

## Recommendation 26: Convert the Civilian Acquisition Workforce Personnel Demonstration Project (AcqDemo) from an indefinite demonstration project to a permanent personnel system.

### Problem

Since February 1999, Congress, OPM, and DoD have strived to improve acquisition outcomes by providing DoD with greater control over personnel processes and functions that enable DoD to attract and retain employees who contribute most to successful organizational mission outcomes. The DoD Civilian Acquisition Workforce Personnel Demonstration Project (AcqDemo) is a congressionally mandated endeavor DoD developed and implemented to achieve that end. AcqDemo administrators and DoD leadership have used the demonstration project's personnel flexibilities to improve the DoD AWF and reward high-contributing AcqDemo participants. The AcqDemo Program Manager has requested permanency each fiscal year since 2016. Although the FY 2018 request for permanency resulted in major program revisions, including transfer of management authority from OPM to the Secretary of Defense, AcqDemo remains a temporary authority. AcqDemo is exceeding its goals and should become the permanent, sole personnel system for the DoD acquisition workforce.

### Background

In Section 4308 of the FY 1996 NDAA, as amended by Section 845 of the FY 1998 NDAA, Congress permitted DoD, with the approval of OPM, to conduct a personnel demonstration project within DoD's civilian AWF and supporting personnel assigned to work directly with that workforce.<sup>1</sup> The purpose was to enhance DoD's acquisition mission by "allowing greater managerial control over personnel processes and functions and, at the same time, expand the opportunities available to employees through a more responsive and flexible personnel system."<sup>2</sup> On February 7, 1999, DoD implemented AcqDemo, a contribution-based, broadband compensation and personnel system.<sup>3</sup> Congress limited the covered workforce to 95,000 participants.<sup>4</sup>

When initially implemented, the AcqDemo project evaluation plan addressed how DoD would evaluate the project for the first 5 years and allowed for major changes and modifications through announcements in the *Federal Register*. At the 5-year point, Congress and DoD, with OPM approval, were to reexamine AcqDemo for "(a) permanent implementation; (b) modification and additional testing; (c) extension of the test period; or (d) termination."<sup>5</sup> Since then, Congress has extended AcqDemo and increased the covered workforce size several times, except for an interruption from 2007

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<sup>1</sup> OPM: Civilian Acquisition Workforce Personnel Demonstration Project; DoD; Notice, 64 Fed. Reg. 1426-1492 (Jan. 8, 1999).

Note: A version of this notice that includes several amendments can be accessed at <https://www.acq.osd.mil/dpap/ops/docs/ACQDEMO%20FedReg%20WAdmts.pdf>.

<sup>2</sup> DoD, *DoD Civilian Acquisition Workforce Personnel Demonstration Project (AcqDemo) Operating Guide Version 2.2*, ii, accessed March 8, 2018, <http://acqdemo.hci.mil/docs/Operating%20Guide.pdf>.

<sup>3</sup> A contribution-based system links pay and awards to mission contribution and value of a position. Broadbanding allows for more competitive hiring and compensation by using a larger pay range (band) than the GS system allows.

<sup>4</sup> "Frequently Asked Questions," DoD Civilian Acquisition Workforce Personnel Demonstration Project, accessed March 8, 2018, <http://acqdemo.hci.mil/fag.html>.

<sup>5</sup> OPM: Civilian Acquisition Workforce Personnel Demonstration Project; DoD; Notice, 64 Fed. Reg. 1426-1492 (Jan. 8, 1999).

Note: A version of this notice that includes several amendments can be accessed at <https://www.acq.osd.mil/dpap/ops/docs/ACQDEMO%20FedReg%20WAdmts.pdf>.

through 2010 when Congress directed DoD to implement the now defunct National Security Personnel System (NSPS).<sup>6</sup>

Congress has extended the temporary authority through December 31, 2023, and increased the number of covered AWF members to 130,000, and through Section 867 of the FY 2017 NDAA, enhanced AcqDemo by transferring management authority from OPM to the Secretary of Defense. Eliminating OPM oversight reduced bureaucracy and empowered DoD to execute demonstration project flexibilities more efficiently and effectively.<sup>7</sup> In Section 841 of the Senate Armed Services Committee’s recommendations for the FY 2019 NDAA, the committee recommends making AcqDemo permanent. The panel concurs with this opinion.

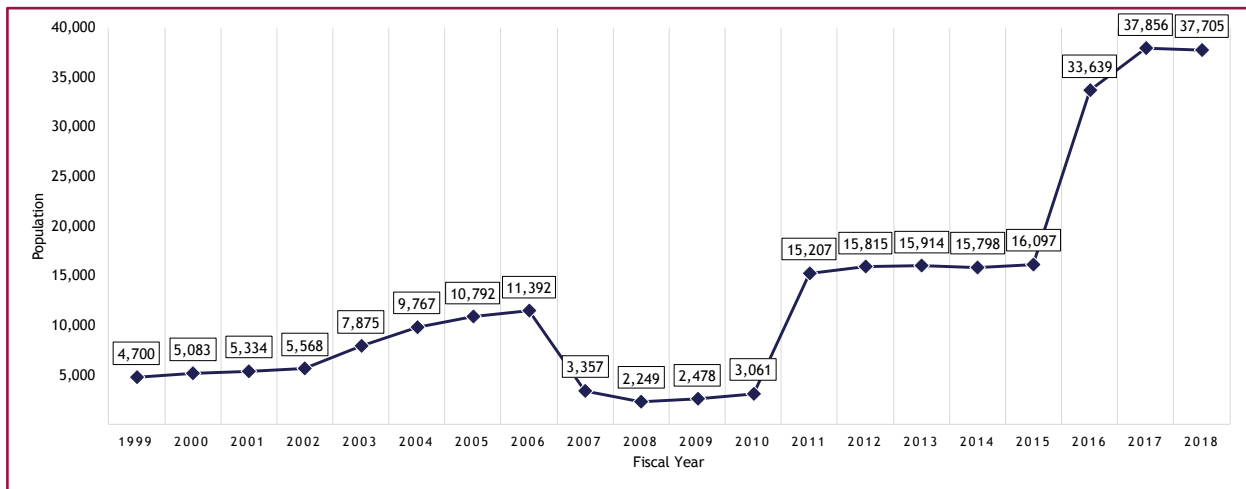
**Discussion**

In researching AcqDemo, the Section 809 Panel interviewed DoD AWF acquisition executives and members, acquisition career managers, human resources subject matter experts, AcqDemo Program Management Office personnel, and various labor union representatives. The panel also reviewed the November 9, 2017 *Federal Register Notice* (FRN) description of AcqDemo, the AcqDemo operating guide, AcqDemo annual evaluations, and the literature posted on the AcqDemo library.<sup>8</sup>

**Demonstration Project Characteristics**

Participation in AcqDemo is voluntary for eligible organizations and teams.<sup>9</sup> When the demonstration project began in February 1999, the participating workforce population consisted of 4,700 participants, but as of February 2018, that population has grown to more than 39,000 participants.<sup>10</sup>

**Figure 2-1. AcqDemo Participation from 1999 to 2018**



<sup>6</sup> NSPS was also a broadband system. AcqDemo differs in its design and management flexibilities and it garners union support as it requires local union bargaining agreements.

<sup>7</sup> Demonstration project relating to certain acquisition personnel management policies and procedures, 10 U.S.C. § 1762.

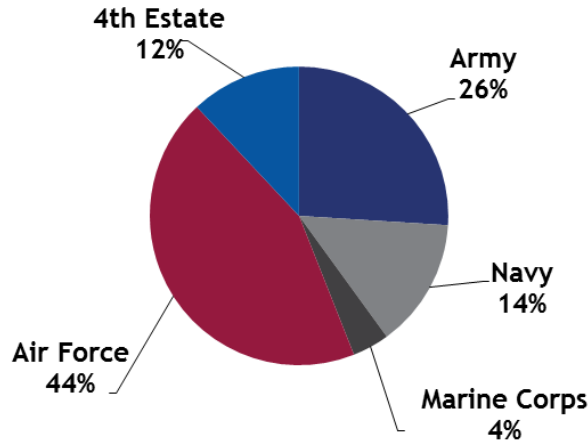
<sup>8</sup> The AcqDemo Program Office staff is required to publish its project plan and any modifications in the Federal Register. The staff responds to public comments in Federal Register Notices (FRNs) and the most current FRN serves as the AcqDemo regulatory framework.

<sup>9</sup> At least one-third of an AcqDemo participating organization must be AWF members and at least two-thirds of the organization must be AWF members and supporting personnel assigned to work directly with the AWF.

<sup>10</sup> DoD, *DoD Civilian Acquisition Workforce Personnel Demonstration Project (AcqDemo) Operating Guide Version 2.2*, ii, accessed March 8, 2018, <http://acqdemo.hci.mil/docs/Operating%20Guide.pdf>.

The current population distribution across DoD is shown in Figure 2-2:

**Figure 2-2. Distribution of Acquisition Workforce Across DoD Components<sup>11</sup>**



The two most popular characteristics of AcqDemo that differentiate it from the General Schedule (GS) classification and pay personnel system under which the majority of federal civilian employees work are its use of broadbanding to classify employees and its use of a contribution-based compensation and appraisal process.<sup>12</sup> Broadbanding gives supervisors pay-setting flexibility for new personnel, which helps to make the DoD AWF more agile and improves its ability to compete for talent and meet changing mission requirements.<sup>13</sup> Generally, organizations pay their AcqDemo employees higher salaries than they pay their GS counterparts when they are hired, but over time their salaries even out.<sup>14</sup> The contribution-based compensation and appraisal process links employees’ pay and awards to their contribution to mission outcomes rather than longevity, meaning within participating organizations, high-contributing AcqDemo employees increase their compensation at a faster rate than they would if they were in the GS system.<sup>15</sup> In short, higher contributors have the ability to earn more, faster.<sup>16</sup> Employees who are considered high contributors in terms of organizational outcomes are retained at greater rates than employees considered low contributors.<sup>17</sup> Although there is not a statistically significant difference in retention rates, employee retention is slightly higher for AcqDemo participants than it is for GS employees in AcqDemo eligible organizations (ADEOs). Table 2-2 shows retention rates for employees hired on September 30, 2011.

<sup>11</sup> “Workforce Demographics,” DoD Civilian Acquisition Workforce Personnel Demonstration Project, accessed March 8, 2018, <http://acqdemo.hci.mil/demographics.html>.

<sup>12</sup> DoD, *DoD Civilian Acquisition Workforce Personnel Demonstration Project (AcqDemo) Operating Guide Version 2.2*, 3-4, accessed March 8, 2018, <http://acqdemo.hci.mil/docs/Operating%20Guide.pdf>.

<sup>13</sup> RAND National Defense Research Institute, *2016 Assessment of the Civilian Acquisition Workforce Personnel Demonstration Project*, xxi, accessed May 7, 2018, [http://acqdemo.hci.mil/docs/AcqDemo\\_Independent\\_Assessment\\_FY16.pdf](http://acqdemo.hci.mil/docs/AcqDemo_Independent_Assessment_FY16.pdf).

<sup>14</sup> *Ibid.*, 73.

<sup>15</sup> *Ibid.*, 17.

<sup>16</sup> *Ibid.*, 83.

<sup>17</sup> *Ibid.*, x.

**Table 2-2. AcqDemo Participant Retention Rate, 2011-2015<sup>18</sup>**

Months Since September 30, 2011	AcqDemo Participants	GS Employees in ADEOs
12	94.4	93.9
24	89.3	88.5
36	83.5	82.7
48	78.4	77.5

The AcqDemo Program Management Office staff recognizes the necessity to improve DoD’s ability to compete with the private sector for talent. In November 2017, the AcqDemo Program Management Office staff incorporated into the demonstration project five external hiring authorities: Direct Hire Appointments for the Business and Technical Management Professional Career Path, Veteran Direct Hire Appointments for the Business and Technical Management Professional and Technical Management Career Paths, Acquisition Student Intern Appointments, Scholastic Achievement Appointment, and Expedited Hiring.<sup>19</sup>

Other key AcqDemo characteristics developed to help participating organizations meet their mission needs include the following:<sup>20</sup>

- Mandated regular supervisor–employee interactions throughout the annual appraisal cycle.
- Opportunities for greater professional development.
- Career growth and development through use of sabbaticals.
- A voluntary emeritus program that allows separated or retired civilians and former military members an opportunity to keep working after retirement or a buyout.

**AcqDemo Participant Views**

**Senior Leaders**

Senior leaders interviewed by the Section 809 Panel expressed interest in increasing participation in the demonstration project because of the flexibilities it allows, and they indicated high performers want to be in AcqDemo. For example, one interviewee told the panel, “If we can move contracting positions into AcqDemo that could help significantly with retention.” Senior leaders also applauded improved communication between supervisors and their employees regarding expectations and performance. Under AcqDemo, supervisors are able to set clear contribution goals at the beginning of a rating period and offer meaningful feedback at the end. AcqDemo employees believe these communications result in

<sup>18</sup> Ibid, Table 5.1, 55.

<sup>19</sup> DoD, *DoD Civilian Acquisition Workforce Personnel Demonstration Project (AcqDemo) Operating Guide Version 2.2, v*, accessed March 8, 2018, <http://acqdemo.hci.mil/docs/Operating%20Guide.pdf>.

<sup>20</sup> Ibid.

improved trust and confidence in appraisals.<sup>21</sup> One DoD senior leader told the panel, “The strength of AcqDemo is that it forces regular conversations [between supervisors and employees] where previously conversations were not being had. It puts the ‘so what’ question back into the conversation.” A third person praised AcqDemo for its ability to refocus the AWF on mission performance and support warfighters while rewarding strong employees for their performance in a manner other than promotion.<sup>22</sup>

DoD senior leaders also endorse making AcqDemo permanent, and they believe that if the project became permanent, more ADEOs would join. One interviewee explained that due to the disruption caused by moving in and out of NSPS, some ADEOs have resisted joining due to the temporary nature of the authority; however, these ADEOs are ready to join AcqDemo should it become permanent. Another interviewee told the panel, “because AcqDemo was not permanent, some employees were sitting back and waiting to see what happens.”<sup>23</sup>

### Labor Unions

Most of AcqDemo criticisms stem from labor unions, which are mistrustful of alternative personnel management systems. Labor unions prefer longevity-based systems like the GS system because longevity is a transparent, quantifiable metric, not subject to supervisor bias. The labor unions’ major objection is that AcqDemo is heavily subjective. Union complaints of this nature led to the upending of NSPS. Despite this overarching perspective, labor union representatives told the panel they generally are neutral with regard to AcqDemo. One local union president told the panel he believed individual members’ views vary based on their experience. “AcqDemo is popular when organizations are well funded and when employees feel they can trust management.” When managers in participating organizations are transparent about how they assess their employees and make data available to employees for review, the system works better than the GS system.<sup>24</sup> Another union leader, who represents employees in three participating organizations, told the panel, “It is 10 times better than the GS system,” and “even where things are bad, it is five times better than GS.” A third representative told the panel, “During the recent furlough, union members in AcqDemo were better off than those in the GS system.”<sup>25</sup>

The facts support these assertions. AcqDemo administrators encourage union participation and unionized AcqDemo participants are achieving successful outcomes. They are generally paid higher salaries, are more likely to be promoted, and are retained at a higher rate than those in the GS system.<sup>26</sup>

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<sup>21</sup> RAND National Defense Research Institute, *2016 Assessment of the Civilian Acquisition Workforce Personnel Demonstration Project*, xxi, accessed May 7, 2018, [http://acqdemo.hci.mil/docs/AcqDemo\\_Independent\\_Assessment\\_FY16.pdf](http://acqdemo.hci.mil/docs/AcqDemo_Independent_Assessment_FY16.pdf).

<sup>22</sup> DoD senior leader interviews, conducted by Section 809 Panel, from October 2017 to March 2018.

<sup>23</sup> Ibid.

<sup>24</sup> Labor union representative and AcqDemo Program Office staff interviews, conducted by Section 809 Panel, from March to April 2018.

<sup>25</sup> Ibid.

<sup>26</sup> RAND National Defense Research Institute, *2016 Assessment of the Civilian Acquisition Workforce Personnel Demonstration Project*, 71, accessed May 7, 2018, [http://acqdemo.hci.mil/docs/AcqDemo\\_Independent\\_Assessment\\_FY16.pdf](http://acqdemo.hci.mil/docs/AcqDemo_Independent_Assessment_FY16.pdf).

Union leaders told the Section 809 Panel they like having the ability to choose between the two personnel systems; however, when their members trust management, and are compensated appropriately based on their contributions, they prefer AcqDemo.<sup>27</sup>

AcqDemo works best when management makes pay pool data available to employees, so unions can verify that management rates its employees fairly and that all employees have an equal opportunity to be assigned special projects and meaningful work that will allow them to excel. This process instills confidence that management is not reserving plum assignments for supervisors' favorite employees. AcqDemo also works well when management is willing to talk to union representatives about their issues. The union representatives that talked to the Section 809 Panel explained they have been able to resolve their issues when given the opportunity.<sup>28</sup>

### Supervisors and Nonsupervisor Employees

Twenty-three percent of AcqDemo participants are supervisors. Supervisors' starting salaries were better, and their salaries rose faster in AcqDemo than in the GS system.<sup>29</sup> AcqDemo participating organizations have the option of paying cash differentials to incentivize and compensate supervisors and team leaders.<sup>30</sup> Accordingly, supervisors' perceptions of the project are generally positive, and the retention rates for supervisor participants in AcqDemo are high.<sup>31</sup> Among nonsupervisory employees, there is a perceived lack of transparency regarding how employee ratings are calculated and translated to pay, how the pay pool process works, how management shares pay pool results, and the use of control points.<sup>32</sup> This skepticism, coupled with the perception that supervisors fare better under AcqDemo than nonsupervisory employees, may result in a lack of confidence that could undermine AcqDemo goals. Some employees may believe management does not fairly link compensation to employee contributions; however, data does not support this perception.<sup>33</sup> An FY 2016 independent analysis of AcqDemo states, "we empirically assessed the relationship between contribution to organizational mission, as measured by [the difference between actual and expected employee overall contribution score], and the various career outcomes."<sup>34</sup> The independent analysis also indicates AcqDemo leadership may be able to combat this misperception through improved communication strategies.<sup>35</sup> In that vein, the AcqDemo Program Management Office has sought to improve transparency and dispel any misperception regarding biases and fairness by publishing and disseminating its business rules, providing training to new and existing AcqDemo participants,

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<sup>27</sup> Labor union representative and AcqDemo Program Office staff interviews, conducted by Section 809 Panel, from March to April 2018.

<sup>28</sup> Ibid.

<sup>29</sup> RAND National Defense Research Institute, *2016 Assessment of the Civilian Acquisition Workforce Personnel Demonstration Project*, 75, accessed May 7, 2018, [http://acqdemo.hci.mil/docs/AcqDemo\\_Independent\\_Assessment\\_FY16.pdf](http://acqdemo.hci.mil/docs/AcqDemo_Independent_Assessment_FY16.pdf).

<sup>30</sup> Ibid, 167.

<sup>31</sup> Ibid, 75.

<sup>32</sup> "Control points are defined as compensation limits within a broadband level based on an organization's position management structure and assessment of the difficulty, scope, and value of positions developed to ensure equity and consistency within the organization. Compensation limits may be stated as a monetary value, internal pay range within the broadband level, or an overall contribution score and published in local business rules." DoD, *DoD Civilian Acquisition Workforce Personnel Demonstration Project (AcqDemo) Operating Guide Version 2.2*, v, accessed March 8, 2018, <http://acqdemo.hci.mil/docs/Operating%20Guide.pdf>.

<sup>33</sup> RAND National Defense Research Institute, *2016 Assessment of the Civilian Acquisition Workforce Personnel Demonstration Project*, 117, accessed May 7, 2018, [http://acqdemo.hci.mil/docs/AcqDemo\\_Independent\\_Assessment\\_FY16.pdf](http://acqdemo.hci.mil/docs/AcqDemo_Independent_Assessment_FY16.pdf).

<sup>34</sup> Ibid, 85.

<sup>35</sup> Ibid, 117.

requiring supervisors meet with employees regularly, requiring employee self-assessments, and creating a formal grievance process for employees.<sup>36</sup> The program management office staff also holds town hall meetings and maintains a website that provides program guidance, metrics, training, answers to frequently asked questions, and other programmatic information. AcqDemo proponents told the Section 809 Panel they designed the pay pool forum so that pay pool participants will hold one another accountable in ensuring equitable distribution of the pay pool.

Another characteristic of the project that has proven to be a challenge involves time. The time-consuming AcqDemo implementation process of writing appraisals, participating in feedback sessions, and administering pay pools might discourage both supervisors and employees from fully engaging in the system.<sup>37</sup> AcqDemo program management sought improvement in this area by modifying the project to reduce the six classification and appraisal factors to three factors, thus reducing the time for employee self-assessments, supervisor assessments, and pay pool administration.<sup>38</sup>

## Conclusions

AcqDemo has performed well since its implementation nearly 20 years ago. It has proven more flexible than the GS pay system, and retention is higher among high-contributing employees than among low-contributors. The managerial control that AcqDemo allows has improved DoD's ability to compete for talent, retain the most highly qualified AWF employees, and motivate those employees to maximize their contributions to the DoD mission. The AcqDemo Program Office has modified its program plan over time to improve the project. Even union leaders, who generally oppose implementation of alternative personnel management systems, believe AcqDemo works as long as employees can trust management.

### ***Convert AcqDemo from an Indefinite Project to a Permanent Personnel System***

Both SASC and DoD acquisition senior leaders unanimously agree the ability to control its own personnel processes and functions has yielded successful mission outcomes, and they endorse making AcqDemo permanent. Successful outcomes and increasing participant satisfaction throughout the lifespan of the temporary authority is sufficient evidence AcqDemo is a proven personnel system. Permanency would allow DoD to continue its efforts without the limitations that may serve as a deterrent for eligible participating organizations. As such, the panel recommends converting AcqDemo to a permanent acquisition personnel system and retaining the authorities applicable to the demonstration project as described below, along with other improvements.

### ***Make AcqDemo the Sole Personnel System for the DoD Acquisition Workforce***

As the project has evolved, the AcqDemo program office staff has worked to improve perceived shortcomings by improving transparency, offering training, reducing administration time, and incorporating processes to simplify the hiring process. Senior leaders, union representatives, supervisors, and employees agree AcqDemo works better for them than the GS system when

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<sup>36</sup> Ibid, xxi-xxv.

<sup>37</sup> Ibid.

<sup>38</sup> OPM: Civilian Acquisition Workforce Personnel Demonstration Project; DoD; Notice, 64 Fed. Reg. 1426-1492 (Jan. 8, 1999).

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participating organizations are transparent and work with local union representatives. Participating organizations would improve their ability to manage their staffs if they focused their attention on managing AcqDemo properly, rather than dividing their attention between the management of two or more different systems. AcqDemo participation should be mandatory for all members of the DoD AWF and nonacquisition supporting personnel if their rating chain is within the organizations using the new AWF personnel system. All members of the DoD AWF should be enrolled in the new DoD acquisition personnel system. For the purposes of this system, *acquisition workforce* means one of the following:

- Employees in positions designated under 10 U.S.C. § 1721
- Other DoD employees designated as members of the acquisition workforce by
  - The USD(Acquisition and Sustainment) for employees not assigned to a Military Service
  - The senior acquisition executive of a Military Service for employees assigned to them.

### ***Expand AcqDemo Coverage by Eliminating the Limitation on the Number of AcqDemo Participants***

As evidenced by a rise of the AcqDemo population from 16,000 to 39,007 when Congress extended the demonstration project in the FY 2016 NDAA, AcqDemo participation has increase as the program's longevity has increased. ADEOs have communicated apprehension to participation in AcqDemo based on sunset dates in the past, but they are ready to join should it become permanent. Permanence would likely increase participation. Currently, Congress caps employee participation in the project at 130,000 employees; however, 147,000 civilian AWF employees would be eligible to participate should AcqDemo become permanent. The scope of supporting staff that could transition into the program varies. Eliminating the AcqDemo participation cap would have no effect on the participant eligibility criteria.

### ***Allow AcqDemo Hiring Authority Policy to Continue Concurrent with Implementation of Section 809 Panel Hiring Authority Policy***

The AcqDemo Program Management Office efforts to improve DoD's ability to compete with the private sector for talent are commendable; however, the master list of primary hiring authorities set forth in the Section 809 Panel Recommendation 25, *Streamline and adapt hiring authorities to support the acquisition workforce*, goes a step beyond the capabilities currently available under AcqDemo. The master list will better afford DoD speed and flexibility required to address the evolving needs of the AWF. Because AcqDemo's new hiring authority policy has not had sufficient time to be tested, those authorities should be maintained and used concurrently during the transition to the Section 809 Panel's recommended hiring authorities for the broader AWF. In the future, Congress and DoD should assess the existing AcqDemo hiring authorities to determine whether they should continue to exist, or whether they are redundant in light of the hiring authorities currently available to the entire AWF.

### ***Improve Transparency***

The AcqDemo Program Office has taken steps to ensure AcqDemo is fair and transparent, yet mistrust from labor unions and a perceived lack of transparency related to the link between contribution scores and compensation still exists. This situation is generally limited to certain organizations that have less transparency. If the AcqDemo Program Office is not already doing so, it should consider implementing measures in the new AWF personnel system similar to the following:



- Establish a minimum criterion, consistent with the Privacy Act of 1974 and 5 U.S.C. § 552a Records Maintained on Individuals, that participating organizations post on an organizational website regarding the process by which ratings are calculated and how their employees compare with their peers in other organizations.
- Require participating organizations to allow labor unions to provide input into the development of business rules and to attend pay pool meetings.
- Develop a process that will allow labor unions to appeal to the AcqDemo Program Office when a participating organization is less than transparent with the union.
- Provide annual, or more frequent, AcqDemo training for the participating organizations.
- Perform an annual or more frequent, assessment of participating organizations business rules and pay pool process and post assessment outcomes on the AcqDemo home page.
- Regularly post on the AcqDemo home page data that explain when and how either the AcqDemo Program Office or participating organizations use AcqDemo professional development, sabbaticals, and the voluntary emeritus program opportunities.

## Implementation

### *Legislative Branch*

- Repeal 10 U.S.C. § 1762, Demonstration Project Relating to Certain Acquisition Personnel Management Policies and Procedures.
- Replace 10 U.S.C. § 1762 with 10 U.S.C. § 1763 Personnel System for the Acquisition Workforce.
  - Make the personnel system established pursuant to 10 U.S.C. § 1763 the sole, mandatory personnel system for the DoD AWF.
    - Do not include an expiration date.
    - Do not include a limitation on the number of AWF participants.
  - Allow a 5-year phase-in period from the effective date of enactment of the new AWF personnel system, to transition all DoD AWF employees into the new system.
    - Allow collective bargaining agreements between labor unions and participating organizations that are in place prior to the effective date to continue for the duration of their existence without options to extend.
    - Limit new collective bargaining agreements entered into between labor unions and participating organizations after the date of enactment to participation under the new AWF personnel system.

### *Executive Branch*

- There are no Executive Branch changes required for this recommendation.

### ***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.

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## 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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## ACQUISITION WORKFORCE — LEGISLATIVE PROVISIONS

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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## ACQUISITION WORKFORCE — LEGISLATIVE PROVISIONS

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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## ACQUISITION WORKFORCE — LEGISLATIVE PROVISIONS

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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## ACQUISITION WORKFORCE — LEGISLATIVE PROVISIONS

### 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.

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### 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.

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### 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.~~

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### 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.~~

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### 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~~

## ACQUISITION WORKFORCE — LEGISLATIVE PROVISIONS

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

## ACQUISITION WORKFORCE — LEGISLATIVE PROVISIONS

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.~~

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## 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.

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### 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.

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### 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.

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### **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.

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### **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].

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

#### SEC. 1209. TRANSITION PROVISIONS.

(a) \*\*\*

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(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.

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### 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.

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### 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).

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### 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.

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### **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.