section, or the personnel system established under this
21 section, may be construed to impair the continued effectiveness of a collective bargaining
22 agreement in effect on the day before the effective date of this section, except that any

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1 extension, or exercise of an option, under such an agreement after such date is subject to
2 paragraph (2).

3 “(2) Any collective bargaining agreement entered into after the date of the
4 enactment of this section that covers employees in the civilian acquisition workforce is
5 subject to the provisions of the personnel system established under this section with
6 respect to those employees.

7 “(3) In this subsection, the term ‘collective bargaining agreement’ has the
8 meaning given that term in section 7103(a)(8) of title 5.

9 “(e) REGULATIONS.—

10 “(1) IN GENERAL.—The Secretary of Defense shall prescribe regulations to carry
11 out the personnel system established under this section.

12 “(2) TRANSITION.—Until revised by the Secretary under paragraph (1), the
13 regulations of the Secretary of Defense prescribed under section 1762 of this title, as in
14 effect on the day before the effective date of this section, shall be considered to be
15 prescribed by the Secretary of Defense under this subsection and to be applicable to the
16 personnel system established under this section.

17 “(f) CIVILIAN ACQUISITION WORKFORCE.— In this section, the term ‘civilian acquisition
18 workforce’ means the following:

19 “(1) Employees of the Department of Defense in positions designated under
20 section 1721 of this title as acquisition positions for purposes of this chapter.

21 “(2) Other employees of the Department of Defense who are designated as
22 members of the acquisition workforce—

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1 “(A) in the case of positions not in one of the military departments, by the
2 Under Secretary of Defense for Acquisition and Sustainment; and

3 “(B) in the case of positions in one of the military departments, by the
4 senior acquisition executive of that military department.”.

5 (b) REPEAL OF ACQDEMO STATUTE.—Section 1762 of such title is repealed.

6 (c) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter V of
7 such chapter is amended by striking the item relating to section 1762 and inserting the following:
8 “1763. Personnel system for civilian acquisition workforce.”.

9 (d) EFFECTIVE DATE.—This section and the amendments made by this section shall take
10 effect on the first day of the first month after the date of the enactment of this Act.

10 **SEC. 1005. DEPARTMENT OF DEFENSE ACQUISITION WORKFORCE**

11 **DEVELOPMENT FUND.**

12 (a) FUND MANAGEMENT.—Subsection (c) of section 1705 of title 10, United States Code,
13 is amended by adding at the end the following new sentence: “In addition, the designated senior
14 official, or the principal deputy of that official, shall have both qualifications in financial
15 management and an extensive background in financial management.”.

16 (b) REPLACEMENT OF REMITTANCES FUNDING WITH FUNDING FROM UNOBLIGATED
17 BALANCES.—

18 (1) IN GENERAL.—Subsection (d) of such section is amended to read as follows:

19 “(d) SOURCE OF FUNDS.—

20 “(1) ELEMENTS OF THE FUND.—The Fund shall consist of amounts as follows:

21 “(A) Amounts transferred to the Fund pursuant to paragraph (2).

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1 “(B) Any other amounts appropriated to, credited to, or deposited into the
2 Fund by law.

3 “(2) TRANSFER OF CERTAIN UNOBLIGATED BALANCES.—(A) The Secretary of
4 Defense shall transfer to the Fund each fiscal year from unobligated balances of
5 appropriations described in subparagraph (B) a total amount of not less than
6 \$450,000,000.

7 “(B) Subparagraph (A) applies to unobligated balances of appropriations made to
8 the Department of Defense for which the period of availability for obligation expired at
9 the end of one of the three fiscal years preceding the fiscal year during which the transfer
10 under subparagraph (A) is made, but only in the case of an appropriation made to the
11 Department of Defense—

12 “(i) for procurement;

13 “(ii) for research, development, test, and evaluation; or

14 “(iii) for operation and maintenance,

15 “(C) Any amount transferred to the Fund pursuant to subparagraph (A) shall be
16 credited to the Fund.”.

17 (2) CONFORMING AMENDMENT.—Subsection (e)(6) of such section is amended by
18 striking “Amounts credited” and all that follows through “subsection (d)(3),” and
19 inserting “Amounts transferred to the Fund pursuant to subsection (d)(2),”.

20 (c) REFERENCES TO UNDER SECRETARY FOR ACQUISITION, TECHNOLOGY, AND
21 LOGISTICS.—Such section is further amended by striking “Under Secretary of Defense for
22 Acquisition, Technology, and Logistics” in subsections (c), (e)(3), and (g)(2)(B) and inserting
23 “Secretary of Defense”.

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1 SEC. 1006. CODIFICATION OF CERTAIN ACQUISITION WORKFORCE-RELATED 2 PROVISIONS OF LAW.

3 (a) POST-EMPLOYMENT REQUIREMENTS.—

4 (1) IN GENERAL.—Subchapter I of chapter 87 of title 10, United States Code, is
5 amended by adding at the end a new section 1708 consisting of—

6 (A) a heading as follows:

7 “§1708. Certain senior Department of Defense officials and former officials seeking
8 employment with defense contractors: requirements”; and

9 (B) a text consisting of the text of section 847 of the National Defense
10 Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 1701
11 note).

12 (2) AMENDMENTS IN CONNECTION WITH CODIFICATION.—Section 1708 of title 10,
13 United States Code, as added by paragraph (1), is amended—

14 (A) by striking “, United States Code” each place it appears; and

15 (B) by striking the second sentence of subsection (b)(2).

16 (3) CLERICAL AMENDMENT.—The table of sections at the beginning of such
17 subchapter is amended by adding at the end the following new item:

“1708. Certain senior Department of Defense officials and former officials seeking employment with defense
contractors: requirements.”.

18 (4) CONFORMING REPEAL.—Section 847 of the National Defense Authorization
19 Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 1701 note) is repealed.

20 (b) AWARD PROGRAM.—

21 (1) IN GENERAL.—Subchapter I of chapter 87 of title 10, United States Code, is
22 amended by inserting after section 1701a a new section 1701b consisting of—

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1 (A) a heading as follows:

2 **“§1701b. Award program: programs and professionals making best use of authorized**
3 **flexibility in contracting”**; and

4 (B) a text consisting of the text of section 834 of the National Defense
5 Authorization Act for Fiscal Year 2017 (Public Law 114-328; 10 U.S.C. 1701a
6 note).

7 (2) CLERICAL AMENDMENT.—The table of sections at the beginning of such
8 subchapter is amended by inserting after the item relating to section 1701a the following
9 new item:

“1701b. Award program: programs and professionals making best use of authorized flexibility in contracting.”.

10 (3) CONFORMING REPEAL.—Section 834 of the National Defense Authorization
11 Act for Fiscal Year 2017 (Public Law 114-328; 10 U.S.C. 1701a note) is repealed.

12 (c) QUICK-REACTION SPECIAL PROJECTS ACQUISITION TEAM.—

13 (1) IN GENERAL.—Subchapter I of chapter 87 of title 10, United States Code, is
14 amended by inserting after section 1702 a new section 1703 consisting of—

15 (A) a heading as follows:

16 **“§1703. Quick-reaction special projects acquisition team”**; and

17 (B) a text consisting of the text of section 807 of the Bob Stump National
18 Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 10 U.S.C.
19 1702 note).

20 (2) UPDATE TO REFERENCE.—Subsection (a) of section 1703 of title 10, United
21 States Code, as added by paragraph (1), is amended by striking “Under Secretary of

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1 Defense for Acquisition, Technology, and Logistics” and inserting “Under Secretary of
2 Defense for Acquisition and Sustainment”.

3 (3) CLERICAL AMENDMENT.—The table of sections at the beginning of such
4 subchapter is amended by inserting after the item relating to section 1702 the following
5 new item:

“1703. Quick-reaction special projects acquisition team.”.

6 (4) CONFORMING REPEAL.—Section 807 of the Bob Stump National Defense
7 Authorization Act for Fiscal Year 2003 (Public Law 107-314; 10 U.S.C. 1702 note) is
8 repealed.

9 (d) DEVELOPMENT PROGRAM FOR CIVILIAN PROGRAM MANAGERS.—

10 (1) IN GENERAL.—Subchapter II of chapter 87 of title 10, United States Code, is
11 amended by inserting after section 1722b the following new section:

12 **“§1722c. Civilian program managers: development program**

13 “(a) PROGRAM REQUIRED.—

14 “(1) IN GENERAL.—The Secretary of Defense, in consultation with the Secretaries
15 of the military departments, shall implement a program manager development program to
16 provide for the professional development of high-potential, experienced civilian
17 personnel.

18 “(2) SELECTION OF PERSONNEL.—Personnel shall be competitively selected for the
19 program based on their potential to become a program manager of a major defense
20 acquisition program, as defined in section 2430 of this title.

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1 “(3) ADMINISTRATION, ETC.—The program shall be administered and overseen by
2 the Secretary of each military department, acting through the service acquisition
3 executive for the military department concerned.

4 “(b) COMPREHENSIVE IMPLEMENTATION PLAN.—

5 “(1) REQUIREMENT.—The program under subsection (a) shall be carried out in
6 accordance with a comprehensive plan developed by the Secretary of Defense. In
7 developing the plan, the Secretary shall seek the input of relevant external parties,
8 including professional associations, other government entities, and industry.

9 “(2) ELEMENTS OF COMPREHENSIVE PLAN.—The plan shall include the following
10 elements:”.

11 (2) ELEMENTS OF COMPREHENSIVE PLAN.—Subparagraphs (A) through (K) of
12 paragraph (2) of section 841(a) of the National Defense Authorization Act for Fiscal Year
13 2018 (Public Law 115-91; 10 U.S.C. 1722b note) are transferred to section 1722c of title
14 10, United States Code, as added by paragraph (1), and inserted at the end of paragraph
15 (2) of subsection (b).

16 (3) USE OF DEFENSE ACQUISITION WORKFORCE DEVELOPMENT FUND.—Paragraph
17 (3) of section 841(a) of such Act is transferred to the end of section 1722c of title 10,
18 United States Code, as added by paragraph (1) and amended by paragraph (2),
19 redesignated as subsection (c), and amended—

20 (A) by capitalizing the first letter of each word in the subsection heading
21 other than the second;

22 (B) by striking “title 10, United States Code” and inserting “this title”; and

23 (C) by striking “paragraph (1)” and inserting “subsection (a)”.

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1 (4) IMPLEMENTATION.—The program required to be established under section
2 1722c of title 10, United States Code, as added by paragraph (1), shall be implemented
3 not later than September 30, 2019. The comprehensive implementation plan required by
4 subsection (b) of that section shall be submitted by the Secretary of Defense to the
5 Committees on Armed Services of the Senate and House of Representatives not later than
6 December 12, 2018.

7 (5) CLERICAL AMENDMENT.—The table of sections at the beginning of such
8 subchapter is amended by inserting after the item relating to section 1722b the following
9 new item:

“1722c. Civilian program managers: development program.”.

10 (6) CONFORMING REPEAL.—Section 841(a) of the National Defense
11 Authorization Act for Fiscal Year 2018 (Public Law 115-91; 10 U.S.C. 1722b note) is
12 repealed.

13 (e) INFORMATION TECHNOLOGY ACQUISITION WORKFORCE.—

14 (1) IN GENERAL.—Subchapter II of chapter 87 of title 10, United States Code, is
15 amended by inserting after section 1723 the following new section:

16 “§1723a. Information technology acquisition workforce

17 “(a) PLAN REQUIRED.—The Secretary of Defense shall carry out a plan to strengthen the
18 part of the acquisition workforce that specializes in information technology. The plan shall
19 include the following:

20 “(1) Defined targets for billets devoted to information technology acquisition.

21 “(2) Specific certification requirements for individuals in the acquisition
22 workforce who specialize in information technology acquisition.

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1 “(3) Defined career paths for individuals in the acquisition workforce who
2 specialize in information technology acquisitions.

3 “(b) DEFINITIONS.—In this section:

4 “(1) The term ‘information technology’ has the meaning provided that term in
5 section 11101 of title 40 and includes information technology incorporated into a major
6 weapon system.

7 “(2) The term ‘major weapon system’ has the meaning provided that term in
8 section 2379(f) of this title.”.

9 (2) CLERICAL AMENDMENT.—The table of sections at the beginning of such
10 subchapter is amended by inserting after the item relating to section 1723 the following
11 new item:

“1723a. Information technology acquisition workforce.”.

12 (3) CONFORMING REPEAL.—Section 875 of the Ike Skelton National Defense
13 Authorization Act for Fiscal Year 2011(Public Law 111-383; 10 U.S.C. 1723 note) is repealed.

14 (f) CREDIT FOR EXPERIENCE IN CERTAIN POSITIONS.—

15 (1) IN GENERAL.—Subchapter II of chapter 87 of title 10, United States Code, is
16 amended by inserting after section 1724 the following new section:

17 “§1724a. Credit for experience in certain positions

18 “For purposes of meeting any requirement under this chapter for a period of experience
19 (such as requirements for experience in acquisition positions or in critical acquisition positions)
20 and for purposes of coverage under the exceptions established by section 1724(c)(1) and section
21 1732(c)(1) of this title, any period of time spent serving in a position later designated as an

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1 acquisition position or a critical acquisition position under this chapter may be counted as
2 experience in such a position for such purposes.”.

3 (2) CLERICAL AMENDMENT.—The table of sections at the beginning of such
4 subchapter is amended by inserting after the item relating to section 1724 the following
5 new item:

“1724a. Credit for experience in certain positions.”.

6 (3) CONFORMING REPEAL.—Section 1209(i) of the Defense Acquisition
7 Workforce Improvement Act (title XII of Public Law 101-510; 10 U.S.C. 1724 note) is
8 repealed.

9 (g) GUIDANCE REGARDING TRAINING AND DEVELOPMENT OF THE ACQUISITION
10 WORKFORCE.—

11 (1) IN GENERAL.—Subchapter IV of chapter 87 of title 10, United States Code, is
12 amended by inserting after section 1742 the following new section:

13 **“§1743. Guidance regarding training and development of the acquisition workforce**

14 “(a) IN GENERAL.—The Secretary of Defense shall issue guidance addressing the training
15 and development of the Department of Defense workforce engaged in the procurement of
16 services, including those personnel not designated as members of the acquisition workforce.

17 “(b) IDENTIFICATION OF TRAINING AND PROFESSIONAL DEVELOPMENT OPPORTUNITIES
18 AND ALTERNATIVES.—The guidance required under subsection (a) shall identify training and
19 professional development opportunities and alternatives, not limited to existing Department of
20 Defense institutions, that focus on and provide relevant training and professional development in
21 commercial business models and contracting.

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1 “(c) TREATMENT OF TRAINING AND PROFESSIONAL DEVELOPMENT.—Any training and
2 professional development provided pursuant to this section outside Department of Defense
3 institutions shall be deemed to be equivalent to similar training certified or provided by the
4 Defense Acquisition University.”.

5 (2) CLERICAL AMENDMENT.—The table of sections at the beginning of such
6 subchapter is amended by inserting after the item relating to section 1742 the following
7 new item:

“1743. Guidance regarding training and development of the acquisition workforce.”.

8 (3) CONFORMING REPEAL.—Section 803(b) of the National Defense Authorization
9 Act for Fiscal Year 2017 (Public Law 114-328; 10 U.S.C. 1741 note) is repealed.

10 **(h) TRAINING IN COMMERCIAL ITEMS PROCUREMENT.—**

11 (1) IN GENERAL.—Subchapter IV of chapter 87 of title 10, United States Code, is
12 amended by adding at the end a new section 1749 consisting of—

13 (A) a heading as follows:

14 “**§1749. Training in commercial items procurement**”; and

15 (B) a text consisting of the text of section 850 of the National Defense
16 Authorization Act for Fiscal Year 2018 (Public Law 115-91; 10 U.S.C. 1746
17 note).

18 (2) AMENDMENTS IN CONNECTION WITH CODIFICATION.—Section 1749 of title 10,
19 United States Code, as added by paragraph (1), is amended—

20 (A) in subsection (a), by striking “Not later than” and all that follows
21 through “the President” and inserting “The President”; and

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1 (B) in subsection (d), by striking “title 10, United States Code,” and
2 inserting “this title”.

3 (3) IMPLEMENTATION.—The comprehensive training program required by section
4 1749 of title 10, United States Code, as added by paragraph (1), shall be established not
5 later than December 12, 2018.

6 (4) CLERICAL AMENDMENT.—The table of sections at the beginning of such
7 subchapter is amended by adding at the end the following new item:

“1749. Training in commercial items procurement.”.

8 (5) CONFORMING REPEAL.—Section 850 of the National Defense Authorization
9 Act for Fiscal Year 2018 (Public Law 115-91; 10 U.S.C. 1746 note) is repealed.

10 (i) TRAINING ON AGILE OR ITERATIVE DEVELOPMENT METHODS.—

11 (1) IN GENERAL.—Subchapter IV of chapter 87 of title 10, United States Code, is
12 amended by adding after section 1749, as added by subsection (h), a new section 1750
13 consisting of—

14 (A) a heading as follows:

15 “§1750. Training on agile or iterative development methods”; and

16 (B) a text consisting of the text of section 891 of the National Defense
17 Authorization Act for Fiscal Year 2018 (Public Law 115-91; 10 U.S.C. 1746
18 note).

19 (2) AMENDMENTS IN CONNECTION WITH CODIFICATION.—Section 1750 of title 10,
20 United States Code, as added by paragraph (1), is amended—

21 (A) in subsection (a)—

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1 (i) by striking “Not later than” and all that follows through “the
2 Secretary” and inserting “(1) The Secretary”; and

3 (ii) by adding at the end the following new paragraph:

4 “(2) In this section, the term ‘specified pilot programs’ means—

5 “(A) the pilot program required by section 873 of the National Defense
6 Authorization Act for Fiscal Year 2018 (Public Law 115-91; 10 U.S.C. 2223a note),
7 relating to use of agile or iterative development methods to tailor major software-
8 intensive warfighting systems and defense business systems; and

9 “(B) the pilot program required by section 874 of such Act (Public Law 115-91;
10 10 U.S.C. 2302 note), relating to software development using agile best practices.”; and

11 (B) by striking “the pilot programs required by sections 873 and 874 of
12 this Act” each place it appears and inserting “the specified pilot programs”.

13 (3) CLERICAL AMENDMENT.—The table of sections at the beginning of such
14 subchapter is amended by adding after the item relating to section 1749, as added by
15 subsection (h), the following new item:

“1750. Training on agile or iterative development methods.”.

16 (4) CONFORMING REPEAL.—Section 891 of the National Defense Authorization
17 Act for Fiscal Year 2018 (Public Law 115-91; 10 U.S.C. 1746 note) is repealed.

18 (j) CONTRACTOR INCENTIVES TO ACHIEVE SAVINGS AND IMPROVE MISSION
19 PERFORMANCE.—

20 (1) IN GENERAL.—Subchapter IV of chapter 87 of title 10, United States Code, is
21 amended by adding after section 1750, as added by subsection (i), a new section 1751
22 consisting of—

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1 (A) a heading as follows:
2 “§1751. Contractor incentives to achieve savings and improve mission performance”; and

3 (B) a text consisting of the text of section 832 of the National Defense
4 Authorization Act for Fiscal Year 2017 (Public Law 114-328; 10 U.S.C. 1746
5 note).

6 (2) AMENDMENT IN CONNECTION WITH CODIFICATION.—Section 1751 of title 10,
7 United States Code, as added by paragraph (1), is amended by striking “Not later than”
8 and all that follows through “and implement” and inserting “The President of the
9 Defense Acquisition University shall implement”.

10 (3) CLERICAL AMENDMENT.—The table of sections at the beginning of such
11 subchapter is amended by adding after the item relating to section 1750, as added by
12 subsection (i), the following new item:

“1751. Contractor incentives to achieve savings and improve mission performance.”.

13 (4) CONFORMING REPEAL.—Section 832 of the National Defense Authorization
14 Act for Fiscal Year 2017 (Public Law 114-328; 10 U.S.C. 1746 note) is repealed.

SECTIONS AFFECTED BY THE PROPOSAL

[Provisions of current law would be affected by the amendments in the legislative text above as follows: matter proposed to be deleted is shown in ~~stricken through~~ text; matter to be inserted is shown in *bold italic*.]

National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 10 U.S.C. 1701 note)

~~SEC. 1113. DIRECT HIRE AUTHORITY FOR TECHNICAL EXPERTS INTO THE
DEFENSE ACQUISITION WORKFORCE.~~

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~~(a) AUTHORITY.~~ Each Secretary of a military department may appoint qualified candidates possessing a scientific or engineering degree to positions described in subsection (b) for that military department without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code.

~~(b) APPLICABILITY.~~ Positions described in this subsection are scientific and engineering positions within the defense acquisition workforce.

~~(c) LIMITATION.~~ Authority under this section may not, in any calendar year and with respect to any military department, be exercised with respect to a number of candidates greater than the number equal to 5 percent of the total number of scientific and engineering positions within the acquisition workforce of that military department that are filled as of the close of the fiscal year last ending before the start of such calendar year.

~~(d) NATURE OF APPOINTMENT.~~ Any appointment under this section shall be treated as an appointment on a full-time equivalent basis, unless such appointment is made on a term or temporary basis.

~~(e) EMPLOYEE DEFINED.~~ In this section, the term “employee” has the meaning given that term in section 2105 of title 5, United States Code.

~~(f) TERMINATION.~~ The authority to make appointments under this section shall not be available after December 31, 2020.

National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 10 U.S.C. 1580 note prec.)

~~SEC. 1110. DIRECT HIRE AUTHORITY FOR FINANCIAL MANAGEMENT EXPERTS IN THE DEPARTMENT OF DEFENSE WORKFORCE.~~

~~(a) AUTHORITY.~~— Each Secretary concerned may appoint qualified candidates possessing a finance, accounting, management, or actuarial science degree, or a related degree or equivalent experience, to positions specified in subsection (c) for a Department of Defense component without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code.

~~(b) SECRETARY CONCERNED.~~— For purposes of this section, the Secretary concerned is as follows:

~~(1) The Secretary of Defense with respect to each Department of Defense component listed in subsection (f) other than the Department of the Army, the Department of the Navy, and the Department of the Air Force.~~

~~(2) The Secretary of a military department with respect to such military department.~~

~~(c) POSITIONS.~~— The positions specified in this subsection are the positions within the Department of Defense workforce as follows:

~~(1) Financial management positions.~~

~~(2) Accounting positions.~~

~~(3) Auditing positions.~~

~~(4) Actuarial positions.~~

~~(5) Cost estimation positions.~~

~~(6) Operational research positions.~~

~~(7) Business and business administration positions.~~

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~~(d) LIMITATION.— Authority under this section may not, in any calendar year and with respect to any Department of Defense component, be exercised with respect to a number of candidates greater than the number equal to 10 percent of the total number of the financial management, accounting, auditing, and actuarial positions within the financial management workforce of such Department of Defense component that are filled as of the close of the fiscal year last ending before the start of such calendar year.~~

~~(e) NATURE OF APPOINTMENT.— Any appointment under this section shall be treated as an appointment on a full-time equivalent basis, unless such appointment is made on a term or temporary basis.~~

~~(f) DEPARTMENT OF DEFENSE COMPONENT DEFINED.— In this section, the term “Department of Defense component” means the following:~~

- ~~(1) A Defense Agency.~~
- ~~(2) The Office of the Chairman of the Joint Chiefs of Staff.~~
- ~~(3) The Joint Staff.~~
- ~~(4) A combatant command.~~
- ~~(5) The Office of the Inspector General of the Department of Defense.~~
- ~~(6) A Field Activity of the Department of Defense.~~
- ~~(7) The Department of the Army.~~
- ~~(8) The Department of the Navy.~~
- ~~(9) The Department of the Air Force.~~

~~(g) TERMINATION.— The authority to make appointments under this section shall not be available after December 31, 2022.~~

National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 10 U.S.C. 1580 note prec.)

~~SEC. 1106. DIRECT HIRE AUTHORITY FOR THE DEPARTMENT OF DEFENSE FOR POST-SECONDARY STUDENTS AND RECENT GRADUATES.~~

~~(a) HIRING AUTHORITY.— Without regard to sections 3309 through 3318, 3327, and 3330 of title 5, United States Code, the Secretary of Defense may recruit and appoint qualified recent graduates and current post-secondary students to competitive service positions in professional and administrative occupations within the Department of Defense.~~

~~(b) LIMITATION ON APPOINTMENTS.— Subject to subsection (c)(2), the total number of employees appointed by the Secretary under subsection (a) during a fiscal year may not exceed the number equal to 15 percent of the number of hires made into professional and administrative occupations of the Department at the GS-11 level and below (or equivalent) under competitive examining procedures during the previous fiscal year.~~

~~(c) REGULATIONS.—~~

~~(1) IN GENERAL.— The Secretary shall administer this section in accordance with regulations prescribed by the Secretary for purposes of this section.~~

~~(2) LOWER LIMIT ON APPOINTMENTS.— The regulations may establish a lower limit on the number of individuals appointable under subsection (a) during a fiscal year than is otherwise provided for under subsection (b), based on such factors as the Secretary considers appropriate.~~

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~~(3) PUBLIC NOTICE AND ADVERTISING.—To the extent practical, as determined by the Secretary, the Secretary shall publicly advertise positions available under this section. In carrying out the preceding sentence, the Secretary shall —~~

~~(A) take into account merit system principles, mission requirements, costs, and organizational benefits of any advertising of positions; and~~

~~(B) advertise such positions in the manner the Secretary determines is most likely to provide diverse and qualified candidates and ensure potential applicants have appropriate information relevant to the positions available.~~

~~(d) SUNSET.—The authority provided under this section shall terminate on September 30, 2021.~~

~~(e) DEFINITIONS.—In this section:~~

~~(1) The term “current post secondary student” means a person who —~~

~~(A) is currently enrolled in, and in good academic standing at, a full-time program at an institution of higher education;~~

~~(B) is making satisfactory progress toward receipt of a baccalaureate or graduate degree; and~~

~~(C) has completed at least one year of the program.~~

~~(2) The term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).~~

~~(3) The term 'recent graduate', with respect to appointment of a person under this section, means a person who was awarded a degree by an institution of higher education not more than two years before the date of the appointment of such person, except that in the case of a person who has completed a period of obligated service in a uniformed service of more than four years, such term means a person who was awarded a degree by an institution of higher education not more than four years before the date of the appointment of such person.~~

National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 10 U.S.C. 1580 note prec.)

~~SEC. 1125. TEMPORARY DIRECT HIRE AUTHORITY FOR DOMESTIC DEFENSE INDUSTRIAL BASE FACILITIES, THE MAJOR RANGE AND TEST FACILITIES BASE, AND THE OFFICE OF THE DIRECTOR OF OPERATIONAL TEST AND EVALUATION.~~

~~(a) DEFENSE INDUSTRIAL BASE FACILITY AND MRTFB.—During each of fiscal years 2017 through 2021, the Secretary of Defense may appoint, without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, other than sections 3303 and 3328 of such title, qualified candidates to positions in the competitive service at any defense industrial base facility or the Major Range and Test Facilities Base.~~

~~(b) OFFICE OF THE DIRECTOR OF OPERATIONAL TEST AND EVALUATION.—During fiscal years 2017 through 2021, the Secretary of Defense may, acting through the Director of Operational Test and Evaluation, appoint qualified candidates possessing an advanced degree to scientific and engineering positions within the Office of the Director of Operational Test and Evaluation~~

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without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, other than sections 3303 and 3328 of such title.

~~(e) DEFINITION OF DEFENSE INDUSTRIAL BASE FACILITY. — In this section, the term “defense industrial base facility” means any Department of Defense depot, arsenal, or shipyard located within the United States.~~

National Defense Authorization Act for Fiscal Year 2018 (Public Law 115-91; 10 U.S.C. 1580 note prec.)

~~SEC. 1101. DIRECT HIRE AUTHORITY FOR THE DEPARTMENT OF DEFENSE FOR PERSONNEL TO ASSIST IN BUSINESS TRANSFORMATION AND MANAGEMENT INNOVATION.~~

~~(a) AUTHORITY. — The Secretary of Defense may appoint in the Department of Defense individuals described in subsection (b) without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, for the purpose of assisting and facilitating the efforts of the Department in business transformation and management innovation.~~

~~(b) COVERED INDIVIDUALS. — The individuals described in this subsection are individuals who have all of the following:~~

- ~~(1) A management or business background.~~
- ~~(2) Experience working with large or complex organizations.~~
- ~~(3) Expertise in management and organizational change, data analytics, or business process design.~~

~~(c) LIMITATION ON NUMBER. — The number of individuals appointed pursuant to this section at any one time may not exceed 10 individuals.~~

~~(d) NATURE OF APPOINTMENT. — Any appointment under this section shall be on a term basis, and shall be subject to the term appointment regulations in part 316 of title 5, Code of Federal Regulations (other than requirements in such regulations relating to competitive hiring). The term of any such appointment shall be specified by the Secretary at the time of the appointment.~~

~~(e) BRIEFINGS. —~~

~~(1) IN GENERAL. — Not later than September 30, 2019, and September 30, 2021, the Secretary shall brief the appropriate committees of Congress on the exercise of the authority in this section.~~

~~(2) ELEMENTS. — Each briefing under this subsection shall include the following:~~

~~(A) A description and assessment of the results of the use of such authority as of the date of such briefing.~~

~~(B) Such recommendations as the Secretary considers appropriate for extension or modification of such authority.~~

~~(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED. — In this subsection, the term “appropriate committees of Congress” means —~~

~~(A) the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate; and~~

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- ~~(B) the Committee on Armed Services and the Committee on Government Oversight and Reform of the House of Representatives.~~
- ~~(f) Sunset. —~~
- ~~(1) IN GENERAL. — The authority to appoint individuals in this section shall expire on September 30, 2021.~~
- ~~(2) CONSTRUCTION WITH EXISTING APPOINTMENTS. — The expiration in paragraph (1) of the authority in this section shall not be construed to terminate any appointment made under this section before the date of expiration that continues according to its term as of the date of expiration.~~

National Defense Authorization Act for Fiscal Year 2018 (Public Law 115-91; 10 U.S.C. 1580 note prec.)

~~SEC. 1110 PILOT PROGRAM ON ENHANCED PERSONNEL MANAGEMENT SYSTEM FOR CYBERSECURITY AND LEGAL PROFESSIONALS IN THE DEPARTMENT OF DEFENSE.~~

~~(a) PILOT PROGRAM REQUIRED. — The Secretary of Defense shall carry out within the Department of Defense a pilot program to assess the feasibility and advisability of an enhanced personnel management system in accordance with this section for cybersecurity and legal professionals in the Department described in subsection (b) who enter civilian service with the Department on or after January 1, 2020.~~

~~(b) CYBERSECURITY AND LEGAL PROFESSIONALS. —~~

~~(1) IN GENERAL. — The cybersecurity and legal professionals described in this subsection are the following:~~

~~(A) Civilian cybersecurity professionals in the Department of Defense consisting of civilian personnel engaged in or directly supporting planning, commanding and controlling, training, developing, acquiring, modifying, and operating systems and capabilities, and military units and intelligence organizations (other than those funded by the National Intelligence Program) that are directly engaged in or used for offensive and defensive cyber and information warfare or intelligence activities in support thereof.~~

~~(B) Civilian legal professionals in the Department occupying legal or similar positions, as determined by the Secretary of Defense for purposes of the pilot program, that require eligibility to practice law in a State or territory of the United States.~~

~~(2) INAPPLICABILITY TO SES POSITIONS. — The pilot program shall not apply to positions within the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code.~~

~~(c) DIRECT APPOINTMENT AUTHORITY. —~~

~~(1) Inapplicability of GENERAL CIVIL SERVICE APPOINTMENT AUTHORITIES TO APPOINTMENTS. — Under the pilot program, the Secretary of Defense, with respect to the Defense Agencies, and the Secretary of the military department concerned, with respect to the military departments, may appoint qualified candidates as cybersecurity and legal~~

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professionals without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code.

~~(2) APPOINTMENT ON DIRECT HIRE BASIS.—~~ Appointments under the pilot program shall be made on a direct hire basis.

~~(d) TERM APPOINTMENTS.—~~

~~(1) RENEWABLE TERM APPOINTMENTS.—~~ Each individual shall serve with the Department of Defense as a cybersecurity or legal professional under the pilot program pursuant to an initial appointment to service with the Department for a term of not less than 2 years nor more than 8 years. Any term of appointment under the pilot program may be renewed for one or more additional terms of not less than 2 years nor more than 8 years as provided in subsection (h).

~~(2) LENGTH OF TERMS.—~~ The length of the term of appointment to a position under the pilot program shall be prescribed by the Secretary of Defense taking into account the national security, mission, and other applicable requirements of the position. Positions having identical or similar requirements or terms may be grouped into categories for purposes of the pilot program. The Secretary may delegate any authority in this paragraph to a commissioned officer of the Armed Forces in pay grade O-7 or above or an employee in the Department in the Senior Executive Service.

~~(e) NATURE OF SERVICE UNDER APPOINTMENTS.—~~

~~(1) TREATMENT OF PERSONNEL APPOINTED AS EMPLOYEES.—~~ Except as otherwise provided by this section, individuals serving with the Department of Defense as cybersecurity or legal professionals under the pilot program pursuant to appointments under this section shall be considered employees (as specified in section 2105 of title 5, United States Code) for purposes of the provisions of title 5, United States Code, and other applicable provisions of law, including, in particular, for purposes as follows:

~~(A) Eligibility for participation in the Federal Employees' Retirement System under chapter 84 of title 5, United States Code, subject to the provisions of section 8402 of such title and the regulations prescribed pursuant to such section.~~

~~(B) Eligibility for enrollment in a health benefits plan under chapter 89 of title 5, United States Code (commonly referred as the 'Federal Employees Health Benefits Program').~~

~~(C) Eligibility for and subject to the employment protections of subpart F of part III of title 5, United States Code, relating to merit principles and protections.~~

~~(D) Eligibility for the protections of chapter 81, of title 5, United States Code, relating to workers compensation.~~

~~(2) SCOPE OF RIGHTS AND BENEFITS.—~~ In administering the pilot program, the Secretary of Defense shall specify, and from time to time update, a comprehensive description of the rights and benefits of individuals serving with the Department under the pilot program pursuant to this subsection and of the provisions of law under which such rights and benefits arise.

~~(f) (g) COMPENSATION.—~~

~~(1) BASIC PAY.—~~ Individuals serving with the Department of Defense as cybersecurity or legal professionals under the pilot program shall be paid basic pay for

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such service in accordance with a schedule of pay prescribed by the Secretary of Defense for purposes of the pilot program.

(2) **TREATMENT AS BASIC PAY.**—Basic pay payable under the pilot program shall be treated for all purposes as basic pay paid under the provisions of title 5, United States Code.

(3) **PERFORMANCE AWARDS.**—Individuals serving with the Department as cybersecurity or legal professionals under the pilot program may be awarded such performance awards for outstanding performance as the Secretary shall prescribe for purposes of the pilot program. The performance awards may include a monetary bonus, time off with pay, or such other awards as the Secretary considers appropriate for purposes of the pilot program. The award of performance awards under the pilot program shall be based in accordance with such policies and requirements as the Secretary shall prescribe for purposes of the pilot program.

(4) **ADDITIONAL COMPENSATION.**—Individuals serving with the Department as cybersecurity or legal professionals under the pilot program may be awarded such additional compensation above basic pay as the Secretary (or the designees of the Secretary) consider appropriate in order to promote the recruitment and retention of highly skilled and productive cybersecurity and legal professionals to and with the Department.

~~(g)~~ **(e) PROBATIONARY PERIOD.**—The following terms of appointment shall be treated as a probationary period under the pilot program:

(1) The first term of appointment of an individual to service with the Department of Defense as a cybersecurity or legal professional, regardless of length.

(2) The first term of appointment of an individual to a supervisory position in the Department as a cybersecurity or legal professional, regardless of length and regardless of whether or not such term of appointment to a supervisory position is the first term of appointment of the individual concerned to service with the Department as a cybersecurity or legal professional.

~~(h)~~ **(f) RENEWAL OF APPOINTMENTS.**—

(1) **IN GENERAL.**—The Secretary of Defense shall prescribe the conditions for the renewal of appointments under the pilot program. The conditions may apply to one or more categories of positions, positions on a case-by-case basis, or both.

(2) **PARTICULAR CONDITIONS.**—In prescribing conditions for the renewal of appointments under the pilot program, the Secretary shall take into account the following (in the order specified):

(A) The necessity for the continuation of the position concerned based on mission requirements and other applicable justifications for the position.

(B) The service performance of the individual serving in the position concerned, with individuals with satisfactory or better performance afforded preference in renewal.

(C) Input from employees on conditions for renewal.

(D) Applicable private and public sector labor market conditions.

(3) **SERVICE PERFORMANCE.**—The assessment of the service performance of an individual under the pilot program for purposes of paragraph (2)(B) shall consist of an assessment of the ability of the individual to effectively accomplish mission goals for the

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position concerned as determined by the supervisor or manager of the individual based on the individual's performance evaluations and the knowledge of and review by such supervisor or manager (developed in consultation with the individual) of the individual's performance in the position. An individual's tenure of service in a position or the Department of Defense may not be the primary element of the assessment.

(+) **(h) PROFESSIONAL DEVELOPMENT.**—The pilot program shall provide for the professional development of individuals serving with the Department of Defense as cybersecurity and legal professionals under the pilot program in a manner that—

(1) creates opportunities for education, training, and career-broadening experiences, and for experimental opportunities in other organizations within and outside the Federal Government; and

(2) reflects the differentiated needs of personnel at different stages of their careers.

(+) **(i) SABBATICALS.**—

(1) **IN GENERAL.**—The pilot program shall provide for an individual who is in a successive term after the first 8 years with the Department of Defense as a cybersecurity or legal professional under the pilot program to take, at the election of the individual, a paid or unpaid sabbatical from service with the Department for professional development or education purposes. The length of a sabbatical shall be any length not less than 6 months nor more than 1 year (unless a different period is approved by the Secretary of the military department or head of the organization or element of the Department concerned for purposes of this subsection). The purpose of any sabbatical shall be subject to advance approval by the organization or element in the Department in which the individual is currently performing service. The taking of a sabbatical shall be contingent on the written agreement of the individual concerned to serve with the Department for an appropriate length of time at the conclusion of the term of appointment in which the sabbatical commences, with the period of such service to be in addition to the period of such term of appointment.

(2) **NUMBER OF SABBATICALS.**—An individual may take more than one sabbatical under this subsection.

(3) **REPAYMENT.**—Except as provided in paragraph (4), an individual who fails to satisfy a written agreement executed under paragraph (1) with respect to a sabbatical shall repay the Department an amount equal to any pay, allowances, and other benefits received by the individual from the Department during the period of the sabbatical.

(4) **WAIVER OF REPAYMENT.**—An agreement under paragraph (1) may include such conditions for the waiver of repayment otherwise required under paragraph (3) for failure to satisfy such agreement as the Secretary specifies in such agreement.

~~(k) **REGULATIONS.**—The Secretary of Defense shall administer the pilot program under regulations prescribed by the Secretary for purposes of the pilot program.~~

~~(l) **TERMINATION.**—~~

~~(1) **IN GENERAL.**—The authority of the Secretary of Defense to appoint individuals for service with the Department of Defense as cybersecurity or legal professionals under the pilot program shall expire on December 31, 2029.~~

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~~(2) EFFECT ON EXISTING APPOINTMENTS.—The termination of authority in paragraph (1) shall not be construed to terminate or otherwise affect any appointment made under this section before December 31, 2029, that remains valid as of that date.~~

~~(m) IMPLEMENTATION.—~~

~~(1) INTERIM FINAL RULE.— Not later than one year after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall prescribe an interim final rule to implement the pilot program.~~

~~(2) FINAL RULE.— Not later than 180 days after prescribing the interim final rule under paragraph (1) and considering public comments with respect to such interim final rule, the Secretary shall prescribe a final rule to implement the pilot program.~~

~~(3) OBJECTIVES.— The regulations prescribed under paragraphs (1) and (2) shall accomplish the objectives set forth in subsections (a) through (j) and otherwise ensure flexibility and expedited appointment of cybersecurity and legal professionals in the Department of Defense under the pilot program.~~

~~(n) REPORTS.—~~

~~(1) REPORTS REQUIRED.— Not later than January 30 of each of 2022, 2025, and 2028, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the carrying out of the pilot program. Each report shall include the following:~~

~~(A) A description and assessment of the carrying out of the pilot program during the period since the commencement of the pilot program or the previous submittal of a report under this subsection, as applicable.~~

~~(B) A description and assessment of the successes in and impediments to carrying out the pilot program system during such period.~~

~~(C) Such recommendations as the Secretary considers appropriate for legislative action to improve the pilot program and to otherwise improve civilian personnel management of cybersecurity and legal professionals by the Department of Defense.~~

~~(D) In the case of the report submitted in 2028, an assessment and recommendations by the Secretary on whether to make the pilot program permanent.~~

~~(2) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.— In this subsection, the term 'appropriate committees of Congress' means —~~

~~(A) the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate; and~~

~~(B) the Committee on Armed Services and the Committee on Oversight and Government Reform of the House of Representatives.~~

TITLE 5, UNITED STATES CODE

§3104. Employment of specially qualified scientific and professional personnel

(a) The Director of the Office of Personnel Management may establish, and from time to time revise, the maximum number of scientific or professional positions for carrying out research

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and development functions which require the services of specially qualified personnel which may be established outside of the General Schedule. Any such position may be established by action of the Director or, under such standards and procedures as the Office prescribes and publishes in such form as the Director may determine (including procedures under which the prior approval of the Director may be required), by agency action.

(b) The provisions of subsection (a) of this section shall not apply to any Senior Executive Service position (as defined in section 3132(a) of this title) *or to any position in the Department of Defense.*

(c) In addition to the number of positions authorized by subsection (a) of this section, the Librarian of Congress may establish, without regard to the second sentence of subsection (a) of this section, not more than 8 scientific or professional positions to carry out the research and development functions of the Library of Congress which require the services of specially qualified personnel.

TITLE 10, UNITED STATES CODE

§1705. Defense Acquisition Workforce Development Fund

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a fund to be known as the "Department of Defense Acquisition Workforce Development Fund" (in this section referred to as the "Fund") to provide funds, in addition to other funds that may be available, for the recruitment, training, and retention of acquisition personnel of the Department of Defense.

(b) PURPOSE.—The purpose of the Fund is to ensure that the Department of Defense acquisition workforce has the capacity, in both personnel and skills, needed to properly perform its mission, provide appropriate oversight of contractor performance, and ensure that the Department receives the best value for the expenditure of public resources.

(c) MANAGEMENT.—The Fund shall be managed by a senior official of the Department of Defense designated by the ~~Under~~ Secretary of Defense ~~for Acquisition, Technology, and Logistics~~ for that purpose, from among persons with an extensive background in management relating to acquisition and personnel. *In addition, the designated senior official, or the principal deputy of that official, shall have both qualifications in financial management and an extensive background in financial management.*

(d) ~~ELEMENTS~~ *SOURCE OF FUNDS.*—

(1) ~~IN GENERAL~~ *ELEMENTS OF THE FUND.*—The Fund shall consist of amounts as follows:

~~(A) Amounts credited to the Fund under paragraph (2).~~

~~(B)~~ (A) Amounts transferred to the Fund pursuant to paragraph ~~(3)~~ (2).

~~(C)~~ (B) Any other amounts appropriated to, credited to, or deposited into the Fund by law.

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~~(2) CREDITS TO THE FUND.—(A) There shall be credited to the Fund an amount equal to the applicable percentage for a fiscal year of all amounts expended by the Department of Defense in such fiscal year for contract services from amounts available for contract services for operation and maintenance.~~

~~(B) Subject to paragraph (4), not later than 30 days after the end of the first quarter of each fiscal year, the head of each military department and Defense Agency shall remit to the Secretary of Defense, from amounts available to such military department or Defense Agency, as the case may be, for contract services for operation and maintenance, an amount equal to the applicable percentage for such fiscal year of the amount expended by such military department or Defense Agency, as the case may be, during such fiscal year for services covered by subparagraph (A). Any amount so remitted shall be credited to the Fund under subparagraph (A).~~

~~(C) For purposes of this paragraph, the applicable percentage for a fiscal year is the percentage that results in the credit to the Fund of \$500,000,000 in such fiscal year.~~

~~(D) The Secretary of Defense may adjust the amount specified in subparagraph (C) for a fiscal year if the Secretary determines that the amount is greater or less than reasonably needed for purposes of the Fund for such fiscal year. The Secretary may not adjust the amount for a fiscal year to an amount that is more than \$600,000,000 or less than \$400,000,000.~~

~~(3) TRANSFER OF CERTAIN UNOBLIGATED BALANCES.—To the extent provided in appropriations Acts, the Secretary of Defense may, during the 36-month period following the expiration of availability for obligation of any appropriations made to the Department of Defense for procurement, research, development, test, and evaluation, or operation and maintenance, transfer to the Fund any unobligated balance of such appropriations.~~

(2) TRANSFER OF CERTAIN UNOBLIGATED BALANCES.—(A) The Secretary of Defense shall transfer to the Fund each fiscal year from unobligated balances of appropriations described in subparagraph (B) a total amount of not less than \$400,500,000.

(B) Subparagraph (A) applies to unobligated balances of appropriations made to the Department of Defense for which the period of availability for obligation expired at the end of one of the three fiscal years preceding the fiscal year during which the transfer under subparagraph (A) is made, but only in the case of an appropriation made to the Department of Defense —

(i) for procurement;

(ii) for research, development, test, and evaluation; or

(iii) for operation and maintenance.

(C) Any amount so transferred to the Fund pursuant to subparagraph (A) shall be credited to the Fund.

~~(4) ADDITIONAL REQUIREMENTS AND LIMITATIONS ON REMITTANCES.—(A) In the event amounts are transferred to the Fund during a fiscal year pursuant to paragraph (1)(B) or appropriated to the Fund for a fiscal year pursuant to paragraph (1)(C), the aggregate amount otherwise required to be remitted to the Fund for that fiscal year pursuant to paragraph (2)(B) shall be reduced by the amount equal to the amounts so transferred or appropriated to the Fund during or for that fiscal year. Any reduction in the~~

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~~aggregate amount required to be remitted to the Fund for a fiscal year under this subparagraph shall be allocated as provided in applicable provisions of appropriations Acts or, absent such provisions, on a pro rata basis among the military departments and Defense Agencies required to make remittances to the Fund for that fiscal year under paragraph (2)(B), subject to any exclusions the Secretary of Defense determines to be necessary in the best interests of the Department of Defense.~~

~~(B) Any remittance of amounts to the Fund for a fiscal year under paragraph (2) shall be subject to the availability of appropriations for that purpose.~~

(e) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—(A) Subject to the provisions of this subsection, amounts in the Fund shall be available to the Secretary of Defense for expenditure, or for transfer to a military department or Defense Agency, for the recruitment, training, and retention of acquisition personnel of the Department of Defense for the purpose of the Fund, including for the provision of training and retention incentives to the acquisition workforce of the Department and to develop acquisition tools and methodologies, and undertake research and development activities, leading to acquisition policies and practices that will improve the efficiency and effectiveness of defense acquisition efforts. In the case of temporary members of the acquisition workforce designated pursuant to subsection (g)(2), such funds shall be available only for the limited purpose of providing training in the performance of acquisition-related functions and duties.

(B) Amounts in the Fund also may be used to pay salaries of personnel at the Office of the Secretary of Defense, military departments, and Defense Agencies to manage the Fund.

(2) PROHIBITION.—Amounts in the Fund may not be obligated for any purpose other than purposes described in paragraph (1) or otherwise in accordance with this subsection.

(3) GUIDANCE.—~~The Under Secretary of Defense for Acquisition, Technology, and Logistics,~~ acting through the senior official designated to manage the Fund, shall issue guidance for the administration of the Fund. Such guidance shall include provisions—

(A) identifying areas of need in the acquisition workforce for which amounts in the Fund may be used, including—

(i) changes to the types of skills needed in the acquisition workforce;

(ii) incentives to retain in the acquisition workforce qualified, experienced acquisition workforce personnel; and

(iii) incentives for attracting new, high-quality personnel to the acquisition workforce;

(B) describing the manner and timing for applications for amounts in the Fund to be submitted;

(C) describing the evaluation criteria to be used for approving or prioritizing applications for amounts in the Fund in any fiscal year;

(D) describing measurable objectives of performance for determining whether amounts in the Fund are being used in compliance with this section; and

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(E) describing the amount from the Fund that may be used to pay salaries of personnel at the Office of the Secretary of Defense, military departments, and Defense Agencies to manage the Fund and the circumstances under which such amounts may be used for such purpose.

(4) LIMITATION ON PAYMENTS TO OR FOR CONTRACTORS.—Amounts in the Fund shall not be available for payments to contractors or contractor employees, other than for the purposes of—

(A) providing advanced training to Department of Defense employees;

(B) developing acquisition tools and methodologies and performing research on acquisition policies and best practices that will improve the efficiency and effectiveness of defense acquisition efforts; and

(C) supporting human capital and talent management of the acquisition workforce, including benchmarking studies, assessments, and requirements planning.

(5) PROHIBITION ON PAYMENT OF BASE SALARY OF CURRENT EMPLOYEES.—

Amounts in the Fund may not be used to pay the base salary of any person who was an employee of the Department serving in a position in the acquisition workforce as of January 28, 2008, and who has continued in the employment of the Department since such time without a break in such employment of more than a year.

(6) DURATION OF AVAILABILITY.—Amounts ~~credited to the Fund in accordance with subsection (d)(2)~~, transferred to the Fund pursuant to subsection (d)(3)(2), appropriated to the Fund, or deposited to the Fund shall remain available for obligation in the fiscal year for which ~~credited~~, transferred, appropriated, or deposited and the two succeeding fiscal years.

~~(f) EXPEDITED HIRING AUTHORITY.—For purposes of sections 3304, 5333, and 5753 of title 5, the Secretary of Defense may—~~

~~(1) designate any category of positions in the acquisition workforce as positions for which there exists a shortage of candidates or there is a critical hiring need; and~~

~~(2) utilize the authorities in such sections to recruit and appoint qualified persons directly to positions so designated.~~

(g) ACQUISITION WORKFORCE DEFINED.—In this section, the term "acquisition workforce" means the following:

(1) Personnel in positions designated under section 1721 of this title as acquisition positions for purposes of this chapter.

(2) Other military personnel or civilian employees of the Department of Defense who—

(A)(i) contribute significantly to the acquisition process by virtue of their assigned duties; or

(ii) contribute significantly to the acquisition or development of systems relating to cybersecurity; and

(B) are designated as temporary members of the acquisition workforce by the Under Secretary of Defense for Acquisition, Technology, and Logistics, or by the senior acquisition executive of a military department, for the limited purpose

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of receiving training for the performance of acquisition-related functions and duties.

~~§1762. Demonstration project relating to certain acquisition personnel management policies and procedures~~

~~(a) COMMENCEMENT.—The Secretary of Defense is authorized to carry out a demonstration project, the purpose of which is to determine the feasibility or desirability of one or more proposals for improving the personnel management policies or procedures that apply with respect to the acquisition workforce of the Department of Defense and supporting personnel assigned to work directly with the acquisition workforce.~~

~~(b) TERMS AND CONDITIONS.—(1) Except as otherwise provided in this subsection, any demonstration project described in subsection (a) shall be subject to section 4703 of title 5 and all other provisions of such title that apply with respect to any demonstration project under such section.~~

~~(2) Subject to paragraph (3), in applying section 4703 of title 5 with respect to a demonstration project described in subsection (a) —~~

~~(A) "180 days" in subsection (b)(4) of such section shall be deemed to read "120 days";~~

~~(B) "90 days" in subsection (b)(6) of such section shall be deemed to read "30 days"; and~~

~~(C) subsection (d)(1) of such section shall be disregarded.~~

~~(3) Paragraph (2) shall not apply with respect to a demonstration project unless —~~

~~(A) for each organization or team participating in the demonstration project —
(i) at least one-third of the workforce participating in the demonstration project consists of members of the acquisition workforce; and~~

~~(ii) at least two-thirds of the workforce participating in the demonstration project consists of members of the acquisition workforce and supporting personnel assigned to work directly with the acquisition workforce; and~~

~~(B) the demonstration project commences before October 1, 2007.~~

~~(4) The Secretary of Defense shall exercise the authorities granted to the Office of Personnel Management under section 4703 of title 5 for purposes of the demonstration project authorized under this section.~~

~~(c) LIMITATION ON NUMBER OF PARTICIPANTS.—The total number of persons who may participate in at any one time the demonstration project under this section may not exceed 130,000.~~

~~(d) EFFECT OF REORGANIZATIONS.—The applicability of paragraph (2) of subsection (b) to an organization or team shall not terminate by reason that the organization or team, after having satisfied the conditions in paragraph (3) of such subsection when it began to participate in a demonstration project under this section, ceases to meet one or both of the conditions set forth in subparagraph (A) of such paragraph (3) as a result of a reorganization, restructuring, realignment, consolidation, or other organizational change.~~

~~(e) ASSESSMENTS.—(1) The Secretary of Defense shall designate an independent organization to conduct two assessments of the acquisition workforce demonstration project described in subsection (a).~~

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~~(2) Each such assessment shall include the following:~~

~~(A) A description of the workforce included in the project.~~

~~(B) An explanation of the flexibilities used in the project to appoint individuals to the acquisition workforce and whether those appointments are based on competitive procedures and recognize veteran's preferences.~~

~~(C) An explanation of the flexibilities used in the project to develop a performance appraisal system that recognizes excellence in performance and offers opportunities for improvement.~~

~~(D) The steps taken to ensure that such system is fair and transparent for all employees in the project.~~

~~(E) How the project allows the organization to better meet mission needs.~~

~~(F) An analysis of how the flexibilities in subparagraphs (B) and (C) are used, and what barriers have been encountered that inhibit their use.~~

~~(G) Whether there is a process for—~~

~~(i) ensuring ongoing performance feedback and dialogue among supervisors, managers, and employees throughout the performance appraisal period; and~~

~~(ii) setting timetables for performance appraisals.~~

~~(H) The project's impact on career progression.~~

~~(I) The project's appropriateness or inappropriateness in light of the complexities of the workforce affected.~~

~~(J) The project's sufficiency in terms of providing protections for diversity in promotion and retention of personnel.~~

~~(K) The adequacy of the training, policy guidelines, and other preparations afforded in connection with using the project.~~

~~(L) Whether there is a process for ensuring employee involvement in the development and improvement of the project.~~

~~(3) The first assessment under this subsection shall be completed not later than September 30, 2012. The second and final assessment shall be completed not later than September 30, 2016. The Secretary shall submit to the covered congressional committees a copy of each assessment within 30 days after receipt by the Secretary of the assessment.~~

~~(f) COVERED CONGRESSIONAL COMMITTEES.— In this section, the term "covered congressional committees" means —~~

~~(1) the Committees on Armed Services of the Senate and the House of Representatives;~~

~~(2) the Committee on Homeland Security and Governmental Affairs of the Senate; and~~

~~(3) the Committee on Oversight and Government Reform of the House of Representatives.~~

~~(g) TERMINATION OF AUTHORITY.— The authority to conduct a demonstration project under this section shall terminate on December 31, 2023.~~

~~(h) CONVERSION.— Within 6 months after the authority to conduct a demonstration project under this section is terminated as provided in subsection (g), employees in the project shall convert to the civilian personnel system created pursuant to section 9902 of title 5.~~

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Below are the sections of law that would be repealed by the codification provisions in section 1006

[The letter designators at the beginning of each citation below correspond to the subsection designations in section 1006]

A. National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 1701 note)

SEC. 847. REQUIREMENTS FOR SENIOR DEPARTMENT OF DEFENSE OFFICIALS SEEKING EMPLOYMENT WITH DEFENSE CONTRACTORS.

(a) REQUIREMENT TO SEEK AND OBTAIN WRITTEN OPINION.—

(1) REQUEST.—An official or former official of the Department of Defense described in subsection (c) who, within two years after leaving service in the Department of Defense, expects to receive compensation from a Department of Defense contractor, shall, prior to accepting such compensation, request a written opinion regarding the applicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

(2) SUBMISSION OF REQUEST.—A request for a written opinion under paragraph (1) shall be submitted in writing to an ethics official of the Department of Defense having responsibility for the organization in which the official or former official serves or served and shall set forth all information relevant to the request, including information relating to government positions held and major duties in those positions, actions taken concerning future employment, positions sought, and future job descriptions, if applicable.

(3) WRITTEN OPINION.—Not later than 30 days after receiving a request by an official or former official of the Department of Defense described in subsection (c), the appropriate ethics counselor shall provide such official or former official a written opinion regarding the applicability or inapplicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

(4) CONTRACTOR REQUIREMENT.—A Department of Defense contractor may not knowingly provide compensation to a former Department of Defense official described in subsection (c) within two years after such former official leaves service in the Department of Defense, without first determining that the former official has sought and received (or has not received after 30 days of seeking) a written opinion from the appropriate ethics counselor regarding the applicability of post-employment restrictions to the activities that the former official is expected to undertake on behalf of the contractor.

(5) ADMINISTRATIVE ACTIONS.—In the event that an official or former official of the Department of Defense described in subsection (c), or a Department of Defense contractor, knowingly fails to comply with the requirements of this subsection, the Secretary of Defense may take any of the administrative actions set forth in section 2105

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of title 41, United States Code[,] that the Secretary of Defense determines to be appropriate.

(b) RECORDKEEPING REQUIREMENT.—

(1) DATABASE.—Each request for a written opinion made pursuant to this section, and each written opinion provided pursuant to such a request, shall be retained by the Department of Defense in a central database or repository maintained by the General Counsel of the Department for not less than five years beginning on the date on which the written opinion was provided.

(2) INSPECTOR GENERAL REVIEW.—The Inspector General of the Department of Defense shall conduct periodic reviews to ensure that written opinions are being provided and retained in accordance with the requirements of this section. The first such review shall be conducted no later than two years after the date of the enactment of this Act [Jan. 28, 2008].

(c) COVERED DEPARTMENT OF DEFENSE OFFICIALS.—An official or former official of the Department of Defense is covered by the requirements of this section if such official or former official—

(1) participated personally and substantially in an acquisition as defined in section 131 of title 41, United States Code[,] with a value in excess of \$10,000,000 and serves or served—

(A) in an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code;

(B) in a position in the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code; or

(C) in a general or flag officer position compensated at a rate of pay for grade O–7 or above under section 201 of title 37, United States Code; or

(2) serves or served as a program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, member of the source selection evaluation board, or chief of a financial or technical evaluation team for a contract in an amount in excess of \$10,000,000.

(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.

B. National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 10 U.S.C. 1701a note)

SEC. 834. FLEXIBILITY IN CONTRACTING AWARD PROGRAM.

(a) ESTABLISHMENT OF AWARD PROGRAM.—The Secretary of Defense shall create an award to recognize those acquisition programs and professionals that make the best use of the flexibilities and authorities granted by the Federal Acquisition Regulation and Department of Defense Instruction 5000.02 (Operation of the Defense Acquisition System).

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(b) **PURPOSE OF AWARD.**—The award established under subsection (a) shall recognize outstanding performers whose approach to program management emphasizes innovation and local adaptation, including the use of—

- (1) simplified acquisition procedures;
- (2) inherent flexibilities within the Federal Acquisition Regulation;
- (3) commercial contracting approaches;
- (4) public-private partnership agreements and practices;
- (5) cost-sharing arrangements;
- (6) innovative contractor incentive practices; and
- (7) other innovative implementations of acquisition flexibilities.

C. Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 10 U.S.C. 1702 note)

SEC. 807. QUICK-REACTION SPECIAL PROJECTS ACQUISITION TEAM.

(a) **ESTABLISHMENT.**—The Under Secretary of Defense for Acquisition, Technology, and Logistics 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.
- (3) Issues of acquisition policy, including the length of the acquisition cycle.
- (4) Issues of testing policy and ensuring that weapon systems perform properly in combat situations.
- (5) Issues of procurement policy, including the impact of socio-economic requirements.
- (6) Issues relating to compliance with environmental requirements.

D. National Defense Authorization Act for Fiscal Year 2018 (Public Law 115-91; 10 U.S.C. 1722b note)

SEC. 841. ENHANCEMENTS TO THE CIVILIAN PROGRAM MANAGEMENT WORKFORCE.

(a) **ESTABLISHMENT OF PROGRAM MANAGER DEVELOPMENT PROGRAM.**—

(1) **IN GENERAL.**—The Secretary of Defense, in consultation with the Secretaries of the military departments, shall implement a program manager development program to provide for the professional development of high-potential, experienced civilian personnel. Personnel shall be competitively selected for the program based on their potential to become a program manager of a major defense acquisition program, as

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defined in section 2430 of title 10, United States Code. The program shall be administered and overseen by the Secretary of each military department, acting through the service acquisition executive for the department concerned.

(2) **PLAN REQUIRED.**—Not later than one year after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive plan to implement the program established under paragraph (1). In developing the plan, the Secretary of Defense shall seek the input of relevant external parties, including professional associations, other government entities, and industry. The plan shall include the following elements:

(A) An assessment of the minimum level of subject matter experience, education, years of experience, certifications, and other qualifications required to be selected into the program, set forth separately for current Department of Defense employees and for personnel hired into the program from outside the Department of Defense.

(B) A description of hiring flexibilities to be used to recruit qualified personnel from outside the Department of Defense.

(C) A description of the extent to which mobility agreements will be required to be signed by personnel selected for the program during their participation in the program and after their completion of the program. The use of mobility agreements shall be applied to help maximize the flexibility of the Department of Defense in assigning personnel, while not inhibiting the participation of the most capable candidates.

(D) A description of the tenure obligation required of personnel selected for the program.

(E) A plan for training during the course of the program, including training in leadership, program management, engineering, finance and budgeting, market research, business acumen, contracting, supplier management, requirement setting and tradeoffs, intellectual property matters, and software.

(F) A description of career paths to be followed by personnel in the program in order to ensure that personnel in the program gain expertise in the program management functional career field competencies identified by the Department in existing guidance and the topics listed in subparagraph (E), including—

(i) a determination of the types of advanced educational degrees that enhance program management skills and the mechanisms available to the Department of Defense to facilitate the attainment of those degrees by personnel in the program;

(ii) a determination of required assignments to positions within acquisition programs, including position type and acquisition category of the program office;

(iii) a determination of required or encouraged rotations to career broadening positions outside of acquisition programs; and

(iv) a determination of how the program will ensure the opportunity for a required rotation to industry of at least six months to

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develop an understanding of industry motivation and business acumen, such as by developing an industry exchange program for civilian program managers, similar to the Corporate Fellows Program of the Secretary of Defense.

(G) A general description of the number of personnel anticipated to be selected into the program, how frequently selections will occur, how long personnel selected into the program will participate in the program, and how personnel will be placed into an assignment at the completion of the program.

(H) A description of benefits that will be offered under the program using existing human capital flexibilities to retain qualified employees, such as student loan repayments, bonuses, or pay banding.

(I) An assessment of personnel flexibilities needed to allow the military departments and the Defense Agencies to reassign or remove program managers that do not perform effectively.

(J) A description of how the program will be administered and overseen by the Secretaries of each military department, acting through the service acquisition executive for the department concerned.

(K) A description of how the program will be integrated with existing program manager development efforts at each military department.

(3) **USE OF DEFENSE ACQUISITION WORKFORCE DEVELOPMENT FUND.**—Amounts in the Department of Defense Acquisition Workforce Development Fund (established under section 1705 of title 10, United States Code) may be used to pay the base salary of personnel in the program established under paragraph (1) during the period of time such personnel are temporarily assigned to a developmental rotation or training program anticipated to last at least six months.

(4) **IMPLEMENTATION.**—The program established under paragraph (1) shall be implemented not later than September 30, 2019.

(b) **INDEPENDENT STUDY OF INCENTIVES FOR PROGRAM MANAGERS.**—***

E. Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383; 10 U.S.C. 1723 note)

SEC. 875. INFORMATION TECHNOLOGY ACQUISITION WORKFORCE.

(a) **PLAN REQUIRED.**—The Secretary of Defense shall develop and carry out a plan to strengthen the part of the acquisition workforce that specializes in information technology. The plan shall include the following:

(1) Defined targets for billets devoted to information technology acquisition.

(2) Specific certification requirements for individuals in the acquisition workforce who specialize in information technology acquisition.

(3) Defined career paths for individuals in the acquisition workforce who specialize in information technology acquisitions.

(b) **DEFINITIONS.**—In this section:

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(1) The term “information technology” has the meaning provided such term in section 11101 of title 40, United States Code, and includes information technology incorporated into a major weapon system.

(2) The term “major weapon system” has the meaning provided such term in section 2379(f) of title 10, United States Code.

(c) DEADLINE.—The Secretary of Defense shall develop the plan required under this section not later than 270 days after the date of the enactment of this Act [Jan. 7, 2011].

F. Defense Acquisition Workforce Improvement Act (title XII of Public Law 101-510; 10 U.S.C. 1724 note)

SEC. 1209. TRANSITION PROVISIONS.

(a) ***

(i) CREDIT FOR EXPERIENCE FOR CERTAIN POSITIONS.—For purposes of meeting any requirement under chapter 87 of title 10, United States Code (as added by section 1202), for a period of experience (such as requirements for experience in acquisition positions or in critical acquisition positions) and for purposes of coverage under the exceptions established by section 1724(c)(1) and section 1732(c)(1) of such title, any period of time spent serving in a position later designated as an acquisition position or a critical acquisition position under such chapter may be counted as experience in such a position for such purposes.

G. National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 10 U.S.C. 1741 note)

SEC. 803. MODERNIZATION OF SERVICES ACQUISITION.

(a) ***

(b) GUIDANCE REGARDING TRAINING AND DEVELOPMENT OF THE ACQUISITION WORKFORCE.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall issue guidance addressing the training and development of the Department of Defense workforce engaged in the procurement of services, including those personnel not designated as members of the acquisition workforce.

(2) IDENTIFICATION OF TRAINING AND PROFESSIONAL DEVELOPMENT OPPORTUNITIES AND ALTERNATIVES.—The guidance required under paragraph (1) shall identify training and professional development opportunities and alternatives, not limited to existing Department of Defense institutions, that focus on and provide relevant training and professional development in commercial business models and contracting.

(3) TREATMENT OF TRAINING AND PROFESSIONAL DEVELOPMENT.—Any training and professional development provided pursuant to this subsection outside Department of

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Defense institutions shall be deemed to be equivalent to similar training certified or provided by the Defense Acquisition University.

H. National Defense Authorization Act for Fiscal Year 2018 (Public Law 115-91; 10 U.S.C. 1746 note)

SEC. 850. TRAINING IN COMMERCIAL ITEMS PROCUREMENT.

(a) TRAINING.—Not later than one year after the date of the enactment of this Act [Dec. 12, 2017], the President of the Defense Acquisition University shall establish a comprehensive training program on part 12 of the Federal Acquisition Regulation. The training shall cover, at a minimum, the following topics:

- (1) The origin of part 12 and the congressional mandate to prefer commercial procurements.
- (2) The definition of a commercial item, with a particular focus on the “of a type” concept.
- (3) Price analysis and negotiations.
- (4) Market research and analysis.
- (5) Independent cost estimates.
- (6) Parametric estimating methods.
- (7) Value analysis.
- (8) Best practices in pricing from commercial sector organizations, foreign government organizations, and other Federal, State, and local public sectors organizations.
- (9) Other topics on commercial procurements necessary to ensure a well-educated acquisition workforce.

(b) ENROLLMENTS GOALS.—The President of the Defense Acquisition University shall set goals for student enrollment for the comprehensive training program established under subsection (a).

(c) SUPPORTING ACTIVITIES.—The Secretary of Defense shall, in support of the achievement of the goals of this section—

- (1) engage academic experts on research topics of interest to improve commercial item identification and pricing methodologies; and
- (2) facilitate exchange and interface opportunities between government personnel to increase awareness of best practices and challenges in commercial item identification and pricing.

(d) FUNDING.—The Secretary of Defense shall use amounts available in the Department of Defense Acquisition Workforce Development Fund established under section 1705 of title 10, United States Code, to fund the comprehensive training program established under subsection (a).

I. National Defense Authorization Act for Fiscal Year 2018 (Public Law 115-91; 10 U.S.C. 1746 note)

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SEC. 891. TRAINING ON AGILE OR ITERATIVE DEVELOPMENT METHODS.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense, in consultation with the President of the Defense Acquisition University, shall establish a training course at the Defense Acquisition University on agile or iterative development methods to provide training for personnel implementing and supporting the pilot programs required by sections 873 and 874 of this Act [10 U.S.C. 2223a note, 10 U.S.C. 2302 note].

(b) **COURSE ELEMENTS.**—

(1) **IN GENERAL.**—The course shall be taught in residence at the Defense Acquisition University and shall include the following elements:

(A) Training designed to instill a common understanding of all functional roles and dependencies involved in developing and producing a capability using agile or iterative development methods.

(B) An exercise involving teams composed of personnel from pertinent functions and functional organizations engaged in developing an integrated agile or iterative development method for a specific program.

(C) Instructors and content from non-governmental entities, as appropriate, to highlight commercial best practices in using an agile or iterative development method.

(2) **COURSE UPDATES.**—The Secretary shall ensure that the course is updated as needed, including through incorporating lessons learned from the implementation of the pilot programs required by sections 873 and 874 of this Act in subsequent versions of the course.

(c) **COURSE ATTENDANCE.**—The course shall be—

(1) available for certified acquisition personnel working on programs or projects using agile or iterative development methods; and

(2) mandatory for personnel participating in the pilot programs required by sections 873 and 874 of this Act from the relevant organizations in each of the military departments and Defense Agencies, including organizations responsible for engineering, budgeting, contracting, test and evaluation, requirements validation, and certification and accreditation.

(d) **AGILE ACQUISITION SUPPORT.**—The Secretary and the senior acquisition executives in each of the military departments and Defense Agencies, in coordination with the Director of the Defense Digital Service, shall assign to offices supporting systems selected for participation in the pilot programs required by sections 873 and 874 of this Act a subject matter expert with knowledge of commercial agile acquisition methods and Department of Defense acquisition processes to provide assistance and to advise appropriate acquisition authorities of the expert's observations.

(e) **AGILE RESEARCH PROGRAM.**—The President of the Defense Acquisition University shall establish a research program to conduct research on and development of agile acquisition practices and tools best tailored to meet the mission needs of the Department of Defense.

(f) **AGILE OR ITERATIVE DEVELOPMENT DEFINED.**—The term “agile or iterative development”, with respect to software—

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(1) means acquisition pursuant to a method for delivering multiple, rapid, incremental capabilities to the user for operational use, evaluation, and feedback not exclusively linked to any single, proprietary method or process; and

(2) involves—

(A) the incremental development and fielding of capabilities, commonly called “spirals”, “spins”, or “sprints”, which can be measured in a few weeks or months; and

(B) continuous participation and collaboration by users, testers, and requirements authorities.

J. National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 10 U.S.C. 1746 note)

SEC. 832. CONTRACTOR INCENTIVES TO ACHIEVE SAVINGS AND IMPROVE MISSION PERFORMANCE.

Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Defense Acquisition University shall develop and implement a training program for Department of Defense acquisition personnel on fixed-priced incentive fee contracts, public-private partnerships, performance-based contracting, and other authorities in law and regulation designed to give incentives to contractors to achieve long-term savings and improve administrative practices and mission performance.