

(4) existing or potential customers for the good or service other than the United States Government have been specifically identified;

(5) the long-term viability of the venture is not dependent upon a continued Government market or other nonreimbursable Government support; and

(6) private capital is at risk in the venture.

**(b) Termination liability**

(1) Contracts entered into under subsection (a) of this section may provide for the payment of termination liability in the event that the Government terminates such contracts for its convenience.

(2) Contracts that provide for the payment of termination liability, as described in paragraph (1), shall include a fixed schedule of such termination liability payments. Liability under such contracts shall not exceed the total payments which the Government would have made after the date of termination to purchase the good or service if the contract were not terminated.

(3) Subject to appropriations, funds available for such termination liability payments may be used for purchase of the good or service upon successful delivery of the good or service pursuant to the contract. In such case, sufficient funds shall remain available to cover any remaining termination liability.

**(c) Limitations**

(1) Contracts entered into under this section shall not exceed 10 years in duration.

(2) Such contracts shall provide for delivery of the good or service on a firm, fixed price basis.

(3) To the extent practicable, reasonable performance specifications shall be used to define technical requirements in such contracts.

(4) In any such contract, the appropriate Administrator shall reserve the right to completely or partially terminate the contract without payment of such termination liability because of the contractor's actual or anticipated failure to perform its contractual obligations.

(Pub. L. 102-588, title V, §507, Nov. 4, 1992, 106 Stat. 5127.)

“ADMINISTRATOR” DEFINED

Administrator means Administrator of the National Aeronautics and Space Administration, see section 102(f) of Pub. L. 102-588, 106 Stat. 5110.

**§ 5807. Use of Government facilities**

**(a) Authority**

Federal agencies, including the National Aeronautics and Space Administration and the Department of Defense, may allow non-Federal entities to use their space-related facilities on a reimbursable basis if the Administrator, the Secretary of Defense, or the appropriate agency head determines that—

(1) the facilities will be used to support commercial space activities;

(2) such use can be supported by existing or planned Federal resources;

(3) such use is compatible with Federal activities;

(4) equivalent commercial services are not available on reasonable terms; and

(5) such use is consistent with public safety, national security, and international treaty obligations.

In carrying out paragraph (5), each agency head shall consult with appropriate Federal officials.

**(b) Reimbursement payment**

(1) The reimbursement referred to in subsection (a) of this section may be an amount equal to the direct costs (including salaries of United States civilian and contractor personnel) incurred by the United States as a result of the use of such facilities by the private sector. For the purposes of this paragraph, the term “direct costs” means the actual costs that can be unambiguously associated with such use, and would not be borne by the United States Government in the absence of such use.

(2) The amount of any payment received by the United States for use of facilities under this subsection shall be credited to the appropriation from which the cost of providing such facilities was paid.

(Pub. L. 102-588, title V, §508, Nov. 4, 1992, 106 Stat. 5128.)

“ADMINISTRATOR” DEFINED

Administrator means Administrator of the National Aeronautics and Space Administration, see section 102(f) of Pub. L. 102-588, 106 Stat. 5110.

**§ 5808. Commercial Space Achievement Award**

**(a) Establishment**

There is established a Commercial Space Achievement Award. The award shall consist of a medal, which shall be of such design and materials and bear such inscriptions as determined by the Secretary of Commerce. A cash prize may also be awarded if funding for the prize is available under subsection (d) of this section.

**(b) Criteria for award**

The Secretary of Commerce shall periodically make, and the Chairman of the National Space Council shall present, awards under this section to individuals, corporations, corporate divisions, or corporate subsidiaries substantially engaged in commercial space activities who in the opinion of the Secretary of Commerce best meet the following criteria:

(1) For corporate entities, at least one-half of the revenues from the space-related activities of the corporation, division, or subsidiary is derived from sources other than the United States Government.

(2) The activities and achievements of the individual, corporation, division, or subsidiary have substantially contributed to the United States gross national product and the stature of United States industry in international markets, with due consideration for both the economic magnitude and the technical quality of the activities and achievements.

(3) The individual, corporation, division, or subsidiary has substantially advanced space technology and space applications directly related to commercial space activities.

**(c) Limitations**

No individual or corporate entity may receive an award under this section more than once every 5 years.

**(d) Funding for award**

The Secretary of Commerce may seek and accept gifts of money from public and private