

Recommendation 27: Improve resourcing, allocation, and management of the Defense Acquisition Workforce Development Fund (DAWDF).

Problem

DoD faces three primary challenges with the operation of DAWDF: defining the most efficient approach for its operational funding, determining the proper method for allocating DAWDF, and addressing the ongoing management of DAWDF by Human Capital Initiatives (HCI). Collectively, failure to address these challenges undermines DAWDF's purpose of recruiting, training, and retaining acquisition personnel with necessary skills to properly perform their mission and ensure DoD receives the best value for the taxpayers.¹

DAWDF has experienced resourcing changes since its establishment in 2008. Initially, it was a multiyear fund resourced by a *tax* imposed on the amount spent by DoD on contract services (labelled as a *credit* in the statute). It later changed to a multiyear fund resourced by expired, unobligated funds, and in 2019, has been changed to an appropriation with 2-year availability.² These funding changes have contributed to a growing sense of uncertainty by DAWDF users about its reliability and maintenance.³ These changes have substantially reduced the flexibility of DAWDF to address its intended purpose. This uncertainty over DAWDF's sources creates risk of its decreased use, and threatens its existence at the current funding level of \$400 million. Resourcing, allocation, and management of DAWDF must be improved to ensure the defense AWF benefits from its full use.

Background

DAWDF was established in the FY 2008 NDAA to provide funds for the "recruitment, training, and retention of acquisition personnel of the Department of Defense" to ensure "the acquisition workforce has the capacity, in both personnel and skills, needed to properly perform its mission, provide appropriate oversight of contractor performance, and ensure the Department receives the best value for the expenditure of public resources."⁴ The intent was to address the shortfall of trained and certified acquisition workforce personnel that defined the post-Cold War era in the 1990s and early 2000s.⁵ The overreliance on contractors during this time of acquisition workforce drawdown (at its lowest 126,000 personnel) contributed to a sense of unease in Congress regarding workforce-mix imbalance and subsequent critical acquisition skills gaps.⁶ Some analysts believed the reduction in acquisition

¹ Section 852 of FY 2008 NDAA, Pub. L. No. 110-181 (2008). Defense Acquisition Workforce Development Fund, 10 U.S.C. § 1705.

² Section 852 of FY 2008 NDAA, Pub. L. No. 110-181 (2008). OMB, *Budget of the U.S. Government, FY 2019, Appendix: Detailed Budget Estimate by Agency, Department of Defense—Military*, 244.

³ GAO, *Defense Acquisition Workforce: Improved Processes, Guidance, and Planning Needed to Enhance Use of Workforce Funds*, GAO-12-747R, June 20, 2012, 2, accessed May 9, 2018, <https://www.gao.gov/assets/600/591766.pdf>.

⁴ Section 852 of FY 2008 NDAA, Pub. L. No. 110-181 (2008).

⁵ Moshe Schwartz, Kathryn Frances, and Charles V. O'Connor, CRS, *The Department of Defense Acquisition Workforce: Background, Analysis, and Questions for Congress*, July 29, 2016, accessed May 9, 2018, <https://fas.org/sgp/crs/natsec/R44578.pdf>. From the report summary page: "Between FY1989 and FY1999 the acquisition workforce decreased nearly 50% to a low of 124,000 employees. This decline is attributable in large part to a series of congressionally mandated reductions between FY1996 and FY1999. These cuts reflected Congress's then-view that the acquisition workforce size was not properly aligned with the acquisition budget and the size of the uniformed force."

⁶ GAO, *Defense Acquisition Workforce: DoD Has Opportunities to Further Enhance Use and Management of Development Fund*, GAO-17-332, March 2017, 3, accessed May 8, 2018, <https://www.gao.gov/assets/690/683748.pdf>.

personnel had a negative effect on acquisition outcomes.⁷ Subsequent congressional reforms aimed to improve AWF quality through training and certification, while increasing the number of personnel to adequately support warfighter needs.⁸ As envisioned by Congress, DAWDF would allow DoD to grow and develop acquisition workforce quality in ways not possible under existing budgets and annual budget constraints. Congress intended DAWDF to provide flexibility for recruitment, training, and retention initiatives; engender creativity; and make DoD an employer of choice in what is an increasingly competitive talent market.⁹

Since DAWDF's establishment, DoD has obligated more than \$3.5 billion to initiatives supported by the fund.¹⁰ Additionally, DAWDF has allowed DoD to develop a professional workforce defined by an increase in bachelor's and graduate degrees, improved certification levels, and expanded DAU's capacity to provide in-person and online training.¹¹ With the initial priority of growing the AWF complete, DoD has turned its focus to using DAWDF for sustaining the workforce through training, development, and retention, which requires a stable source of funds to align DoD workforce sustainment priorities with workforce outcomes.¹²

DAWDF's original structure—a multiyear fund resourced by a combination of credits and direct appropriations—allowed workforce development continuity. This structure offered immediate relief by boosting the AWF by 10,000 new positions in the first 3 years of DAWDF.¹³ Multiyear availability maximized strategic support that would allow DoD to build complex, innovative programs to sustain the AWF long term.

There are three ways DAWDF can be funded according to 10 U.S.C. § 1705, Department of Defense Acquisition Workforce Development Fund:

⁷ Moshe Schwartz, Kathryn A. Frances, and Charles V. O'Connor, CRS, *The Department of Defense Acquisition Workforce: Background, Analysis, and Questions for Congress*, July 29, 2016, accessed May 9, 2018, <https://fas.org/sgp/crs/natsec/R44578.pdf>.

⁸ Two of the most significant reforms during this time were the Defense Acquisition Workforce Improvement Act (DAWIA) in 1990 and The Clinger Cohen Act in 1996 that both addressed definitions of the acquisition workforce as well as a framework for training and certification. For further discussion, see GAO, *Acquisition Workforce: Agencies Need to Better Define and Track the Training of Their Employees*, GAO-02-737, July 2002, accessed May 9, 2018, <https://www.gao.gov/assets/240/235272.pdf>.

⁹ DoD, *DoD Acquisition Workforce Strategic Plan, FY 2016 – FY 2021*, 3, accessed May 9, 2018, http://www.hci.mil/docs/DoD_Acq_Workforce_Strat_Plan_FY16_FY21.pdf.

¹⁰ GAO, *Defense Acquisition Workforce: DoD Has Opportunities to Further Enhance Use and Management of Development Fund*, GAO-17-332, March 2017, accessed May 8, 2018, <https://www.gao.gov/assets/690/683748.pdf>.

¹¹ DoD OUSD(AT&L), *Department of Defense Acquisition Workforce Development Fund, FY 2015 Annual Report to Congress*, April 2016, accessed May 9, 2018, http://www.hci.mil/docs/Policy/Reports%20to%20Congress/FY15_DAWDF_Annual_Report_to_Congress.pdf. In particular, certification levels improved from 86 percent in FY 2008 to 96 percent in FY 2015, the number of people with Bachelor's degrees or higher increased from 77 percent in FY 2008 to 84 percent in FY 2015. The number of individuals with a graduate degree increased from 29 percent in FY 2008 to 38 percent in FY 2015.

¹² "Workforce Metrics," OUSD(A&S) HCI, accessed March 22, 2018, <http://www.hci.mil/about/workforce-metrics.html>. The general makeup of the 165,275 acquisition personnel workforce is 15,493 military acquisition personnel and 149,782 civilian acquisition personnel. GAO, *Defense Acquisition Workforce: DoD Has Opportunities to Further Enhance Use and Management of Development Fund*, GAO-17-332, March 2017, 9, accessed May 8, 2018, <https://www.gao.gov/assets/690/683748.pdf>.

¹³ John A. Ausink et al, *Air Force Management of the Defense Acquisition Workforce Development Fund, Opportunities for Improvement*, RAND Corporation (2016), 5, accessed May 9, 2018, https://www.rand.org/content/dam/rand/pubs/research_reports/RR1400/RR1486/RAND_RR1486.pdf. DoD OSD, *Defense Acquisition Workforce Development Fund (DAWDF): FY 2009 Annual Report to Congress*, August 2010, iii, accessed May 9, 2018, <http://www.hci.mil/docs/Policy/Reports%20to%20Congress/5a.%20FY09%20DAWDF%20Annual%20Report%20to%20Congress.pdf>. Section 852 of the FY 2008 NDAA, Pub. L. No. 110-181 (2008).

- **Credits to the fund.** This approach involves crediting DAWDF with an amount equal to the applicable percentage for a fiscal year of all amounts expended by DoD for contract services funding by Operations and Maintenance (O&M) appropriations, other than research and development and military construction.¹⁴
- **Appropriations.** This approach uses appropriations, available for obligation for 1 fiscal year in the year for which they were appropriated.¹⁵
- **Transfers of expired unobligated funds.** During the 3-year period following expiration of the obligation period for appropriations to DoD for research, development, test and evaluation; procurement; or operation and maintenance, DoD may transfer such funds to DAWDF to the extent provided in appropriations acts.¹⁶

There is evidence DAWDF has improved the defense acquisition workforce, and AWF stakeholders indicated that DAWDF is vital to the development of their workforce.¹⁷ DAWDF's original source of funding by credits and remittances was plagued by lengthy delays in the reallocation process inherent in collecting a tax on contract services funding by O&M funds, and compromised vital initiatives.¹⁸ DAWDF users submitted credits to the DoD Comptroller to meet the \$500,000,000 baseline, then those credits were reallocated as a lump sum to HCI, which in turn reallocated the credits based on requirements submitted to HCI for workforce initiatives.¹⁹ GAO found the DoD Comptroller delayed sending out remittance notices and allowed Military Components to delay remitting funds to DAWDF, resulting in the Military Components not completing remitted credit funds within the time frames required by DoD for any year that credit funding process was used.²⁰ Within this model, it took the Comptroller up to 24 months to distribute the funds to HCI, which then had to further distribute the funds to each of the Services and the 4th Estate.²¹ As GAO reported:

For example, the notice of fiscal year 2013 was sent in June 2013 and required components to remit credits by October 2013. However, the remittance process was not completed until September 2014, or 11 months past the required deadline. Similarly, for fiscal year 2014, the remittance process was not completed until May 2016, or 24 months after DoD submitted its written determination of the amount of DAWDF funding required for the fiscal year – the initiation of the funding process.²²

¹⁴ Section 852 of the FY 2008 NDAA, Pub. L. No. 110-181 (2008).

¹⁵ GAO, *Defense Acquisition Workforce: DoD Has Opportunities to Further Enhance Use and Management of Development Fund*, GAO-17-332, March 2017, 4, accessed May 8, 2018, <https://www.gao.gov/assets/690/683748.pdf>.

¹⁶ Ibid.

¹⁷ DoD OUSD(AT&L), *Department of Defense Acquisition Workforce Development Fund, FY 2015 Annual Report to Congress*, April 2016, accessed May 9, 2018, http://www.hci.mil/docs/Policy/Reports%20to%20Congress/FY15_DAWDF_Annual_Report_to_Congress.pdf. AWF stakeholders, communication with Section 809 Panel, from September 2017 to April 2018.

¹⁸ GAO, *Defense Acquisition Workforce: DoD Has Opportunities to Further Enhance Use and Management of Development Fund*, GAO-17-332, March 2017, 4, accessed May 8, 2018, <https://www.gao.gov/assets/690/683748.pdf>.

¹⁹ Ibid, 11-12.

²⁰ Ibid.

²¹ Ibid.

²² Ibid, 12.

Congressional action improved DAWDF funding by authorizing DoD to transfer expired, unobligated funds for 3 years following their obligation expiration date.²³ This approach fundamentally changed how DAWDF was used, reducing the funding time from 24 months to 2. Changing how DAWDF was resourced decreased the risk of cancelling crucial recruitment and retention initiatives such as the Student Loan Repayment Plan (SLRP) and increased engagement with DAWDF. Availability of expiring-year monies enabled more expedient fund distribution, yet DAWDF's multiyear aspect resulted in large sums of money that appeared unobligated but were considered by the Military Components and Defense Agencies as obligated strategically over 3 years to sustain long-term recruitment, training, and retention initiatives.²⁴ This perception of large sums of *sitting* money made Congress uneasy and gave the impression DAWDF far exceeded what the Military Components and Defense Agencies required to develop the AWF. For example, the 2012 and 2017 GAO reports were triggered by Congress's unease with large unobligated balances.²⁵ Consequently, the appropriators have developed a draft positing DAWDF be changed to an appropriation with 2-year availability, with the support of the DoD Comptroller.²⁶

From 2008 to 2011 the president of DAU was responsible for the day-to-day management of DAWDF. In 2011, AT&L established HCI, which assumed responsibility for DAWDF management. The director, a member of the Senior Executive Service appointed by then AT&L, "provides leadership and facilitates an integrated team effort with the Defense Acquisition Career Managers (DACMs) and acquisition Functional Leaders (FLs)" and "assists in the execution of statutory workforce responsibilities and acquisition workforce strategic planning, policy, and programs, to include DAWDF."²⁷ Since 2011, HCI has been responsible for developing processes to better facilitate funding DAWDF initiatives, as well as developing metrics for measuring program execution rates. For example, the *DAWDF Desk Operating Guide*, provides much-needed guidance on use of DAWDF.²⁸ The joint governance forums of the Senior Steering Board (SSB), the Workforce Management Group (WMG), and the Functional Integrated Product Team (FIPT) support HCI's management of DAWDF.

- **Senior Steering Board (SSB)** comprises the USD(AT&L) as the SSB Chair, Component Acquisition Executives (CAEs) of the Military Departments, Defense Contract Management Agency (DCMA), Defense Logistics Agency (DLA), Defense Contract Audit Agency (DCAA), Functional Leaders (FLs), the USD (Personnel and Readiness), the Director of HCI, and the

²³ Ibid, 10. Pub. L. No. 113-76, div. C, tit VIII, § 8094. 10 U.S.C. § 1705(d)(3).

²⁴ DACMs and Defense Agencies, communications with Section 809 Panel, September 2017 to April 2018.

²⁵ The following quotes provide further context for why Congress was so alarmed by DAWDF management that they triggered a GAO report. "Congress was reducing the amount requested by DoD for the fund by \$200 million, in part because the fund had large unobligated balances that it had carried over for the past several years." GAO, *Defense Acquisition Workforce: Improved Processes, Guidance, and Planning Needed to Enhance Use of Workforce Funds*, GAO-12-747R, June 20, 2012, 2, accessed May 9, 2018, <https://www.gao.gov/assets/600/591766.pdf>. "Given the continued level of carry over funds that DoD reported to Congress – \$875 million at the beginning of fiscal year 2016 – you asked us to review DoD's execution of DAWDF." GAO, *Defense Acquisition Workforce: DoD Has Opportunities to Further Enhance Use and Management of Development Fund*, GAO-17-332, March 2017, 11-12, accessed May 8, 2018, <https://www.gao.gov/assets/690/683748.pdf>.

²⁶ OMB, *An American Budget: Budget of the U.S. Government, FY 2019*, accessed May 10, 2018, <https://www.whitehouse.gov/wp-content/uploads/2018/02/budget-fy2019.pdf>.

²⁷ DoD, *DoD Acquisition Workforce Strategic Plan, FY 2016 – FY 2021*, 9, accessed May 9, 2018, http://www.hci.mil/docs/DoD_Acq_Workforce_Strat_Plan_FY16_FY21.pdf.

²⁸ DoD, *OUSD(AT&L) Human Capital Initiatives Defense Acquisition Workforce Development Fund Desk Operating Guide Version 1.0 August 2016*, accessed June 25, 2018, <http://www.secnav.navy.mil/rda/workforce/Documents/DAWDF-Desk-Operating-Guide.pdf>.

President of DAU).²⁹ The purpose of this senior governance forum is to provide “strategic direction and oversee execution of the AWF program.” SSB is meant to meet quarterly.

- **Workforce Management Group (WMG)** comprises representatives of the SSB and serves as the “primary forum for reviewing elements of the AWF program to ensure integration of enterprise requirements and that supporting initiatives are aligned with strategic workforce goals and resources.” WMG is meant to meet quarterly.
- **Functional Integrated Product Team (FIPT)** oversees development of various acquisition career fields by ensuring there is adequate and relevant training and resources.³⁰

HCI’s management of the fund also includes outreach efforts, advocating for DAWDF as an intermediary between DoD and Congress.

Discussion

DAWDF’s resourcing has implications for both its management and execution. Its evolution to an annual appropriation has the potential to undermine the initiatives DAWDF was intended to support. The combination of how DAWDF has been resourced and changes to the means by which it is resourced have caused execution challenges and contributed to a negative perception of how DAWDF is used. In particular, DAWDF’s initial scope, defined mainly by what it was not to be used for, made the fund appear amorphous to its users. The FY 2008 NDAA stipulated the statutory restrictions for DAWDF:

- The funds may be used to recruit, train, and retain only acquisition personnel in Acquisition Professional Development Program coded positions.
- Funds may be provided to contractors only for the purpose of providing training to DoD employees.
- DAWDF funds may not be used for the base salary of someone who has been in the DoD acquisition workforce since January 28, 2008, unless that person has had a break in such employment of more than 1 year.³¹

Language in the FY 2017 NDAA aimed at increasing DAWDF’s scope. The amended language included providing advanced training for DoD employees; developing acquisition tools and methodologies; performing research on acquisition policies and best practices; and supporting human capital and talent management of the acquisition workforce, including benchmarking studies, assessments, and requirements planning.³² DoD’s increased demand for ways in which DAWDF can be used demonstrates how fundamental DAWDF is to AWF development. How DAWDF is resourced is at the crux of how this demand can be translated into high-quality initiatives that have repeatedly and

²⁹ The recent AT&L split has not yet been updated to indicate changes to SBB; therefore, this paper uses the original terminology, but acknowledges the split has occurred.

³⁰ DoD, *DoD Acquisition Workforce Strategic Plan, FY 2016 – FY 2021*, 10, accessed May 9, 2018, http://www.hci.mil/docs/DoD_Acq_Workforce_Strat_Plan_FY16_FY21.pdf.

³¹ Section 852 of FY 2008 NDAA, Pub. L. No. 110-181 (2008). Defense Acquisition Workforce Development Fund, 10 U.S.C. § 1705.

³² Section 854 of FY 2017 NDAA, Pub. L. No. 114-328 (2016).

empirically demonstrated they improve the AWF. DAWDF's financing mechanisms and its structure must be maximized to suit its original and expanded purpose.

Multiyear availability of DAWDF allows the following acquisition workforce development outcomes not attainable using a 1-year fund:

- Increased ability to implement initiatives that cross the fiscal year (for example, the SLRP, temporary duty (TDY), and Talent Management Programs) that require a higher level of effort, studies, and assessments. This approach provides continuity in the face of continuing resolutions.
- Increased engagement as a result of the stability a multiyear fund provides.
- Increased ability to conduct complex and innovative pilot programs that are of a quality to makes them likely to be accepted.
- Flexibility to submit and approve quality training opportunities later in the fiscal year to meet urgent needs of the command or meet evolving acquisition requirements, facilitated by multiyear funding.

DoD's management of DAWDF can be improved by implementing program management practices. Changes in how DAWDF is resourced affects DoD's management of the fund and presents. Overall, DAWDF is managed by a Joint Governance Forum comprising an SSB, a WMG, and FLs. For the purpose of the Section 809 Panel's research on DAWDF, analysis focuses only on SSB and WMG.

Case Study: Air Force Materiel Command Contracting

Problem

AFMC's contracting workforce needs a pipeline of high-caliber trainees/interns sufficient to offset annual manpower attrition.

Background

The Air Force Materiel Command (AFMC) contracting workforce comprises approximately 3400 civilians and 450 military members across six centers and 30 duty locations.³³ Each year, the command receives a stream of contracting trainees/interns that graduate at the journeyman level. The Air Force COPPER CAP program provides AFMC with trainees/interns that it funds through a central salary account and from DAWDF, yet the annual allocation of these assets consistently falls short of AFMC's needs. Other than a very limited pool of military contracting professionals who separate from active duty each year, there are very few experienced government contracting professionals in the local labor markets. Consequently, to cover the shortfall in COPPER CAP trainees/interns, AFMC must convert locally-funded journeyman level positions to developmental trainee/intern positions and use their own local civilian salary budget. This degrades the effectiveness of the AFMC contracting workforce because the Centers' contracting manpower requirements assume that the locally-funded positions are filled with at least experienced, journeyman level employees versus trainees/interns. In addition to DAWDF paying the salary of a portion of the contracting

³³ Air Force Materiel Command Directorate of Contracting, email to Section 809 Panel, May 11, 2018.

Case Study: Air Force Materiel Command Contracting

trainees/interns AFMC needs each year, it also is leveraged to recruit and hire high caliber trainee/intern candidates by funding student loan re-payments, targeted recruiting trips to universities, job fairs, and professional events, and relocation incentives. Center O&M is an alternate funding source AFMC may use for these recruiting and hiring incentives, but competing priorities generally prevent using O&M funds.

Requirements

To stay ahead of the attrition rate, AFMC requires 250-300 funded trainees/interns each year.³⁴ Ideally, these would all be funded via the central salary account or DAWDF, so that AFMC contracting can operate at full strength with all their locally-funded positions filled by experienced employees. In FY 2018 AFMC received only 85 of 270 requested trainees/interns and have requested 279 trainees/interns for FY 2019.³⁵ Due to continuing budget constraints on the central salary account, the command anticipates a comparable or higher shortfall in trainees/interns in FY 2019 and needs DAWDF-funded trainees/interns to offset as much of the shortfall as possible to mitigate the need to encumber locally-funded positions with trainees/interns versus experienced contracting professionals. AFMC also requires continued funding for recruiting and hiring incentives.

What DAWDF Makes Possible³⁶

- Recruitment at universities, job fairs, and professional events.
- Robust pool of high-quality intern/trainee candidates.
- Incentives such as the SLRP to attract high-quality candidates and offset noncompetitive government salaries.
- Relocation initiatives to attract high-caliber candidates in hard-to-fill positions.

Senior Steering Board

SSB is responsible for policy and oversight decisions regarding DAWDF initiatives.³⁷ SSB operates by providing strategic direction for, and overseeing execution of, the acquisition workforce program; ensuring that funds allocated to the AWF program are aligned with DoD's Human Capital Strategic Plan; and by holding board meetings called by the chair.³⁸

SSB is organized as follows:

- USD(AT&L) – SSB Chair
- Director, HCI – SSB Executive Secretary
- SAEs of the Military Departments
- Director, Defense Contract Management Agency
- Director, Defense Logistics Agency
- Director, Defense Contract Audit Agency

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid.

³⁷ DoD, *Defense Acquisition Workforce Management Group (WMG) Charter*, July 2011, 2, accessed May 9, 2018, [http://www.hci.mil/docs/Policy/Guidance%20Memoranda/23.%20WMG%20Charter%20\(July%202029,%202011\).pdf](http://www.hci.mil/docs/Policy/Guidance%20Memoranda/23.%20WMG%20Charter%20(July%202029,%202011).pdf).

³⁸ Defense Acquisition Workforce Education, Training, Experience, and Career Development Program, DoDI 5000.66, 29 (2017).

- Functional Leaders
- USD (Personnel & Readiness)
- President, Defense Acquisition University
- Others, as the USD(AT&L) considers appropriate.³⁹

SSB is vital to DAWDF management, as it ensures strategic direction is prioritized and given across the enterprise. It is also an important source of support and guidance for HCI to allocate funding aligned with DoD's goals for its acquisition workforce. Without a functioning SSB, HCI risks managing DAWDF in a way that fails to maximize its purpose and exposes it to the risk of additional funding changes. AWF stakeholders stated that in the early years of DAWDF, SSB met regularly and meaningfully engaged under the leadership of what was then USD(AT&L) to determine the strategic priorities for DAWDF.⁴⁰ Stakeholders said meetings no longer occur and have been replaced with what were described as *update briefs*.⁴¹ AWF stakeholders indicated SSB meetings have not focused on setting strategic priorities for about 8 years. One DoD official explained there has been no need for strategic planning because every successfully submitted initiative has received funding. Another DoD official indicated that clear guidance from SSB would support higher execution rates for DAWDF.⁴²

AWF stakeholders perceive FLs' contributions are ascribed more merit than those of other meeting participants.⁴³ Stakeholders indicated they saw this situation as a type of *bottom up* approach to setting the strategic priorities for HCI.⁴⁴ This approach seems to lead to prioritizing funds based on the *strongest functional in the room* perspective as opposed to a more strategic acquisition enterprise perspective. A long-term management approach by SSB is most beneficial to the fund, including adequate time to set strategic priorities for DAWDF.

Workforce Management Group (WMG)

WMG is the support function to SSB in the Joint Governance Forum framework. It comprises the following:

- Director, HCI – Chair
- DACMs
- FLs
- President, DAU
- Others, as the Director, HCI considers appropriate

WMG is tasked with providing assistance, oversight, and review of the AWF program to SSB to integrate enterprise initiatives and cross-functional issues and to advise on workforce matters.⁴⁵ It is

³⁹ Ibid. AWF stakeholders indicated to the Section 809 Panel that "Others" include the DACMs.

⁴⁰ AWF stakeholders, communication with Section 809 Panel, January 2018.

⁴¹ AWF stakeholders, meetings with Section 809 Panel, from February to March 2018.

⁴² DoD official, communication with Section 809 Panel, February 26, 2018.

⁴³ Section 809 Panel communication with AWF stakeholders, series of meetings from September 2017 to April 2018.

⁴⁴ Ibid.

⁴⁵ Defense Acquisition Workforce Education, Training, Experience, and Career Development Program, DoDI 5000.66, 29 (2017).

also tasked with communicating career field certification changes before implementation.⁴⁶ WMG was designed to meet 2 weeks ahead of SSB meetings to present any issues that could be resolved by SSB in terms of determining AWF strategic priorities. The consistency and quality of WMG meetings fall below the standard of its tasking. Although DoD's Acquisition Workforce Strategic Plan FY 2016–FY 2021 indicates WMG is the “primary forum for reviewing elements of the AWF program to ensure integration of enterprise requirements and that supporting initiatives are aligned with strategic workforce goals and resources,”⁴⁷ AWF stakeholders confirmed these meetings as being inconsistent and akin to “2-hour long PowerPoint meetings where no problems or issues are discussed.”⁴⁸ They further conveyed a sense of unilateral decision-making by HCI versus a conversation between HCI and organizations using DAWDF. According to stakeholder feedback, WMG meetings can provide a valuable forum through which to communicate with the SSB on desired guidance for strategic priorities in relation to their workforce, and also as a forum in which to resolve problems or issues at the operational level.⁴⁹ The infrequency and quality of WMG meetings cause the group to fall short of its original purpose, ultimately undermining DAWDF management.

Allocation of the Fund

Once DAWDF has been resourced (by whichever method), the Comptroller releases the funds to HCI, and the HCI director allocates the funds. Given the fund's history, HCI works to manage DAWDF in a way that protects against resourcing changes. As a result, HCI's current allocation model seeks to ensure there are funds available to pay critical requirements such as salaries or crucial retention initiatives (such as SLRP) should a gap in funding occur. The model relies on allocating 75 percent of an initiative's funding up front and withholding the remaining 25 percent until the initiative's midyear review with HCI. This model was intended to mitigate risk posed when DAWDF was resourced by credits.⁵⁰ Under previous legislation, DAWDF was not subject to funding shortfalls caused by continuing resolutions (CRs) or fiscal year ends because it was a multiyear fund. Although retaining 25 percent of funds may have helped bridge fiscal gaps, this model exacerbates an already problematic funding structure under which setting aside funds contributes to congressional perception that DAWDF monies largely go unobligated. Although HCI's Annual Reports to Congress indicate only .0069 percent of funds have expired of the \$3.7 billion obligated to DAWDF in the past 10 years, HCI's current allocation model furthers the misconception funds are not used.⁵¹

Acquisition workforce stakeholders indicated the timing of the split percentage allocation model does not align with the midyear review in which program execution is reviewed by HCI and decisions are made about allocating the remaining 25 percent. When programs are not being executed successfully, HCI has authority to reassign the 25 percent allocation to another DAWDF initiative. In practice, this allocation model often leaves the Military Component or Defense Agency with a gap in funding

⁴⁶ Ibid.

⁴⁷ DoD, *DoD Acquisition Workforce Strategic Plan, FY 2016 – FY 2021*, 10, accessed May 9, 2018, http://www.hci.mil/docs/DoD_Acq_Workforce_Strat_Plan_FY16_FY21.pdf.

⁴⁸ DoD officials, communication with Section 809 Panel, April 2, 2018.

⁴⁹ DoD officials, outreach meetings conducted by Section 809 Panel, from September 2017 to March 2018.

⁵⁰ GAO, *Defense Acquisition Workforce: DoD Has Opportunities to Further Enhance Use and Management of Development Fund*, GAO-17-332, March 2017, accessed May 8, 2018, <https://www.gao.gov/assets/690/683748.pdf>.

⁵¹ “Policy,” HCI, Office of the Under Secretary of Defense for Acquisition and Sustainment, accessed June 7, 2018, <http://www.hci.mil/policy.html>.

between the full execution of its first distribution of 75 percent and the remaining 25 percent. This situation leaves some DAWDF users uncertain about the fund's stability and skeptical about DAWDF's ability to deliver a steady source of funding for vital workforce initiatives. According to one DoD official, when the 25 percent allocation is reallocated to another program it may stifle communication between HCI and DoD.⁵² AWF stakeholders said this instinct to restrict communication with HCI stems from the perception that HCI makes unilateral decisions in these situations.⁵³

Midyear Reviews and Execution Reviews

HCI midyear reviews are intended to evaluate program execution against the 75 percent allocation and to allow an opportunity to discuss execution issues and share best practices. At these meetings, DAWDF recipients present to HCI what their program has achieved to date. AWF stakeholders indicate that although having a midyear review offers an opportunity for discussing problems and to discuss how initiatives fit into the overall strategic priorities of the workforce, the midyear review has instead become a brief financial execution review.⁵⁴ AWF stakeholders said the biweekly execution reviews, at which programs are reviewed by HCI, are phone conferences at which stakeholders simply state the numbers relevant to their programs.⁵⁵ Although participants are encouraged to raise issues during these phone meetings, AWF stakeholders indicated this format, with numerous stakeholders present, fails to foster meaningful engagement about strategic priorities against initiatives.⁵⁶ The format of both the midyear review and the biweekly and monthly execution reviews hinder the opportunity to align DoD's strategic workforce goals with DAWDF's strategic priorities, undermining how DAWDF is managed.

Human Capital Initiatives

HCI was tasked with assisting in "carrying out all statutory powers, functions, and duties of the Secretary of Defense with respect to the AWF, including all DoD-wide AWF strategic planning, policy, and programs, as well as direction, overseeing, budgeting central resources of, and evaluating the AWF Program."⁵⁷ Under the "What We Do" section of its website, HCI translates this tasking as workforce development, DAWDF, AcqDemo, and the Defense Acquisition Workforce Awards.⁵⁸ Staffed with eight people, HCI is a small operation that manages a wide portfolio providing vital support to the defense AWF.

Shifting DAWDF management from DAU to HCI allowed DAWDF to have *one voice* representing all DoD organizations, one official stated.⁵⁹ Because DAU is a major DAWDF beneficiary—receiving approximately 20 percent of DAWDF monies to deliver certification training to the AWF—having HCI manage DAWDF mitigates perceived conflict of interest. AWF stakeholders indicated that HCI is a vital advocate for DAWDF with Congress and other government agencies such as GSA, and ensures

⁵² DoD officials, communication with Section 809 Panel, April 2, 2018.

⁵³ Ibid.

⁵⁴ Outreach meetings with DoD officials, conducted by Section 809 Panel, from September 2017 to March 2018.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Defense Acquisition Workforce Education, Training, Experience, and Career Development Program, DoDI 5000.66, 8 (2017).

⁵⁸ "What We Do," OUSD(A&S) HCI, accessed May 9, 2018, <http://www.hci.mil/what-we-do/Workforce-Development.html>.

⁵⁹ DoD officials, communication with Section 809 Panel, April 2, 2018.

reporting requirements are met.⁶⁰ HCI also provides value by ensuring DAWDF funds do not get used for anything other than DoD workforce development. HCI could benefit from additional resources to carry out its charter, to include its additional responsibility of managing the AcqDemo program (which, in another section of this *Volume 2* report, the Section 809 Panel recommends should be made permanent and expanded to the entire AWF). At a minimum, HCI should invest in additional resources, including at least one staff member in addition to the HCI Director. That staff member must have financial management experience and be capable of providing data analytics support.

In 2017 GAO recommended HCI improve its data collection and subsequent data reporting by adopting federal internal control standards. This recommendation was based on GAO finding a lack of processes to verify data collected by HCI on DAWDF recipients, and HCI not having complete and accurate data to meet reporting requirements.⁶¹ Although DoD responded to GAO that improved processes were being adopted to address this issue, HCI's continued need for resources, to include a data analyst, indicate that further support is required to enable DoD to fully and accurately collect data on DAWDF.

Conclusions

DAWDF should be resourced and managed as a multiyear fund from expiring-year, unobligated dollars, to be no less than \$450 million on an annual basis. Multiyear funding provides flexibility and strategic, innovative workforce development opportunities that are not always possible under a 1-year appropriation. Comparative analysis of the various DAWDF funding approaches over the past 10 years shows that when DAWDF is funded by expired funds with multiyear availability, DoD can execute almost all of its funding. At its most stable period in 2016, DAWDF executed 96 percent of available funds.⁶² This multiyear funding approach allows DAWDF initiatives to be resilient to unanticipated events such as sequestration, hiring freezes, and continuing resolutions (CRs). In turn, this resiliency provides stability and continuity in execution. In 2017, GAO found the use of expired funds contributed to DAWDF's stability.⁶³ Recent changes in funding approach place DAWDF at a disadvantage. When DoD managed its workforce with 1-year appropriations pre-DAWDF, the AWF was not able to meet the challenges it faced. The logic behind DAWDF was to provide a framework in which to inject flexibility and innovation in developing a professional workforce. Multiyear availability supported this goal by allowing strategic, long-term AWF planning and development. Stabilizing the size of the workforce appears to be the first step in this long-term plan. Reducing DAWDF to a 1-year appropriation constrains workforce development with exposure to issues such as CRs, sequestration, and budget cuts; disrupts recruitment and retention initiatives; and works against DAWDF's intended purpose.

⁶⁰ Ibid.

⁶¹ GAO, *Defense Acquisition Workforce: DoD Has Opportunities to Further Enhance Use and Management of Development Fund*, GAO-17-332, March 2017, 24, accessed May 8, 2018, <https://www.gao.gov/assets/690/683748.pdf>.

⁶² DoD OUSD(AT&L), *Department of Defense Acquisition Workforce Development Fund, FY 2016 Annual Report to Congress, January 2017*, accessed May 9, 2018, http://www.hci.mil/docs/Policy/Reports%20to%20Congress/FY16_DAWDF_Annual_Report_to_Congress.pdf.

⁶³ GAO, *Defense Acquisition Workforce: DoD Has Opportunities to Further Enhance Use and Management of Development Fund*, GAO-17-332, March 2017, 26, accessed May 8, 2018, <https://www.gao.gov/assets/690/683748.pdf>.

DAWDF stability is derived both from how the fund is resourced and how it is managed, the latter of which can, to a degree, mitigate risks imposed by the former. To maximize the usefulness of DAWDF, its structure and management must be stable and retain the confidence of its users. This stability should be derived from active SBB direction and multiyear availability resourced with expired unobligated funds.

Fundamental changes to DAWDF's current management approach—the Joint Governance Forum and HCI's allocation and management of DAWDF—are necessary. Despite changes regarding how DAWDF has been resourced and managed in the past 10 years, at no time in the funds' history until 2017 have there been insufficient funds for DAWDF initiatives. The challenge of having to prioritize initiatives against the substantial decrease of DAWDF has exposed structural weaknesses in how DAWDF is managed. Current DAWDF management practices are insufficiently robust to withstand the pressure now being leveraged on DAWDF by Congress and DoD Comptroller.

Despite DoD outlining enhancements to its execution reviews, HCI has not improved alignment of initiatives and improved staffing to indicate a clear alignment between DoD's Acquisition Workforce Strategic Plan and DAWDF funding. As cited in GAO's 2017 report on the use and management of DAWDF, these issues remain unresolved.⁶⁴ DAWDF management must be fully supported by the SSB, WMG, and by adequate staffing of HCI. The strategic direction SSB provides to HCI is crucial to HCI's implementation and execution of DAWDF. Without consistent engagement regarding how DoD's strategic AWF goals align to how DAWDF initiatives are prioritized by SSB, DAWDF's use cannot be maximized. Full engagement by SSB, including clear and precise direction as to the strategic priorities of DAWDF, must also be a consistent agenda item. At the operational level of DAWDF, WMG must be empowered to translate SSB's strategic priorities into day-to-day execution of DAWDF at the Military Component and Defense Agency level. To empower WMG, the format of the WMG meetings must enable discussion of strategic priorities as a consistent agenda item. For HCI to have the support to conduct these reviews and for support in data collection, HCI crucially needs additional personnel. HCI should add an individual with experience and qualifications in financial management. This individual could be either a member of staff or the director. If not the director, this individual should lead the midyear and biweekly execution reviews alongside the HCI director. A fund of DAWDF's size and complexity must be supported by the knowledge and experience of complex financial management. Additionally, HCI needs additional support from program managers and data analysts.

DoD's allocation of DAWDF must allow execution of initiatives without the risk of gaps imposed by the midyear review or other structural risks such as 1-year appropriation. Moving to a 100 percent allocation will allow the components to implement their strategic workforce plans amidst DAWDF's structural constraints and changes in resourcing. HCI should revoke funds for nonperforming initiatives at their midyear review.

These recommendations reinforce the purpose of the SSB and WMG as members of the Joint Governance Forum for robust management of DAWDF. Without consistent, clear, and precise strategic direction, DAWDF's current existence at \$400 million is at risk. By providing a strong framework from

⁶⁴ Ibid, 24.

which discussions can occur at the operational and tactical level of fund implementation, DAWDF can be maximized.

Implementation

Legislative Branch

- Establish DAWDF as a permanent, multiyear fund and require it be resourced by expiring, unobligated funds at a level of no less than \$450 million.

Executive Branch

- Provide HCI with additional personnel who possess financial management qualifications and experience.
 - Require the HCI director and/or the deputy director (a new billet would be required for this position) to have financial management qualifications and experience.
 - Require that midyear and biweekly DAWDF execution reviews be led by someone with financial management qualifications and experience.
- Rewrite the *DoD Strategic Workforce Plan FY 2016–FY 2012* to clearly align AWF goals with how DAWDF should be used, applying a bottom-up approach similar to that used as the basis of the *DoD 2008 Strategic Workforce Plan*.
- Require the USD(AS) and USD(RE) to serve as the SSB cochairs.
 - Issue strategic guidance on the uses of DAWDF consistent with the SSB approved Strategic Workforce Plan.
 - Require SSB to approve and review the annual DAWDF budget.
- Structure WMG to be led at the OSD level by both the Assistant Secretary for Acquisition and the Assistant Secretary for Research and Engineering and with the director of HCI serving as executive secretary.
 - Require each Military Service to provide a principal military or civilian acquisition deputy to represent the respective Military Service on WMG.
- Implement federal internal control standards for data collected to inform HCI's annual review.
- Allocate 100 percent of DAWDF monies to Military Services and DoD agencies once HCI receives them from the Comptroller.
- Improve and standardize DAWDF initiative management at HCI level.
 - Provide transparent access to DAWDF financial status for major DAWDF recipients including, for example, total funds received, total funds distributed by component, and total funds distributed by line item. These data should be presented as of a report DAWDF users can easily access.

- Formalize the DAWDF initiative approval process *decision framework* to align with DoD acquisition workforce strategic goals.
- Improve and standardize management of DAWDF initiatives at the Military Service and Defense Agency level.
 - Develop a framework for comparing potential effect of DAWDF proposals to goals set forth in the DoD *Acquisition Workforce Strategic Plan*.
 - Develop metrics to measure return on investment of DAWDF proposals against DoD *Acquisition Workforce Strategic Plan* goals.
 - Formalize and document DAWDF fund manager processes across the Military Services and Defense Agencies using the Army’s model of initiative progress as a standard for best practice.

Implications for Other Agencies

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

Recommendations 25, 26, and 27

RECOMMENDED REPORT LANGUAGE

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

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

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

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

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

RECOMMENDED REPORT LANGUAGE

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

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

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

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

RECOMMENDED REPORT LANGUAGE

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

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

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

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

RECOMMENDED REPORT LANGUAGE

SEC. 1004. Personnel System for Civilian Acquisition Workforce

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

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

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

RECOMMENDED REPORT LANGUAGE

SEC. 1005. Department of Defense Acquisition Workforce Development Fund

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

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

RECOMMENDED REPORT LANGUAGE

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

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

ACQUISITION WORKFORCE — LEGISLATIVE PROVISIONS

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

1 **TITLE X—ACQUISITION WORKFORCE**

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

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

3 **DIRECT HIRING AUTHORITIES.**

4 (a) NEW TITLE 10 SECTIONS.—

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

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

8 **“(a) AUTHORITY.—**

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

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

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

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

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

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

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

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

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

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

17 “(A) Financial management positions.

18 “(B) Accounting positions.

19 “(C) Auditing positions.

20 “(D) Actuarial positions.

21 “(E) Cost estimation positions.

22 “(F) Operational research positions.

23 “(G) Business and business administration positions.

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

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

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

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

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

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

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

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

18 “(d) COVERED INDIVIDUALS FOR BUSINESS TRANSFORMATION AND MANAGEMENT
19 INNOVATION APPOINTMENTS.—The individuals described in this subsection are individuals who
20 have all of the following:

21 “(1) A management or business background.

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

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

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

6 “(1) A Defense Agency.

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

8 “(3) The Joint Staff.

9 “(4) A combatant command.

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

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

12 “(f) NATURE OF APPOINTMENT.—

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

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

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

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

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

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

8 “(h) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

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

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

10 “(b) CYBERSECURITY AND LEGAL PROFESSIONALS.—

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

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

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

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

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

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

9 “(d) TERM APPOINTMENTS.—

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

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

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

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

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

10 “(l) REPORTS.—

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

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

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

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

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

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

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

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

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

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

“1590. Direct hiring authorities.

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

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

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

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

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

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

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

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

9 **SEC. 1002. EMPLOYMENT BY DEPARTMENT OF DEFENSE OF SPECIALLY** 10 **QUALIFIED SCIENTIFIC AND PROFESSIONAL PERSONNEL.**

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

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

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

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

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

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

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

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

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

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

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

17 **SEC. 1003. EXPEDITED HIRING AUTHORITY FOR CERTAIN ACQUISITION** 18 **WORKFORCE POSITIONS.**

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

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

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

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

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

8 “(A) a shortage of candidates;

9 “(B) a critical hiring need; or

10 “(C) a critical skills deficiency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 “(b) AUTHORITY.—

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

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

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

8 “(c) IMPLEMENTATION.—

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

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

19 “(d) COLLECTIVE BARGAINING AGREEMENTS.—

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

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

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

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

9 “(e) REGULATIONS.—

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

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

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

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

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

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

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

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

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

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

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

12 **DEVELOPMENT FUND.**

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

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

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

20 “(d) SOURCE OF FUNDS.—

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

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

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

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

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

12 “(i) for procurement;

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

14 “(iii) for operation and maintenance,

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

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

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

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

3 **(a) POST-EMPLOYMENT REQUIREMENTS.—**

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

6 (A) a heading as follows:

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

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

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

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

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

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

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

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

20 **(b) AWARD PROGRAM.—**

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

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1 (A) a heading as follows:

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

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

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

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

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

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

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

15 (A) a heading as follows:

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

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

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

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

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

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

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

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

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

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

13 “(a) PROGRAM REQUIRED.—

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

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

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

4 “(b) COMPREHENSIVE IMPLEMENTATION PLAN.—

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

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

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

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

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

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

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

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

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

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

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

13 (e) INFORMATION TECHNOLOGY ACQUISITION WORKFORCE.—

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

16 **“§1723a. Information technology acquisition workforce**

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

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

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

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

3 “(b) DEFINITIONS.—In this section:

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

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

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

“1723a. Information technology acquisition workforce.”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (A) a heading as follows:

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

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

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

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

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

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

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

“1749. Training in commercial items procurement.”.

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

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

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

14 (A) a heading as follows:

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

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

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

21 (A) in subsection (a)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTIONS AFFECTED BY THE PROPOSAL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(1) Financial management positions.~~

~~(2) Accounting positions.~~

~~(3) Auditing positions.~~

~~(4) Actuarial positions.~~

~~(5) Cost estimation positions.~~

~~(6) Operational research positions.~~

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

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

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

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

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

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

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

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

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

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

~~(c) REGULATIONS.—~~

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

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

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

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

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

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

~~(e) DEFINITIONS.—In this section:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(e) BRIEFINGS. —~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(d) TERM APPOINTMENTS.—~~

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

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

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

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

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

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

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

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

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

~~(f) (g) COMPENSATION.—~~

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) Input from employees on conditions for renewal.

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

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

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

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

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

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

(†) **(i) SABBATICALS.**—

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

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

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

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

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

~~(l) **TERMINATION.**—~~

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

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

~~(m) IMPLEMENTATION.—~~

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

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

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

~~(n) REPORTS.—~~

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

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

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

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

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

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

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

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

TITLE 5, UNITED STATES CODE

§3104. Employment of specially qualified scientific and professional personnel

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

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

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

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

TITLE 10, UNITED STATES CODE

§1705. Defense Acquisition Workforce Development Fund

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

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

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

(d) ~~ELEMENTS~~ *SOURCE OF FUNDS.*—

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

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

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

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

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

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

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

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

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

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

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

(i) for procurement;

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

(iii) for operation and maintenance.

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

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

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

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

(e) AVAILABILITY OF FUNDS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) RECORDKEEPING REQUIREMENT.—

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

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

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

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

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

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

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

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

(d) DEFINITION.—In this section, the term “post-employment restrictions” includes—

(1) chapter 21 of title 41, United States Code;

(2) section 207 of title 18, United States Code; and

(3) any other statute or regulation restricting the employment or activities of individuals who leave government service in the Department of Defense.

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

SEC. 834. FLEXIBILITY IN CONTRACTING AWARD PROGRAM.

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

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

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

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

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

(a) **ESTABLISHMENT.**—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall establish a team of highly qualified acquisition professionals who shall be available to advise the Under Secretary on actions that can be taken to expedite the acquisition of urgently needed systems.

(b) **DUTIES.**—The issues on which the team may provide advice shall include the following:

- (1) Industrial base issues, including the limited availability of suppliers.
- (2) Technology development and technology transition issues.
- (3) Issues of acquisition policy, including the length of the acquisition cycle.
- (4) Issues of testing policy and ensuring that weapon systems perform properly in combat situations.
- (5) Issues of procurement policy, including the impact of socio-economic requirements.
- (6) Issues relating to compliance with environmental requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 875. INFORMATION TECHNOLOGY ACQUISITION WORKFORCE.

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

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

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

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

(b) **DEFINITIONS.**—In this section:

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

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

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

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

SEC. 1209. TRANSITION PROVISIONS.

(a) ***

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

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

SEC. 803. MODERNIZATION OF SERVICES ACQUISITION.

(a) ***

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

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

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

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

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

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

SEC. 850. TRAINING IN COMMERCIAL ITEMS PROCUREMENT.

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

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

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

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

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

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

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

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

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

(b) **COURSE ELEMENTS.**—

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

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

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

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

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

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

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

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

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

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

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

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

(2) involves—

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

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

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

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

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