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112TH CONGRESS
1st Session

SENATE

REPORT
112–21

FEDERAL ACQUISITION INSTITUTE IMPROVEMENT ACT OF 2011

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 762

TO IMPROVE THE FEDERAL ACQUISITION INSTITUTE

JUNE 9, 2011.—Ordered to be printed

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CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	1
III. Legislative History	4
IV. Section-by-Section Analysis	4
V. Evaluation of Regulatory Impact	6
VI. Congressional Budget Office Cost Estimate	6
VII. Changes to Existing Law Made by the Bill, as Reported	7

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JUNE 9, 2011.—Ordered to be printed

Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 762]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 762) to improve the Federal Acquisition Institute, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

I. PURPOSE AND SUMMARY

S. 762 seeks to improve the Federal Acquisition Institute (FAI) by clarifying its organizational structure, mission and functions. FAI was created in 1976 to facilitate and promote career development and training for the acquisition workforce of all civilian agencies. Several factors—including inadequate staffing, limited ability to spend resources on the full range of activities associated with training the acquisition workforce, and a perception in many federal agencies that FAI primarily serves the training needs of the General Services Administration's acquisition workforce—have hindered FAI's ability to fully meet its mission. S. 762 would help remedy these problems and thereby enable FAI to better support the training needs of the civilian acquisition workforce.

II. BACKGROUND AND NEED FOR THE LEGISLATION

Created in 1976 by the Office of Federal Procurement Policy Act (OFPPA),[1] the Federal Acquisition Institute (FAI) provides career training and development for federal workers involved in the procurement of goods and services on behalf of federal civilian agen-

[1] P.L. 93–400, 41. U.S.C. §§ 401–440.

cies. FAI offers training on current laws, regulations, policies, and best practices to a workforce whose members specialize in many acquisition disciplines, including contracting, program management, cost-estimating, logistics, and property management. FAI aims to fully equip its students with the knowledge and skills necessary to procure the best value for the federal government, while at the same time educating them about their legal and ethical responsibilities.

Under the OFPPA, the Office of Federal Procurement Policy (OFPP) (an entity within the Office of Management and Budget (OMB)) has responsibility for "providing for and directing the activities of FAI," but the OFPPA explicitly locates FAI at the General Services Administration (GSA). GSA currently has day-to-day operational responsibility for FAI.

Unfortunately, several factors have kept FAI from fully meeting its mission. To begin with, FAI has had a strikingly small staff relative to the size of the workforce it is supposed to serve. According to an October 27, 2009 OFPP report, civilian agencies employ almost 10,000 contracting professionals and tens of thousands of other acquisition professionals.[2] And, that same report observed, that workforce would have to grow significantly if the government is to keep up with the increase in federal spending, the rising number of contract actions, and the growing complexity of federal procurement.[3] Currently GSA reports that FAI's staff has eight full-time employees. FAI has historically relied on a small number of contractors for support to operate FAI, but even that additional help has not sufficed to fully staff FAI's mission.

The inability of FAI to spend funds available to it also has contributed to FAI's failure to fully meet its mission. FAI gets its budget from the Acquisition Workforce Training Fund (AWTF), which is managed by GSA and funded through fees collected from executive agencies (except for the Department of Defense) under certain government-wide task and delivery order contracts.[4] The Administrator of OFPP has reported that GSA's narrow interpretation of the scope of FAI activities eligible for AWTF funding has hampered the ability to obligate funds on the full range of functions associated with training the acquisition workforce. As discussed below, the bill addresses this issue by making clear the intended, broader scope of FAI activities eligible for AWTF funding.

A lack of organizational clarity has exacerbated FAI's problems. FAI is organizationally housed in and reports to GSA, but its overarching functional responsibilities lie with OFPP. The current unclear lines of authority have led to less-than-ideal performance and accountability for both OFPP and GSA and have impaired FAI's ability to meet the training and workforce development needs of the acquisition workforce of civilian agencies.

Some agencies hold the perception that FAI is primarily a resource for the training of GSA's acquisition workforce—a view that has resulted from FAI's failure to meet those other agencies' acquisition training needs. Indeed, as far back as 1987, GSA itself ac-

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[2] *Acquisition Workforce Development Strategic Plan for Civilian Agencies—FY 2010—2014*, at 1. Section 869 of the National Defense Authorization Act of Fiscal Year 2009 (P.L. 110–417) directed OFPP to issue the report.

[3] *Id.* at 1.

[4] The AWTF was established by the Services Acquisition Reform Act of 2003 (P.L. 108–136 section 1412).

knowledged that its use of FAI for procurement training of GSA employees limited its "ability to carry out overall Institute responsibilities relative to the entire federal workforce."[5] Some agencies have established their own unique and, at times, duplicative training programs in order to fill the training gap resulting from FAI's inability to deliver timely and comprehensive acquisition training. For example, the Veterans Administration has established its own acquisition academy in Frederick, Maryland and the Department of Homeland Security provides training in leased space in Crystal City, Virginia. Other agencies, including the Department of Health and Human Services, contract directly with training vendors to meet the training needs of their acquisition workforce.

S. 762 would address several of these longstanding challenges facing FAI and thereby significantly enhance federal civilian acquisition workforce training. Most importantly, it would require that the Director of FAI be appointed by and report directly to the Administrator of OFPP. It also would strengthen the qualifications required for the Associate Administrator of OFPP for Acquisition Workforce Programs, and would elevate that position by ensuring that it is located at OFPP, and not FAI. This position is responsible for overseeing government-wide acquisition workforce issues, and for supervising the AWTF. Both of these changes would clarify the responsibilities of OMB—the federal government's lead and cross-cutting agency for management—with respect to FAI. These changes also would underscore the intent of Congress that FAI should serve all civilian agencies. At the same time, given the realities of OFPP's limited staff (currently at 14 people), the bill would not disturb the OFPP Administrator's discretion to delegate the operational responsibility of FAI to GSA or any other agency the Administrator deems proper and necessary to fulfill the mission of FAI.[6]

The bill would further strengthen FAI's management by codifying FAI's Board of Directors and requiring that the Board's membership come from the ranks of civilian agency acquisition officials beyond just GSA. And it would underscore FAI's mission as the lead federal civilian acquisition training entity, by requiring it to provide and update government-wide training standards and certification requirements in a timely manner. Although the bill would not authorize any new funding for FAI, it would make it clear that the Acquisition Workforce Training Fund could be used for any purpose under the direction of the OFPP Administrator as allowed in the OFPPA. These changes would send a strong message to civilian agencies that FAI was established to support the training needs of the entire acquisition workforce of federal civilian agencies.

* * *

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[5] *See Assessment of the Office of Federal Procurement Policy*, at 26 (GAO/NSIAD–88–35).

[6] Under 41 U.S.C. § 1122(c)(2)(B), the Administrator of OFPP may delegate to another executive agency the authority, functions, or power of the Administrator assigned to the Administrator under the OFPPA (other than the authority to provide overall direction of federal procurement policy and to prescribe policies and regulations to carry out the policy), with the consent of the executive agency or at the direction of the President.

III. LEGISLATIVE HISTORY

In the 111th Congress, Senators Collins, McCaskill and Bennett (Utah) introduced S. 2902, the Federal Acquisition Institute Improvement Act of 2009, on December 17, 2009. The bill was referred to the Senate Committee on Homeland Security and Governmental Affairs. The Committee ordered the bill reported on July 28, 2010, with a substitute amendment offered by Senator Collins and cosponsored by Senators Akaka, Lieberman, Voinovich, and Brown (of Massachusetts). The Senate passed the bill by unanimous consent on December 13, 2010. On December 14, 2010, the bill was referred to the House Committee on Oversight and Government Reform where no action was taken.

Senators Collins, Akaka, McCaskill and Brown (Massachusetts) introduced S. 762, the Federal Acquisition Institute Improvement Act of 2011, on April 7, 2011. The bill was referred to the Senate Committee on Homeland Security and Governmental Affairs. The Committee considered the bill at its April 13, 2011, business meeting, where it was ordered reported favorably without amendment by voice vote. Members present for the vote were Senators Lieberman, Levin, Akaka, Carper, Begich, Collins, Coburn, McCain, and Johnson.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 designates the short title of the Act as the "Federal Acquisition Institute Improvement Act of 2011."

Section 2. Acquisition workforce improvements

Section 2(a)(1) amends Section 1704(b) of title 41 to strengthen the qualifications of the Associate Administrator for Acquisition Workforce Programs, requiring that the Associate Administrator be chosen on the basis of demonstrated knowledge and expertise in acquisition, human capital, and management.

Section 2(a)(2) strikes language requiring the Associate Administrator for Acquisition Workforce Programs to be located in the Federal Acquisition Institute (FAI). This change clarifies that the Associate Administrator is within the Office of Federal Procurement Policy (OFPP) and elevates this position to be supportive of the OFPP Administrator's leadership of FAI.

Section 2(b) amends Division B of title 41 by adding a new Chapter 12 entitled "the Federal Acquisition Institute."

• Section 1201(a) of Chapter 12 enumerates the functions of FAI, which are currently listed under the functions of the Administrator for OFPP at Section 1122(a)(5)(A) through (J) of title 41. Two new FAI functions are added: the requirement for FAI to collaborate with civilian agency acquisition training programs in order to leverage training supporting all members of the civilian acquisition workforce and the requirement for FAI to assist civilian agencies with their acquisition human capital planning efforts.The new section 1201(a) does not retain the language "which shall be located in the General Services Administration" currently in § 1122(a)(5). This gives the OFPP Administrator needed operational flexibility to determine where to best house FAI, pursuant to the Administrator's delegation authority under § 1122(c)(2)(B). It sends a signal to

all of the civilian agencies that FAI serves their mission and needs as well as those of the General Services Administration (GSA). However, the Office of Federal Procurement Policy Act clearly empowers the OFPP Administrator to designate and oversee whichever civilian agency the Administrator deems proper and necessary to fulfill the mission of FAI; in other words, the OFPP Administrator would have the authority to designate GSA as the host agency for FAI.

- Section 1201(b) adds a new requirement for the OFPP Administrator to recommend to the GSA Administrator sufficient budget resources and authority to support government-wide training standards and certification requirements necessary to enhance the mobility and career opportunities of the federal acquisition workforce. The new paragraph requires the GSA Administrator, subject to the availability of funds, to provide funds from the Acquisition Workforce Training Fund (which GSA administers on behalf of OFPP) sufficient to meet the annual budget of the Federal Acquisition Institute.
- Section 1201(c) clarifies the FAI's governance structure by codifying in statute its Board of Directors. The section states that the FAI shall report through the Board of Directors directly to the Administrator for Federal Procurement Policy. This section directs the Administrator to appoint a Board of Directors comprised of up to eight individuals from the federal government, representing a mix of acquisition functional areas. The section specifies the duties of the Board of Directors as providing general direction to FAI and making recommendations to the OFPP Administrator regarding development and execution of the FAI budget. These roles mirror FAI Board functions as stated in its current non-statutory charter.
- Section 1201(d) states that the Director of FAI shall be appointed by and report directly to the OFPP Administrator. Currently the statute is silent on the appointment of the Director; in practice GSA has appointed the FAI director.
- Section 1201(e) adds a new reporting requirement. The OFPP Administrator is required to submit an annual report to the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate and the Committee on Oversight and Government Reform and the Committee on Appropriations of the House of Representatives on the projected budget needs and expense plans of FAI.

Section 2(c) updates Section 1703 of title 41 by adding a new duty for the OFPP Administrator. It requires the Administrator, acting through FAI, to provide and update government-wide training and certification requirements, develop career path information for certified acquisition professionals to encourage retention in government positions, and manage the rotational assignments of FAI trainees in executive agencies. Additionally, Section 2(c) adds new language at the end of Section 1703 requiring all federal civilian agency acquisition internship or acquisition training programs to follow guidelines provided by OFPP to ensure consistent training standards necessary to develop core competencies throughout the federal government.

Section 2(d) amends Section 1703 of title 41 to expand the scope of the Acquisition Workforce Training Fund to any of the enumerated purposes delineated in the new Section 1201 of title 41.

Section 2(e) includes a rule of construction provision which states that nothing in this section or the amendments made to this section shall preclude the Secretary of Defense from establishing acquisition workforce policies, procedures, training standards, and certification requirements for acquisition positions in the Department of Defense.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill. The Congressional Budget Office states that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect state, local, and tribal governments. The enactment of this legislation will not have significant regulatory impact.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

APRIL 27, 2011.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 762, the Federal Acquisition Institute Improvement Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 762—Federal Acquisition Institute Improvement Act of 2011

S. 762 would modify the Federal Acquisition Institute's (FAI's) role in setting and monitoring standards to train and certify the skills of the federal government's acquisition workforce. The legislation would clarify the objectives of the institute and reorganize some responsibilities of the General Services Administration (GSA), the Office of Management and Budget (OMB), and FAI.

Although the legislation does not provide any new authorities for training the civilian acquisition workforce, CBO expects that complying with the bill's provisions would increase the administrative costs of the Office of Federal Procurement Policy and FAI. Based on information provided by GSA and OMB, CBO estimates that implementing the bill would cost less than $500,000 annually, assuming the availability of appropriated funds.

Pay-as-you-go procedures do not apply because enacting the legislation would not affect direct spending or revenues. S. 762 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VII. CHANGES TO EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 762 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

* * * * * * *

TITLE 41—PUBLIC CONTRACTS

Subtitle Sec. I Federal Procurement Policy

Division B—Office of Federal Procurement Policy

Chapter 11—Establishment of Office and Authority and Functions of Administrator

* * * * * * *

§ 1122. Functions

(a) IN GENERAL.—The functions of the Administrator include—

(1) * * *

(2) * * *

(3) * * *

(4) * * *

(5) providing for and directing the activities of the Federal Acquisition Institute *established under section 1201 of this title,* ¿(including recommending to the Administrator of General Services a sufficient budget for ¿those *such* activities.¿), which shall be located in the General Services Administration, in order to—

¿(A) foster and promote the development of a professional acquisition workforce Government-wide;

¿(B) promote and coordinate Government-wide research and studies to improve the procurement process and the laws, policies, methods, regulations, procedures, and forms relating to acquisition by the executive agencies;

¿(C) collect data and analyze acquisition workforce data from the Office of Personnel Management, from the heads of executive agencies, and, through periodic surveys, from individual employees;

¿(D) periodically analyze acquisition career fields to identify critical competencies, duties, tasks, and related academic prerequisites, skills, and knowledge;

¿(E) coordinate and assist agencies in identifying and recruiting highly qualified candidates for acquisition fields;

¿(F) develop instructional materials for acquisition personnel in coordination with private and public acquisition colleges and training facilities;

¿(G) evaluate the effectiveness of training and career development programs for acquisition personnel;

¿(H) promote the establishment and utilization of academic programs by colleges and universities in acquisition fields;

¿(I) facilitate, to the extent requested by agencies, interagency intern and training programs; and

¿(J) perform other career management or research functions as directed by the Administrator;

* * * * * * *

TITLE 41—PUBLIC CONTRACTS

Subtitle Sec. I Federal Procurement Policy

Division B—Office of Federal Procurement Policy

Chapter 12—Federal Acquisition Institute.

(a) IN GENERAL.—There is established a Federal Acquisition Institute (FAI) in order to—

(1) foster and promote the development of a professional acquisition workforce Government-wide;

(2) promote and coordinate Government-wide research and studies to improve the procurement process and the laws, policies, methods, regulations, procedures, and forms relating to acquisition by the executive agencies;

(3) collect data and analyze acquisition workforce data from the Office of Personnel Management, the heads of executive agencies, and, through periodic surveys, from individual employees;

(4) periodically analyze acquisition career fields to identify critical competencies, duties, tasks, and related academic prerequisites, skills, and knowledge;

(5) coordinate and assist agencies in identifying and recruiting highly qualified candidates for acquisition fields;

(6) develop instructional materials for acquisition personnel in coordination with private and public acquisition colleges and training facilities;

(7) evaluate the effectiveness of training and career development programs for acquisition personnel;

(8) promote the establishment and utilization of academic programs by colleges and universities in acquisition fields;

(9) facilitate, to the extent requested by agencies, interagency and training programs;

(10) collaborate with the other civilian agencies acquisition programs to leverage training supporting all members of the civilian agency acquisition workforce;

(11) assist civilian agencies with their acquisition human capital planning efforts; and

(12) perform other career management or research functions as directed by the Administrator.

(b) BUDGET RESOURCES AND AUTHORITY.—

(1) IN GENERAL.—The Administrator for Federal Procurement Policy shall recommend to the Administrator of the General Services Administration sufficient budget resources and authority for the Federal Acquisition Institute to support Government-wide training standards and certification requirements necessary to enhance the mobility and career opportunities of the Federal acquisition workforce.

(2) ACQUISITION WORKFORCE TRAINING FUND.—Subject to the availability of funds, the Administrator of General Services shall provide the Federal Acquisition Institute with amounts

from the acquisition workforce training fund established under section 1703(i) of this title sufficient to meet the annual budget for the Federal Acquisition Institute requested by the Administrator for Federal Procurement Policy.

(c) FEDERAL ACQUISITION INSTITUTE BOARD OF DIRECTORS.—

(1) REPORTING TO ADMINISTRATOR.—The Federal Acquisition Institute shall report through its Board of Directors directly to the Administrator for Federal Procurement Policy.

(2) COMPOSITION.—The Board shall be composed of not more than 8 individuals from the Federal Government representing a mix of acquisition functional areas, all of whom shall be appointed by the Administrator.

(3) DUTIES.—The Board shall provide general direction to the Federal Acquisition Institute to ensure that the Institute—

(A) meets its statutory requirements;

(B) meets the needs of the Federal acquisition workforce;

(C) implements appropriate programs;

(D) coordinates with appropriate organizations and groups that have an impact on the Federal acquisition workforce;

(E) develops and implements plans to meet future challenges of the Federal acquisition workforce; and

(F) works closely with the Defense Acquisition University.

(4) RECOMMENDATIONS.—The Board shall make recommendations to the Administrator regarding the development and execution of the annual budget of the Federal Acquisition Institute.

(d) DIRECTOR.—The Director of the Federal Acquisition Institute shall be appointed by, and report directly to, the Administrator.

(e) ANNUAL REPORT.—The Administrator shall submit to the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate and the Committee on Government Reform and the Committee of Appropriations of the House of Representatives an annual report on the projected budget needs and expense plans of the Federal Acquisition Institute to fulfill its mandate.

* * * * * * *

TITLE 41—PUBLIC CONTRACTS

Subtitle Sec. I Federal Procurement Policy

Division B—Office of Federal Procurement Policy

* * * * * * *

Chapter 13 * * *

Chapter 15 * * *

Chapter 17 Agency Responsibilities and Procedures

§ 1701. * * *

§ 1702. * * *

§ 1703. Acquisition workforce

(a) * * *
(b) * * *
(c) MANAGEMENT POLICIES.—
(1) * * *
(2) DUTIES OF THE ADMINISTRATOR.—¿The Administrator shall

(A) IN GENERAL.—The Administrator shall issue policies to promote uniform implementation of this section by executive agencies, with due regard for differences in program requirements among agencies that may be appropriate and warranted in view of the agency mission. The Administrator shall coordinate with the Deputy Director for Management of the Office of Management and Budget to ensure that the policies are consistent with the policies and procedures established, and enhanced system of incentives provided, pursuant to section 5051(c) of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355, 108 Stat. 3351). The Administrator shall evaluate the implementation of this section by executive agencies.

(B) GOVERNMENT-WIDE TRAINING STANDARDS AND CERTIFICATION.—The Administrator, acting through the Federal Acquisition Institute, shall provide and update Government-wide training standards and certification requirements, including—

(i) developing and modifying acquisition certification programs;

(ii) ensuring quality assurance for agency implementation of Government-wide training and certifications standards;

(iii) analyzing the acquisition training curriculum to ascertain if all certification competencies are covered or if adjustments are necessary;

(iv) developing career path information for certified professionals to encourage retention in government positions;

(v) coordinating with the Office of Personnel Management for human capital efforts; and

(vi) managing rotation assignments to support opportunities to apply skills included in certification.

(d) * * *
(e) * * *
(f) * * *
(g) * * *
(h) * * *
(i) TRAINING FUND.—

(1) * * *

(2) ESTABLISHMENT AND MANAGEMENT OF FUND.—There is an acquisition workforce training fund. The Administrator of General Services shall manage the fund through the Federal Acquisition Institute ¿to support the training of the acquisition workforce of the executive agencies *to support the activities set forth in section 1201(a) of this title*, except as provided in paragraph (5). The Administrator of General Services shall consult with the Administrator in managing the fund.

(3) * * *

(4) * * *

(5) * * *

(6) AMOUNT TO BE USED FOR OTHER PURPOSES.—The Administrator of General Services, through the Office of Federal Procurement Policy, shall ¿ensure that amounts collected for training under this subsection are not used for a purpose other than the purpose specified in paragraph (2) *ensure that amounts collected under this section are not used for a purpose other than the activities set forth in section 1201(a) of this title.*

(7) * * *

(8) * * *

(j) * * *

(k) * * *

(l) ACQUISITION INTERNSHIP AND TRAINING PROGRAMS.—All Federal civilian agency acquisition internship or acquisition training programs shall follow guidelines provided by the Office of Federal Procurement Policy to ensure consistent standards training standards necessary to develop uniform core competencies throughout the Federal Government.

§ 1704. Planning and policy-making for acquisition workforce

(a) * * *

(b) ASSOCIATE ADMINISTRATOR FOR ACQUISITION WORKFORCE PROGRAMS.—The Administrator shall designate a member of the Senior Executive Service as the Associate Administrator for Acquisition Workforce Programs. *The Associate Administrator shall be chosen on the basis of demonstrated knowledge and expertise in acquisition, human capital, and management.*¿The Associate Administrator shall be located in the Federal Acquisition Institute (or its successor). *The Associate Administrator shall be located in the Office of Federal Procurement Policy.* The Associate Administrator shall be responsible for—

(1) * * *

(2) * * *

(3) * * *

(4) recommending to the Administrator and other senior government officials appropriate programs, policies, and practices to increase the quantity and quality of the Federal acquisition workforce¿; and *;*

(5) Implementing workforce programs under subsections (f) through (k) of section 1703 of this title; and

(¿5 *6*) carrying out other functions that the Administrator may assign.

(c) * * *

(d) * * *
(e) * * *
(f) * * *
(g) * * *
(h) * * *
(i) * * *

§ 1705. * * *

§ 1706. * * *

§ 1707. * * *

§ 1708. * * *

§ 1709. * * *

§ 1710. * * *

§ 1711. * * *

§ 1712. * * *

§ 1713. * * *

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