

116TH CONGRESS  
1ST SESSION

# H. R. 2944

To amend title 10, United States Code, to establish a public-private exchange program for the acquisition workforce.

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IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2019

Mr. CISNEROS introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to establish a public-private exchange program for the acquisition workforce.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Training Acquisition  
5 Leaders and Elevating New Talent Act of 2019” or the  
6 “TALENT Act”.

1 **SEC. 2. PUBLIC-PRIVATE EXCHANGE PROGRAM FOR THE**  
2 **ACQUISITION WORKFORCE.**

3 (a) IN GENERAL.—Subchapter IV of chapter 87 of  
4 title 10, United States Code, is amended by adding at the  
5 end the following new section:

6 **“§ 1749. Public-private exchange program for the ac-**  
7 **quisition workforce**

8 “(a) ASSIGNMENT AUTHORITY.—(1) The Secretary  
9 may, by rule, establish a program to be known as the  
10 ‘Public-Private Exchange Program for the Acquisition  
11 Workforce’ to temporarily assign a member of the acqui-  
12 sition workforce to a private-sector organization or an em-  
13 ployee of a private-sector organization to the Department  
14 of Defense if—

15 “(A) pursuant to an agreement between the  
16 Secretary, the private-sector organization, and the  
17 individual to be temporarily assigned described in  
18 subsection (b); and

19 “(B) with the consent of the individual to be  
20 temporarily assigned.

21 “(2) Members of the acquisition workforce are eligible  
22 for a temporary assignment under this section as follows:

23 “(A) Civilians in any of grades GS–12 through  
24 GS–15 under the General Schedule or, for employees  
25 participating in the demonstration project under sec-  
26 tion 1762 of this title, the equivalent.

1           “(B) Members of the armed forces serving in  
2           any of pay grades O–3 through O–6.

3           “(3) A private-sector organization shall not be consid-  
4           ered to have a conflict of interest with the Department  
5           of Defense solely because of participation in the program  
6           established under this section.

7           “(b) AGREEMENTS.—(1) An agreement entered into  
8           under this section shall include the following:

9           “(A) The terms and conditions of a temporary  
10          assignment.

11          “(B) In the case of an agreement for the tem-  
12          porary assignment of a member of the acquisition  
13          workforce, a requirement that the member of the ac-  
14          quisition workforce, upon completion of the tem-  
15          porary assignment, will—

16                 “(i) if a member of the armed forces, serve  
17                 in the armed forces for a period equal to twice  
18                 the length of the temporary assignment (in ad-  
19                 dition to any other period of obligated service);  
20                 or

21                 “(ii) if a civilian, serve in the Department  
22                 of Defense, or elsewhere in the civil service if  
23                 approved by the Secretary, for a period equal to  
24                 twice the length of the temporary assignment.

1           “(C) A provision that if the individual to be  
2 temporarily assigned fails to carry out the agree-  
3 ment, such individual shall be liable to the United  
4 States for payment of all expenses of the assign-  
5 ment, unless that failure was for good and sufficient  
6 reason, as determined by the Secretary of Defense.

7           “(D) In the case of an agreement for the tem-  
8 porary assignment of a member of the acquisition  
9 workforce, language ensuring that such member of  
10 the acquisition workforce does not improperly use  
11 pre-decisional or draft deliberative information that  
12 such member may be privy to or aware of related to  
13 Department programing, budgeting, resourcing, ac-  
14 quisition, or procurement for the benefit or advan-  
15 tage of the private-sector organization.

16           “(2) An amount for which an individual is liable  
17 under paragraph (1)(C) shall be treated as a debt due the  
18 United States.

19           “(3) The Secretary may waive, in whole or in part,  
20 collection of a debt described in paragraph (2) based on  
21 a determination that the collection would be against equity  
22 and good conscience and not in the best interests of the  
23 United States, after taking into account any indication of  
24 fraud, misrepresentation, fault, or lack of good faith on  
25 the part of the individual who is liable for the debt.

1       “(c) TERMINATION.—An assignment under this sec-  
2 tion may, at any time and for any reason, be terminated  
3 by the Department of Defense or the private-sector orga-  
4 nization concerned.

5       “(d) DURATION.—(1) Except as provided in para-  
6 graph (2), an assignment under this section shall be for  
7 a period of not more than two years, renewable up to a  
8 total of four years.

9       “(2) An assignment under this section may be for a  
10 period in excess of two years, but not more than four  
11 years, if the Secretary determines that such assignment  
12 is necessary to meet critical mission or program require-  
13 ments.

14       “(3) A member of the acquisition workforce may not  
15 be assigned under this section for more than a total of  
16 four years inclusive of all such assignments.

17       “(e) STATUS OF INDIVIDUALS ASSIGNED TO PRI-  
18 VATE-SECTOR ORGANIZATIONS.—(1) A member of the ac-  
19 quisition workforce who is assigned to a private-sector or-  
20 ganization under this section shall be considered, during  
21 the period of assignment, to be on detail to a regular duty  
22 or work assignment, as applicable, in the Department for  
23 all purposes.

1       “(2) In the case of a civilian member of the acquisi-  
2 tion workforce, the written agreement established under  
3 subsection (b)(1)—

4           “(A) shall address the specific terms and condi-  
5 tions related to the civilian member’s continued sta-  
6 tus as a Federal employee; and

7           “(B) in the case of an assignment of nine  
8 months or longer, shall provide that, if the civilian  
9 member successfully completes the assignment (as  
10 determined by the Secretary), the civilian member  
11 shall be eligible for consideration for placement in a  
12 new position under programs of the Department of  
13 Defense providing priority placement to certain em-  
14 ployees.

15       “(3) With respect to an assignment of a member of  
16 the acquisition workforce under this section, the Sec-  
17 retary—

18           “(A) may, in the case of a civilian member of  
19 the acquisition workforce, provide for the perform-  
20 ance, during the member’s absence, of the normal  
21 duties and functions of that member by making a  
22 temporary or term appointment under general civil  
23 service authorities for such appointments;

24           “(B) shall ensure that the normal duties and  
25 functions of the civilian member of the acquisition

1 workforce described in subparagraph (A) can be rea-  
2 sonably performed by other personnel of the Depart-  
3 ment of Defense without the permanent transfer or  
4 permanent reassignment of other personnel of the  
5 Department of Defense, including members of the  
6 armed forces;

7 “(C) shall ensure that the normal duties and  
8 functions of the acquisition workforce member are  
9 not, as a result of and during the course of such  
10 temporary assignment, performed or augmented by  
11 contractor personnel in violation of the provisions of  
12 section 2461 of this title; and

13 “(D) shall certify that the temporary assign-  
14 ment of the acquisition workforce member will not  
15 have an adverse or negative impact on mission at-  
16 tainment, warfighter support, or organizational ca-  
17 pabilities associated with the assignment.

18 “(f) TERMS AND CONDITIONS FOR PRIVATE-SECTOR  
19 EMPLOYEES.—An employee of a private-Sector organiza-  
20 tion who is assigned to a Department of Defense organiza-  
21 tion under this section—

22 “(1) shall continue to receive pay and benefits  
23 from the private-sector organization from which such  
24 employee is assigned and shall not receive pay or

1 benefits from the Department of Defense, except as  
2 provided in paragraph (2);

3 “(2) is deemed to be an employee of the De-  
4 partment of Defense for the purposes of—

5 “(A) chapters 73 and 81 of title 5;

6 “(B) sections 201, 203, 205, 207, 208,  
7 209, 603, 606, 607, 643, 654, 1905, and 1913  
8 of title 18;

9 “(C) sections 1343, 1344, and 1349(b) of  
10 title 31;

11 “(D) the Federal Tort Claims Act and any  
12 other Federal tort liability statute;

13 “(E) the Ethics in Government Act of  
14 1978; and

15 “(F) chapter 21 of title 41;

16 “(3) shall not have access to any trade secrets  
17 or to any other nonpublic information which is of  
18 commercial value to the private-sector organization  
19 from which such employee is assigned;

20 “(4) may perform work that is considered in-  
21 herently governmental in nature only when requested  
22 in writing by the Secretary of Defense; and

23 “(5) may not be used to circumvent the provi-  
24 sion of section 2461 of this title nor to circumvent



1 any limitation or restriction on the size of the De-  
2 partment's workforce.

3 “(g) PROHIBITION AGAINST CHARGING CERTAIN  
4 COSTS TO THE FEDERAL GOVERNMENT.—A private-sec-  
5 tor organization may not charge the Department or any  
6 other agency of the Federal Government, as direct or indi-  
7 rect costs under a Federal contract, the costs of pay or  
8 benefits paid by the organization to an employee assigned  
9 to a Department organization under this section for the  
10 period of the assignment.

11 “(h) CONSIDERATION OF TRAINING NEEDS FOR  
12 MEMBERS OF THE ACQUISITION WORKFORCE.—In car-  
13 rying out this section, the Secretary of Defense shall take  
14 into consideration how assignments under this section  
15 might best be used to help meet the needs of the Depart-  
16 ment of Defense with respect to the training of members  
17 of the acquisition workforce.

18 “(i) FUNDING; USE OF DEFENSE ACQUISITION  
19 WORKFORCE DEVELOPMENT FUND.—Funds for the ex-  
20 penses for the program established under this section shall  
21 be provided from amounts in the Department of Defense  
22 Acquisition Workforce Development Fund. Expenses for  
23 the program include—

24 “(1) notwithstanding section 1705(e)(5) of this  
25 title, the base salary of a civilian member of the ac-

1       quisition workforce assigned to a private-sector orga-  
2       nization under this section, during the period of that  
3       assignment;

4               “(2) expenses relating to assignment under this  
5       section of a member of the acquisition workforce  
6       away from the member’s regular duty station, in-  
7       cluding expenses for travel, per diem, and lodging;  
8       and

9               “(3) expenses for the administration of the pro-  
10       gram.”.

11               (2) CLERICAL AMENDMENT.—The table of sec-  
12       tions at the beginning of such subchapter is amend-  
13       ed by adding at the end the following new item:

“1749. Public-private exchange program for the acquisition workforce.”.

14               (b) USE OF DEFENSE ACQUISITION WORKFORCE  
15       DEVELOPMENT FUND.—Section 1705(e)(1) of such title  
16       is amended by adding at the end the following new sub-  
17       paragraph:

18               “(C) Amounts in the Fund shall be used to  
19       pay the expenses of the Public-Private Ex-  
20       change Program for the Acquisition Workforce  
21       under section 1749 of this title.”.

22               (c) ACQUISITION WORKFORCE EMPLOYEES EX-  
23       CLUDED FROM PUBLIC-PRIVATE TALENT EXCHANGE.—

1           (1) IN GENERAL.—Section 1599g of such title  
2 is amended by adding at the end the following new  
3 subsection:

4                   “(i) ACQUISITION WORKFORCE EM-  
5 PLOYEES.—An employee of the Depart-  
6 ment of Defense who is eligible for the  
7 Public-Private Exchange Program for the  
8 Acquisition Workforce under section 1749  
9 of this title is not eligible for an assign-  
10 ment under this section.”.

11           (2) APPLICABILITY.—Subsection (i) of section  
12 1599g of title 10, United States Code, as added by  
13 paragraph (1), shall not apply to an employee of the  
14 Department of Defense who entered into an agree-  
15 ment under that section before the date of the enact-  
16 ment of this Act.

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