§ 3610. Relationship of statutory provisions to State and local laws

Nothing in this chapter may be construed to prevent or limit the authority of any State or local government to enact and enforce any law, ordinance, or code with regard to any condominium, cooperative, or conversion project, if such law, ordinance, or code does not abridge, deny, or contravene any standard for consumer protection established under this chapter. Notwithstanding the preceding sentence, the provisions of this chapter, except for the application of section 3608 of this title and the prohibition included in section 3609 of this title as it relates to a lease with respect to which a cause of action may be established under section 3608 of this title, shall not apply in the case of any State or local government which has the authority to enact and enforce such a law, ordinance, or code, if, during the three-year period following October 8, 1980, such State or local government enacts a law, ordinance, or code, or amendments thereto, stating in substance that such provisions of this chapter shall not apply in that State or local government jurisdiction.

(Pub. L. 96–399, title VI, § 611, Oct. 8, 1980, 94 Stat. 1679.)

§ 3611. Additional remedies

(a) Suits at law or equity

Unless otherwise limited as in section 3607 or 3608 of this title, any person aggrieved by a violation of this chapter may sue at law or in equity.

(b) Recovery of actual damages

In any action authorized by this section for a violation of section 3607 or 3609 of this title where actual damages have been suffered, such damages may be awarded or such other relief granted as deemed fair, just, and equitable.

(c) Contribution

Every person who becomes liable to make any payment under this section may recover contributions from any person who if sued separately, would have been liable to make the same payment.

(d) Amounts recoverable; defendant's attorneys' fees

The amounts recoverable under this section may include interest paid, reasonable attorneys' fees, independent engineer and appraisers' fees, and court costs. A defendant may recover reasonable attorneys' fees if the court determines that the cause of action filed by the plaintiff is frivolous, malicious, or lacking in substantial merit.

(Pub. L. 96–399, title VI, § 612, Oct. 8, 1980, 94 Stat. 1679.)

§ 3612. Concurrent State and Federal jurisdiction; venue; removal of cases

The district courts of the United States, the United States courts of any territory, and the United States District Court for the District of Columbia shall have jurisdiction under this chapter and, concurrent with State courts, of actions at law or in equity brought under this chapter without regard to the amount in controversy. Any such action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the sale took place, and process in such cases may be served in other districts of which the defendant is an inhabitant or wherever the defendant may be found. No case arising under this chapter and brought in any State court of competent jurisdiction shall be removed to any court of the United States, except where any officer or employee of the United States in his official capacity is a party.

(Pub. L. 96–399, title VI, § 613, Oct. 8, 1980, 94 Stat. 1679.)

§ 3613. Limitation of actions

No action shall be maintained to enforce any right or liability created by this chapter unless brought within six years after such cause of action accrued, except that an action pursuant to section 3608 of this title must be brought within four years after October 8, 1980.

(Pub. L. 96–399, title VI, § 614, Oct. 8, 1980, 94 Stat. 1680.)

§ 3614. Waiver of rights as void

Any condition, stipulation, or provision binding any person to waive compliance with any provisions of this chapter shall be void.

(Pub. L. 96–399, title VI, § 615, Oct. 8, 1980, 94 Stat. 1680.)

§ 3615. Nonexclusion of other statutory rights and remedies

The rights and remedies provided by this chapter shall be in addition to any and all other rights and remedies that may exist under Federal or State law.

(Pub. L. 96–399, title VI, § 616, Oct. 8, 1980, 94 Stat. 1680.)

§ 3616. Separability

If any provisions of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter shall not be affected thereby.

(Pub. L. 96–399, title VI, § 617, Oct. 8, 1980, 94 Stat. 1680.)

CHAPTER 63—TECHNOLOGY INNOVATION

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§ 3701. Findings

The Congress finds and declares that:

(1) Technology and industrial innovation are central to the economic, environmental, and social well-being of citizens of the United States.

(2) Technology and industrial innovation offer an improved standard of living, increased public and private sector productivity, creation of new industries and employment opportunities, improved public services and enhanced competitiveness of United States products in world markets.

(3) Many new discoveries and advances in science occur in universities and Federal laboratories, while the application of this new knowledge to commercial and useful public purposes depends largely upon actions by business and labor. Cooperation among academia, Federal laboratories, labor, and industry, in such forms as technology transfer, personnel exchange, joint research projects, and others, should be renewed, expanded, and strengthened.

(4) Small businesses have performed an important role in advancing industrial and technological innovation.

(5) Industrial and technological innovation in the United States may be lagging when compared to historical patterns and other industrialized nations.

(6) Increased industrial and technological innovation would reduce trade deficits, stabilize the dollar, increase productivity gains, increase employment, and stabilize prices.

(7) Government antitrust, economic, trade, patent, procurement, regulatory, research and development, and tax policies have significant impacts upon industrial innovation and development of technology, but there is insufficient knowledge of their effects in particular sectors of the economy.

(8) No comprehensive national policy exists to enhance technological innovation for commercial and public purposes. There is a need for such a policy, including a strong national policy supporting domestic technology transfer and utilization of the science and technology resources of the Federal Government.

(9) It is in the national interest to promote the adaptation of technological innovations to State and local government uses. Technological innovations can improve services, reduce their costs, and increase productivity in State and local governments.

(10) The Federal laboratories and other performers of federally funded research and development frequently provide scientific and technological developments of potential use to State and local governments and private industry. These developments, which include inventions, computer software, and training technologies, should be made accessible to those governments and industry. There is a need to provide means of access and to give adequate personnel and funding support to these means.

(11) The Nation should give fuller recognition to individuals and companies which have made outstanding contributions to the promotion of technology or technological manpower for the improvement of the economic, environmental, or social well-being of the United States.

(Pub. L. 96–480, § 2, Oct. 21, 1980, 94 Stat. 2311; Pub. L. 99–502, § 9(f)(1), Oct. 20, 1986, 100 Stat. 1797.)

AMENDMENTS

1986—Par. (10). Pub. L. 99–502 inserted ", which include inventions, computer software, and training technologies,".

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–404, § 1, Nov. 1, 2000, 114 Stat. 1742, provided that: "This Act [enacting section 7261c of Title 42, The Public Health and Welfare, amending sections 3703, 3704, 3707, 3710, 3710a, 3710c, 3714, and 3715 of this title and sections 200, 202, 207, and 209 of Title 35, Patents, and enacting provisions set out as notes under this section and section 3710a of this title] may be cited as the 'Technology Transfer Commercialization Act of 2000'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–113, § 1, Mar. 7, 1996, 110 Stat. 775, provided that: "This Act [amending sections 272, 278, 278e, 278g–2, 3710, 3710a, 3710c, 3710d, 5401, 5402, 5404 to 5406, 5408, 5409, and 5412 of this title and section 210 of Title 35, Patents, repealing sections 5403 and 5413 of this title, and enacting provisions set out as notes under this section and sections 272 and 275 of this title] may be cited as the 'National Technology Transfer and Advancement Act of 1995'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–245, § 1, Feb. 14, 1992, 106 Stat. 7, provided that: "This Act [enacting sections 1536, 3704b–1, 3704b–2, 3716, and 3717 of this title and section 6618 of Title 42, The Public Health and Welfare, amending sections 272, 278d, 278g, 278g–1, 278k, 278n, 1453, 1454, 3703, 3704, 3704b, 3710, 3710a, 3711a, 4603, 4603a, and 4632 of this title and section 6683 of Title 42, enacting provisions set out as notes under this section, sections 271, 278f, 278n, and 1453 of this title, and section 6611 of Title 42, and amending provisions set out as a note under section 278*l* of this title] may be cited as the 'American Technology Preeminence Act of 1991'."

Pub. L. 102–245, title I, § 101, Feb. 14, 1992, 106 Stat. 7, provided that: ''This title [enacting sections 1536, 3704b–1, and 3704b–2 of this title, amending sections 278d, 278g, 278g–1, 278k, 1453, 1454, 4603, 4603a, and 4632 of this title, enacting provisions set out as notes under this section and sections 278f and 1453 of this title, and amending provisions set out as a note under section 278*l* of this title] may be cited as the 'Technology Administration Authorization Act of 1991'.''

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–189, div. C, title XXXI, § 3131, Nov. 29, 1989, 103 Stat. 1674, provided that: ''This part [part C (§§ 3131–3133) of title XXXI of div. C of Pub. L. 101–189, amending sections 3710, 3710a, and 3710c of this title and enacting provisions set out as notes under this section and section 3710a of this title] may be cited as the 'National Competitiveness Technology Transfer Act of 1989'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–519, title II, § 211, Oct. 24, 1988, 102 Stat. 2594, provided that: ''This subtitle [subtitle B (§§ 211, 212) of title II of Pub. L. 100–519, enacting section 3704b of this title and amending section 3710 of this title] may be cited as the 'National Technical Information Act of 1988'.''

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–107, § 1, Aug. 20, 1987, 101 Stat. 724, provided that: ''This Act [enacting section 3711a of this title, amending section 3708 of this title, and enacting provisions set out as a note under section 3711a of this title] may be cited as the 'Malcolm Baldrige National Quality Improvement Act of 1987'.''

SHORT TITLE OF 1986 AMENDMENTS

Section 1 of Pub. L. 99–502 provided that: ''This Act [enacting sections 3710a to 3710d of this title, amending this section, sections 3702 to 3705, 3707, 3708, 3710 to 3710d, and 3711 to 3714 of this title, and section 210 of Title 35, Patents, and repealing section 3709 of this title] may be cited as the 'Federal Technology Transfer Act of 1986'. ''

Pub. L. 99–382, § 1, Aug. 14, 1986, 100 Stat. 811, provided: ''That this Act [amending section 3704 of this title] may be cited as the 'Japanese Technical Literature Act of 1986'.''

SHORT TITLE

Section 1 of Pub. L. 96–480 provided: ''That this Act [enacting this chapter] may be cited as the 'Stevenson-Wydler Technology Innovation Act of 1980'.''

STUDY ON ECONOMIC COMPETITIVENESS AND INNOVATIVE CAPACITY OF UNITED STATES AND DEVELOPMENT OF NATIONAL ECONOMIC COMPETITIVENESS STRATEGY

Pub. L. 111–358, title VI, § 604, Jan. 4, 2011, 124 Stat. 4037, provided that:

''(a) STUDY.—

''(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act [Jan. 4, 2011], the Secretary of Commerce shall complete a comprehensive study of the economic competitiveness and innovative capacity of the United States.

''(2) MATTERS COVERED.—The study required by paragraph (1) shall include the following:

''(A) An analysis of the United States economy and innovation infrastructure.

''(B) An assessment of the following:

''(i) The current competitive and innovation performance of the United States economy relative to other countries that compete economically with the United States.

''(ii) Economic competitiveness and domestic innovation in the current business climate, including tax and Federal regulatory policy.

''(iii) The business climate of the United States and those of other countries that compete economically with the United States.

''(iv) Regional issues that influence the economic competitiveness and innovation capacity of the United States, including—

''(I) the roles of State and local governments and institutions of higher education; and

''(II) regional factors that contribute positively to innovation.

''(v) The effectiveness of the Federal Government in supporting and promoting economic competitiveness and innovation, including any duplicative efforts of, or gaps in coverage between, Federal agencies and departments.

''(vi) Barriers to competitiveness in newly emerging business or technology sectors, factors influencing underperforming economic sectors, unique issues facing small and medium enterprises, and barriers to the development and evolution of start-ups, firms, and industries.

''(vii) The effects of domestic and international trade policy on the competitiveness of the United States and the United States economy.

''(viii) United States export promotion and export finance programs relative to export promotion and export finance programs of other countries that compete economically with the United States, including Canada, France, Germany, Italy, Japan, Korea, and the United Kingdom, with noting of export promotion and export finance programs carried out by such countries that are not analogous to any programs carried out by the United States.

''(ix) The effectiveness of current policies and programs affecting exports, including an assessment of Federal trade restrictions and State and Federal export promotion activities.

''(x) The effectiveness of the Federal Government and Federally funded research and development centers in supporting and promoting technology commercialization and technology transfer.

''(xi) Domestic and international intellectual property policies and practices.

''(xii) Manufacturing capacity, logistics, and supply chain dynamics of major export sectors, including access to a skilled workforce, physical infrastructure, and broadband network infrastructure.

''(xiii) Federal and State policies relating to science, technology, and education and other relevant Federal and State policies designed to promote commercial innovation, including immigration policies.

''(C) Development of recommendations on the following:

''(i) How the United States should invest in human capital.

''(ii) How the United States should facilitate entrepreneurship and innovation.

''(iii) How best to develop opportunities for locally and regionally driven innovation by providing Federal support.

''(iv) How best to strengthen the economic infrastructure and industrial base of the United States.

''(v) How to improve the international competitiveness of the United States.

''(3) CONSULTATION.—

''(A) IN GENERAL.—The study required by paragraph (1) shall be conducted in consultation with the National Economic Council of the Office of Policy Development, such Federal agencies as the Secretary considers appropriate, and the Innovation Advisory Board established under subparagraph (B). The Secretary shall also establish a process for obtaining comments from the public.

''(B) INNOVATION ADVISORY BOARD.—

''(i) IN GENERAL.—The Secretary shall establish an Innovation Advisory Board for purposes of obtaining advice with respect to the conduct of the study required by paragraph (1).

''(ii) COMPOSITION.—The Advisory Board established under clause (i) shall be comprised of 15 members, appointed by the Secretary—

''(I) who shall represent all major industry sectors;

''(II) a majority of whom should be from private industry, including large and small firms, representing advanced technology sectors and more traditional sectors that use technology; and

''(III) who may include economic or innovation policy experts, State and local government officials active in technology-based economic development, and representatives from higher education.

''(iii) EXEMPTION FROM FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board established under clause (i).

''(b) STRATEGY.—

''(1) IN GENERAL.—Not later than 1 year after the completion of the study required by subsection (a), the Secretary shall develop, based on the study required by subsection (a)(1), a national 10-year strategy to strengthen the innovative and competitive capacity of the Federal Government, State and local governments, United States institutions of higher education, and the private sector of the United States.

''(2) ELEMENTS.—The strategy required by paragraph (1) shall include the following:

''(A) Actions to be taken by individual Federal agencies and departments to improve competitiveness.

''(B) Proposed legislative actions for consideration by Congress.

''(C) Annual goals and milestones for the 10-year period of the strategy.

''(D) A plan for monitoring the progress of the Federal Government with respect to improving conditions for innovation and the competitiveness of the United States.

''(c) REPORT.—

''(1) IN GENERAL.—Upon the completion of the strategy required by subsection (b), the Secretary of Commerce shall submit to Congress and the President a report on the study conducted under subsection (a) and the strategy developed under subsection (b).

''(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

''(A) The findings of the Secretary with respect to the study conducted under subsection (a).

''(B) The strategy required by subsection (b).''

PROMOTING USE OF HIGH-END COMPUTING SIMULATION AND MODELING BY SMALL- AND MEDIUM-SIZED MANUFACTURERS

Pub. L. 111–358, title VI, § 605, Jan. 4, 2011, 124 Stat. 4040, provided that:

''(a) FINDINGS.—Congress finds that—

''(1) the utilization of high-end computing simulation and modeling by large-scale government contractors and Federal research entities has resulted in substantial improvements in the development of advanced manufacturing technologies; and

''(2) such simulation and modeling would also benefit small- and medium-sized manufacturers in the United States if such manufacturers were to deploy such simulation and modeling throughout their manufacturing chains.

''(b) POLICY.—It is the policy of the United States to take all effective measures practicable to ensure that Federal programs and policies encourage and contribute to the use of high-end computing simulation and modeling in the United States manufacturing sector.

''(c) STUDY.—

''(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act [Jan. 4, 2011], the Secretary of Commerce, in consultation with the Secretary of Energy and the Director of the Office of Science and Technology Policy, shall carry out, through an interagency consulting process, a study of the barriers to the use of high-end computing simulation and modeling by small- and medium-sized manufacturers in the United States.

''(2) FACTORS.—In carrying out the study required by paragraph (1), the Secretary of Commerce, in consultation with the Secretary of Energy and the Director of the Office of Science and Technology Policy, shall consider the following:

''(A) The access of small- and medium-sized manufacturers in the United States to high-performance computing facilities and resources.

''(B) The availability of software and other applications tailored to meet the needs of such manufacturers.

''(C) Whether such manufacturers employ or have access to individuals with appropriate expertise for the use of such facilities and resources.

''(D) Whether such manufacturers have access to training to develop such expertise.

''(E) The availability of tools and other methods to such manufacturers to understand and manage the costs and risks associated with transitioning to the use of such facilities and resources.

''(3) REPORT.—Not later than 270 days after the commencement of the study required by paragraph (1), the Secretary of Commerce shall, in consultation with the Secretary of Energy and the Director of the Office of Science and Technology Policy, submit to Congress a report on such study. Such report shall include such recommendations for such legislative or administrative action as the Secretary of Commerce considers appropriate in light of the study to increase the utilization of high-end computing simulation and modeling by small- and medium-sized manufacturers in the United States.

''(d) AUTHORIZATION OF DEMONSTRATION AND PILOT PROGRAMS.—As part of the study required by subsection (c)(1), the Secretary of Commerce, the Secretary of Energy, and the Director of the Office of Science and Technology Policy may carry out such demonstration or pilot programs as either [the] Secretary or the Director considers appropriate to gather experiential data to evaluate the feasibility and advisability of a specific program or policy initiative to reduce barriers to the utilization of high-end computer modeling and simulation by small- and medium-sized manufacturers in the United States.''

CONGRESSIONAL FINDINGS; 2000 AMENDMENT

Pub. L. 106–404, § 2, Nov. 1, 2000, 114 Stat. 1742, provided that: ''The Congress finds that—

''(1) the importance of linking our unparalleled network of over 700 Federal laboratories and our Nation's universities with United States industry continues to hold great promise for our future economic prosperity;

''(2) the enactment of the Bayh-Dole Act [35 U.S.C. 200 et seq.] in 1980 was a landmark change in United States technology policy, and its success provides a framework for removing bureaucratic barriers and for simplifying the granting of licenses for inventions that are now in the Federal Government's patent portfolio;

''(3) Congress has demonstrated a commitment over the past 2 decades to fostering technology transfer from our Federal laboratories and to promoting public/private sector partnerships to enhance our international competitiveness;

''(4) Federal technology transfer activities have strengthened the ability of United States industry to compete in the global marketplace; developed a new paradigm for greater collaboration among the scientific enterprises that conduct our Nation's research and development—government, industry, and universities; and improved the quality of life for the American people, from medicine to materials;

''(5) the technology transfer process must be made 'industry friendly' for companies to be willing to in-

vest the significant time and resources needed to develop new products, processes, and jobs using federally funded inventions; and

''(6) Federal technology licensing procedures should balance the public policy needs of adequately protecting the rights of the public, encouraging companies to develop existing government inventions, and making the entire system of licensing government technologies more consistent and simple.''

CONGRESSIONAL FINDINGS; 1996 AMENDMENT

Pub. L. 104–113, § 2, Mar. 7, 1996, 110 Stat. 775, provided that: ''The Congress finds the following:

''(1) Bringing technology and industrial innovation to the marketplace is central to the economic, environmental, and social well-being of the people of the United States.

''(2) The Federal Government can help United States business to speed the development of new products and processes by entering into cooperative research and development agreements which make available the assistance of Federal laboratories to the private sector, but the commercialization of technology and industrial innovation in the United States depends upon actions by business.

''(3) The commercialization of technology and industrial innovation in the United States will be enhanced if companies, in return for reasonable compensation to the Federal Government, can more easily obtain exclusive licenses to inventions which develop as a result of cooperative research with scientists employed by Federal laboratories.''

DEFINITIONS OF TERMS; 1992 AMENDMENT

Pub. L. 102–245, § 2, Feb. 14, 1992, 106 Stat. 7, provided that: ''As used in this Act [see Short Title of 1992 Amendment note above]—

''(1) the term 'high-resolution information systems' means equipment and techniques required to create, store, recover, and play back high-resolution images and accompanying sound;

''(2) the term 'advanced manufacturing technology' means numerically-controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving manufacturing and industrial processes;

''(3) the term 'advanced materials' means a field of research including the study of composites, ceramics, metals, polymers, superconducting materials, materials produced through biotechnology, and materials production technologies, including coated systems, that provide the potential for significant advantages over existing materials;

''(4) the term 'Institute' means the National Institute of Standards and Technology;

''(5) the term 'Secretary' means the Secretary of Commerce; and

''(6) the term 'Under Secretary' means the Under Secretary of Commerce for Technology.''

CONGRESSIONAL STATEMENT OF POLICY; 1992 AMENDMENT

Pub. L. 102–245, title I, § 102, Feb. 14, 1992, 106 Stat. 7, provided that: ''Congress finds that in order to help United States industries to speed the development of new products and processes so as to maintain the economic competitiveness of the Nation, it is necessary to strengthen the programs and activities of the Department of Commerce's Technology Administration and National Institute of Standards and Technology.''

NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY

Pub. L. 102–245, title IV, § 401, Feb. 14, 1992, 106 Stat. 21, provided that:

''(a) ESTABLISHMENT AND PURPOSE.—There is established a National Commission on Reducing Capital Costs for Emerging Technology (hereafter in this section referred to as the 'Commission'), for the purpose of developing recommendations to increase the competitiveness of United States industry by encouraging investments in research, the development of new process and product technologies, and the production of those technologies.

''(b) ISSUES.—The function of the Commission shall be to address the following issues:

''(1) How has the overall cost of capital paid by United States companies differed during the past decade from that paid by companies in other industrial economies such as Germany, Japan, and the United Kingdom?

''(2) To what extent has the cost of capital faced by technology companies differed from the overall cost of capital in each of these nations during the same period?

''(3) To what extent do high capital costs in general inhibit investment in projects with long-term payoffs, such as the development and commercialization of new technology?

''(4) To what extent does the structure of the financial services industry in the United States affect the flow of capital to advanced technology investment, and to what extent do current practices in the equity markets raise the cost of capital and inhibit the availability of capital to fund research and development, purchase advanced manufacturing equipment, and fund other investments necessary to commercialize advanced technology?

''(5) In what ways do Government regulations influence the cost of capital in the United States?

''(6) To what extent have national differences in capital costs facilitated the foreign acquisition of technology-based United States companies?

''(7) What macroeconomic and other policies would promote greater investment in advanced manufacturing techniques, in research and development, and in other activities necessary to commercialize and produce new technologies?

''(8) What specific policies should the Federal Government follow in order to reduce the cost of capital for United States companies to levels that are near parity with those faced by the Nation's principal trading partners?

''(c) MEMBERSHIP.—(1) The Commission shall be composed of 9 members who are eminent in such fields as advanced technology, manufacturing, finance, and international economics and who are appointed as follows:

''(A) 3 individuals appointed by the President, one of whom shall chair the Commission.

''(B) 3 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

''(C) 3 individuals appointed by the President pro tempore of the Senate, 2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate.

''(2) Each member shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

''(d) PROCEDURES.—(1) The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act [Feb. 14, 1992].

''(2) Recommendations of the Commission shall require the approval of three-quarters of the members of the Commission.

''(3) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

''(4) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

''(e) REPORTS.—The Commission shall, within 1 year after the date of enactment of this Act [Feb. 14, 1992], submit to the President and Congress a report containing legislative and other recommendations with respect to the issues addressed under subsection (b).

''(f) CONSULTATION.—The Commission shall consult, as appropriate, with the Commission on Technology and Procurement established by section 505 of this Act [set out below].

''(g) TERMINATION.—The Commission shall terminate 6 months after the submission of its report under subsection (e).

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992 and 1993.''

RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY

Pub. L. 102–245, title V, § 505, Feb. 14, 1992, 106 Stat. 25, provided that:

''(a) ESTABLISHMENT OF COMMISSION.—The Secretary, in consultation with the Administrator of the Office of Federal Procurement Policy, shall establish a Commission on Technology and Procurement (hereafter in this section referred to as the 'Commission'), for the purposes of analyzing the effect of Federal Government procurement laws, procedures, and policies on the development of advanced technologies within the United States and making recommendations on how Federal policy could be changed to promote further the development of advanced technologies.

''(b) ISSUES.—The Commission shall address the following issues:

''(1) To what extent, if any, should Federal Government technology purchase strategies be used to give domestic suppliers a competitive advantage in new generations of existing technologies and in initial market penetration for new technologies?

''(2) Under what conditions can Federal Government purchases of advanced technology-based products be based on performance specifications rather than on product specifications? Should Federal Government procurement first look to the commercial markets for products that will meet performance specifications before purchasing a unique product that has to be developed?

''(3) How can the Federal Government procurement laws, practices, and procedures be used as a strategic tool to foster the use of emerging technologies?

''(4) How can the Federal Government ensure that its suppliers adopt the principles embodied in the Malcolm Baldrige National Quality Award?

''(5) Should Federal Government procurement practices include cooperative efforts between the supplier and the Federal entity to develop products so as to be more easily marketed on a commercial basis? Should a program for the exchange of technical personnel to foster innovation in product development be part of such practices?

''(6) To what extent, if any, should Federal Government documents specify standards that are beneficial to domestic suppliers, aid the compatibility of advanced technologies, and speed the commercial acceptance of those technologies, and what would be the role of the Institute in such an effort?

''(7) Should Federal Government procurement be linked to the Advanced Technology Program and to technology transfer activities so that specification development can incorporate the latest technical advances available?

''(8) To what extent should worldwide, state of the art technology be required in Federal Government procurement?

''(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 15 members, 8 of whom shall constitute a quorum.

''(2) The Secretary, the Administrator of the Office of Federal Procurement Policy, the Director of the Office of Science and Technology Policy, the Secretary of Defense, and the Administrator of General Services, or their designees who serve in executive level positions, shall serve as members of the Commission.

''(3) The Secretary shall appoint as members of the Commission, from among individuals not employed by the Federal Government—

''(A) 4 members who are eminent in advanced technology businesses representing manufacturing and services industries, including at least 1 member representing labor;

''(B) 3 members who are eminent in the fields of technology and international economic development; and

''(C) with the concurrence of the Administrator of the Office of Federal Procurement Policy, 3 members who are eminent in the field of Federal Government procurement.

''(4) The Secretary shall appoint a Commission chairman from among the members of the Commission. The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act [Feb. 14, 1992].

''(5) The Secretary and the Administrator of the Office of Federal Procurement Policy shall provide such staff as may be required by the Commission to carry out its responsibilities.

''(6) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

''(d) REPORTS.—(1) The Commission shall, within 1 year after the date of enactment of this Act [Feb. 14, 1992], submit to the Secretary, the Administrator of the Office of Federal Procurement Policy, the President, and Congress a report containing preliminary recommendations with respect to the issues addressed under subsection (b).

''(2) The Commission shall, within 2 years after the date of enactment of this Act, submit to the Secretary and Congress a final report containing final recommendations with respect to the issues addressed under subsection (b).

''(e) CONSULTATION.—The Commission shall consult, as appropriate, with the National Commission on Reducing Capital Costs for Emerging Technology.

''(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its final report under subsection (d)(2).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992, 1993, and 1994.''

STUDY OF TESTING AND CERTIFICATION

Pub. L. 102–245, title V, § 508, Feb. 14, 1992, 106 Stat. 29, provided that:

''(a) CONTRACT WITH NATIONAL RESEARCH COUNCIL.—Within 90 days after the date of enactment of this Act [Feb. 14, 1992] and within available appropriations, the Secretary shall enter into a contract with the National Research Council for a thorough review of international product testing and certification issues. The National Research Council will be asked to address the following issues and make recommendations as appropriate:

''(1) The impact on United States manufacturers, testing and certification laboratories, certification organizations, and other affected bodies of the European Community's plans for testing and certification of regulated and nonregulated products of non-European origin.

''(2) Ways for United States manufacturers to gain acceptance of their products in the European Community and in other foreign countries and regions.

''(3) The feasibility and consequences of having mutual recognition agreements between testing and certification organizations in the United States and

those of major trading partners on the accreditation of testing and certification laboratories and on quality control requirements.

''(4) Information coordination regarding product acceptance and conformity assessment mechanisms between the United States and foreign governments.

''(5) The appropriate Federal, State, and private roles in coordination and oversight of testing, certification, accreditation, and quality control to support national and international trade.

''(b) MEMBERSHIP.—In selecting the members of the review panel, the National Research Council shall consult with and draw from, among others, laboratory accreditation organizations, Federal and State government agencies involved in testing and certification, professional societies, trade associations, small business, and labor organizations.

''(c) REPORT.—A report based on the findings and recommendations of the review panel shall be submitted to the Secretary, the President, and Congress within 18 months after the Secretary signs the contract with the National Research Council.''

CONGRESSIONAL FINDINGS AND PURPOSES; 1989 AMENDMENT

Pub. L. 101–189, div. C, title XXXI, § 3132, Nov. 29, 1989, 103 Stat. 1674, provided that:

''(a) FINDINGS.—Congress finds that—

''(1) technology advancement is a key component in the growth of the United States industrial economy, and a strong industrial base is an essential element of the security of this country;

''(2) there is a need to enhance United States competitiveness in both domestic and international markets;

''(3) innovation and the rapid application of commercially valuable technology are assuming a more significant role in near-term marketplace success;

''(4) the Federal laboratories and other facilities have outstanding capabilities in a variety of advanced technologies and skilled scientists, engineers, and technicians who could contribute substantially to the posture of United States industry in international competition;

''(5) improved opportunities for cooperative research and development agreements between contractor-managers of certain Federal laboratories and the private sector in the United States, consistent with the program missions at those facilities, particularly the national security functions involved in atomic energy defense activities, would contribute to our national well-being; and

''(6) more effective cooperation between those laboratories and the private sector in the United States is required to provide speed and certainty in the technology transfer process.

''(b) PURPOSES.—The purposes of this part [part C (§§ 3131–3133) of title XXXI of div. C of Pub. L. 101–189, see Short Title of 1989 Amendment note above] are to—

''(1) enhance United States national security by promoting technology transfer between Government-owned, contractor-operated laboratories and the private sector in the United States; and

''(2) enhance collaboration between universities, the private sector, and Government-owned, contractor-operated laboratories in order to foster the development of technologies in areas of significant economic potential.''

EX. ORD. NO. 13185. TO STRENGTHEN THE FEDERAL GOVERNMENT-UNIVERSITY RESEARCH PARTNERSHIP

Ex. Ord. No. 13185, Dec. 28, 2000, 66 F.R. 701, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to keep the Federal Government-University research partnership strong, it is hereby ordered as follows:

SECTION 1. *Principles of the Government-University Partnership*. The partnership in science and technology that has evolved between the Federal Government and American universities has yielded benefits that are vital to each. It continues to prove exceptionally productive, successfully promoting the discovery of knowledge, stimulating technological innovation, improving the quality of life, educating and training the next generation of scientists and engineers, and contributing to America's economic prosperity and national security. In order to reaffirm and strengthen this partnership, this order sets forth the following guiding and operating principles that are fully described in the April 1999 National Science and Technology Council report, ''Renewing the Government-University Partnership.'' These principles shall provide the framework for the development and analysis of all future Federal policies, rules, and regulations for the Federal Government-University research partnership.

(a) The guiding principles that shall govern interactions between the Federal Government and universities that perform research are:

(1) Research is an investment in the future;

(2) The integration of research and education is vital;

(3) Excellence is promoted when investments are guided by merit review; and

(4) Research must be conducted with integrity.

(b) The operating principles that shall assist agencies, universities, individual researchers, and auditing and regulatory bodies in implementing the guiding principles are:

(1) Agency cost-sharing policies and practices must be transparent;

(2) Partners should respect the merit review process;

(3) Agencies and universities should manage research in a cost-efficient manner;

(4) Accountability and accounting are not the same;

(5) The benefits of simplicity in policies and practices should be weighed against the costs;

(6) Change should be justified by need and the process made transparent.

(c) Each executive branch department or agency that supports research at universities shall regularly review its existing policies and procedures to ensure that they meet the spirit and intent of the guiding and operating principles stated above.

SEC. 2. *Office of Science and Technology (OSTP) Review of the Government-University Research Partnership*. (a) The OSTP, in conjunction with the National Science and Technology Council, shall conduct a regular review of the Government-University research partnership and prepare a report on the status of the partnership. The OSTP should receive input from all departments or agencies that have a major impact on the Government-University partnership through their support of research and education, policy making, regulatory activities, and research administration. In addition, OSTP may seek the input of the National Science Board and the President's Committee of Advisors for Science and Technology, as well as other stakeholders, such as State and local governments, industry, the National Academy of Sciences, and the Federal Demonstration Partnership.

(b) The purpose of the review and the report is to determine the overall health of the Government-University research partnership, being mindful of the guiding and operating principles stated above. The report should include recommendations on how to improve the Government-University partnership.

(c) The Director of OSTP shall deliver the report to the President.

SEC. 3. *Judicial Review*. This order does not create any enforceable rights against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

§ 3702. Purpose

It is the purpose of this chapter to improve the economic, environmental, and social well-being of the United States by—

(1) establishing organizations in the executive branch to study and stimulate technology;

(2) promoting technology development through the establishment of cooperative research centers;

(3) stimulating improved utilization of federally funded technology developments, including inventions, software, and training technologies, by State and local governments and the private sector;

(4) providing encouragement for the development of technology through the recognition of individuals and companies which have made outstanding contributions in technology; and

(5) encouraging the exchange of scientific and technical personnel among academia, industry, and Federal laboratories.

(Pub. L. 96–480, § 3, Oct. 21, 1980, 94 Stat. 2312; Pub. L. 99–502, § 9(b)(1), (f)(2), Oct. 20, 1986, 100 Stat. 1795, 1797.)

AMENDMENTS

1986—Par. (2). Pub. L. 99–502, § 9(b)(1), substituted ''cooperative research centers'' for ''centers for industrial technology''.

Par. (3). Pub. L. 99–502, § 9(f)(2), inserted '', including inventions, software, and training technologies,''.

§ 3703. Definitions

As used in this chapter, unless the context otherwise requires, the term—

(1) ''Secretary'' means the Secretary of Commerce.

(2) ''Centers'' means the Cooperative Research Centers established under section 3705 or 3707 of this title.

(3) ''Nonprofit institution'' means an organization owned and operated exclusively for scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(4) ''Federal laboratory'' means any laboratory, any federally funded research and development center, or any center established under section 3705 or 3707 of this title that is owned, leased, or otherwise used by a Federal agency and funded by the Federal Government, whether operated by the Government or by a contractor.

(5) ''Supporting agency'' means either the Department of Commerce or the National Science Foundation, as appropriate.

(6) ''Federal agency'' means any executive agency as defined in section 105 of title 5 and the military departments as defined in section 102 of such title, as well as any agency of the legislative branch of the Federal Government.

(7) ''Invention'' means any invention or discovery which is or may be patentable or otherwise protected under title 35 or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

(8) ''Made'' when used in conjunction with any invention means the conception or first actual reduction to practice of such invention.

(9) ''Small business firm'' means a small business concern as defined in section 632 of this title and implementing regulations of the Administrator of the Small Business Administration.

(10) ''Training technology'' means computer software and related materials which are developed by a Federal agency to train employees of such agency, including but not limited to software for computer-based instructional systems and for interactive video disc systems.

(11) ''Clearinghouse'' means the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation established by section 3704a of this title.

(Pub. L. 96–480, § 4, Oct. 21, 1980, 94 Stat. 2312; Pub. L. 99–502, § 9(b)(2), (d), Oct. 20, 1986, 100 Stat. 1795, 1796; Pub. L. 100–418, title V, § 5122(b), Aug. 23, 1988, 102 Stat. 1439; Pub. L. 100–519, title II, § 201(d)(1), Oct. 24, 1988, 102 Stat. 2594; Pub. L. 102–245, title III, § 304, Feb. 14, 1992, 106 Stat. 20; Pub. L. 106–404, § 7(1), (2), Nov. 1, 2000, 114 Stat. 1745; Pub. L. 110–69, title III, § 3002(c)(3), Aug. 9, 2007, 121 Stat. 586.)

REFERENCES IN TEXT

The Plant Variety Protection Act, referred to in par. (7), is Pub. L. 91–577, Dec. 24, 1970, 84 Stat. 1542, as amended, which is classified principally to chapter 57 (§ 2321 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2321 of Title 7 and Tables.

AMENDMENTS

2007—Pub. L. 110–69 redesignated pars. (2) and (4) to (13) as (1) and (2) to (11), respectively, and struck out pars. (1) and (3) which defined ''Office'' and ''Under Secretary'', respectively.

2000—Pars. (4), (6). Pub. L. 106–404 made technical amendments to references in original act which appear in text as references to sections 3705 and 3707 of this title.

1992—Par. (8). Pub. L. 102–245 inserted before period at end '', as well as any agency of the legislative branch of the Federal Government''.

1988—Par. (1). Pub. L. 100–519, § 201(d)(1)(A), substituted ''Technology Policy'' for ''Productivity, Technology, and Innovation''.

Par. (3). Pub. L. 100–519, § 201(d)(1)(B), amended par. (3) generally, substituting provisions defining ''Under Secretary'' for provisions defining ''Assistant Secretary''.

Par. (13). Pub. L. 100–418 added par. (13).

1986—Par. (1). Pub. L. 99–502, § 9(b)(2)(A), substituted ''Productivity, Technology, and Innovation'' for ''Industrial Technology''.

Par. (3). Pub. L. 99–502, § 9(b)(2)(B), substituted '''Assistant Secretary' means the Assistant Secretary for Productivity, Technology, and Innovation'' for '''Director' means the Director of the Office of Industrial Technology''.

Par. (4). Pub. L. 99–502, § 9(b)(2)(C), substituted ''Cooperative Research Centers'' for ''Centers for Industrial Technology''.

Par. (6). Pub. L. 99–502, § 9(b)(2)(D), (E), redesignated par. (7) as (6), substituted ''owned, leased, or otherwise used by a Federal agency and funded'' for ''owned and funded'', and struck out former par. (6) which defined ''Board'' to mean the National Industrial Technology Board established pursuant to section 3709 of this title.

Pars. (7) to (12). Pub. L. 99–502, § 9(b)(2)(D), (d), redesignated pars. (7) and (8) as (6) and (7), respectively, and added pars. (8) to (12).

§ 3704. Experimental program to stimulate competitive technology

(a) Program establishment

(1) In general

Beginning in fiscal year 1999, the Secretary shall establish a program to be known as the Experimental Program to Stimulate Competi-

tive Technology (referred to in this subsection as the ''program''). The purpose of the program shall be to strengthen the technological competitiveness of those States that have historically received less Federal research and development funds than those received by a majority of the States.

(2) Arrangements

In carrying out the program, the Secretary shall—

(A) enter into such arrangements as may be necessary to provide for the coordination of the program through the State committees established under the Experimental Program to Stimulate Competitive Research of the National Science Foundation; and

(B) cooperate with—

(i) any State science and technology council established under the program under subparagraph (A); and

(ii) representatives of small business firms and other appropriate technology-based businesses.

(3) Grants and cooperative agreements

In carrying out the program, the Secretary may make grants or enter into cooperative agreements to provide for—

(A) technology research and development;

(B) technology transfer from university research;

(C) technology deployment and diffusion; and

(D) the strengthening of technological capabilities through consortia comprised of—

(i) technology-based small business firms;

(ii) industries and emerging companies;

(iii) universities; and

(iv) State and local development agencies and entities.

(4) Requirements for making awards

(A) In general

In making awards under this subsection, the Secretary shall ensure that the awards are awarded on a competitive basis that includes a review of the merits of the activities that are the subject of the award.

(B) Matching requirement

The non-Federal share of the activities (other than planning activities) carried out under an award under this subsection shall be not less than 25 percent of the cost of those activities.

(5) Criteria for States

The Secretary shall establish criteria for achievement by each State that participates in the program. Upon the achievement of all such criteria, a State shall cease to be eligible to participate in the program.

(b) Coordination

To the extent practicable, in carrying out subsection (a), the Secretary shall coordinate the program with other programs of the Department of Commerce.

(c) Minority Serving Institution Digital and Wireless Technology Opportunity Program

(1) In general

The Secretary shall establish a Minority Serving Institution Digital and Wireless Technology Opportunity Program that awards grants, cooperative agreements, and contracts to eligible institutions to enable the eligible institutions in acquiring, and augmenting the institutions' use of, digital and wireless networking technologies to improve the quality and delivery of educational services at eligible institutions.

(2) Application and review procedures

(A) In general

To be eligible to receive a grant, cooperative agreement, or contract under this subsection, an eligible institution shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application, at a minimum, shall include a description of how the funds will be used, including a description of any digital and wireless networking technology to be acquired, and a description of how the institution will ensure that digital and wireless networking technology will be made accessible to, and employed by, students, faculty, and administrators. The Secretary, consistent with subparagraph (C) and in consultation with the advisory council established under subparagraph (B), shall establish procedures to review such applications. The Secretary shall publish the application requirements and review criteria in the Federal Register, along with a statement describing the availability of funds.

(B) Advisory council

The Secretary shall establish an advisory council to advise the Secretary on the best approaches to encourage maximum participation by eligible institutions in the program established under paragraph (1), and on the procedures to review applications submitted to the program. In selecting the members of the advisory council, the Secretary shall consult with representatives of appropriate organizations, including representatives of eligible institutions, to ensure that the membership of the advisory council includes representatives of minority businesses and eligible institution communities. The Secretary shall also consult with experts in digital and wireless networking technology to ensure that such expertise is represented on the advisory council.

(C) Review panels

Each application submitted under this subsection by an eligible institution shall be reviewed by a panel of individuals selected by the Secretary to judge the quality and merit of the proposal, including the extent to which the eligible institution can effectively and successfully utilize the proposed grant, cooperative agreement, or contract to carry out the program described in paragraph (1). The Secretary shall ensure that the review panels include representatives of minority serving institutions and others who are knowledgeable about eligible institutions and technology issues. The Secretary shall ensure that no individual assigned under this subsection to review any

application has a conflict of interest with regard to that application. The Secretary shall take into consideration the recommendations of the review panel in determining whether to award a grant, cooperative agreement, or contract to an eligible institution.

(3) Awards

(A) Limitation

An eligible institution that receives a grant, cooperative agreement, or contract under this subsection that exceeds $2,500,000 shall not be eligible to receive another grant, cooperative agreement, or contract under this subsection.

(B) Consortia

Grants, cooperative agreements, and contracts may only be awarded to eligible institutions. Eligible institutions may seek funding under this subsection for consortia, which may include other eligible institutions, a State or a State educational agency, local educational agencies, institutions of higher education, community-based organizations, national nonprofit organizations, or businesses, including minority businesses.

(C) Planning grants

The Secretary may provide funds to develop strategic plans to implement grants, cooperative agreements, or contracts awarded under this subsection.

(D) Institutional diversity

In awarding grants, cooperative agreements, and contracts to eligible institutions, the Secretary shall ensure, to the extent practicable, that awards are made to all types of institutions eligible for assistance under this subsection.

(E) Need

In awarding funds under this subsection, the Secretary shall give priority to the eligible institution with the greatest demonstrated need for assistance.

(4) Authorized activities

An eligible institution may use a grant, cooperative agreement, or contract awarded under this subsection—

(A) to acquire equipment, instrumentation, networking capability, hardware and software, digital network technology, wireless technology, and infrastructure to further the objective of the program described in paragraph (1);

(B) to develop and provide training, education, and professional development programs, including faculty development, to increase the use of, and usefulness of, digital and wireless networking technology;

(C) to provide teacher education, including the provision of preservice teacher training and in-service professional development at eligible institutions, library and media specialist training, and preschool and teacher aid certification to individuals who seek to acquire or enhance technology skills in order to use digital and wireless networking technology in the classroom or instructional process, including instruction in science, mathematics, engineering, and technology subjects;

(D) to obtain capacity-building technical assistance, including through remote technical support, technical assistance workshops, and distance learning services; or

(E) to foster the use of digital and wireless networking technology to improve research and education, including scientific, mathematics, engineering, and technology instruction.

(5) Information dissemination

The Secretary shall convene an annual meeting of eligible institutions receiving grants, cooperative agreements, or contracts under this subsection to foster collaboration and capacity-building activities among eligible institutions.

(6) Matching requirement

The Secretary may not award a grant, cooperative agreement, or contract to an eligible institution under this subsection unless such institution agrees that, with respect to the costs incurred by the institution in carrying out the program for which the grant, cooperative agreement, or contract was awarded, such institution shall make available, directly, or through donations from public or private entities, non-Federal contributions in an amount equal to 25 percent of the grant, cooperative agreement, or contract awarded by the Secretary, or $500,000, whichever is the lesser amount. The Secretary shall waive the matching requirement for any institution or consortium with no endowment, or an endowment that has a current dollar value lower than $50,000,000.

(7) Annual report and assessments

(A) Annual report required from recipients

Each eligible institution that receives a grant, cooperative agreement, or contract awarded under this subsection shall provide an annual report to the Secretary on its use of the grant, cooperative agreement, or contract.

(B) Independent assessments

(i) Contract to conduct assessments

Not later than 6 months after August 14, 2008, the Secretary shall enter into a contract with the National Academy of Public Administration to conduct periodic assessments of the program established under paragraph (1). The assessments shall be conducted once every 3 years during the 10-year period following August 14, 2008.

(ii) Evaluations and recommendations

The assessments described in clause (i) shall include—

(I) an evaluation of the effectiveness of the program established under paragraph (1) in improving the education and training of students, faculty, and staff at eligible institutions that have been awarded grants, cooperative agreements, or contracts under the program;

(II) an evaluation of the effectiveness of the program in improving access to,

and familiarity with, digital and wireless networking technology for students, faculty, and staff at all eligible institutions;

(III) an evaluation of the procedures established under paragraph (2)(A); and

(IV) recommendations for improving the program, including recommendations concerning the continuing need for Federal support.

(iii) Review of reports

In carrying out the assessments under this subparagraph, the National Academy of Public Administration shall review the reports submitted to the Secretary under subparagraph (A).

(iv) Report to Congress

Upon completion of each assessment under this subparagraph, the Secretary shall transmit the assessment to Congress along with a summary of the Secretary's plans, if any, to implement the recommendations of the National Academy of Public Administration.

(8) Definitions

In this subsection:

(A) Digital and wireless networking technology

The term ''digital and wireless networking technology'' means computer and communications equipment and software that facilitates the transmission of information in a digital format.

(B) Eligible institution

The term ''eligible institution'' means an institution that is—

(i) a part B institution, as defined in section 1061(2) of title 20, an institution identified in subparagraph (A), (B), or (C) of section 1063b(e)(1) of title 20, or a consortium of institutions described in this clause;

(ii) a Hispanic-serving institution, as defined in section 1101a(a)(5) of title 20;

(iii) a Tribal College or University, as defined in section 1059c(b)(3) of title 20;

(iv) an Alaska Native-serving institution, as defined in section 1059d(b) of title 20;

(v) a Native Hawaiian-serving institution, as defined in section 1059d(b) of title 20;

(vi) a Predominately Black Institution, as defined in section 1059e of title 20;

(vii) a Native American-serving, nontribal institution, as defined in section 1059f of title 20;

(viii) an Asian American and Native American Pacific Islander-serving institution, as defined in section 1059g of title 20; or

(ix) a minority institution, as defined in section 1067k of title 20, with an enrollment of needy students, as defined in section 1058(d) of title 20.

(C) Institution of higher education

The term ''institution of higher education'' has the meaning given the term in section 1001 of title 20.

(D) Local educational agency

The term ''local educational agency'' has the meaning given the term in section 7801 of title 20.

(E) Minority business

The term ''minority business'' includes HUBZone small business concerns (as defined in section 632(p) of this title).

(F) Minority individual

The term ''minority individual'' means an American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), or Pacific Islander individual.

(G) State

The term ''State'' has the meaning given the term in section 7801 of title 20.

(H) State educational agency

The term ''State educational agency'' has the meaning given the term in section 7801 of title 20.

(Pub. L. 96–480, § 5, Oct. 21, 1980, 94 Stat. 2312; Pub. L. 99–382, § 2, Aug. 14, 1986, 100 Stat. 811; Pub. L. 99–502, § 9(b)(3)–(5), (e)(2)(A), Oct. 20, 1986, 100 Stat. 1795, 1797; Pub. L. 100–519, title II, § 201(a)–(c), (d)(2), Oct. 24, 1988, 102 Stat. 2593, 2594; Pub. L. 102–245, title III, § 306, Feb. 14, 1992, 106 Stat. 20; Pub. L. 105–309, § 9, Oct. 30, 1998, 112 Stat. 2938; Pub. L. 106–404, § 7(3), Nov. 1, 2000, 114 Stat. 1745; Pub. L. 110–69, title III, § 3002(a), Aug. 9, 2007, 121 Stat. 586; Pub. L. 110–315, title IX, § 971, Aug. 14, 2008, 122 Stat. 3473.)

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–315 added subsec. (c).

2007—Pub. L. 110–69, § 3002(a)(5), substituted ''Experimental program to stimulate competitive technology'' for ''Commerce and technological innovation'' in section catchline.

Subsec. (a). Pub. L. 110–69, § 3002(a)(3)(B), (E), substituted ''Program establishment'' for ''Experimental Program to Stimulate Competitive Technology'' in heading and struck out '', acting through the Under Secretary,'' after ''Secretary'' wherever appearing in text.

Pub. L. 110–69, § 3002(a)(1), (2), redesignated subsec. (f) as (a) and struck out former subsec. (a) which related to the establishment of a Technology Administration within the Department of Commerce.

Subsec. (a)(1). Pub. L. 110–69, § 3002(a)(3)(A), substituted ''Beginning in fiscal year 1999, the Secretary shall establish'' for ''The Secretary, acting through the Under Secretary, shall establish for fiscal year 1999''.

Subsec. (a)(6). Pub. L. 110–69, § 3002(a)(3)(C), redesignated par. (6) as subsec. (b).

Subsec. (a)(7). Pub. L. 110–69, § 3002(a)(3)(D), struck out par. (7) which required the Under Secretary of Commerce for Technology to submit a report on the Experimental Program to Stimulate Competitive Technology no later than 90 days after Oct. 30, 1998.

Subsec. (b). Pub. L. 110–69, § 3002(a)(1), (3)(C), (4), redesignated subsec. (a)(6) as (b), substituted ''subsection (a)'' for ''this subsection'', and struck out former subsec. (b) which related to appointment of Under Secretary of Commerce for Technology and Assistant Secretary of Commerce for Technology Policy.

Subsecs. (c) to (e). Pub. L. 110–69, § 3002(a)(1), struck out subsecs. (c) to (e) which related, respectively, to duties of the Secretary, Japanese technical literature, and a progress report required within 3 years after Oct. 21, 1980.

Subsec. (f). Pub. L. 110–69, § 3002(a)(2), redesignated subsec. (f) as (a).

2000—Subsec. (c)(11). Pub. L. 106–404 substituted ''State or local governments'' for ''State of local governments''.

1998—Subsec. (f). Pub. L. 105–309 added subsec. (f).

1992—Subsec. (c)(13) to (15). Pub. L. 102–245 added par. (13) and redesignated former pars. (13) and (14) as (14) and (15), respectively.

1988—Subsec. (a). Pub. L. 100–519, § 201(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The Secretary shall establish and maintain an Office of Productivity, Technology, and Innovation in accordance with the provisions, findings, and purposes of this chapter.''

Subsec. (b). Pub. L. 100–519, § 201(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The President shall appoint, by and with the advice and consent of the Senate, an Assistant Secretary for Productivity, Technology, and Innovation.''

Subsec. (c). Pub. L. 100–519, § 201(c)(2), substituted ''Under Secretary, as appropriate,'' for ''Assistant Secretary, on a continuing basis,'' in introductory provisions.

Subsec. (c)(1) to (9). Pub. L. 100–519, § 201(c)(1), (2), added pars. (1) to (4) and redesignated former pars. (1) to (5) as (5) to (9), respectively. Former pars. (6) to (9) redesignated (10) to (13), respectively.

Subsec. (c)(10). Pub. L. 100–519, § 201(c)(1), (3), redesignated former par. (6) as (10) and substituted ''Under Secretary'' for ''Assistant Secretary''. Former par. (10) redesignated (14).

Subsec. (c)(11) to (14). Pub. L. 100–519, § 201(c)(1), redesignated former pars. (7) to (10) as (11) to (14), respectively.

Subsec. (d)(1). Pub. L. 100–519, § 201(d)(2), substituted ''and the Under Secretary shall establish, and through the National Technical Information Service and with the cooperation of'' for ''shall establish and, through the National Technical Information Service and''.

1986—Subsec. (a). Pub. L. 99–502, § 9(b)(3), substituted ''Office of Productivity, Technology, and Innovation'' for ''Office of Industrial Technology''.

Subsec. (b). Pub. L. 99–502, § 9(b)(4), substituted ''an Assistant Secretary for Productivity, Technology, and Innovation'' for ''a Director of the Office, who shall be compensated at the rate provided for level V of the Executive Schedule in section 5316 of title 5''.

Subsec. (c). Pub. L. 99–502, § 9(b)(5)(A), substituted ''the Assistant Secretary'' for ''the Director'' in provisions preceding par. (1).

Subsec. (c)(6). Pub. L. 99–502, § 9(b)(5)(A), substituted ''the Assistant Secretary'' for ''the Director''.

Subsec. (c)(7) to (10). Pub. L. 99–502, § 9(b)(5)(B), (C), added pars. (7) and (8) and redesignated former pars. (7) and (8) as (9) and (10), respectively.

Subsec. (d). Pub. L. 99–382, § 2(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 99–502, § 9(e)(2)(A), which directed the insertion of ''(as then in effect)'' in subsec. (d), was executed to subsec. (e) to reflect the probable intent of Congress in view of the redesignation of subsec. (d) as (e) by Pub. L. 99–382.

Pub. L. 99–382, § 2(1), redesignated subsec. (d) as (e).

CONSTRUCTION

Pub. L. 110–69, title III, § 3002(b), Aug. 9, 2007, 121 Stat. 586, provided that: ''The amendments made by subsection (a) [amending this section] shall not be construed to eliminate the National Institute of Standards and Technology or the National Technical Information Service.''

TRANSITION PROVISION

Pub. L. 100–519, title II, § 201(e), Oct. 24, 1988, 102 Stat. 2594, provided that: ''The individual serving as the Assistant Secretary of Commerce for Productivity, Technology, and Innovation immediately before the date of enactment of this Act [Oct. 24, 1988] shall serve as Acting Assistant Secretary of Commerce for Technology Policy until the Assistant Secretary takes office.''

COMMERCIAL SPACE PROGRAMS

Pub. L. 100–519, title II, § 201(f), as added by Pub. L. 100–685, title II, § 219, Nov. 17, 1988, 102 Stat. 4095, provided that: ''Nothing in this section [amending this section, sections 3703 and 3710 of this title, and section 5314 of Title 5, Government Organization and Employees, and enacting provisions formerly set out as a note above] authorizes the Department to establish an Office of Commercial Space Programs or to place such an office into the Technology Administration without prior authorization of the Congress.''

§ 3704a. Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation

(a) Establishment

There is established within the Office of Productivity, Technology, and Innovation a Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation. The Clearinghouse shall serve as a central repository of information on initiatives by State and local governments to enhance the competitiveness of American business through the stimulation of productivity, technology, and innovation and Federal efforts to assist State and local governments to enhance competitiveness.

(b) Responsibilities

The Clearinghouse may—

(1) establish relationships with State and local governments, and regional and multistate organizations of such governments, which carry out such initiatives;

(2) collect information on the nature, extent, and effects of such initiatives, particularly information useful to the Congress, Federal agencies, State and local governments, regional and multistate organizations of such governments, businesses, and the public throughout the United States;

(3) disseminate information collected under paragraph (2) through reports, directories, handbooks, conferences, and seminars;

(4) provide technical assistance and advice to such governments with respect to such initiatives, including assistance in determining sources of assistance from Federal agencies which may be available to support such initiatives;

(5) study ways in which Federal agencies, including Federal laboratories, are able to use their existing policies and programs to assist State and local governments, and regional and multistate organizations of such governments, to enhance the competitiveness of American business;

(6) make periodic recommendations to the Secretary, and to other Federal agencies upon their request, concerning modifications in Federal policies and programs which would improve Federal assistance to State and local technology and business assistance programs;

(7) develop methodologies to evaluate State and local programs, and, when requested, advise State and local governments, and regional and multistate organizations of such governments, as to which programs are most effective in enhancing the competitiveness of

American business through the stimulation of productivity, technology, and innovation; and

(8) make use of, and disseminate, the nationwide study of State industrial extension programs conducted by the Secretary.

(c) Contracts

In carrying out subsection (b) of this section, the Secretary may enter into contracts for the purpose of collecting information on the nature, extent, and effects of initiatives.

(Pub. L. 96–480, § 6, as added Pub. L. 100–418, title V, § 5122(a)(2), Aug. 23, 1988, 102 Stat. 1438.)

CODIFICATION

Subsec. (d) of this section, which required the Secretary to prepare and transmit a triennial report to Congress, including recommendations to the President, Congress, and Federal agencies, on initiatives by State and local governments to enhance the competitiveness of American businesses through the stimulation of productivity, technology, and innovation, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 50 of House Document No. 103–7.

§ 3704b. National Technical Information Service

(a) Powers

(1) The Secretary of Commerce, acting through the Director of the National Technical Information Service (hereafter in this section referred to as the ''Director'') is authorized to do the following:

(A) Enter into such contracts, cooperative agreements, joint ventures, and other transactions, in accordance with all relevant provisions of Federal law applicable to such contracts and agreements, and under reasonable terms and conditions, as may be necessary in the conduct of the business of the National Technical Information Service (hereafter in this section referred to as the ''Service'').

(B) In addition to the authority regarding fees contained in section 2 of the Act entitled ''An Act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes'' enacted September 9, 1950 (15 U.S.C. 1152), retain and, subject to appropriations Acts, utilize its net revenues to the extent necessary to implement the plan submitted under subsection (f)(3)(D) of this section.

(C) Enter into contracts for the performance of part or all of the functions performed by the Promotion Division of the Service prior to October 24, 1988. The details of any such contract, and a statement of its effect on the operations and personnel of the Service, shall be provided to the appropriate committees of the Congress 30 days in advance of the execution of such contract.

(D) Employ such personnel as may be necessary to conduct the business of the Service.

(E) For the period of October 1, 1991 through September 30, 1992, only, retain and use all earned and unearned monies heretofore or hereafter received, including receipts, revenues, and advanced payments and deposits, to fund all obligations and expenses, including inventories and capital equipment. An increase or decrease in the personnel of the Service shall not affect or be affected by any ceilings on the number or grade of personnel.

(2) The functions and activities of the Service specified in subsection (e)(1) through (6) of this section are permanent Federal functions to be carried out by the Secretary through the Service and its employees, and shall not be transferred from the Service, by contract or otherwise, to the private sector on a permanent or temporary basis without express approval of the Congress. Functions or activities—

(A) for the procurement of supplies, materials, and equipment by the Service;

(B) referred to in paragraph (1)(C); or

(C) to be performed through joint ventures or cooperative agreements which do not result in a reduction in the Federal workforce of the affected programs of the service,[1]

shall not be considered functions or activities for purposes of this paragraph.

(3) For the purposes of this subsection, the term ''net revenues'' means the excess of revenues and receipts from any source, other than royalties and other income described in section 3710c(a)(4)[2] of this title, over operating expenses.

(4) Omitted.

(b) Director of the Service

The management of the Service shall be vested in a Director who shall report to the Director of the National Institute of Standards and Technology and the Secretary of Commerce.

(c) Advisory Board

(1) There is established the Advisory Board of the National Technical Information Service, which shall be composed of a chairman and four other members appointed by the Secretary.

(2) In appointing members of the Advisory Board the Secretary shall solicit recommendations from the major users and beneficiaries of the Service's activities and shall select individuals experienced in providing or utilizing technical information.

(3) The Advisory Board shall review the general policies and operations of the Service, including policies in connection with fees and charges for its services, and shall advise the Secretary and the Director with respect thereto.

(4) The Advisory Board shall meet at the call of the Secretary, but not less often than once each six months.

(d) Audits

The Secretary of Commerce shall provide for annual independent audits of the Service's financial statements beginning with fiscal year 1988, to be conducted in accordance with generally accepted accounting principles.

(e) Functions

The Secretary of Commerce, acting through the Service, shall—

(1) establish and maintain a permanent repository of nonclassified scientific, technical, and engineering information;

(2) cooperate and coordinate its operations with other Government scientific, technical, and engineering information programs;

[1] So in original. Probably should be capitalized.

[2] See References in Text note below.

(3) make selected bibliographic information products available in a timely manner to depository libraries as part of the Depository Library Program of the Government Printing Office;

(4) in conjunction with the private sector as appropriate, collect, translate into English, and disseminate unclassified foreign scientific, technical, and engineering information;

(5) implement new methods or media for the dissemination of scientific, technical, and engineering information, including producing and disseminating information products in electronic format; and

(6) carry out the functions and activities of the Secretary under the Act entitled ''An Act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes'' enacted September 9, 1950 [15 U.S.C. 1151 et seq.], and the functions and activities of the Secretary performed through the National Technical Information Service as of October 24, 1988, under this chapter.

(f) Notification of Congress

(1) The Secretary of Commerce and the Director shall keep the appropriate committees of Congress fully and currently informed about all activities related to the carrying out of the functions of the Service, including changes in fee policies.

(2) Within 90 days after October 24, 1988, the Secretary of Commerce shall submit to the Congress a report on the current fee structure of the Service, including an explanation of the basis for the fees, taking into consideration all applicable costs, and the adequacy of the fees, along with reasons for the declining sales at the Service of scientific, technical, and engineering publications. Such report shall explain any actions planned or taken to increase such sales at reasonable fees.

(3) The Secretary shall submit an annual report to the Congress which shall—

(A) summarize the operations of the Service during the preceding year, including financial details and staff levels broken down by major activities;

(B) detail the operating plan of the Service, including specific expense and staff needs, for the upcoming year;

(C) set forth details of modernization progress made in the preceding year;

(D) describe the long-term modernization plans of the Service; and

(E) include the results of the most recent annual audit carried out under subsection (d) of this section.

(4) The Secretary shall also give the Congress detailed advance notice of not less than 30 calendar days of—

(A) any proposed reduction-in-force;

(B) any joint venture or cooperative agreement which involves a financial incentive to the joint venturer or contractor; and

(C) any change in the operating plan submitted under paragraph (3)(B) which would result in a variation from such plan with respect to expense levels of more than 10 percent.

(Pub. L. 100–519, title II, § 212, Oct. 24, 1988, 102 Stat. 2594; Pub. L. 102–140, title II, Oct. 28, 1991, 105 Stat. 804; Pub. L. 102–245, title V, § 506(c), Feb. 14, 1992, 106 Stat. 27; Pub. L. 110–161, div. B, title I, § 109, Dec. 26, 2007, 121 Stat. 1893.)

REFERENCES IN TEXT

This section, referred to in subsec. (a)(1), was in the original ''this subtitle'', meaning subtitle B (§§ 211, 212) of title II of Pub. L. 100–519, Oct. 24, 1988, 102 Stat. 2594, which enacted section 3704b of this title and amended section 3710 of this title. For complete classification of this subtitle to the Code, see Short Title of 1988 Amendment note set out under section 3701 of this title and Tables.

Section 3710c(a)(4) of this title, referred to in subsec. (a)(3), was in the original a reference to section 13(a)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 which was translated as reading section 14(a)(4) of the Act to reflect the probable intent of Congress and the renumbering of section 13 of the Act as section 14 by section 5122(a)(1) of Pub. L. 100–418.

The Act entitled ''An Act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes'' enacted September 9, 1950, referred to in subsec. (e)(6), is act Sept. 9, 1950, ch. 936, 64 Stat. 823, as amended, which is classified generally to chapter 23 (§ 1151 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the National Technical Information Act of 1988, and not as part of the Stevenson-Wydler Technology Innovation Act of 1980 which comprises this chapter.

Subsec. (a)(4) of this section repealed subsec. (h) of section 3710 of this title.

AMENDMENTS

2007—Subsec. (b). Pub. L. 110–161 substituted ''Director of the National Institute of Standards and Technology'' for ''Under Secretary of Commerce for Technology''.

1992—Subsec. (e)(5). Pub. L. 102–245 inserted '', including producing and disseminating information products in electronic format'' after ''engineering information''.

1991—Subsec. (a)(1)(E). Pub. L. 102–140 added subpar. (E).

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

NATIONAL TECHNICAL INFORMATION SERVICE REVOLVING FUND

Pub. L. 102–395, title II, Oct. 6, 1992, 106 Stat. 1853, provided that: ''For establishment of a National Technical Information Service Revolving Fund, $8,000,000 without fiscal year limitation: *Provided*, That unexpended balances in Information Products and Services shall be transferred to and merged with this account, to remain available until expended. Notwithstanding 15 U.S.C. 1525 and 1526, all payments collected by the National Technical Information Service in performing its activities authorized by chapters 23 and 63 of title 15 of the United States Code shall be credited to this Revolving Fund. Without further appropriations action, all expenses incurred in performing the activities of the National Technical Information Service, including mod-

ernization, capital equipment and inventory, shall be paid from the fund. A business-type budget for the fund shall be prepared in the manner prescribed by 31 U.S.C. 9103.''

§ 3704b–1. Recovery of operating costs through fee collections

Operating costs for the National Technical Information Service associated with the acquisition, processing, storage, bibliographic control, and archiving of information and documents shall be recovered primarily through the collection of fees.

(Pub. L. 102–245, title I, § 103(c), Feb. 14, 1992, 106 Stat. 8.)

CODIFICATION

Section was enacted as part of the American Technology Preeminence Act of 1991, and not as part of the Stevenson-Wydler Technology Innovation Act of 1980 which comprises this chapter.

§ 3704b–2. Transfer of Federal scientific and technical information

(a) Transfer

The head of each Federal executive department or agency shall transfer in a timely manner to the National Technical Information Service unclassified scientific, technical, and engineering information which results from federally funded research and development activities for dissemination to the private sector, academia, State and local governments, and Federal agencies. Only information which would otherwise be available for public dissemination shall be transferred under this subsection. Such information shall include technical reports and information, computer software, application assessments generated pursuant to section 3710(c) of this title, and information regarding training technology and other federally owned or originated technologies. The Secretary shall issue regulations within one year after February 14, 1992, outlining procedures for the ongoing transfer of such information to the National Technical Information Service.

(b) Omitted

(Pub. L. 102–245, title I, § 108, Feb. 14, 1992, 106 Stat. 13.)

CODIFICATION

Subsec. (b) of this section, which required the Secretary, as part of the annual report required under section 3704b(f)(3) of this title, to report to Congress on the status of efforts under this section to ensure access to Federal scientific and technical information by the public, was omitted because of termination of the annual report. See Codification note set out after section 3704b of this title.

Section was enacted as part of the American Technology Preeminence Act of 1991, and not as part of the Stevenson-Wydler Technology Innovation Act of 1980 which comprises this chapter.

§ 3705. Cooperative Research Centers

(a) Establishment

The Secretary shall provide assistance for the establishment of Cooperative Research Centers. Such Centers shall be affiliated with any university, or other nonprofit institution, or group thereof, that applies for and is awarded a grant or enters into a cooperative agreement under this section. The objective of the Centers is to enhance technological innovation through—

(1) the participation of individuals from industry and universities in cooperative technological innovation activities;

(2) the development of the generic research base, important for technological advance and innovative activity, in which individual firms have little incentive to invest, but which may have significant economic or strategic importance, such as manufacturing technology;

(3) the education and training of individuals in the technological innovation process;

(4) the improvement of mechanisms for the dissemination of scientific, engineering, and technical information among universities and industry;

(5) the utilization of the capability and expertise, where appropriate, that exists in Federal laboratories; and

(6) the development of continuing financial support from other mission agencies, from State and local government, and from industry and universities through, among other means, fees, licenses, and royalties.

(b) Activities

The activities of the Centers shall include, but need not be limited to—

(1) research supportive of technological and industrial innovation including cooperative industry-university research;

(2) assistance to individuals and small businesses in the generation, evaluation, and development of technological ideas supportive of industrial innovation and new business ventures;

(3) technical assistance and advisory services to industry, particularly small businesses; and

(4) curriculum development, training, and instruction in invention, entrepreneurship, and industrial innovation.

Each Center need not undertake all of the activities under this subsection.

(c) Requirements

Prior to establishing a Center, the Secretary shall find that—

(1) consideration has been given to the potential contribution of the activities proposed under the Center to productivity, employment, and economic competitiveness of the United States;

(2) a high likelihood exists of continuing participation, advice, financial support, and other contributions from the private sector;

(3) the host university or other nonprofit institution has a plan for the management and evaluation of the activities proposed within the particular Center, including:

(A) the agreement between the parties as to the allocation of patent rights on a nonexclusive, partially exclusive, or exclusive license basis to and inventions conceived or made under the auspices of the Center; and

(B) the consideration of means to place the Center, to the maximum extent feasible, on a self-sustaining basis;

(4) suitable consideration has been given to the university's or other nonprofit institution's capabilities and geographical location; and

(5) consideration has been given to any effects upon competition of the activities proposed under the Center.

(d) Planning grants

The Secretary is authorized to make available nonrenewable planning grants to universities or nonprofit institutions for the purpose of developing a plan required under subsection (c)(3) of this section.

(e) Research and development utilization

In the promotion of technology from research and development efforts by Centers under this section, chapter 18 of title 35 shall apply to the extent not inconsistent with this section.

(Pub. L. 96–480, § 7, formerly § 6, Oct. 21, 1980, 94 Stat. 2313; Pub. L. 99–502, § 9(b)(6)–(10), Oct. 20, 1986, 100 Stat. 1796; renumbered § 7, Pub. L. 100–418, title V, § 5122(a)(1), Aug. 23, 1988, 102 Stat. 1438.)

PRIOR PROVISIONS

A prior section 7 of Pub. L. 96–480 was renumbered section 8 and is classified to section 3706 of this title.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–502, § 9(b)(7), substituted ''Cooperative Research Centers'' for ''Centers for Industrial Technology''.

Subsec. (b)(1). Pub. L. 99–502, § 9(b)(8), struck out ''basic and applied'' after ''industry-university''.

Subsec. (e). Pub. L. 99–502, § 9(b)(9), amended subsec. (e) generally. Prior to amendment, subsec. (e) provided that a Center of Industrial Technology had the option to acquire title to an invention conceived or made under its auspices and supported by Federal funds, authorized supporting agency to require the Center to grant licenses to the invention to responsible applicants in certain cases, and provided for judicial review of licensing determinations by the supporting agency.

Subsec. (f). Pub. L. 99–502, § 9(b)(10), struck out subsec. (f) which read as follows: ''The supporting agency may request the Attorney General's opinion whether the proposed joint research activities of a Center would violate any of the antitrust laws. The Attorney General shall advise the supporting agency of his determination and the reasons for it within 120 days after receipt of such request.''

MODEL PROGRAM

Pub. L. 101–510, div. A, title VIII, § 827(b), Nov. 5, 1990, 104 Stat. 1607, as amended by Pub. L. 102–190, div. A, title X, § 1062(a)(2), Dec. 5, 1991, 105 Stat. 1475, provided that:

''(1) In the administration of applicable provisions of the Stevenson-Wydler Technology Innovation Act of 1980 [15 U.S.C. 3701 et seq.] or section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 [Pub. L. 100–418, 15 U.S.C. 278*l* note], the Secretary of Commerce shall develop, in consultation with the Secretary of Defense and the Secretary of Energy, model programs for national defense laboratories.

''(2) Model programs under this subsection shall involve Federal laboratories, small businesses, and partnership intermediaries. The purpose of the model programs is to demonstrate successful relationships between the Federal Government, State and local governments, and small businesses which encourage economic growth through the commercial application of technology resulting from federally funded research.

''(3) In this subsection, the term 'national defense laboratory' means any laboratory, federally funded research and development center (FFRDC), or other center established under section 7 or 9 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3705, 3707) that is owned by the Federal Government, whether operated by the Federal Government or by a contractor, and—

''(A) is under the jurisdiction of the Secretary of Defense; or

''(B) is under the jurisdiction of the Secretary of Energy, but only if the primary function of the laboratory, FFRDC, or other center under the Secretary's jurisdiction is to support the national defense activities of the Department of Defense or the Department of Energy.''

§ 3706. Grants and cooperative agreements

(a) In general

The Secretary may make grants and enter into cooperative agreements according to the provisions of this section in order to assist any activity consistent with this chapter, including activities performed by individuals. The total amount of any such grant or cooperative agreement may not exceed 75 percent of the total cost of the program.

(b) Eligibility and procedure

Any person or institution may apply to the Secretary for a grant or cooperative agreement available under this section. Application shall be made in such form and manner, and with such content and other submissions, as the Assistant Secretary shall prescribe. The Secretary shall act upon each such application within 90 days after the date on which all required information is received.

(c) Terms and conditions

(1) Any grant made, or cooperative agreement entered into, under this section shall be subject to the limitations and provisions set forth in paragraph (2) of this subsection, and to such other terms, conditions, and requirements as the Secretary deems necessary or appropriate.

(2) Any person who receives or utilizes any proceeds of any grant made or cooperative agreement entered into under this section shall keep such records as the Secretary shall by regulation prescribe as being necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition by such recipient of such proceeds, the total cost of the program or project in connection with which such proceeds were used, and the amount, if any, of such costs which was provided through other sources.

(Pub. L. 96–480, § 8, formerly § 7, Oct. 21, 1980, 94 Stat. 2315; renumbered § 8 and amended Pub. L. 100–418, title V, §§ 5115(b)(1), 5122(a)(1), Aug. 23, 1988, 102 Stat. 1433, 1438.)

PRIOR PROVISIONS

A prior section 8 of Pub. L. 96–480 was renumbered section 9 and is classified to section 3707 of this title.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–418, § 5115(b)(1), substituted ''Assistant Secretary'' for ''Director''.

§ 3707. National Science Foundation Cooperative Research Centers

(a) Establishment and provisions

The National Science Foundation shall provide assistance for the establishment of Cooper-

ative Research Centers. Such Centers shall be affiliated with a university, or other nonprofit institution, or a group thereof. The objective of the Centers is to enhance technological innovation as provided in section 3705(a) of this title through the conduct of activities as provided in section 3705(b) of this title.

(b) Planning grants

The National Science Foundation is authorized to make available nonrenewable planning grants to universities of nonprofit institutions for the purpose of developing the plan, as described under section 3705(c)(3) of this title.

(c) Terms and conditions

Grants, contracts, and cooperative agreements entered into by the National Science Foundation in execution of the powers and duties of the National Science Foundation under this chapter shall be governed by the National Science Foundation Act of 1950 [42 U.S.C. 1861 et seq.] and other pertinent Acts.

(Pub. L. 96–480, § 9, formerly § 8, Oct. 21, 1980, 94 Stat. 2316; Pub. L. 99–502, § 9(b)(11), (12), (e)(2)(B), Oct. 20, 1986, 100 Stat. 1796, 1797; renumbered § 9, Pub. L. 100–418, title V, § 5122(a)(1), Aug. 23, 1988, 102 Stat. 1438; Pub. L. 106–404, § 7(4), Nov. 1, 2000, 114 Stat. 1745.)

REFERENCES IN TEXT

The National Science Foundation Act of 1950, referred to in subsec. (c), is act May 10, 1950, ch. 171, 64 Stat. 149, as amended, which is classified generally to chapter 16 (§ 1861 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1861 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 9 of Pub. L. 96–480 was renumbered section 10 and is classified to section 3708 of this title.

AMENDMENTS

2000—Subsecs. (a), (b). Pub. L. 106–404 made technical amendments to references in original act which appear in text as references to section 3705 of this title.

1986—Subsec. (a). Pub. L. 99–502 substituted ''Cooperative Research Centers'' for ''Centers for Industrial Technology'' and struck out last sentence which read as follows: ''The provisions of sections 3705(e) and 3705(f) of this title shall apply to Centers established under this section.''

§ 3708. Administrative arrangements

(a) Coordination

The Secretary and the National Science Foundation shall, on a continuing basis, obtain the advice and cooperation of departments and agencies whose missions contribute to or are affected by the programs established under this chapter, including the development of an agenda for research and policy experimentation. These departments and agencies shall include but not be limited to the Departments of Defense, Energy, Education, Health and Human Services, Housing and Urban Development, the Environmental Protection Agency, National Aeronautics and Space Administration, Small Business Administration, Council of Economic Advisers, Council on Environmental Quality, and Office of Science and Technology Policy.

(b) Cooperation

It is the sense of the Congress that departments and agencies, including the Federal laboratories, whose missions are affected by, or could contribute to, the programs established under this chapter, should, within the limits of budgetary authorizations and appropriations, support or participate in activities or projects authorized by this chapter.

(c) Administrative authorization

(1) Departments and agencies described in subsection (b) of this section are authorized to participate in, contribute to, and serve as resources for the Centers and for any other activities authorized under this chapter.

(2) The Secretary and the National Science Foundation are authorized to receive moneys and to receive other forms of assistance from other departments or agencies to support activities of the Centers and any other activities authorized under this chapter.

(d) Cooperative efforts

The Secretary and the National Science Foundation shall, on a continuing basis, provide each other the opportunity to comment on any proposed program of activity under section 3705, 3707, 3710, 3710d, 3711a, or 3712 of this title before funds are committed to such program in order to mount complementary efforts and avoid duplication.

(Pub. L. 96–480, § 10, formerly § 9, Oct. 21, 1980, 94 Stat. 2316; Pub. L. 99–502, § 9(e)(2)(C), Oct. 20, 1986, 100 Stat. 1797; Pub. L. 100–107, § 3(b), Aug. 20, 1987, 101 Stat. 727; renumbered § 10 and amended Pub. L. 100–418, title V, § 5122(a)(1), (c), Aug. 23, 1988, 102 Stat. 1438, 1439; Pub. L. 102–240, title VI, § 6019, Dec. 18, 1991, 105 Stat. 2183.)

PRIOR PROVISIONS

A prior section 10 of Pub. L. 96–480 was renumbered section 11 and is classified to section 3710 of this title.

Another prior section 10 of Pub. L. 96–480 related to National Industrial Technology Board and was classified to section 3709 of this title, prior to repeal by section 9(a) of Pub. L. 99–502.

AMENDMENTS

1991—Subsec. (d). Pub. L. 102–240 made technical amendment to reference to section 3712 of this title to reflect renumbering of corresponding section of original act.

1988—Subsec. (d). Pub. L. 100–418, § 5122(c), made technical amendment to references to sections 3705, 3707, 3710, 3710d, 3711a, and 3712 of this title to reflect renumbering of corresponding sections of original act.

1987—Subsec. (d). Pub. L. 100–107 inserted reference to section 3711a of this title.

1986—Subsec. (d). Pub. L. 99–502 inserted references to sections 3710 and 3710d of this title.

§ 3709. Repealed. Pub. L. 99–502, § 9(a), Oct. 20, 1986, 100 Stat. 1795

Section, Pub. L. 96–480, § 10, Oct. 21, 1980, 94 Stat. 2317, related to establishment, duties, membership, and terms of National Industrial Technology Board.

§ 3710. Utilization of Federal technology

(a) Policy

(1) It is the continuing responsibility of the Federal Government to ensure the full use of the

results of the Nation's Federal investment in research and development. To this end the Federal Government shall strive where appropriate to transfer federally owned or originated technology to State and local governments and to the private sector.

(2) Technology transfer, consistent with mission responsibilities, is a responsibility of each laboratory science and engineering professional.

(3) Each laboratory director shall ensure that efforts to transfer technology are considered positively in laboratory job descriptions, employee promotion policies, and evaluation of the job performance of scientists and engineers in the laboratory.

(b) Establishment of Research and Technology Applications Offices

Each Federal laboratory shall establish an Office of Research and technology Applications. Laboratories having existing organizational structures which perform the functions of this section may elect to combine the Office of Research and Technology Applications within the existing organization. The staffing and funding levels for these offices shall be determined between each Federal laboratory and the Federal agency operating or directing the laboratory, except that (1) each laboratory having 200 or more full-time equivalent scientific, engineering, and related technical positions shall provide one or more full-time equivalent positions as staff for its Office of Research and Technology Applications, and (2) each Federal agency which operates or directs one or more Federal laboratories shall make available sufficient funding, either as a separate line item or from the agency's research and development budget, to support the technology transfer function at the agency and at its laboratories, including support of the Offices of Research and Technology Applications. Furthermore, individuals filling positions in an Office of Research and Technology Applications shall be included in the overall laboratory/agency management development program so as to ensure that highly competent technical managers are full participants in the technology transfer process.

(c) Functions of Research and Technology Applications Offices

It shall be the function of each Office of Research and Technology Applications—

(1) to prepare application assessments for selected research and development projects in which that laboratory is engaged and which in the opinion of the laboratory may have potential commercial applications;

(2) to provide and disseminate information on federally owned or originated products, processes, and services having potential application to State and local governments and to private industry;

(3) to cooperate with and assist the National Technical Information Service, the Federal Laboratory Consortium for Technology Transfer, and other organizations which link the research and development resources of that laboratory and the Federal Government as a whole to potential users in State and local government and private industry;

(4) to provide technical assistance to State and local government officials; and

(5) to participate, where feasible, in regional, State, and local programs designed to facilitate or stimulate the transfer of technology for the benefit of the region, State, or local jurisdiction in which the Federal laboratory is located.

Agencies which have established organizational structures outside their Federal laboratories which have as their principal purpose the transfer of federally owned or originated technology to State and local government and to the private sector may elect to perform the functions of this subsection in such organizational structures. No Office of Research and Technology Applications or other organizational structures performing the functions of this subsection shall substantially compete with similar services available in the private sector.

(d) Dissemination of technical information

The National Technical Information Service shall—

(1) serve as a central clearinghouse for the collection, dissemination and transfer of information on federally owned or originated technologies having potential application to State and local governments and to private industry;

(2) utilize the expertise and services of the National Science Foundation and the Federal Laboratory Consortium for Technology Transfer; particularly in dealing with State and local governments;

(3) receive requests for technical assistance from State and local governments, respond to such requests with published information available to the Service, and refer such requests to the Federal Laboratory Consortium for Technology Transfer to the extent that such requests require a response involving more than the published information available to the Service;

(4) provide funding, at the discretion of the Secretary, for Federal laboratories to provide the assistance specified in subsection (c)(3) of this section;

(5) use appropriate technology transfer mechanisms such as personnel exchanges and computer-based systems; and

(6) maintain a permanent archival repository and clearinghouse for the collection and dissemination of nonclassified scientific, technical, and engineering information.

(e) Establishment of Federal Laboratory Consortium for Technology Transfer

(1) There is hereby established the Federal Laboratory Consortium for Technology Transfer (hereinafter referred to as the ''Consortium'') which, in cooperation with Federal laboratories and the private sector, shall—

(A) develop and (with the consent of the Federal laboratory concerned) administer techniques, training courses, and materials concerning technology transfer to increase the awareness of Federal laboratory employees regarding the commercial potential of laboratory technology and innovations;

(B) furnish advice and assistance requested by Federal agencies and laboratories for use in their technology transfer programs (including

the planning of seminars for small business and other industry);

(C) provide a clearinghouse for requests, received at the laboratory level, for technical assistance from States and units of local governments, businesses, industrial development organizations, not-for-profit organizations including universities, Federal agencies and laboratories, and other persons, and—

(i) to the extent that such requests can be responded to with published information available to the National Technical Information Service, refer such requests to that Service, and

(ii) otherwise refer these requests to the appropriate Federal laboratories and agencies;

(D) facilitate communication and coordination between Offices of Research and Technology Applications of Federal laboratories;

(E) utilize (with the consent of the agency involved) the expertise and services of the National Science Foundation, the Department of Commerce, the National Aeronautics and Space Administration, and other Federal agencies, as necessary;

(F) with the consent of any Federal laboratory, facilitate the use by such laboratory of appropriate technology transfer mechanisms such as personnel exchanges and computer-based systems;

(G) with the consent of any Federal laboratory, assist such laboratory to establish programs using technical volunteers to provide technical assistance to communities related to such laboratory;

(H) facilitate communication and cooperation between Offices of Research and Technology Applications of Federal laboratories and regional, State, and local technology transfer organizations;

(I) when requested, assist colleges or universities, businesses, nonprofit organizations, State or local governments, or regional organizations to establish programs to stimulate research and to encourage technology transfer in such areas as technology program development, curriculum design, long-term research planning, personnel needs projections, and productivity assessments;

(J) seek advice in each Federal laboratory consortium region from representatives of State and local governments, large and small business, universities, and other appropriate persons on the effectiveness of the program (and any such advice shall be provided at no expense to the Government); and

(K) work with the Director of the National Institute on Disability and Rehabilitation Research to compile a compendium of current and projected Federal Laboratory technologies and projects that have or will have an intended or recognized impact on the available range of assistive technology for individuals with disabilities (as defined in section 3002 of title 29), including technologies and projects that incorporate the principles of universal design (as defined in section 3002 of title 29), as appropriate.

(2) The membership of the Consortium shall consist of the Federal laboratories described in clause (1) of subsection (b) of this section and such other laboratories as may choose to join the Consortium. The representatives to the Consortium shall include a senior staff member of each Federal laboratory which is a member of the Consortium and a senior representative appointed from each Federal agency with one or more member laboratories.

(3) The representatives to the Consortium shall elect a Chairman of the Consortium.

(4) The Director of the National Institute of Standards and Technology shall provide the Consortium, on a reimbursable basis, with administrative services, such as office space, personnel, and support services of the Institute, as requested by the Consortium and approved by such Director.

(5) Each Federal laboratory or agency shall transfer technology directly to users or representatives of users, and shall not transfer technology directly to the Consortium. Each Federal laboratory shall conduct and transfer technology only in accordance with the practices and policies of the Federal agency which owns, leases, or otherwise uses such Federal laboratory.

(6) Not later than one year after October 20, 1986, and every year thereafter, the Chairman of the Consortium shall submit a report to the President, to the appropriate authorization and appropriation committees of both Houses of the Congress, and to each agency with respect to which a transfer of funding is made (for the fiscal year or years involved) under paragraph (7), concerning the activities of the Consortium and the expenditures made by it under this subsection during the year for which the report is made. Such report shall include an annual independent audit of the financial statements of the Consortium, conducted in accordance with generally accepted accounting principles.

(7)(A) Subject to subparagraph (B), an amount equal to 0.008 percent of the budget of each Federal agency from any Federal source, including related overhead, that is to be utilized by or on behalf of the laboratories of such agency for a fiscal year referred to in subparagraph (B)(ii) shall be transferred by such agency to the National Institute of Standards and Technology at the beginning of the fiscal year involved. Amounts so transferred shall be provided by the Institute to the Consortium for the purpose of carrying out activities of the Consortium under this subsection.

(B) A transfer shall be made by any Federal agency under subparagraph (A), for any fiscal year, only if the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000.

(C) The heads of Federal agencies and their designees, and the directors of Federal laboratories, may provide such additional support for operations of the Consortium as they deem appropriate.

(f) Agency reports on utilization

(1) In general

Each Federal agency which operates or directs one or more Federal laboratories or which conducts activities under sections 207 and 209 of title 35 shall report annually to the

Office of Management and Budget, as part of the agency's annual budget submission, on the activities performed by that agency and its Federal laboratories under the provisions of this section and of sections 207 and 209 of title 35.

(2) Contents

The report shall include—

(A) an explanation of the agency's technology transfer program for the preceding fiscal year and the agency's plans for conducting its technology transfer function, including its plans for securing intellectual property rights in laboratory innovations with commercial promise and plans for managing its intellectual property so as to advance the agency's mission and benefit the competitiveness of United States industry; and

(B) information on technology transfer activities for the preceding fiscal year, including—

(i) the number of patent applications filed;

(ii) the number of patents received;

(iii) the number of fully-executed licenses which received royalty income in the preceding fiscal year, categorized by whether they are exclusive, partially-exclusive, or non-exclusive, and the time elapsed from the date on which the license was requested by the licensee in writing to the date the license was executed;

(iv) the total earned royalty income including such statistical information as the total earned royalty income, of the top 1 percent, 5 percent, and 20 percent of the licenses, the range of royalty income, and the median, except where disclosure of such information would reveal the amount of royalty income associated with an individual license or licensee;

(v) what disposition was made of the income described in clause (iv);

(vi) the number of licenses terminated for cause; and

(vii) any other parameters or discussion that the agency deems relevant or unique to its practice of technology transfer.

(3) Copy to Secretary; Attorney General; Congress

The agency shall transmit a copy of the report to the Secretary of Commerce and the Attorney General for inclusion in the annual report to Congress and the President required by subsection (g)(2) of this section.

(4) Public availability

Each Federal agency reporting under this subsection is also strongly encouraged to make the information contained in such report available to the public through Internet sites or other electronic means.

(g) Functions of Secretary

(1) The Secretary, in consultation with other Federal agencies, may—

(A) make available to interested agencies the expertise of the Department of Commerce regarding the commercial potential of inventions and methods and options for commercialization which are available to the Federal laboratories, including research and development limited partnerships;

(B) develop and disseminate to appropriate agency and laboratory personnel model provisions for use on a voluntary basis in cooperative research and development arrangements; and

(C) furnish advice and assistance, upon request, to Federal agencies concerning their cooperative research and development programs and projects.

(2) REPORTS.—

(A) ANNUAL REPORT REQUIRED.—The Secretary, in consultation with the Attorney General and the Commissioner of Patents and Trademarks, shall submit each fiscal year, beginning 1 year after November 1, 2000, a summary report to the President, the United States Trade Representative, and the Congress on the use by Federal agencies and the Secretary of the technology transfer authorities specified in this chapter and in sections 207 and 209 of title 35.

(B) CONTENT.—The report shall—

(i) draw upon the reports prepared by the agencies under subsection (f) of this section;

(ii) discuss technology transfer best practices and effective approaches in the licensing and transfer of technology in the context of the agencies' missions; and

(iii) discuss the progress made toward development of additional useful measures of the outcomes of technology transfer programs of Federal agencies.

(C) PUBLIC AVAILABILITY.—The Secretary shall make the report available to the public through Internet sites or other electronic means.

(3) Not later than one year after October 20, 1986, the Secretary shall submit to the President and the Congress a report regarding—

(A) any copyright provisions or other types of barriers which tend to restrict or limit the transfer of federally funded computer software to the private sector and to State and local governments, and agencies of such State and local governments; and

(B) the feasibility and cost of compiling and maintaining a current and comprehensive inventory of all federally funded training software.

(h) Duplication of reporting

The reporting obligations imposed by this section—

(1) are not intended to impose requirements that duplicate requirements imposed by the Government Performance and Results Act of 1993 (31 U.S.C. 1101 note);

(2) are to be implemented in coordination with the implementation of that Act; and

(3) are satisfied if an agency provided the information concerning technology transfer activities described in this section in its annual submission under the Government Performance and Results Act of 1993 (31 U.S.C. 1101 note).

(i) Research equipment

The Director of a laboratory, or the head of any Federal agency or department, may loan, lease, or give research equipment that is excess to the needs of the laboratory, agency, or department to an educational institution or nonprofit organization for the conduct of technical and scientific education and research activities. Title of ownership shall transfer with a gift under this section.

(Pub. L. 96–480, § 11, Oct. 21, 1980, 94 Stat. 2318; renumbered § 10 and amended Pub. L. 99–502, §§ 3–5, 9(e)(1), Oct. 20, 1986, 100 Stat. 1787, 1789, 1791, 1797; renumbered § 11 and amended Pub. L. 100–418, title V, §§ 5115(b)(2), 5122(a)(1), 5162(b), 5163(c)(1), (3), Aug. 23, 1988, 102 Stat. 1433, 1438, 1450, 1451; Pub. L. 100–519, title II, §§ 201(d)(3), 212(a)(4), Oct. 24, 1988, 102 Stat. 2594, 2595; Pub. L. 101–189, div. C, title XXXI, § 3133(e), Nov. 29, 1989, 103 Stat. 1679; Pub. L. 102–245, title III, §§ 301, 303, Feb. 14, 1992, 106 Stat. 19, 20; Pub. L. 104–66, title III, § 3001(f), Dec. 21, 1995, 109 Stat. 734; Pub. L. 104–113, §§ 3, 9, Mar. 7, 1996, 110 Stat. 775, 779; Pub. L. 105–394, title II, § 212(d), Nov. 13, 1998, 112 Stat. 3655; Pub. L. 106–404, §§ 7(5), (6), 10(a), Nov. 1, 2000, 114 Stat. 1745–1747; Pub. L. 110–69, title III, § 3002(c)(4), Aug. 9, 2007, 121 Stat. 586.)

REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (h), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

AMENDMENTS

2007—Subsec. (g)(1). Pub. L. 110–69 struck out ''through the Under Secretary, and'' after ''The Secretary,'' in introductory provisions.

2000—Subsec. (b). Pub. L. 106–404, § 10(a)(1), struck out at end ''The agency head shall submit to Congress at the time the President submits the budget to Congress an explanation of the agency's technology transfer program for the preceding year and the agency's plans for conducting its technology transfer function for the upcoming year, including plans for securing intellectual property rights in laboratory innovations with commercial promise and plans for managing such innovations so as to benefit the competitiveness of United States industry.''

Subsec. (e)(1). Pub. L. 106–404, § 7(5), substituted ''in cooperation with Federal laboratories'' for ''in cooperation with Federal Laboratories'' in introductory provisions.

Subsec. (f). Pub. L. 106–404, § 10(a)(2), added subsec. (f).

Subsec. (g)(2). Pub. L. 106–404, § 10(a)(3), added par. (2) and struck out former par. (2) which read as follows: ''Two years after October 20, 1986, and every two years thereafter, the Secretary shall submit a summary report to the President and the Congress on the use by the agencies and the Secretary of the authorities specified in this chapter. Other Federal agencies shall cooperate in the report's preparation.''

Subsec. (h). Pub. L. 106–404, § 10(a)(4), added subsec. (h).

Subsec. (i). Pub. L. 106–404, § 7(6), substituted ''a gift under this section'' for ''a gift under the section''.

1998—Subsec. (e)(1)(K). Pub. L. 105–394 added subpar. (K).

1996—Subsec. (e)(7)(B). Pub. L. 104–113, § 3, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''A transfer shall be made by any Federal agency under subparagraph (A), for any fiscal year, only if—

''(i) the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000; and

''(ii) such transfer is made with respect to the fiscal year 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, or 1996.''

Subsec. (i). Pub. L. 104–113, § 9, inserted ''loan, lease, or'' before ''give''.

1995—Subsec. (f). Pub. L. 104–66 struck out heading and text of subsec. (f). Text read as follows: ''Each Federal agency which operates or directs one or more Federal laboratories shall report annually to the Congress, as part of the agency's annual budget submission, on the activities performed by that agency and its Federal laboratories pursuant to the provisions of this section.''

1992—Subsec. (e)(2). Pub. L. 102–245, § 301(a), inserted ''senior'' before ''representative''.

Subsec. (e)(6). Pub. L. 102–245, § 301(b), inserted at end ''Such report shall include an annual independent audit of the financial statements of the Consortium, conducted in accordance with generally accepted accounting principles.''

Subsec. (e)(7)(B)(ii). Pub. L. 102–245, § 301(c), substituted ''1991, 1992, 1993, 1994, 1995, or 1996'' for ''or 1991''.

Subsec. (e)(8). Pub. L. 102–245, § 301(d), struck out former par. (8) which read as follows:

''(A) The Consortium shall use 5 percent of the funds provided in paragraph (7)(A) to establish demonstration projects in technology transfer. To carry out such projects, the Consortium may arrange for grants or awards to, or enter into agreements with, nonprofit State, local, or private organizations or entities whose primary purposes are to facilitate cooperative research between the Federal laboratories and organizations not associated with the Federal laboratories, to transfer technology from the Federal laboratories, and to advance State and local economic activity.

''(B) The demonstration projects established under subparagraph (A) shall serve as model programs. Such projects shall be designed to develop programs and mechanisms for technology transfer from the Federal laboratories which may be utilized by the States and which will enhance Federal, State, and local programs for the transfer of technology.

''(C) Application for such grants, awards, or agreements shall be in such form and contain such information as the Consortium or its designee shall specify.

''(D) Any person who receives or utilizes any proceeds of a grant or award made, or agreement entered into, under this paragraph shall keep such records as the Consortium or its designee shall determine are necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition of such proceeds and the total cost of the project in connection with which such proceeds were used.''

Subsec. (i). Pub. L. 102–245, § 303, added subsec. (i).

1989—Subsec. (b). Pub. L. 101–189 struck out ''after September 30, 1981,'' after ''(2)'', substituted ''sufficient funding, either as a separate line item or from the agency's research and development budget,'' for ''not less than 0.5 percent of the agency's research and development budget'', struck out ''agency head may waive the requirement set forth in clause (2) of the preceding sentence. If the agency head waives such requirement, the'' after ''transfer process. The'', and substituted ''agency's technology transfer program for the preceding year and the agency's plans for conducting its technology transfer function for the upcoming year, including plans for securing intellectual property rights in laboratory innovations with commercial promise and plans for managing such innovations so as to benefit the competitiveness of United States industry'' for

''reasons for the waiver and alternate plans for conducting the technology transfer function at the agency''.

1988—Subsec. (d)(6). Pub. L. 100–418, § 5163(c)(3), added par. (6).

Subsec. (e)(4). Pub. L. 100–418, § 5115(b)(2), substituted ''National Institute of Standards and Technology'' for ''National Bureau of Standards'' and ''Institute'' for ''Bureau''.

Subsec. (e)(7)(A). Pub. L. 100–418, § 5162(b), substituted ''0.008 percent of the budget of each Federal agency from any Federal source, including related overhead, that is to be utilized by or on behalf of'' for ''0.005 percent of that portion of the research and development budget of each Federal agency that is to be utilized by''.

Pub. L. 100–418, § 5115(b)(2), substituted ''National Institute of Standards and Technology'' for ''National Bureau of Standards'' and ''Institute'' for ''Bureau''.

Subsec. (g)(1). Pub. L. 100–519, § 201(d)(3), inserted reference to the Under Secretary.

Subsec. (h). Pub. L. 100–519, § 212(a)(4), struck out subsec. (h) which read as follows: ''None of the activities or functions of the National Technical Information Service which are not performed by contractors as of September 30, 1987, shall be contracted out or otherwise transferred from the Federal Government unless such transfer is expressly authorized by statute, or unless the value of all work performed under the contract and related contracts in each fiscal year does not exceed $250,000.''

Pub. L. 100–418, § 5163(c)(1), added subsec. (h).

1986—Subsec. (a). Pub. L. 99–502, § 4(a), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (b). Pub. L. 99–502, § 4(b)(1), substituted ''200 or more full-time equivalent scientific, engineering, and related technical positions shall provide one or more full-time equivalent positions'' for ''a total annual budget exceeding $20,000,000 shall provide at least one professional individual full-time'', inserted ''Furthermore, individuals filling positions in an Office of Research and Technology Applications shall be included in the overall laboratory/agency management development program so as to ensure that highly competent technical managers are full participants in the technology transfer process.'', substituted ''requirement set forth in clause (2) of the preceding sentence'' for ''requirements set forth in (1) and/or (2) of this subsection'', and substituted ''such requirement'' for ''either requirement (1) or (2)''.

Subsec. (c)(1). Pub. L. 99–502, § 4(b)(2)(A), added par. (1) and struck out former par. (1) which read as follows: ''to prepare an application assessment of each research and development project in which that laboratory is engaged which has potential for successful application in State or local government or in private industry;''.

Subsec. (c)(3). Pub. L. 99–502, § 4(b)(2)(B), substituted ''the National Technical Information Service, the Federal Laboratory Consortium for Technology Transfer,'' for ''the Center for the Utilization of Federal Technology'' and struck out ''and'' after the semicolon.

Subsec. (c)(4). Pub. L. 99–502, § 4(b)(2)(C), substituted ''to State and local government officials; and'' for ''in response to requests from State and local government officials.''.

Subsec. (c)(5). Pub. L. 99–502, § 4(b)(2)(D), added par. (5).

Subsec. (d). Pub. L. 99–502, § 4(c)(1), substituted ''The National Technical Information Service shall'' for ''There is hereby established in the Department of Commerce a Center for the Utilization of Federal Technology. The Center for the Utilization of Federal Technology shall'' in introductory par.

Subsec. (d)(2). Pub. L. 99–502, § 4(c)(2), (3), redesignated par. (3) as (2) and struck out ''existing'' before ''Federal Laboratory''. Former par. (2), which required the Center for the Utilization of Federal Technology to coordinate the activities of the Offices of Research and Technology Applications of the Federal laboratories, was struck out.

Subsec. (d)(3). Pub. L. 99–502, § 4(c)(4), added par. (3). Former par. (3) redesignated (2).

Subsec. (d)(4). Pub. L. 99–502, § 4(c)(4)–(6), redesignated par. (5) as (4) and substituted ''subsection (c)(3)'' for ''subsection (c)(4)''. Former par. (4), which required the Center for the Utilization of Federal Technology to receive requests for technical assistance from State and local governments and refer those requests to the appropriate Federal laboratories, was struck out.

Subsec. (d)(5), (6). Pub. L. 99–502, § 4(c)(5), redesignated pars. (5) and (6) as (4) and (5), respectively.

Subsecs. (e), (f). Pub. L. 99–502, §§ 3, 4(d), added subsec. (e), redesignated former subsec. (e) as (f), substituted ''report annually to the Congress, as part of the agency's annual budget submission, on the activities'' for ''prepare biennially a report summarizing the activities'', and struck out ''The report shall be transmitted to the Center for the Utilization of Federal Technology by November 1 of each year in which it is due.''.

Subsec. (g). Pub. L. 99–502, § 5, added subsec. (g).

EX. ORD. NO. 12591. FACILITATING ACCESS TO SCIENCE AND TECHNOLOGY

Ex. Ord. No. 12591, Apr. 10, 1987, 52 F.R. 13414, as amended by Ex. Ord. No. 12618, Dec. 22, 1987, 52 F.R. 48661, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Technology Transfer Act of 1986 (Public Law 99–502) [see Short Title of 1986 Amendments note set out under section 3701 of this title], the Trademark Clarification Act of 1984 (Public Law 98–620) [see Short Title of 1984 Amendment note set out under section 1051 of this title], and the University and Small Business Patent Procedure Act of 1980 (Public Law 96–517) [see Tables for classification], and in order to ensure that Federal agencies and laboratories assist universities and the private sector in broadening our technology base by moving new knowledge from the research laboratory into the development of new products and processes, it is hereby ordered as follows:

SECTION 1. *Transfer of Federally Funded Technology*.

(a) The head of each Executive department and agency, to the extent permitted by law, shall encourage and facilitate collaboration among Federal laboratories, State and local governments, universities, and the private sector, particularly small business, in order to assist in the transfer of technology to the marketplace.

(b) The head of each Executive department and agency shall, within overall funding allocations and to the extent permitted by law:

(1) delegate authority to its government-owned, government-operated Federal laboratories:

(A) to enter into cooperative research and development agreements with other Federal laboratories, State and local governments, universities, and the private sector; and

(B) to license, assign, or waive rights to intellectual property developed by the laboratory either under such cooperative research or development agreements and from within individual laboratories.

(2) identify and encourage persons to act as conduits between and among Federal laboratories, universities, and the private sector for the transfer of technology developed from federally funded research and development efforts;

(3) ensure that State and local governments, universities, and the private sector are provided with information on the technology, expertise, and facilities available in Federal laboratories;

(4) promote the commercialization, in accord with my Memorandum to the Heads of Executive Departments and Agencies of February 18, 1983, of patentable results of federally funded research by granting to all contractors, regardless of size, the title to patents made in whole or in part with Federal funds, in exchange for royalty-free use by or on behalf of the government;

(5) administer all patents and licenses to inventions made with federal assistance, which are owned by the

non-profit contractor or grantee, in accordance with Section 202(c)(7) of Title 35 of the United States Code as amended by Public Law 98–620, without regard to limitations on licensing found in that section prior to amendment or in Institutional Patent Agreements now in effect that were entered into before that law was enacted on November 8, 1984, unless, in the case of an invention that has not been marketed, the funding agency determines, based on information in its files, that the contractor or grantee has not taken adequate steps to market the inventions, in accordance with applicable law or an Institutional Patent Agreement;

(6) implement, as expeditiously as practicable, royalty-sharing programs with inventors who were employees of the agency at the time their inventions were made, and cash award programs; and

(7) cooperate, under policy guidance provided by the Office of Federal Procurement Policy, with the heads of other affected departments and agencies in the development of a uniform policy permitting Federal contractors to retain rights to software, engineering drawings, and other technical data generated by Federal grants and contracts, in exchange for royalty-free use by or on behalf of the government.

SEC. 2. *Establishment of the Technology Share Program.* The Secretaries of Agriculture, Commerce, Energy, and Health and Human Services and the Administrator of the National Aeronautics and Space Administration shall select one or more of their Federal laboratories to participate in the Technology Share Program. Consistent with its mission and policies and within its overall funding allocation in any year, each Federal laboratory so selected shall:

(a) Identify areas of research and technology of potential importance to long-term national economic competitiveness and in which the laboratory possesses special competence and/or unique facilities;

(b) Establish a mechanism through which the laboratory performs research in areas identified in Section 2(a) as a participant of a consortium composed of United States industries and universities. All consortia so established shall have, at a minimum, three individual companies that conduct the majority of their business in the United States; and

(c) Limit its participation in any consortium so established to the use of laboratory personnel and facilities. However, each laboratory may also provide financial support generally not to exceed 25 percent of the total budget for the activities of the consortium. Such financial support by any laboratory in all such consortia shall be limited to a maximum of $5 million per annum.

SEC. 3. *Technology Exchange—Scientists and Engineers.* The Executive Director of the President's Commission on Executive Exchange shall assist Federal agencies, where appropriate, by developing and implementing an exchange program whereby scientists and engineers in the private sector may take temporary assignments in Federal laboratories, and scientists and engineers in Federal laboratories may take temporary assignments in the private sector.

SEC. 4. *International Science and Technology.* In order to ensure that the United States benefits from and fully exploits scientific research and technology developed abroad,

(a) The head of each Executive department and agency, when negotiating or entering into cooperative research and development agreements and licensing arrangements with foreign persons or industrial organizations (where these entities are directly or indirectly controlled by a foreign company or government), shall, in consultation with the United States Trade Representative, give appropriate consideration:

(1) to whether such foreign companies or governments permit and encourage United States agencies, organizations, or persons to enter into cooperative research and development agreements and licensing arrangements on a comparable basis;

(2) to whether those foreign governments have policies to protect the United States intellectual property rights; and

(3) where cooperative research will involve data, technologies, or products subject to national security export controls under the laws of the United States, to whether those foreign governments have adopted adequate measures to prevent the transfer of strategic technology to destinations prohibited under such national security export controls, either through participation in the Coordinating Committee for Multilateral Export Controls (COCOM) or through other international agreements to which the United States and such foreign governments are signatories.

(b) The Secretary of State shall develop a recruitment policy that encourages scientists and engineers from other Federal agencies, academic institutions, and industry to apply for assignments in embassies of the United States; and

(c) The Secretaries of State and Commerce and the Director of the National Science Foundation shall develop a central mechanism for the prompt and efficient dissemination of science and technology information developed abroad to users in Federal laboratories, academic institutions, and the private sector on a fee-for-service basis.

SEC. 5. *Technology Transfer from the Department of Defense.* Within 6 months of the date of this Order [Apr. 10, 1987], the Secretary of Defense shall identify a list of funded technologies that would be potentially useful to United States industries and universities. The Secretary shall then accelerate efforts to make these technologies more readily available to United States industries and universities.

SEC. 6. *Basic Science and Technology Centers.* The head of each Executive department and agency shall examine the potential for including the establishment of university research centers in engineering, science, or technology in the strategy and planning for any future research and development programs. Such university centers shall be jointly funded by the Federal Government, the private sector, and, where appropriate, the States and shall focus on areas of fundamental research and technology that are both scientifically promising and have the potential to contribute to the Nation's long-term economic competitiveness.

SEC. 7. *Reporting Requirements.* (a) Within 1 year from the date of this Order [Apr. 10, 1987], the Director of the Office of Science and Technology Policy shall convene an interagency task force comprised of the heads of representative agencies and the directors of representative Federal laboratories, or their designees, in order to identify and disseminate creative approaches to technology transfer from Federal laboratories. The task force will report to the President on the progress of and problems with technology transfer from Federal laboratories.

(b) Specifically, the report shall include:

(1) a listing of current technology transfer programs and an assessment of the effectiveness of these programs;

(2) identification of new or creative approaches to technology transfer that might serve as model programs for Federal laboratories;

(3) criteria to assess the effectiveness and impact on the Nation's economy of planned or future technology transfer efforts; and

(4) a compilation and assessment of the Technology Share Program established in Section 2 and, where appropriate, related cooperative research and development venture programs.

SEC. 8. *Relation to Existing Law.* Nothing in this Order shall affect the continued applicability of any existing laws or regulations relating to the transfer of United States technology to other nations. The head of any Executive department or agency may exclude from consideration, under this Order, any technology that would be, if transferred, detrimental to the interests of national security.

RONALD REAGAN.

§ 3710a. Cooperative research and development agreements

(a) General authority

Each Federal agency may permit the director of any of its Government-operated Federal laboratories, and, to the extent provided in an agency-approved joint work statement or, if permitted by the agency, in an agency-approved annual strategic plan, the director of any of its Government-owned, contractor-operated laboratories—

(1) to enter into cooperative research and development agreements on behalf of such agency (subject to subsection (c) of this section) with other Federal agencies; units of State or local government; industrial organizations (including corporations, partnerships, and limited partnerships, and industrial development organizations); public and private foundations; nonprofit organizations (including universities); or other persons (including licensees of inventions owned by the Federal agency); and

(2) to negotiate licensing agreements under section 207 of title 35, or under other authorities (in the case of a Government-owned, contractor-operated laboratory, subject to subsection (c) of this section) for inventions made or other intellectual property developed at the laboratory and other inventions or other intellectual property that may be voluntarily assigned to the Government.

(b) Enumerated authority

(1) Under an agreement entered into pursuant to subsection (a)(1) of this section, the laboratory may grant, or agree to grant in advance, to a collaborating party patent licenses or assignments, or options thereto, in any invention made in whole or in part by a laboratory employee under the agreement, or, subject to section 209 of title 35, may grant a license to an invention which is federally owned, for which a patent application was filed before the signing of the agreement, and directly within the scope of the work under the agreement, for reasonable compensation when appropriate. The laboratory shall ensure, through such agreement, that the collaborating party has the option to choose an exclusive license for a pre-negotiated field of use for any such invention under the agreement or, if there is more than one collaborating party, that the collaborating parties are offered the option to hold licensing rights that collectively encompass the rights that would be held under such an exclusive license by one party. In consideration for the Government's contribution under the agreement, grants under this paragraph shall be subject to the following explicit conditions:

(A) A nonexclusive, nontransferable, irrevocable, paid-up license from the collaborating party to the laboratory to practice the invention or have the invention practiced throughout the world by or on behalf of the Government. In the exercise of such license, the Government shall not publicly disclose trade secrets or commercial or financial information that is privileged or confidential within the meaning of section 552(b)(4) of title 5 or which would be considered as such if it had been obtained from a non-Federal party.

(B) If a laboratory assigns title or grants an exclusive license to such an invention, the Government shall retain the right—

(i) to require the collaborating party to grant to a responsible applicant a nonexclusive, partially exclusive, or exclusive license to use the invention in the applicant's licensed field of use, on terms that are reasonable under the circumstances; or

(ii) if the collaborating party fails to grant such a license, to grant the license itself.

(C) The Government may exercise its right retained under subparagraph (B) only in exceptional circumstances and only if the Government determines that—

(i) the action is necessary to meet health or safety needs that are not reasonably satisfied by the collaborating party;

(ii) the action is necessary to meet requirements for public use specified by Federal regulations, and such requirements are not reasonably satisfied by the collaborating party; or

(iii) the collaborating party has failed to comply with an agreement containing provisions described in subsection (c)(4)(B) of this section.

This determination is subject to administrative appeal and judicial review under section 203(2)[1] of title 35.

(2) Under agreements entered into pursuant to subsection (a)(1) of this section, the laboratory shall ensure that a collaborating party may retain title to any invention made solely by its employee in exchange for normally granting the Government a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government for research or other Government purposes.

(3) Under an agreement entered into pursuant to subsection (a)(1) of this section, a laboratory may—

(A) accept, retain, and use funds, personnel, services, and property from a collaborating party and provide personnel, services, and property to a collaborating party;

(B) use funds received from a collaborating party in accordance with subparagraph (A) to hire personnel to carry out the agreement who will not be subject to full-time-equivalent restrictions of the agency;

(C) to the extent consistent with any applicable agency requirements or standards of conduct, permit an employee or former employee of the laboratory to participate in an effort to commercialize an invention made by the employee or former employee while in the employment or service of the Government; and

(D) waive, subject to reservation by the Government of a nonexclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government, in advance, in whole or in part, any right of ownership which the Federal Government may have to any subject invention made under the agree-

[1] See References in Text note below.

ment by a collaborating party or employee of a collaborating party.

(4) A collaborating party in an exclusive license in any invention made under an agreement entered into pursuant to subsection (a)(1) of this section shall have the right of enforcement under chapter 29 of title 35.

(5) A Government-owned, contractor-operated laboratory that enters into a cooperative research and development agreement pursuant to subsection (a)(1) of this section may use or obligate royalties or other income accruing to the laboratory under such agreement with respect to any invention only—

(A) for payments to inventors;

(B) for purposes described in clauses (i), (ii), (iii), and (iv) of section 3710c(a)(1)(B) of this title; and

(C) for scientific research and development consistent with the research and development missions and objectives of the laboratory.

(6)(A) In the case of a laboratory that is part of the National Nuclear Security Administration, a designated official of that Administration may waive any license retained by the Government under paragraph (1)(A), (2), or (3)(D), in whole or in part and according to negotiated terms and conditions, if the designated official finds that the retention of the license by the Government would substantially inhibit the commercialization of an invention that would otherwise serve an important national security mission.

(B) The authority to grant a waiver under subparagraph (A) shall expire on the date that is five years after October 30, 2000. The expiration under the preceding sentence of authority to grant a waiver under subparagraph (A) shall not affect any waiver granted under that subparagraph before the expiration of such authority.

(C) Not later than February 15 of each year, the Administrator for Nuclear Security shall submit to Congress a report on any waivers granted under this paragraph during the preceding year.

(c) Contract considerations

(1) A Federal agency may issue regulations on suitable procedures for implementing the provisions of this section; however, implementation of this section shall not be delayed until issuance of such regulations.

(2) The agency in permitting a Federal laboratory to enter into agreements under this section shall be guided by the purposes of this chapter.

(3)(A) Any agency using the authority given it under subsection (a) of this section shall review standards of conduct for its employees for resolving potential conflicts of interest to make sure they adequately establish guidelines for situations likely to arise through the use of this authority, including but not limited to cases where present or former employees or their partners negotiate licenses or assignments of titles to inventions or negotiate cooperative research and development agreements with Federal agencies (including the agency with which the employee involved is or was formerly employed).

(B) If, in implementing subparagraph (A), an agency is unable to resolve potential conflicts of interest within its current statutory framework, it shall propose necessary statutory changes to be forwarded to its authorizing committees in Congress.

(4) The laboratory director in deciding what cooperative research and development agreements to enter into shall—

(A) give special consideration to small business firms, and consortia involving small business firms; and

(B) give preference to business units located in the United States which agree that products embodying inventions made under the cooperative research and development agreement or produced through the use of such inventions will be manufactured substantially in the United States and, in the case of any industrial organization or other person subject to the control of a foreign company or government, as appropriate, take into consideration whether or not such foreign government permits United States agencies, organizations, or other persons to enter into cooperative research and development agreements and licensing agreements.

(5)(A) If the head of the agency or his designee desires an opportunity to disapprove or require the modification of any such agreement presented by the director of a Government-operated laboratory, the agreement shall provide a 30-day period within which such action must be taken beginning on the date the agreement is presented to him or her by the head of the laboratory concerned.

(B) In any case in which the head of an agency or his designee disapproves or requires the modification of an agreement presented by the director of a Government-operated laboratory under this section, the head of the agency or such designee shall transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.

(C)(i) Any non-Federal entity that operates a laboratory pursuant to a contract with a Federal agency shall submit to the agency any cooperative research and development agreement that the entity proposes to enter into and the joint work statement if required with respect to that agreement.

(ii) A Federal agency that receives a proposed agreement and joint work statement under clause (i) shall review and approve, request specific modifications to, or disapprove the proposed agreement and joint work statement within 30 days after such submission. No agreement may be entered into by a Government-owned, contractor-operated laboratory under this section before both approval of the agreement and approval of a joint work statement under this clause.

(iii) In any case in which an agency which has contracted with an entity referred to in clause (i) disapproves or requests the modification of a cooperative research and development agreement or joint work statement submitted under that clause, the agency shall transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.

(iv) Any agency that has contracted with a non-Federal entity to operate a laboratory may develop and provide to such laboratory one or

more model cooperative research and development agreements for purposes of standardizing practices and procedures, resolving common legal issues, and enabling review of cooperative research and development agreements to be carried out in a routine and prompt manner.

(v) A Federal agency may waive the requirements of clause (i) or (ii) under such circumstances as the agency considers appropriate.

(6) Each agency shall maintain a record of all agreements entered into under this section.

(7)(A) No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, which is obtained in the conduct of research or as a result of activities under this chapter from a non-Federal party participating in a cooperative research and development agreement shall be disclosed.

(B) The director, or in the case of a contractor-operated laboratory, the agency, for a period of up to 5 years after development of information that results from research and development activities conducted under this chapter and that would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from a non-Federal party participating in a cooperative research and development agreement, may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5.

(d) Definitions

As used in this section—

(1) the term ''cooperative research and development agreement'' means any agreement between one or more Federal laboratories and one or more non-Federal parties under which the Government, through its laboratories, provides personnel, services, facilities, equipment, intellectual property, or other resources with or without reimbursement (but not funds to non-Federal parties) and the non-Federal parties provide funds, personnel, services, facilities, equipment, intellectual property, or other resources toward the conduct of specified research or development efforts which are consistent with the missions of the laboratory; except that such term does not include a procurement contract or cooperative agreement as those terms are used in sections 6303, 6304, and 6305 of title 31;

(2) the term ''laboratory'' means—

(A) a facility or group of facilities owned, leased, or otherwise used by a Federal agency, a substantial purpose of which is the performance of research, development, or engineering by employees of the Federal Government;

(B) a group of Government-owned, contractor-operated facilities (including a weapon production facility of the Department of Energy) under a common contract, when a substantial purpose of the contract is the performance of research and development, or the production, maintenance, testing, or dismantlement of a nuclear weapon or its components, for the Federal Government; and

(C) a Government-owned, contractor-operated facility (including a weapon production facility of the Department of Energy) that is not under a common contract described in subparagraph (B), and the primary purpose of which is the performance of research and development, or the production, maintenance, testing, or dismantlement of a nuclear weapon or its components, for the Federal Government,

but such term does not include any facility covered by Executive Order No. 12344, dated February 1, 1982, pertaining to the naval nuclear propulsion program;

(3) the term ''joint work statement'' means a proposal prepared for a Federal agency by the director of a Government-owned, contractor-operated laboratory describing the purpose and scope of a proposed cooperative research and development agreement, and assigning rights and responsibilities among the agency, the laboratory, and any other party or parties to the proposed agreement; and

(4) the term ''weapon production facility of the Department of Energy'' means a facility under the control or jurisdiction of the Secretary of Energy that is operated for national security purposes and is engaged in the production, maintenance, testing, or dismantlement of a nuclear weapon or its components.

(e) Determination of laboratory missions

For purposes of this section, an agency shall make separate determinations of the mission or missions of each of its laboratories.

(f) Relationship to other laws

Nothing in this section is intended to limit or diminish existing authorities of any agency.

(g) Principles

In implementing this section, each agency which has contracted with a non-Federal entity to operate a laboratory shall be guided by the following principles:

(1) The implementation shall advance program missions at the laboratory, including any national security mission.

(2) Classified information and unclassified sensitive information protected by law, regulation, or Executive order shall be appropriately safeguarded.

(Pub. L. 96–480, § 12, as added and renumbered § 11, Pub. L. 99–502, §§ 2, 9(e)(1), Oct. 20, 1986, 100 Stat. 1785, 1797; renumbered § 12, Pub. L. 100–418, title V, § 5122(a)(1), Aug. 23, 1988, 102 Stat. 1438; amended Pub. L. 100–519, title III, § 301, Oct. 24, 1988, 102 Stat. 2597; Pub. L. 101–189, div. C, title XXXI, § 3133(a), (b), Nov. 29, 1989, 103 Stat. 1675, 1677; Pub. L. 102–25, title VII, § 705(g), Apr. 6, 1991, 105 Stat. 121; Pub. L. 102–245, title III, § 302(a), Feb. 14, 1992, 106 Stat. 20; Pub. L. 102–484, div. C, title XXXI, § 3135(a), Oct. 23, 1992, 106 Stat. 2640; Pub. L. 103–160, div. C, title XXXI, § 3160, Nov. 30, 1993, 107 Stat. 1957; Pub. L. 104–113, § 4, Mar. 7, 1996, 110 Stat. 775; Pub. L. 106–398, § 1 [div. C, title XXXI, § 3196], Oct. 30, 2000, 114 Stat. 1654, 1654A–481; Pub. L. 106–404, § 3, Nov. 1, 2000, 114 Stat. 1742.)

REFERENCES IN TEXT

Section 203(2) of title 35, referred to in subsec. (b)(1)(C), was redesignated section 203(b) of title 35 by

Pub. L. 107–273, div. C, title III, §13206(a)(14)(A)(i), Nov. 2, 2002, 116 Stat. 1905.

Executive Order No. 12344, referred to in subsec. (d)(2), is set out as a note under section 2511 of Title 50, War and National Defense.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–398, §1 [div. C, title XXXI, §3196(a)], substituted ''joint work statement or, if permitted by the agency, in an agency-approved annual strategic plan,'' for ''joint work statement,'' in introductory provisions.

Subsec. (b)(1). Pub. L. 106–404, in first sentence, inserted ''or, subject to section 209 of title 35, may grant a license to an invention which is federally owned, for which a patent application was filed before the signing of the agreement, and directly within the scope of the work under the agreement,'' after ''under the agreement,''.

Subsec. (b)(6). Pub. L. 106–398, §1 [div. C, title XXXI, §3196(b)], added par. (6).

Subsec. (c)(5)(C), (D). Pub. L. 106–398, §1 [div. C, title XXXI, §3196(c)], redesignated subpar. (D) as (C), struck out ''with a small business firm'' after ''enter into'' and inserted ''if'' after ''statement'' in cl. (i), added cls. (iv) and (v), and struck out former subpar. (C) which related to the duties of an agency which has contracted with a non-Federal entity to operate a laboratory with respect to review and approval of joint work statements and agreements under this section and with respect to providing the entity with model cooperative research and development agreements.

1996—Subsec. (b). Pub. L. 104–113 amended subsec. (b) generally, to require that laboratory ensure that collaborating party be provided option of choosing exclusive license for pre-negotiated field of use for any invention under agreement or that collaborating party be offered option of holding licensing rights that collectively encompass rights that would be held under such exclusive license by one party, to set forth explicit conditions that grants under par. (1) were to be subject to, and to require laboratory to ensure that collaborating party might retain title to any invention made solely by its employee in exchange for normally granting Government nonexclusive, nontransferable, irrevocable, paid-up license to practice invention by or on behalf of Government for research or for other Government purposes.

1993—Subsec. (d)(2)(B). Pub. L. 103–160, §3160(1), inserted ''(including a weapon production facility of the Department of Energy)'' after ''facilities'' and '', or the production, maintenance, testing, or dismantlement of a nuclear weapon or its components,'' after ''research and development''.

Subsec. (d)(2)(C). Pub. L. 103–160, §3160(2), inserted ''(including a weapon production facility of the Department of Energy)'' after ''facility'' and '', or the production, maintenance, testing, or dismantlement of a nuclear weapon or its components,'' after ''research and development''.

Subsec. (d)(4). Pub. L. 103–160, §3160(3)–(5), added par. (4).

1992—Subsec. (c)(5)(C)(i). Pub. L. 102–484, §3135(a)(1), substituted ''Except as provided in subparagraph (D), any agency'' for ''Any agency''.

Subsec. (c)(5)(D). Pub. L. 102–484, §3135(a)(2), added subpar. (D).

Subsec. (d)(1). Pub. L. 102–245 inserted ''intellectual property,'' after ''equipment,'' in two places.

1991—Subsec. (d)(2). Pub. L. 102–25 substituted ''naval'' for ''Naval'' in concluding provisions.

1989—Subsec. (a). Pub. L. 101–189, §3133(a)(1)(A), inserted '', and, to the extent provided in an agency-approved joint work statement, the director of any of its Government-owned, contractor-operated laboratories'' after ''Government-operated Federal laboratories'' in introductory provisions.

Subsec. (a)(2). Pub. L. 101–189, §3133(a)(1)(B), (C), substituted ''(in the case of a Government-owned, contractor-operated laboratory, subject to subsection (c) of this section) for'' for ''for Government-owned'' and struck out ''of Federal employees'' before ''that may be voluntarily''.

Subsec. (b). Pub. L. 101–189, §3133(a)(2)(A), (C), inserted '', and, to the extent provided in an agency-approved joint work statement, a Government-owned, contractor-operated laboratory,'' after ''Government-operated Federal laboratory'' in introductory provisions and inserted concluding provisions ''A Government-owned, contractor-operated laboratory that enters into a cooperative research and development agreement under subsection (a)(1) of this section may use or obligate royalties or other income accruing to such laboratory under such agreement with respect to any invention only (i) for payments to inventors; (ii) for the purposes described in section 3710c(a)(1)(B)(i), (ii), and (iv) of this title; and (iii) for scientific research and development consistent with the research and development mission and objectives of the laboratory.''

Subsec. (b)(2). Pub. L. 101–189, §3133(a)(2)(B), substituted ''a laboratory employee'' for ''a Federal employee''.

Subsec. (c)(3)(A). Pub. L. 101–189, §3133(a)(3), substituted ''standards of conduct for its employees'' for ''employee standards of conduct''.

Subsec. (c)(5)(A). Pub. L. 101–189, §3133(a)(4), inserted ''presented by the director of a Government-operated laboratory'' after ''any such agreement''.

Subsec. (c)(5)(B). Pub. L. 101–189, §3133(a)(5), inserted ''by the director of a Government-operated laboratory'' after ''an agreement presented''.

Subsec. (c)(5)(C). Pub. L. 101–189, §3133(a)(6), added subpar. (C).

Subsec. (c)(7). Pub. L. 101–189, §3133(a)(7), added par. (7).

Subsec. (d)(2). Pub. L. 101–189, §3133(a)(8)(B), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''the term 'laboratory' means a facility or group of facilities owned, leased, or otherwise used by a Federal agency, a substantial purpose of which is the performance of research, development, or engineering by employees of the Federal Government.''

Subsec. (d)(3). Pub. L. 101–189, §3133(a)(8)(A), (C), added par. (3).

Subsec. (g). Pub. L. 101–189, §3133(b), added subsec. (g).

1988—Subsec. (a)(2). Pub. L. 100–519, §301(1), substituted ''or other intellectual property developed at the laboratory and other inventions or other intellectual property'' for ''at the laboratory and other inventions''.

Subsec. (b)(4), (5). Pub. L. 100–519, §301(2), added par. (4) and redesignated former par. (4) as (5).

REVIEW OF COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENT PROCEDURES

Pub. L. 106–404, §8, Nov. 1, 2000, 114 Stat. 1746, provided that:

''(a) REVIEW.—Within 90 days after the date of the enactment of this Act [Nov. 1, 2000], each Federal agency with a federally funded laboratory that has in effect on that date of the enactment one or more cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) shall report to the Committee on National Security of the National Science and Technology Council and the Congress on the general policies and procedures used by that agency to gather and consider the views of other agencies on—

''(1) joint work statements under section 12(c)(5)(C) or (D) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(5)(C) or (D)); or

''(2) in the case of laboratories described in section 12(d)(2)(A) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)(A)), cooperative research and development agreements under such section 12,

with respect to major proposed cooperative research and development agreements that involve critical national security technology or may have a significant impact on domestic or international competitiveness.

''(b) PROCEDURES.—Within 1 year after the date of the enactment of this Act [Nov. 1, 2000], the Committee on National Security of the National Science and Technology Council, in conjunction with relevant Federal agencies and national laboratories, shall—

''(1) determine the adequacy of existing procedures and methods for interagency coordination and awareness with respect to cooperative research and development agreements described in subsection (a); and

''(2) establish and distribute to appropriate Federal agencies—

''(A) specific criteria to indicate the necessity for gathering and considering the views of other agencies on joint work statements or cooperative research and development agreements as described in subsection (a); and

''(B) additional procedures, if any, for carrying out such gathering and considering of agency views with respect to cooperative research and development agreements described in subsection (a).

Procedures established under this subsection shall be designed to the extent possible to use or modify existing procedures, to minimize burdens on Federal agencies, to encourage industrial partnerships with national laboratories, and to minimize delay in the approval or disapproval of joint work statements and cooperative research and development agreements.

''(c) LIMITATION.—Nothing in this Act [see Short Title of 2000 Amendment note set out under section 3701 of this title], nor any procedures established under this section shall provide to the Office of Science and Technology Policy, the National Science and Technology Council, or any Federal agency the authority to disapprove a cooperative research and development agreement or joint work statement, under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a), of another Federal agency.''

MAGNETIC LEVITATION TECHNOLOGY

The Secretary of the Army, in cooperation with the Secretary of Transportation, authorized to conduct research and development activities on magnetic levitation technology using contracts or cooperative research and development agreements under this section, see section 417 of Pub. L. 101–640, set out as a note under section 2313 of Title 33, Navigation and Navigable Waters.

CONTRACT PROVISIONS

Section 3133(d) of Pub. L. 101–189, as amended by Pub. L. 101–510, div. A, title VIII, § 828(a), Nov. 5, 1990, 104 Stat. 1607, provided that:

''(1) Not later than 150 days after the date of enactment of this Act [Nov. 29, 1989], each agency which has contracted with a non-Federal entity to operate a Government-owned laboratory shall propose for inclusion in that laboratory's operating contract, to the extent not already included and subject to paragraph (6), appropriate contract provisions that—

''(A) establish technology transfer, including cooperative research and development agreements, as a mission for the laboratory under section 11(a)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 [15 U.S.C. 3710(a)(1)];

''(B) describe the respective obligations and responsibilities of the agency and the laboratory with respect to this part [part C (§§ 3131–3133) of title XXXI of div. C of Pub. L. 101–189, see Short Title of 1989 Amendment note under section 3701 of this title] and section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 [15 U.S.C. 3710a];

''(C) require that, except as provided in paragraph (2), no employee of the laboratory shall have a substantial role (including an advisory role) in the preparation, negotiation, or approval of a cooperative research and development agreement if, to such employee's knowledge—

''(i) such employee, or the spouse, child, parent, sibling, or partner of such employee, or an organization (other than the laboratory) in which such employee serves as an officer, director, trustee, partner, or employee—

''(I) holds a financial interest in any entity, other than the laboratory, that has a substantial interest in the preparation, negotiation, or approval of the cooperative research and development agreement; or

''(II) receives a gift or gratuity from any entity, other than the laboratory, that has a substantial interest in the preparation, negotiation, or approval of the cooperative research and development agreement; or

''(ii) a financial interest in any entity, other than the laboratory, that has a substantial interest in the preparation, negotiation, or approval of the cooperative research and development agreement, is held by any person or organization with whom such employee is negotiating or has any arrangement concerning prospective employment;

''(D) require that each employee of the laboratory who negotiates or approves a cooperative research and development agreement shall certify to the agency that the circumstances described in subparagraph (C)(i) and (ii) do not apply to such employee;

''(E) require the laboratory to widely disseminate information on opportunities to participate with the laboratory in technology transfer, including cooperative research and development agreements; and

''(F) provides for an accounting of all royalty or other income received under cooperative research and development agreements.

''(2) The requirements described in paragraph (1)(C) and (D) shall not apply in a case where the negotiating or approving employee advises the agency that reviewed the applicable joint work statement under section 12(c)(5)(C)(i) of the Stevenson-Wydler Technology Innovation Act of 1980 [15 U.S.C. 3710a(c)(5)(C)(i)] in advance of the matter in which he is to participate and the nature of any financial interest described in paragraph (1)(C), and where the agency employee determines that such financial interest is not so substantial as to be considered likely to affect the integrity of the laboratory employee's service in that matter.

''(3) Not later than 180 days after the date of enactment of this Act [Nov. 29, 1989], each agency which has contracted with a non-Federal entity to operate a Government-owned laboratory shall submit a report to the Congress which includes a copy of each contract provision amended pursuant to this subsection.

''(4) No Government-owned, contractor-operated laboratory may enter into a cooperative research and development agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 [15 U.S.C. 3710a] unless—

''(A) that laboratory's operating contract contains the provisions described in paragraph (1)(A) through (F); or

''(B) such laboratory agrees in a separate writing to be bound by the provisions described in paragraph (1)(A) through (F).

''(5) Any contract for a Government-owned, contractor-operated laboratory entered into after the expiration of 150 days after the date of enactment of this Act [Nov. 29, 1989] shall contain the provisions described in paragraph (1)(A) through (F).

''(6) Contract provisions referred to in paragraph (1) shall include only such provisions as are necessary to carry out paragraphs (1) and (2) of this subsection.''

[Pub. L. 101–510, div. A, title VIII, § 828(b), Nov. 5, 1990, 104 Stat. 1607, provided that: ''Paragraph (6) of 3133(d) of such Act [Pub. L. 101–189, set out above], as added by subsection (a), shall apply only to contracts entered into after the date of enactment of this Act [Nov. 5, 1990].'']

§ 3710b. Rewards for scientific, engineering, and technical personnel of Federal agencies

The head of each Federal agency that is making expenditures at a rate of more than

$50,000,000 per fiscal year for research and development in its Government-operated laboratories shall use the appropriate statutory authority to develop and implement a cash awards program to reward its scientific, engineering, and technical personnel for—

(1) inventions, innovations, computer software, or other outstanding scientific or technological contributions of value to the United States due to commercial application or due to contributions to missions of the Federal agency or the Federal government,[1] or

(2) exemplary activities that promote the domestic transfer of science and technology development within the Federal Government and result in utilization of such science and technology by American industry or business, universities, State or local governments, or other non-Federal parties.

(Pub. L. 96–480, § 13, as added and renumbered § 12, Pub. L. 99–502, §§ 6, 9(e)(1), Oct. 20, 1986, 100 Stat. 1792, 1797; renumbered § 13, Pub. L. 100–418, title V, § 5122(a)(1), Aug. 23, 1988, 102 Stat. 1438; amended Pub. L. 100–519, title III, § 302, Oct. 24, 1988, 102 Stat. 2597.)

AMENDMENTS

1988—Par. (1). Pub. L. 100–519 inserted ''computer software,'' after ''inventions, innovations,''.

§ 3710c. Distribution of royalties received by Federal agencies

(a) In general

(1) Except as provided in paragraphs (2) and (4), any royalties or other payments received by a Federal agency from the licensing and assignment of inventions under agreements entered into by Federal laboratories under section 3710a of this title, and from the licensing of inventions of Federal laboratories under section 207 of title 35 or under any other provision of law, shall be retained by the laboratory which produced the invention and shall be disposed of as follows:

(A)(i) The head of the agency or laboratory, or such individual's designee, shall pay each year the first $2,000, and thereafter at least 15 percent, of the royalties or other payments, other than payments of patent costs as delineated by a license or assignment agreement, to the inventor or coinventors, if the inventor's or coinventor's rights are assigned to the United States.

(ii) An agency or laboratory may provide appropriate incentives, from royalties, or other payments, to laboratory employees who are not an inventor of such inventions but who substantially increased the technical value of such inventions.

(iii) The agency or laboratory shall retain the royalties and other payments received from an invention until the agency or laboratory makes payments to employees of a laboratory under clause (i) or (ii).

(B) The balance of the royalties or other payments shall be transferred by the agency to its laboratories, with the majority share of the royalties or other payments from any invention going to the laboratory where the invention occurred. The royalties or other payments so transferred to any laboratory may be used or obligated by that laboratory during the fiscal year in which they are received or during the 2 succeeding fiscal years—

(i) to reward scientific, engineering, and technical employees of the laboratory, including developers of sensitive or classified technology, regardless of whether the technology has commercial applications;

(ii) to further scientific exchange among the laboratories of the agency;

(iii) for education and training of employees consistent with the research and development missions and objectives of the agency or laboratory, and for other activities that increase the potential for transfer of the technology of the laboratories of the agency;

(iv) for payment of expenses incidental to the administration and licensing of intellectual property by the agency or laboratory with respect to inventions made at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for intellectual property management and licensing services; or

(v) for scientific research and development consistent with the research and development missions and objectives of the laboratory.

(C) All royalties or other payments retained by the agency or laboratory after payments have been made pursuant to subparagraphs (A) and (B) that is unobligated and unexpended at the end of the second fiscal year succeeding the fiscal year in which the royalties and other payments were received shall be paid into the Treasury.

(2) If, after payments to inventors under paragraph (1), the royalties or other payments received by an agency in any fiscal year exceed 5 percent of the budget of the agency for that year, 75 percent of such excess shall be paid to the Treasury of the United States and the remaining 25 percent may be used or obligated under paragraph (1)(B). Any funds not so used or obligated shall be paid into the Treasury of the United States.

(3) Any payment made to an employee under this section shall be in addition to the regular pay of the employee and to any other awards made to the employee, and shall not affect the entitlement of the employee to any regular pay, annuity, or award to which he is otherwise entitled or for which he is otherwise eligible or limit the amount thereof. Any payment made to an inventor as such shall continue after the inventor leaves the laboratory or agency. Payments made under this section shall not exceed $150,000 per year to any one person, unless the President approves a larger award (with the excess over $150,000 being treated as a Presidential award under section 4504 of title 5).

(4) A Federal agency receiving royalties or other payments as a result of invention management services performed for another Federal agency or laboratory under section 207 of title 35, may retain such royalties or payments to the

[1] So in original. Probably should be capitalized.

extent required to offset payments to inventors under clause (i) of paragraph (1)(A), costs and expenses incurred under clause (iv) of paragraph (1)(B), and the cost of foreign patenting and maintenance for any invention of the other agency. All royalties and other payments remaining after offsetting the payments to inventors, costs, and expenses described in the preceding sentence shall be transferred to the agency for which the services were performed, for distribution in accordance with paragraph (1)(B).

(b) Certain assignments

If the invention involved was one assigned to the Federal agency—

(1) by a contractor, grantee, or participant, or an employee of a contractor, grantee, or participant, in an agreement or other arrangement with the agency, or

(2) by an employee of the agency who was not working in the laboratory at the time the invention was made,

the agency unit that was involved in such assignment shall be considered to be a laboratory for purposes of this section.

(c) Reports

The Comptroller General shall transmit a report to the appropriate committees of the Senate and House of Representatives on the effectiveness of Federal technology transfer programs, including findings, conclusions, and recommendations for improvements in such programs. The report shall be integrated with, and submitted at the same time as, the report required by section 202(b)(3)[1] of title 35.

(Pub. L. 96–480, § 14, as added, renumbered § 13, and amended Pub. L. 99–502, §§ 7, 9(e)(1), (3), Oct. 20, 1986, 100 Stat. 1792, 1797; renumbered § 14 and amended Pub. L. 100–418, title V, §§ 5122(a)(1), 5162(a), Aug. 23, 1988, 102 Stat. 1438, 1450; Pub. L. 100–519, title III, § 303(a), Oct. 24, 1988, 102 Stat. 2597; Pub. L. 101–189, div. C, title XXXI, § 3133(c), Nov. 29, 1989, 103 Stat. 1677; Pub. L. 104–113, § 5, Mar. 7, 1996, 110 Stat. 777; Pub. L. 106–404, §§ 7(7), 10(b), Nov. 1, 2000, 114 Stat. 1746, 1749.)

REFERENCES IN TEXT

Section 202(b)(3) of title 35, referred to in subsec. (c), was struck out and section 202(b)(4) was redesignated section 202(b)(3) by Pub. L. 111–8, div. G, title I, § 1301(h), Mar. 11, 2009, 123 Stat. 829.

AMENDMENTS

2000—Subsec. (a)(1)(A)(i). Pub. L. 106–404, § 7(7)(A), (B), inserted ", other than payments of patent costs as delineated by a license or assignment agreement," after "or other payments" and ", if the inventor's or co-inventor's rights are assigned to the United States" before period at end.

Subsec. (a)(1)(B). Pub. L. 106–404, § 7(7)(C), substituted "2 succeeding fiscal years" for "succeeding fiscal year" in introductory provisions.

Subsec. (a)(2). Pub. L. 106–404, § 7(7)(D), struck out "Government-operated laboratories of the" before "agency for that year,".

Subsec. (b)(2). Pub. L. 106–404, § 7(7)(E), substituted "invention" for "inventon".

Subsec. (c). Pub. L. 106–404, § 10(b), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows:

"(1) In making their annual budget submissions Federal agencies shall submit, to the appropriate authorization and appropriation committees of both Houses of the Congress, summaries of the amount of royalties or other income received and expenditures made (including inventor awards) under this section.

"(2) The Comptroller General, five years after October 20, 1986, shall review the effectiveness of the various royalty-sharing programs established under this section and report to the appropriate committees of the House of Representatives and the Senate, in a timely manner, his findings, conclusions, and recommendations for improvements in such programs."

1996—Subsec. (a)(1). Pub. L. 104–113, § 5(1), amended par. (1) generally, restructuring subpar. (A) to require head of agency or his designee to pay each year first $2,000, and thereafter at least 15 percent of royalties or other income received by agency on account of any invention to inventor or coinventors if they had assigned their rights in invention to United States and to authorize agencies to provide incentives to laboratory employees who substantially increase technical value of inventions, restructuring subpar. (B) to reorder cls. (i) to (iv), to add cl. (v), and to strike out closing provisions which required unobligated or unused funds to be paid into Treasury, and adding subpar. (C).

Subsec. (a)(2). Pub. L. 104–113, § 5(2), in first sentence, inserted "or other payments" after "royalties" and substituted "under paragraph (1)(B)" for "for the purposes described in clauses (i) through (iv) of paragraph (1)(B) during that fiscal year or the succeeding fiscal year".

Subsec. (a)(3). Pub. L. 104–113, § 5(3), substituted "$150,000" for "$100,000" in two places.

Subsec. (a)(4). Pub. L. 104–113, § 5(4), in first sentence, substituted "other payments" for "other income", "such royalties or payments" for "such royalties or income", "offset payments to inventors" for "offset the payment of royalties to inventors", and "clause (iv) of paragraph (1)(B)" for "clause (i) of paragraph (1)(B)" and, in second sentence, substituted "other payments" for "other income", substituted "offsetting the payments to inventors" for "payment of the royalties", and struck out "clauses (i) through (iv) of" before "paragraph (1)(B)".

Subsec. (b)(1). Pub. L. 104–113, § 5(5), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "by a contractor, grantee, or participant in a cooperative agreement with the agency, or".

1989—Subsec. (a)(1). Pub. L. 101–189, § 3133(c)(1), in introductory provisions, inserted "by Government-operated Federal laboratories" after "entered into" and made technical amendment to reference to section 3710a of this title to correct reference to corresponding section of original Act, requiring no change in text.

Subsec. (a)(1)(B)(ii). Pub. L. 101–189, § 3133(c)(2), inserted ", including payments to inventors and developers of sensitive or classified technology, regardless of whether the technology has commercial applications" after "that laboratory".

Subsec. (a)(1)(B)(iv). Pub. L. 101–189, § 3133(c)(3), substituted "technology of the laboratories" for "technology of the Government-operated laboratories".

1988—Subsec. (a)(1)(A)(i). Pub. L. 100–519, § 303(a)(1), substituted "has assigned his or her rights in the invention to the United States" for "was an employee of the agency at the time the invention was made".

Subsec. (a)(1)(A)(ii). Pub. L. 100–519, § 303(a)(2), substituted "under clause (i)" for "who were employed by the agency at the time the invention was made and whose names appear on licensed inventions".

Subsec. (a)(4). Pub. L. 100–418, § 5162(a), substituted "may" for "shall" and "any invention of the other agency" for "such invention performed at the request of the other agency or laboratory" in first sentence.

1986—Subsec. (a)(1). Pub. L. 99–502, § 9(e)(3), in introductory par. made technical amendment to reference to section 3710a of this title to reflect renumbering of corresponding section of original act.

[1] See References in Text note below.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 303(b) of Pub. L. 100–519 provided that: ''This section [amending this section] shall be effective as of October 20, 1986.''

§3710d. Employee activities

(a) In general

If a Federal agency which has ownership of or the right of ownership to an invention made by a Federal employee does not intend to file for a patent application or otherwise to promote commercialization of such invention, the agency shall allow the inventor, if the inventor is a Government employee or former employee who made the invention during the course of employment with the Government, to obtain or retain title to the invention (subject to reservation by the Government of a nonexclusive, nontransferrable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government). In addition, the agency may condition the inventor's right to title on the timely filing of a patent application in cases when the Government determines that it has or may have a need to practice the invention.

(b) "Special Government employees" defined

For purposes of this section, Federal employees include ''special Government employees'' as defined in section 202 of title 18.

(c) Relationship to other laws

Nothing in this section is intended to limit or diminish existing authorities of any agency.

(Pub. L. 96–480, §15, as added and renumbered §14, Pub. L. 99–502, §§8, 9(e)(1), Oct. 20, 1986, 100 Stat. 1794, 1797; renumbered §15, Pub. L. 100–418, title V, §5122(a)(1), Aug. 23, 1988, 102 Stat. 1438; amended Pub. L. 104–113, §6, Mar. 7, 1996, 110 Stat. 779.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–113 substituted ''ownership of or the right of ownership to an invention made by a Federal employee'' for ''the right of ownership to an invention under this chapter'' and inserted ''obtain or'' before ''retain title to the invention''.

§3711. National Technology and Innovation Medal

(a) Establishment

There is hereby established a National Technology and Innovation Medal, which shall be of such design and materials and bear such inscriptions as the President, on the basis of recommendations submitted by the Office of Science and Technology Policy, may prescribe.

(b) Award

The President shall periodically award the medal, on the basis of recommendations received from the Secretary or on the basis of such other information and evidence as he deems appropriate, to individuals or companies, which in his judgment are deserving of special recognition by reason of their outstanding contributions to the promotion of technology or technological manpower for the improvement of the economic, environmental, or social well-being of the United States.

(c) Presentation

The presentation of the award shall be made by the President with such ceremonies as he may deem proper.

(Pub. L. 96–480, §16, formerly §12, Oct. 21, 1980, 94 Stat. 2319; renumbered §16, Pub. L. 99–502, §2, Oct. 20, 1986, 100 Stat. 1785; renumbered §15, Pub. L. 99–502, §9(e)(1), Oct. 20, 1986, 100 Stat. 1797; renumbered §16, Pub. L. 100–418, title V, §5122(a)(1), Aug. 23, 1988, 102 Stat. 1438; Pub. L. 110–69, title I, §1003, Aug. 9, 2007, 121 Stat. 576.)

AMENDMENTS

2007—Pub. L. 110–69, §1003(1), which directed substitution of ''National Technology and Innovation Medal'' for ''National Medal'' in section catchline, was executed by making the substitution for ''National Technology Medal'' to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 110–69, §1003(2), substituted ''Technology and Innovation Medal'' for ''Technology Medal''.

NATIONAL TECHNOLOGY MEDAL FOR ENVIRONMENTAL TECHNOLOGY

Pub. L. 105–309, §10, Oct. 30, 1998, 112 Stat. 2939, provided that: ''In the administration of section 16 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711), Environmental Technology shall be established as a separate nomination category with appropriate unique criteria for that category.''

§3711a. Malcolm Baldrige National Quality Award

(a) Establishment

There is hereby established the Malcolm Baldrige National Quality Award, which shall be evidenced by a medal bearing the inscriptions ''Malcolm Baldrige National Quality Award'' and ''The Quest for Excellence''. The medal shall be of such design and materials and bear such additional inscriptions as the Secretary may prescribe.

(b) Making and presentation of award

(1) The President (on the basis of recommendations received from the Secretary), or the Secretary, shall periodically make the award to companies and other organizations which in the judgment of the President or the Secretary have substantially benefited the economic or social well-being of the United States through improvements in the quality of their goods or services resulting from the effective practice of quality management, and which as a consequence are deserving of special recognition.

(2) The presentation of the award shall be made by the President or the Secretary with such ceremonies as the President or the Secretary may deem proper.

(3) An organization to which an award is made under this section, and which agrees to help other American organizations improve their quality management, may publicize its receipt of such award and use the award in its advertising, but it shall be ineligible to receive another such award in the same category for a period of 5 years.

(c) Categories in which award may be given

(1) Subject to paragraph (2), separate awards shall be made to qualifying organizations in each of the following categories—

(A) Small businesses.
(B) Companies or their subsidiaries.
(C) Companies which primarily provide services.
(D) Health care providers.
(E) Education providers.
(F) Nonprofit organizations.

(2) The Secretary may at any time expand, subdivide, or otherwise modify the list of categories within which awards may be made as initially in effect under paragraph (1), and may establish separate awards for other organizations including units of government, upon a determination that the objectives of this section would be better served thereby; except that any such expansion, subdivision, modification, or establishment shall not be effective unless and until the Secretary has submitted a detailed description thereof to the Congress and a period of 30 days has elapsed since that submission.

(3) In any year, not more than 18 awards may be made under this section to recipients who have not previously received an award under this section, and no award shall be made within any category described in paragraph (1) if there are no qualifying enterprises in that category.

(d) Criteria for qualification

(1) An organization may qualify for an award under this section only if it—

(A) applies to the Director of the National Institute of Standards and Technology in writing, for the award,

(B) permits a rigorous evaluation of the way in which its business and other operations have contributed to improvements in the quality of goods and services, and

(C) meets such requirements and specifications as the Secretary, after receiving recommendations from the Board of Overseers established under paragraph (2)(B) and the Director of the National Institute of Standards and Technology, determines to be appropriate to achieve the objectives of this section.

In applying the provisions of subparagraph (C) with respect to any organization, the Director of the National Institute of Standards and Technology shall rely upon an intensive evaluation by a competent board of examiners which shall review the evidence submitted by the organization and, through a site visit, verify the accuracy of the quality improvements claimed. The examination should encompass all aspects of the organization's current practice of quality management, as well as the organization's provision for quality management in its future goals. The award shall be given only to organizations which have made outstanding improvements in the quality of their goods or services (or both) and which demonstrate effective quality management through the training and involvement of all levels of personnel in quality improvement.

(2)(A) The Director of the National Institute of Standards and Technology shall, under appropriate contractual arrangements, carry out the Director's responsibilities under subparagraphs (A) and (B) of paragraph (1) through one or more broad-based nonprofit entities which are leaders in the field of quality management and which have a history of service to society.

(B) The Secretary shall appoint a board of overseers for the award, consisting of at least five persons selected for their preeminence in the field of quality management. This board shall meet annually to review the work of the contractor or contractors and make such suggestions for the improvement of the award process as they deem necessary. The board shall report the results of the award activities to the Director of the National Institute of Standards and Technology each year, along with its recommendations for improvement of the process.

(e) Information and technology transfer program

The Director of the National Institute of Standards and Technology shall ensure that all program participants receive the complete results of their audits as well as detailed explanations of all suggestions for improvements. The Director shall also provide information about the awards and the successful quality improvement strategies and programs of the award-winning participants to all participants and other appropriate groups.

(f) Funding

The Secretary is authorized to seek and accept gifts from public and private sources to carry out the program under this section. If additional sums are needed to cover the full cost of the program, the Secretary shall impose fees upon the organizations applying for the award in amounts sufficient to provide such additional sums. The Director is authorized to use appropriated funds to carry out responsibilities under this chapter.

(g) Report

The Secretary shall prepare and submit to the President and the Congress, within 3 years after August 20, 1987, a report on the progress, findings, and conclusions of activities conducted pursuant to this section along with recommendations for possible modifications thereof.

(Pub. L. 96–480, § 17, formerly § 16, as added Pub. L. 100–107, § 3(a), Aug. 20, 1987, 101 Stat. 725; renumbered § 17 and amended Pub. L. 100–418, title V, §§ 5115(b)(2)(A), 5122(a)(1), Aug. 23, 1988, 102 Stat. 1433, 1438; Pub. L. 102–245, title III, § 305, Feb. 14, 1992, 106 Stat. 20; Pub. L. 105–309, § 3, Oct. 30, 1998, 112 Stat. 2935; Pub. L. 108–320, § 1, Oct. 5, 2004, 118 Stat. 1213; Pub. L. 110–69, title III, § 3010, Aug. 9, 2007, 121 Stat. 592.)

AMENDMENTS

2007—Subsec. (c)(3). Pub. L. 110–69 amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''Not more than two awards may be made within any subcategory in any year, unless the Secretary determines that a third award is merited and can be given at no additional cost to the Federal Government (and no award shall be made within any category or subcategory if there are no qualifying enterprises in that category or subcategory).''

2004—Subsec. (c)(1)(F). Pub. L. 108–320 added subpar. (F).

1998—Subsec. (c)(1)(D), (E). Pub. L. 105–309, § 3(b), added subpars. (D) and (E).

Subsec. (c)(3). Pub. L. 105–309, § 3(a), inserted '', unless the Secretary determines that a third award is merited and can be given at no additional cost to the Federal Government'' after ''in any year''.

1992—Subsec. (f). Pub. L. 102–245 inserted at end ''The Director is authorized to use appropriated funds to carry out responsibilities under this chapter.''

1988—Subsecs. (d), (e). Pub. L. 100–418, § 5115(b)(2)(A), substituted ''National Institute of Standards and Technology'' for ''National Bureau of Standards'' wherever appearing.

FINDINGS AND PURPOSES

Pub. L. 100–107, § 2, Aug. 20, 1987, 101 Stat. 724, provided that:

''(a) FINDINGS.—The Congress finds and declares that—

''(1) the leadership of the United States in product and process quality has been challenged strongly (and sometimes successfully) by foreign competition, and our Nation's productivity growth has improved less than our competitors over the last two decades;

''(2) American business and industry are beginning to understand that poor quality costs companies as much as 20 percent of sales revenues nationally, and that improved quality of goods and services goes hand in hand with improved productivity, lower costs, and increased profitability;

''(3) strategic planning for quality and quality improvement programs, through a commitment to excellence in manufacturing and services, are becoming more and more essential to the well-being of our Nation's economy and our ability to compete effectively in the global marketplace;

''(4) improved management understanding of the factory floor, worker involvement in quality, and greater emphasis on statistical process control can lead to dramatic improvements in the cost and quality of manufactured products;

''(5) the concept of quality improvement is directly applicable to small companies as well as large, to service industries as well as manufacturing, and to the public sector as well as private enterprise;

''(6) in order to be successful, quality improvement programs must be management-led and customer-oriented and this may require fundamental changes in the way companies and agencies do business;

''(7) several major industrial nations have successfully coupled rigorous private sector quality audits with national awards giving special recognition to those enterprises the audits identify as the very best; and

''(8) a national quality award program of this kind in the United States would help improve quality and productivity by—

''(A) helping to stimulate American companies to improve quality and productivity for the pride of recognition while obtaining a competitive edge through increased profits,

''(B) recognizing the achievements of those companies which improve the quality of their goods and services and providing an example to others,

''(C) establishing guidelines and criteria that can be used by business, industrial, governmental, and other organizations in evaluating their own quality improvement efforts, and

''(D) providing specific guidance for other American organizations that wish to learn how to manage for high quality by making available detailed information on how winning organizations were able to change their cultures and achieve eminence.

''(b) PURPOSE.—It is the purpose of this Act [enacting this section, amending section 3708 of this title, and enacting provisions set out as a note under section 3701 of this title] to provide for the establishment and conduct of a national quality improvement program under which (1) awards are given to selected companies and other organizations in the United States that practice effective quality management and as a result make significant improvements in the quality of their goods and services, and (2) information is disseminated about the successful strategies and programs.''

§ 3711b. Conference on advanced automotive technologies

Not later than 180 days after December 18, 1991, the Secretary of Commerce, through the Under Secretary of Commerce for Technology, in consultation with other appropriate officials, shall convene a conference of domestic motor vehicle manufacturers, parts suppliers, Federal laboratories, and motor vehicle users to explore ways in which cooperatively they can improve the competitiveness of the United States motor vehicle industry by developing new technologies which will enhance the safety and energy savings, and lessen the environmental impact of domestic motor vehicles, and the results of such conference shall be published and then submitted to the President and to the Committees on Science, Space, and Technology and Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(Pub. L. 96–480, § 18, as added Pub. L. 102–240, title VI, § 6019, Dec. 18, 1991, 105 Stat. 2183.)

CHANGE OF NAME

Committee on Science, Space, and Technology of House of Representatives treated as referring to Committee on Science of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2.

§ 3711c. Advanced motor vehicle research award

(a) Establishment

There is established a National Award for the Advancement of Motor Vehicle Research and Development. The award shall consist of a medal, and a cash prize if funding is available for the prize under subsection (c) of this section. The medal shall be of such design and materials and bear inscriptions as is determined by the Secretary of Transportation.

(b) Making and presenting award

The Secretary of Transportation shall periodically make and present the award to domestic motor vehicle manufacturers, suppliers, or Federal laboratory personnel who, in the opinion of the Secretary of Transportation, have substantially improved domestic motor vehicle research and development in safety, energy savings, or environmental impact. No person may receive the award more than once every 5 years.

(c) Funding for award

The Secretary of Transportation may seek and accept gifts of money from private sources for the purpose of making cash prize awards under this section. Such money may be used only for that purpose, and only such money may be used for that purpose.

(Pub. L. 96–480, § 19, as added Pub. L. 102–240, title VI, § 6019, Dec. 18, 1991, 105 Stat. 2184.)

§ 3712. Personnel exchanges

The Secretary, the Secretary of Energy, and the Director of the National Science Founda-

tion, jointly, shall establish a program to foster the exchange of scientific and technical personnel among academia, industry, and Federal laboratories. Such program shall include both (1) federally supported exchanges and (2) efforts to stimulate exchanges without Federal funding.

(Pub. L. 96–480, § 20, formerly § 13, Oct. 21, 1980, 94 Stat. 2320; renumbered § 17, Pub. L. 99–502, § 2, Oct. 20, 1986, 100 Stat. 1785; renumbered § 16, Pub. L. 99–502, § 9(e)(1), Oct. 20, 1986, 100 Stat. 1797; renumbered § 17, Pub. L. 100–107, § 3(a), Aug. 20, 1987, 101 Stat. 725; renumbered § 18, Pub. L. 100–418, title V, § 5122(a)(1), Aug. 23, 1988, 102 Stat. 1438; renumbered § 20, Pub. L. 102–240, title VI, § 6019, Dec. 18, 1991, 105 Stat. 2183; Pub. L. 109–58, title X, § 1009(c), Aug. 8, 2005, 119 Stat. 936.)

AMENDMENTS

2005—Pub. L. 109–58 substituted ‘‘, the Secretary of Energy, and the Director of the National Science Foundation’’ for ‘‘and the National Science Foundation’’.

§ 3713. Authorization of appropriations

(a)(1) There is authorized to be appropriated to the Secretary for the purposes of carrying out sections 3710(g) and 3711 of this title not to exceed $3,400,000 for the fiscal year ending September 30, 1988.

(2) Of the amount authorized under paragraph (1) of this subsection, $2,400,000 is authorized only for the Office of Productivity, Technology, and Innovation; and $500,000 is authorized only for the patent licensing activities of the National Technical Information Service.

(b) In addition to the authorization of appropriations provided under subsection (a) of this section, there is authorized to be appropriated to the Secretary for the purposes of carrying out section 3704a of this title not to exceed $500,000 for the fiscal year ending September 30, 1988, $1,000,000 for the fiscal year ending September 30, 1989, and $1,500,000 for the fiscal year ending September 30, 1990.

(c) Such sums as may be appropriated under subsections (a) and (b) of this section shall remain available until expended.

(d) To enable the National Science Foundation to carry out its powers and duties under this chapter only such sums may be appropriated as the Congress may authorize by law.

(Pub. L. 96–480, § 21, formerly § 14, Oct. 21, 1980, 94 Stat. 2320; renumbered § 18, Pub. L. 99–502, § 2, Oct. 20, 1986, 100 Stat. 1785; renumbered § 17, Pub. L. 99–502, § 9(e)(1), Oct. 20, 1986, 100 Stat. 1797; renumbered § 18, Pub. L. 100–107, § 3(a), Aug. 20, 1987, 101 Stat. 725; renumbered § 19 and amended Pub. L. 100–418, title V, §§ 5122(a)(1), 5152, Aug. 23, 1988, 102 Stat. 1438, 1449; renumbered § 21, Pub. L. 102–240, title VI, § 6019, Dec. 18, 1991, 105 Stat. 2183; Pub. L. 110–69, title III, § 3002(c)(5), Aug. 9, 2007, 121 Stat. 586.)

AMENDMENTS

2007—Subsec. (a)(1). Pub. L. 110–69, § 3002(c)(5)(A), substituted ‘‘sections 3710(g) and 3711’’ for ‘‘sections 3704, 3710(g), and 3711’’.

Subsec. (a)(2). Pub. L. 110–69, § 3002(c)(5)(B), struck out ‘‘$500,000 is authorized only for the purpose of carrying out the requirements of the Japanese technical literature program established under section 3704(d) of this title;’’ after ‘‘Innovation;’’.

1988—Subsec. (a). Pub. L. 100–418, § 5152, amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ‘‘There is authorized to be appropriated to the Secretary for purposes of carrying out section 3705 of this title, not to exceed $19,000,000 for the fiscal year ending September 30, 1981, $40,000,000 for fiscal year ending September 30, 1982, $50,000,000 for the fiscal year ending September 30, 1983, and $60,000,000 for each of the fiscal years ending September 30, 1984, and 1985.’’

Subsec. (b). Pub. L. 100–418, § 5152, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ‘‘In addition to authorizations of appropriations under subsection (a) of this section, there is authorized to be appropriated to the Secretary for purposes of carrying out the provisions of this chapter, not to exceed $5,000,000 for the fiscal year ending September 30, 1981, $9,000,000 for the fiscal year ending September 30, 1982, and $14,000,000 for each of the fiscal years ending September 30, 1983, 1984, and 1985.’’

§ 3714. Spending authority

No payments shall be made or contracts shall be entered into pursuant to the provisions of this chapter (other than sections 3710a, 3710b, and 3710c of this title) except to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 96–480, § 22, formerly § 15, Oct. 21, 1980, 94 Stat. 2320; renumbered § 19, Pub. L. 99–502, § 2, Oct. 20, 1986, 100 Stat. 1785; renumbered § 18, and amended Pub. L. 99–502, § 9(b)(13), (e)(1), (4), Oct. 20, 1986, 100 Stat. 1796, 1797; renumbered § 19, Pub. L. 100–107, § 3(a), Aug. 20, 1987, 101 Stat. 725; renumbered § 20, Pub. L. 100–418, title V, § 5122(a)(1), Aug. 23, 1988, 102 Stat. 1438; renumbered § 22, Pub. L. 102–240, title VI, § 6019, Dec. 18, 1991, 105 Stat. 2183; Pub. L. 106–404, § 7(8), Nov. 1, 2000, 114 Stat. 1746.)

AMENDMENTS

2000—Pub. L. 106–404 made technical amendments to references in original act which appear in text as references to sections 3710a, 3710b, and 3710c of this title.

1986—Pub. L. 99–502, § 9(e)(4), made technical amendment to references to sections 3710a, 3710b, and 3710c of this title to reflect renumbering of corresponding sections of original act.

Pub. L. 99–502, § 9(b)(13), inserted exception relating to sections 3710a, 3710b, and 3710c of this title.

§ 3715. Use of partnership intermediaries

(a) Authority

Subject to the approval of the Secretary or head of the affected department or agency, the Director of a Federal laboratory, or in the case of a federally funded research and development center that is not a laboratory (as defined in section 3710a(d)(2) of this title), the Federal employee who is the contract officer, may—

(1) enter into a contract or memorandum of understanding with a partnership intermediary that provides for the partnership intermediary to perform services for the Federal laboratory that increase the likelihood of success in the conduct of cooperative or joint activities of such Federal laboratory with small business firms, institutions of higher education as defined in section 1141(a)[1] of title 20, or educational institutions within the meaning of section 2194 of title 10; and

(2) pay the Federal costs of such contract or memorandum of understanding out of funds

[1] See References in Text note below.

available for the support of the technology transfer function pursuant to section 3710(b) of this title.

(b) Omitted

(c) "Partnership intermediary" defined

For purposes of this section, the term ''partnership intermediary'' means an agency of a State or local government, or a nonprofit entity owned in whole or in part by, chartered by, funded in whole or in part by, or operated in whole or in part by or on behalf of a State or local government, that assists, counsels, advises, evaluates, or otherwise cooperates with small business firms, institutions of higher education as defined in section 1141(a)[1] of title 20, or educational institutions within the meaning of section 2194 of title 10, that need or can make demonstrably productive use of technology-related assistance from a Federal laboratory, including State programs receiving funds under cooperative agreements entered into under section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 278*l* note).

(Pub. L. 96–480, § 23, formerly § 21, as added Pub. L. 101–510, div. A, title VIII, § 827(a), Nov. 5, 1990, 104 Stat. 1606; amended Pub. L. 102–190, div. A, title VIII, § 836, Dec. 5, 1991, 105 Stat. 1448; renumbered § 23, Pub. L. 102–240, title VI, § 6019, Dec. 18, 1991, 105 Stat. 2183; Pub. L. 106–404, § 9, Nov. 1, 2000, 114 Stat. 1747.)

REFERENCES IN TEXT

Section 1141(a) of title 20, referred to in subsecs. (a)(1) and (c), was repealed by Pub. L. 105–244, § 3, title I, § 101(b), title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1616, 1803, effective Oct. 1, 1998. However, the term ''institution of higher education'' is defined in section 1001 of Title 20, Education.

CODIFICATION

Subsec. (b) of this section, which required the Secretary to include in each triennial report required under section 3704d of this title a discussion and evaluation of activities carried out pursuant to this section, was omitted because of the termination of the triennial reporting requirement. See Codification note set out after section 3704a of this title.

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106–404, § 9(1), inserted '', institutions of higher education as defined in section 1141(a) of title 20, or educational institutions within the meaning of section 2194 of title 10'' after ''small business firms''.

Subsec. (c). Pub. L. 106–404, § 9(2), inserted '', institutions of higher education as defined in section 1141(a) of title 20, or educational institutions within the meaning of section 2194 of title 10,'' after ''small business firms''.

1991—Subsec. (a). Pub. L. 102–190 inserted ''that is not a laboratory (as defined in section 3710a(d)(2) of this title)'' after ''center'' in introductory provisions.

PARTICIPATION IN PROGRAMS PROMOTING RESEARCH, DEVELOPMENT, DEMONSTRATION, OR TRANSFER OF TECHNOLOGY

Pub. L. 103–337, div. A, title II, § 217(f), Oct. 5, 1994, 108 Stat. 2695, as amended by Pub. L. 105–261, div. C, title XXXI, § 3136, Oct. 17, 1998, 112 Stat. 2248; Pub. L. 111–84, div. A, title II, § 254, Oct. 28, 2009, 123 Stat. 2243, provided that:

''(1)(A) A federally funded research and development center of the Department of Defense, of the National Aeronautics and Space Administration, or of the Department of Energy that functions primarily as a research laboratory may respond to solicitations and announcements under programs authorized by the Federal Government for the purpose of promoting the research, development, demonstration, or transfer of technology in a manner consistent with the terms and conditions of such program.

''(B) A federally funded research and development center of the Department of Energy described in subparagraph (A) may respond to solicitations and announcements described in that subparagraph only for activities conducted by the center under contract with or on behalf of the Department of Defense.

''(C) A federally funded research and development center of the National Aeronautics and Space Administration that functions primarily as a research laboratory may respond to broad agency announcements under programs authorized by the Federal Government for the purpose of promoting the research, development, demonstration, or transfer of technology in a manner consistent with the terms and conditions of such program.

''(2) A federally funded research and development center described in paragraph (1)(A) that responds to a solicitation or announcement described in such paragraph shall not be considered to be engaging in a competitive procedure and may use, among other authorities, cooperative research and development agreements provided for under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)) [sic] as the instruments of participation in the solicitation or announcement.''

§ 3716. Critical industries

(a) Identification of industries and development of plan

The Secretary shall—

(1) identify those civilian industries in the United States that are necessary to support a robust manufacturing infrastructure and critical to the economic security of the United States; and

(2) list the major research and development initiatives being undertaken, and the substantial investments being made, by the Federal Government, including its research laboratories, in each of the critical industries identified under paragraph (1).

(b) Initial report

The Secretary shall submit a report to the Congress within 1 year after February 14, 1992, on the actions taken under subsection (a) of this section.

(Pub. L. 102–245, title V, § 504, Feb. 14, 1992, 106 Stat. 24.)

CODIFICATION

Subsec. (c) of this section, which required the Secretary to annually submit to Congress an update of the report submitted under subsec. (b) of this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 52 of House Document No. 103–7.

Section was enacted as part of the American Technology Preeminence Act of 1991, and not as part of the Stevenson-Wydler Technology Innovation Act of 1980 which comprises this chapter.

§ 3717. National Quality Council

(a) Establishment and functions

There is established a National Quality Council (hereafter in this section referred to as the

''Council''). The functions of the Council shall be—

(1) to establish national goals and priorities for Quality performance in business, education, government, and all other sectors of the Nation;

(2) to encourage and support the voluntary adoption of these goals and priorities by companies, unions, professional and business associations, coalition groups, and units of government, as well as private and nonprofit organizations;

(3) to arouse and maintain the interest of the people of the United States in Quality performance, and to encourage the adoption and institution of Quality performance methods by all corporations, government agencies, and other organizations; and

(4) to conduct a White House Conference on Quality Performance in the American Workplace that would bring together in a single forum national leaders in business, labor, education, professional societies, the media, government, and politics to address Quality performance as a means of improving United States competitiveness.

(b) Membership

The Council shall consist of not less than 17 or more than 20 members, appointed by the Secretary. Members shall include—

(1) at least 2 but not more than 3 representatives from manufacturing industry;

(2) at least 2 but not more than 3 representatives from service industry;

(3) at least 2 but not more than 3 representatives from national Quality not-for-profit organizations;

(4) two representatives from education, one with expertise in elementary and secondary education, and one with expertise in post-secondary education;

(5) one representative from labor;

(6) one representative from professional societies;

(7) one representative each from local and State government;

(8) one representative from the Federal Quality Institute;

(9) one representative from the National Institute of Standards and Technology;

(10) one representative from the Department of Defense;

(11) one representative from a civilian Federal agency not otherwise represented on the Council, to be rotated among such agencies every 2 years; and

(12) one representative from the Foundation for the Malcolm Baldrige National Quality Award.

(c) Terms

The term of office of each member of the Council appointed under paragraphs (1) through (7) of subsection (b) of this section shall be 2 years, except that when making the initial appointments under such paragraphs; the Secretary shall appoint not more than 50 percent of the members to 1 year terms. No member appointed under such paragraphs shall serve on the Council for more than 2 consecutive terms.

(d) Chairman and Vice Chairman

The Secretary shall designate one of the members initially appointed to the Council as Chairman. Thereafter, the members of the Council shall annually elect one of their number as Chairman. The members of the Council shall also annually elect one of their members as Vice Chairman. No individual shall serve as Chairman or Vice Chairman for more than 2 consecutive years.

(e) Executive Director and employees

The Council shall appoint and fix the compensation of an Executive Director, who shall hire and fix the compensation of such additional employees as may be necessary to assist the Council in carrying out its functions. In hiring such additional employees, the Executive Director shall ensure that no individual hired has a conflict of interest with the responsibilities of the Council.

(f) Funding

There is established in the Treasury of the United States a National Quality Performance Trust Fund, into which all funds received by the Council, through private donations or otherwise, shall be deposited. Amounts in such Trust Fund shall be available to the Council, to the extent provided in advance in appropriations Acts, for the purpose of carrying out the functions of the Council under this Act.

(g) Contributions

The Council may not accept private donations from a single source in excess of $25,000 per year. Private donations from a single source in excess of $10,000 per year may be accepted by the Council only on approval of two-thirds of the Council.

(h) Annual report

The Council shall annually submit to the President and the Congress a comprehensive and detailed report on—

(1) the progress in meeting the goals and priorities established by the Council;

(2) the Council's operations, activities, and financial condition;

(3) contributions to the Council from non-Federal sources;

(4) plans for the Council's operations and activities for the future; and

(5) any other information or recommendations the Council considers appropriate.

(Pub. L. 102–245, title V, § 507, Feb. 14, 1992, 106 Stat. 27.)

REFERENCES IN TEXT

This Act, referred to in subsec. (f), is Pub. L. 102–245, Feb. 14, 1992, 106 Stat. 7, known as the American Technology Preeminence Act of 1991. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 3701 of this title and Tables.

CODIFICATION

Section was enacted as part of the American Technology Preeminence Act of 1991, and not as part of the Stevenson-Wydler Technology Innovation Act of 1980 which comprises this chapter.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (h) of this section relating to annually sub-

mitting a report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 184 of House Document No. 103–7.

§ 3718. President's Council on Innovation and Competitiveness

(a) In general

The President shall establish a President's Council on Innovation and Competitiveness.

(b) Duties

The duties of the Council shall include—

(1) monitoring implementation of public laws and initiatives for promoting innovation, including policies related to research funding, taxation, immigration, trade, and education that are proposed in this Act or in any other Act;

(2) providing advice to the President with respect to global trends in competitiveness and innovation and allocation of Federal resources in education, job training, and technology research and development considering such global trends in competitiveness and innovation;

(3) in consultation with the Director of the Office of Management and Budget, developing a process for using metrics to assess the impact of existing and proposed policies and rules that affect innovation capabilities in the United States;

(4) identifying opportunities and making recommendations for the heads of executive agencies to improve innovation, monitoring, and reporting on the implementation of such recommendations;

(5) developing metrics for measuring the progress of the Federal Government with respect to improving conditions for innovation, including through talent development, investment, and infrastructure improvements; and

(6) submitting to the President and Congress an annual report on such progress.

(c) Membership and coordination

(1) Membership

The Council shall be composed of the Secretary or head of each of the following:

(A) The Department of Commerce.

(B) The Department of Defense.

(C) The Department of Education.

(D) The Department of Energy.

(E) The Department of Health and Human Services.

(F) The Department of Homeland Security.

(G) The Department of Labor.

(H) The Department of the Treasury.

(I) The National Aeronautics and Space Administration.

(J) The Securities and Exchange Commission.

(K) The National Science Foundation.

(L) The Office of the United States Trade Representative.

(M) The Office of Management and Budget.

(N) The Office of Science and Technology Policy.

(O) The Environmental Protection Agency.

(P) The Small Business Administration.

(Q) Any other department or agency designated by the President.

(2) Chairperson

The Secretary of Commerce shall serve as Chairperson of the Council.

(3) Coordination

The Chairperson of the Council shall ensure appropriate coordination between the Council and the National Economic Council, the National Security Council, and the National Science and Technology Council.

(4) Meetings

The Council shall meet on a semi-annual basis at the call of the Chairperson and the initial meeting of the Council shall occur not later than 6 months after August 9, 2007.

(d) Development of innovation agenda

(1) In general

The Council shall develop a comprehensive agenda for strengthening the innovation and competitiveness capabilities of the Federal Government, State governments, academia, and the private sector in the United States.

(2) Contents

The comprehensive agenda required by paragraph (1) shall include the following:

(A) An assessment of current strengths and weaknesses of the United States investment in research and development.

(B) Recommendations for addressing weaknesses and maintaining the United States as a world leader in research and development and technological innovation, including strategies for increasing the participation of individuals identified in section 1885a or 1885b of title 42 in science, technology, engineering, and mathematics fields.

(C) Recommendations for strengthening the innovation and competitiveness capabilities of the Federal Government, State governments, academia, and the private sector in the United States.

(3) Advisors

(A) Recommendation

Not later than 30 days after August 9, 2007, the National Academy of Sciences, in consultation with the National Academy of Engineering, the Institute of Medicine, and the National Research Council, shall develop and submit to the President a list of 50 individuals that are recommended to serve as advisors to the Council during the development of the comprehensive agenda required by paragraph (1). The list of advisors shall include appropriate representatives from the following:

(i) The private sector of the economy.

(ii) Labor.

(iii) Various fields including information technology, energy, engineering, high-technology manufacturing, health care, and education.

(iv) Scientific organizations.

(v) Academic organizations and other nongovernmental organizations working in the area of science or technology.

(vi) Nongovernmental organizations, such as professional organizations, that represent individuals identified in section

1885a or 1885b of title 42 in the areas of science, engineering, technology, and mathematics.

(B) Designation

Not later than 30 days after the date that the National Academy of Sciences submits the list of recommended individuals to serve as advisors, the President shall designate 50 individuals to serve as advisors to the Council.

(C) Requirement to consult

The Council shall develop the comprehensive agenda required by paragraph (1) in consultation with the advisors.

(4) Initial submission and updates

(A) Initial submission

Not later than 1 year after August 9, 2007, the Council shall submit to Congress and the President the comprehensive agenda required by paragraph (1).

(B) Updates

At least once every 2 years, the Council shall update the comprehensive agenda required by paragraph (1) and submit each such update to Congress and the President.

(e) Optional assignment

Notwithstanding subsection (a) and paragraphs (1) and (2) of subsection (c), the President may designate an existing council to carry out the requirements of this section.

(Pub. L. 110–69, title I, § 1006, Aug. 9, 2007, 121 Stat. 578.)

CODIFICATION

Section was enacted as part of the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, also known as the America COMPETES Act, and not as part of the Stevenson-Wydler Technology Innovation Act of 1980 which comprises this chapter.

DESIGNATION OF THE COMMITTEE ON TECHNOLOGY OF THE NATIONAL SCIENCE AND TECHNOLOGY COUNCIL TO CARRY OUT CERTAIN REQUIREMENTS OF THE AMERICA COMPETES ACT

Memorandum of the President of the United States, Apr. 10, 2008, 73 F.R. 20523, provided:

Memorandum for the Director of the Office of Science and Technology Policy

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, including section 1006(e) of the America COMPETES Act (Public Law 110–69) (the ''Act''), I hereby designate the Committee on Technology of the National Science and Technology Council to carry out the responsibilities assigned to the Council on Innovation and Competitiveness in section 1006 of the Act.

The Director of the Office of Science and Technology Policy is authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 3719. Prize competitions

(a) Definitions

In this section:

(1) Agency

The term ''agency'' means a Federal agency.

(2) Director

The term ''Director'' means the Director of the Office of Science and Technology Policy.

(3) Federal agency

The term ''Federal agency'' has the meaning given under section 3703 of this title, except that term shall not include any agency of the legislative branch of the Federal Government.

(4) Head of an agency

The term ''head of an agency'' means the head of a Federal agency.

(b) In general

Each head of an agency, or the heads of multiple agencies in cooperation, may carry out a program to award prizes competitively to stimulate innovation that has the potential to advance the mission of the respective agency.

(c) Prizes

For purposes of this section, a prize may be one or more of the following:

(1) A point solution prize that rewards and spurs the development of solutions for a particular, well-defined problem.

(2) An exposition prize that helps identify and promote a broad range of ideas and practices that may not otherwise attract attention, facilitating further development of the idea or practice by third parties.

(3) Participation prizes that create value during and after the competition by encouraging contestants to change their behavior or develop new skills that may have beneficial effects during and after the competition.

(4) Such other types of prizes as each head of an agency considers appropriate to stimulate innovation that has the potential to advance the mission of the respective agency.

(d) Topics

In selecting topics for prize competitions, the head of an agency shall consult widely both within and outside the Federal Government, and may empanel advisory committees.

(e) Advertising

The head of an agency shall widely advertise each prize competition to encourage broad participation.

(f) Requirements and registration

For each prize competition, the head of an agency shall publish a notice in the Federal Register announcing—

(1) the subject of the competition;

(2) the rules for being eligible to participate in the competition;

(3) the process for participants to register for the competition;

(4) the amount of the prize; and

(5) the basis on which a winner will be selected.

(g) Eligibility

To be eligible to win a prize under this section, an individual or entity—

(1) shall have registered to participate in the competition under any rules promulgated by the head of an agency under subsection (f);

(2) shall have complied with all the requirements under this section;

(3) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and

(4) may not be a Federal entity or Federal employee acting within the scope of their employment.

(h) Consultation with Federal employees

An individual or entity shall not be deemed ineligible under subsection (g) because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

(i) Liability

(1) In general

(A) Definition

In this paragraph, the term ''related entity'' means a contractor or subcontractor at any tier, and a supplier, user, customer, cooperating party, grantee, investigator, or detailee.

(B) Liability

Registered participants shall be required to agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in a competition, whether the injury, death, damage, or loss arises through negligence or otherwise.

(2) Insurance

Participants shall be required to obtain liability insurance or demonstrate financial responsibility, in amounts determined by the head of an agency, for claims by—

(A) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant's insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and

(B) the Federal Government for damage or loss to Government property resulting from such an activity.

(3) Exception

The head of an agency may not require a participant to waive claims against the administering entity arising out of the unauthorized use or disclosure by the agency of the intellectual property, trade secrets, or confidential business information of the participant.

(j) Intellectual property

(1) Prohibition on the government acquiring intellectual property rights

The Federal Government may not gain an interest in intellectual property developed by a participant in a competition without the written consent of the participant.

(2) Licenses

The Federal Government may negotiate a license for the use of intellectual property developed by a participant for a competition.

(k) Judges

(1) In general

For each competition, the head of an agency, either directly or through an agreement under subsection (*l*), shall appoint one or more qualified judges to select the winner or winners of the prize competition on the basis described under subsection (f). Judges for each competition may include individuals from outside the agency, including from the private sector.

(2) Restrictions

A judge may not—

(A) have personal or financial interests in, or be an employee, officer, director, or agent of any entity that is a registered participant in a competition; or

(B) have a familial or financial relationship with an individual who is a registered participant.

(3) Guidelines

The heads of agencies who carry out competitions under this section shall develop guidelines to ensure that the judges appointed for such competitions are fairly balanced and operate in a transparent manner.

(4) Exemption from FACA

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any committee, board, commission, panel, task force, or similar entity, created solely for the purpose of judging prize competitions under this section.

(*l*) Administering the competition

The head of an agency may enter into an agreement with a private, nonprofit entity to administer a prize competition, subject to the provisions of this section.

(m) Funding

(1) In general

Support for a prize competition under this section, including financial support for the design and administration of a prize or funds for a monetary prize purse, may consist of Federal appropriated funds and funds provided by the private sector for such cash prizes. The head of an agency may accept funds from other Federal agencies to support such competitions. The head of an agency may not give any special consideration to any private sector entity in return for a donation.

(2) Availability of funds

Notwithstanding any other provision of law, funds appropriated for prize awards under this section shall remain available until expended. No provision in this section permits obligation or payment of funds in violation of section 1341 of title 31.

(3) Amount of prize

(A) Announcement

No prize may be announced under subsection (f) until all the funds needed to pay

out the announced amount of the prize have been appropriated or committed in writing by a private source.

(B) Increase in amount

The head of an agency may increase the amount of a prize after an initial announcement is made under subsection (f) only if—

(i) notice of the increase is provided in the same manner as the initial notice of the prize; and

(ii) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by a private source.

(4) Limitation on amount

(A) Notice to Congress

No prize competition under this section may offer a prize in an amount greater than $50,000,000 unless 30 days have elapsed after written notice has been transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives.

(B) Approval of head of agency

No prize competition under this section may result in the award of more than $1,000,000 in cash prizes without the approval of the head of an agency.

(n) General Service[1] Administration assistance

Not later than 180 days after January 4, 2011, the General Services Administration shall provide government wide services to share best practices and assist agencies in developing guidelines for issuing prize competitions. The General Services Administration shall develop a contract vehicle to provide agencies access to relevant products and services, including technical assistance in structuring and conducting prize competitions to take maximum benefit of the marketplace as they identify and pursue prize competitions to further the policy objectives of the Federal Government.

(*o*) Compliance with existing law

(1) In general

The Federal Government shall not, by virtue of offering or providing a prize under this section, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and nonproliferation laws, and related regulations.

(2) Other prize authority

Nothing in this section affects the prize authority authorized by any other provision of law.

(p) Annual report

(1) In general

Not later than March 1 of each year, the Director shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report on the activities carried out during the preceding fiscal year under the authority in subsection (b).

(2) Information included

The report for a fiscal year under this subsection shall include, for each prize competition under subsection (b), the following:

(A) Proposed goals

A description of the proposed goals of each prize competition.

(B) Preferable method

An analysis of why the utilization of the authority in subsection (b) was the preferable method of achieving the goals described in subparagraph (A) as opposed to other authorities available to the agency, such as contracts, grants, and cooperative agreements.

(C) Amount of cash prizes

The total amount of cash prizes awarded for each prize competition, including a description of amount of private funds contributed to the program, the sources of such funds, and the manner in which the amounts of cash prizes awarded and claimed were allocated among the accounts of the agency for recording as obligations and expenditures.

(D) Solicitations and evaluation of submissions

The methods used for the solicitation and evaluation of submissions under each prize competition, together with an assessment of the effectiveness of such methods and lessons learned for future prize competitions.

(E) Resources

A description of the resources, including personnel and funding, used in the execution of each prize competition together with a detailed description of the activities for which such resources were used and an accounting of how funding for execution was allocated among the accounts of the agency for recording as obligations and expenditures.

(F) Results

A description of how each prize competition advanced the mission of the agency concerned.

(Pub. L. 96–480, § 24, as added Pub. L. 111–358, title I, § 105(a), Jan. 4, 2011, 124 Stat. 3989.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (k)(4), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 3720. Office of Innovation and Entrepreneurship

(a) In general

The Secretary shall establish an Office of Innovation and Entrepreneurship to foster innovation and the commercialization of new technologies, products, processes, and services with the goal of promoting productivity and economic growth in the United States.

[1] So in original. Probably should be ''Services''.

(b) Duties

The Office of Innovation and Entrepreneurship shall be responsible for—

(1) developing policies to accelerate innovation and advance the commercialization of research and development, including federally funded research and development;

(2) identifying existing barriers to innovation and commercialization, including access to capital and other resources, and ways to overcome those barriers, particularly in States participating in the Experimental Program to Stimulate Competitive Research;

(3) providing access to relevant data, research, and technical assistance on innovation and commercialization;

(4) strengthening collaboration on and coordination of policies relating to innovation and commercialization, including those focused on the needs of small businesses and rural communities, within the Department of Commerce, between the Department of Commerce and other Federal agencies, and between the Department of Commerce and appropriate State government agencies and institutions, as appropriate; and

(5) any other duties as determined by the Secretary.

(c) Advisory committee

The Secretary shall establish an Advisory Council on Innovation and Entrepreneurship to provide advice to the Secretary on carrying out subsection (b).

(Pub. L. 96–480, § 25, as added Pub. L. 111–358, title VI, § 601, Jan. 4, 2011, 124 Stat. 4026.)

§ 3721. Federal loan guarantees for innovative technologies in manufacturing

(a) Establishment

The Secretary shall establish a program to provide loan guarantees for obligations to small- or medium-sized manufacturers for the use or production of innovative technologies.

(b) Eligible projects

A loan guarantee may be made under the program only for a project that re-equips, expands, or establishes a manufacturing facility in the United States—

(1) to use an innovative technology or an innovative process in manufacturing;

(2) to manufacture an innovative technology product or an integral component of such a product; or

(3) to commercialize an innovative product, process, or idea that was developed by research funded in whole or in part by a grant from the Federal government.

(c) Eligible borrower

A loan guarantee may be made under the program only for a borrower who is a small- or medium-sized manufacturer, as determined by the Secretary under the criteria established pursuant to subsection (*l*).

(d) Limitation on amount

A loan guarantee shall not exceed an amount equal to 80 percent of the obligation, as estimated at the time at which the loan guarantee is issued.

(e) Limitations on loan guarantee

No loan guarantee shall be made unless the Secretary determines that—

(1) there is a reasonable prospect of repayment of the principal and interest on the obligation by the borrower;

(2) the amount of the obligation (when combined with amounts available to the borrower from other sources) is sufficient to carry out the project;

(3) the obligation is not subordinate to other financing;

(4) the obligation bears interest at a rate that does not exceed a level that the Secretary determines appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks; and

(5) the term of an obligation requires full repayment over a period not to exceed the lesser of—

(A) 30 years; or

(B) 90 percent of the projected useful life, as determined by the Secretary, of the physical asset to be financed by the obligation.

(f) Defaults

(1) Payment by Secretary

(A) In general

If a borrower defaults (as defined in regulations promulgated by the Secretary and specified in the loan guarantee) on the obligation, the holder of the loan guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

(B) Payment required

Within such period as may be specified in the loan guarantee or related agreements, the Secretary shall pay to the holder of the loan guarantee the unpaid interest on and unpaid principal of the obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that the default has been remedied.

(C) Forbearance

Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the obligation and approved by the Secretary.

(2) Subrogation

(A) In general

If the Secretary makes a payment under paragraph (1), the Secretary shall be subrogated to the rights, as specified in the loan guarantee, of the recipient of the payment or related agreements including, if appropriate, the authority (notwithstanding any other provision of law)—

(i) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such loan guarantee or related agreement; or

(ii) to permit the borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines that such an agreement is in the public interest.

(B) Superiority of rights

The rights of the Secretary, with respect to any property acquired pursuant to a loan guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.

(3) Notification

If the borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

(g) Terms and conditions

A loan guarantee under this section shall include such detailed terms and conditions as the Secretary determines appropriate—

(1) to protect the interests of the United States in the case of default; and

(2) to have available all the patents and technology necessary for any person selected, including the Secretary, to complete and operate the project.

(h) Consultation

In establishing the terms and conditions of a loan guarantee under this section, the Secretary shall consult with the Secretary of the Treasury.

(i) Fees

(1) In general

The Secretary shall charge and collect fees for loan guarantees in amounts the Secretary determines are sufficient to cover applicable administrative expenses.

(2) Availability

Fees collected under this subsection shall—

(A) be deposited by the Secretary into the Treasury of the United States; and

(B) remain available until expended, subject to such other conditions as are contained in annual appropriations Acts.

(3) Limitation

In charging and collecting fees under paragraph (1), the Secretary shall take into consideration the amount of the obligation.

(j) Records

(1) In general

With respect to a loan guarantee under this section, the borrower, the lender, and any other appropriate party shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

(2) Access

The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access to records and other pertinent documents for the purpose of conducting an audit.

(k) Full faith and credit

The full faith and credit of the United States is pledged to the payment of all loan guarantees issued under this section with respect to principal and interest.

(*l*) Regulations

The Secretary shall issue final regulations before making any loan guarantees under the program. The regulations shall include—

(1) criteria that the Secretary shall use to determine eligibility for loan guarantees under this section, including—

(A) whether a borrower is a small- or medium-sized manufacturer; and

(B) whether a borrower demonstrates that a market exists for the innovative technology product, or the integral component of such a product, to be manufactured, as evidenced by written statements of interest from potential purchasers;

(2) criteria that the Secretary shall use to determine the amount of any fees charged under subsection (i), including criteria related to the amount of the obligation;

(3) policies and procedures for selecting and monitoring lenders and loan performance; and

(4) any other policies, procedures, or information necessary to implement this section.

(m) Audit

(1) Annual independent audits

The Secretary shall enter into an arrangement with an independent auditor for annual evaluations of the program under this section.

(2) Comptroller general review

The Comptroller General of the United States shall conduct a biennial review of the Secretary's execution of the program under this section.

(3) Report

The results of the independent audit under paragraph (1) and the Comptroller General's review under paragraph (2) shall be provided directly to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(n) Report to Congress

Concurrent with the submission to Congress of the President's annual budget request in each year after January 4, 2011, the Secretary shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing a summary of all activities carried out under this section.

(*o*) Coordination and nonduplication

To the maximum extent practicable, the Secretary shall ensure that the activities carried out under this section are coordinated with, and do not duplicate the efforts of, other loan guarantee programs within the Federal Government.

(p) MEP centers

The Secretary may use centers established under section 278k of this title to provide information about the program established under this section and to conduct outreach to potential borrowers, as appropriate.

(q) Minimizing risk

The Secretary shall promulgate regulations and policies to carry out this section in accordance with Office of Management and Budget Circular No. A–129, entitled ''Policies for Federal Credit Programs and Non-Tax Receivables'', as in effect on January 4, 2011.

(r) Sense of Congress

It is the sense of Congress that no loan guarantee shall be made under this section unless the borrower agrees to use a federally-approved electronic employment eligibility verification system to verify the employment eligibility of—

(1) all persons hired during the contract term by the borrower to perform employment duties within the United States; and

(2) all persons assigned by the borrower to perform work within the United States on the project.

(s) Definitions

In this section:

(1) Cost

The term ''cost'' has the meaning given such term under section 661a of title 2.

(2) Innovative process

The term ''innovative process'' means a process that is significantly improved as compared to the process in general use in the commercial marketplace in the United States at the time the loan guarantee is issued.

(3) Innovative technology

The term ''innovative technology'' means a technology that is significantly improved as compared to the technology in general use in the commercial marketplace in the United States at the time the loan guarantee is issued.

(4) Loan guarantee

The term ''loan guarantee'' has the meaning given such term in section 661a of title 2. The term includes a loan guarantee commitment (as defined in section 661a of title 2).

(5) Obligation

The term ''obligation'' means the loan or other debt obligation that is guaranteed under this section.

(6) Program

The term ''program'' means the loan guarantee program established in subsection (a).

(t) Authorization of appropriations

There are authorized to be appropriated $20,000,000 for each of fiscal years 2011 through 2013 to provide the cost of loan guarantees under this section.

(Pub. L. 96–480, § 26, as added Pub. L. 111–358, title VI, § 602, Jan. 4, 2011, 124 Stat. 4026.)

§ 3722. Regional innovation program

(a) Establishment

The Secretary shall establish a regional innovation program to encourage and support the development of regional innovation strategies, including regional innovation clusters and science and research parks.

(b) Cluster grants

(1) In general

As part of the program established under subsection (a), the Secretary may award grants on a competitive basis to eligible recipients for activities relating to the formation and development of regional innovation clusters.

(2) Permissible activities

Grants awarded under this subsection may be used for activities determined appropriate by the Secretary, including the following:

(A) Feasibility studies.

(B) Planning activities.

(C) Technical assistance.

(D) Developing or strengthening communication and collaboration between and among participants of a regional innovation cluster.

(E) Attracting additional participants to a regional innovation cluster.

(F) Facilitating market development of products and services developed by a regional innovation cluster, including through demonstration, deployment, technology transfer, and commercialization activities.

(G) Developing relationships between a regional innovation cluster and entities or clusters in other regions.

(H) Interacting with the public and State and local governments to meet the goals of the cluster.

(3) Eligible recipient defined

In this subsection, the term ''eligible recipient'' means—

(A) a State;

(B) an Indian tribe;

(C) a city or other political subdivision of a State;

(D) an entity that—

(i) is a nonprofit organization, an institution of higher education, a public-private partnership, a science or research park, a Federal laboratory, or an economic development organization or similar entity; and

(ii) has an application that is supported by a State or a political subdivision of a State; or

(E) a consortium of any of the entities described in subparagraphs (A) through (D).

(4) Application

(A) In general

An eligible recipient shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(B) Components

The application shall include, at a minimum, a description of the regional innovation cluster supported by the proposed activity, including a description of—

(i) whether the regional innovation cluster is supported by the private sector, State and local governments, and other relevant stakeholders;

(ii) how the existing participants in the regional innovation cluster will encourage and solicit participation by all types of entities that might benefit from participation, including newly formed entities and those rival existing participants;

(iii) the extent to which the regional innovation cluster is likely to stimulate in-

novation and have a positive impact on regional economic growth and development;

(iv) whether the participants in the regional innovation cluster have access to, or contribute to, a well-trained workforce;

(v) whether the participants in the regional innovation cluster are capable of attracting additional funds from non-Federal sources; and

(vi) the likelihood that the participants in the regional innovation cluster will be able to sustain activities once grant funds under this subsection have been expended.

(C) Special consideration

The Secretary shall give special consideration to applications from regions that contain communities negatively impacted by trade.

(5) Special consideration

The Secretary shall give special consideration to an eligible recipient who agrees to collaborate with local workforce investment area boards.

(6) Cost share

The Secretary may not provide more than 50 percent of the total cost of any activity funded under this subsection.

(7) Use and application of research and information program

To the maximum extent practicable, the Secretary shall ensure that activities funded under this subsection use and apply any relevant research, best practices, and metrics developed under the program established in subsection (c).

(c) Science and research park development grants

(1) In general

As part of the program established under subsection (a), the Secretary may award grants for the development of feasibility studies and plans for the construction of new science parks or the renovation or expansion of existing science parks.

(2) Limitation on amount of grants

The amount of a grant awarded under this subsection may not exceed $750,000.

(3) Award

(A) Competition required

The Secretary shall award grants under this subsection pursuant to a full and open competition.

(B) Geographic dispersion

In conducting a competitive process, the Secretary shall consider the need to avoid undue geographic concentration among any one category of States based on their predominant rural or urban character as indicated by population density.

(C) Selection criteria

The Secretary shall publish the criteria to be utilized in any competition for the selection of recipients of grants under this subsection, which shall include requirements relating to the—

(i) effect the science park will have on regional economic growth and development;

(ii) number of jobs to be created at the science park and the surrounding regional community each year during its first 3 years;

(iii) funding to be required to construct, renovate or expand the science park during its first 3 years;

(iv) amount and type of financing and access to capital available to the applicant;

(v) types of businesses and research entities expected in the science park and surrounding regional community;

(vi) letters of intent by businesses and research entities to locate in the science park;

(vii) capability to attract a well trained workforce to the science park;

(viii) the management of the science park during its first 5 years;

(ix) expected financial risks in the construction and operation of the science park and the risk mitigation strategy;

(x) physical infrastructure available to the science park, including roads, utilities, and telecommunications;

(xi) utilization of energy-efficient building technology including nationally recognized green building design practices, renewable energy, cogeneration, and other methods that increase energy efficiency and conservation;

(xii) consideration to the transformation of military bases affected by the base realignment and closure process or the redevelopment of existing buildings, structures, or brownfield sites that are abandoned, idled, or underused into single or multiple building facilities for science and technology companies and institutions;

(xiii) ability to collaborate with other science parks throughout the world;

(xiv) consideration of sustainable development practices and the quality of life at the science park; and

(xv) other such criteria as the Secretary shall prescribe.

(4) Allocation constraints

The Secretary may not allocate less than one-third of the total grant funding allocated under this section for any fiscal year to grants under subsection (b) or this subsection without written notification to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committees on Science and Technology and on Energy and Commerce.

(d) Loan guarantees for science park infrastructure

(1) In general

Subject to paragraph (2), the Secretary may guarantee up to 80 percent of the loan amount for projects for the construction or expansion, including renovation and modernization, of science park infrastructure.

(2) Limitations on guarantee amounts

The maximum amount of loan principal guaranteed under this subsection may not exceed—

(A) $50,000,000 with respect to any single project; and

(B) $300,000,000 with respect to all projects.

(3) Selection of guarantee recipients

The Secretary shall select recipients of loan guarantees under this subsection based upon the ability of the recipient to collateralize the loan amount through bonds, equity, property, and such other things of values as the Secretary shall deem necessary. Recipients of grants under subsection (c) are not eligible for a loan guarantee during the period of the grant. To the extent that the Secretary determines it to be feasible, the Secretary may select recipients of guarantee assistance in accord with a competitive process that takes into account the factors set out in subsection (c)(3)(C) of this section.

(4) Terms and conditions for loan guarantees

The loans guaranteed under this subsection shall be subject to such terms and conditions as the Secretary may prescribe, except that—

(A) the final maturity of such loans made or guaranteed may not exceed the lesser of—

(i) 30 years; or

(ii) 90 percent of the useful life of any physical asset to be financed by the loan;

(B) a loan guaranteed under this subsection may not be subordinated to another debt contracted by the borrower or to any other claims against the borrowers in the case of default;

(C) a loan may not be guaranteed under this subsection unless the Secretary determines that the lender is responsible and that provision is made for servicing the loan on reasonable terms and in a manner that adequately protects the financial interest of the United States;

(D) a loan may not be guaranteed under this subsection if—

(i) the income from the loan is excluded from gross income for purposes of chapter 1 of title 26; or

(ii) the guarantee provides significant collateral or security, as determined by the Secretary in coordination with the Secretary of the Treasury, for other obligations the income from which is so excluded;

(E) any guarantee provided under this subsection shall be conclusive evidence that—

(i) the guarantee has been properly obtained;

(ii) the underlying loan qualified for the guarantee; and

(iii) absent fraud or material misrepresentation by the holder, the guarantee is presumed to be valid, legal, and enforceable;

(F) the Secretary may not extend credit assistance unless the Secretary has determined that there is a reasonable assurance of repayment; and

(G) new loan guarantees may not be committed except to the extent that appropriations of budget authority to cover their costs are made in advance, as required under section 661c of title 2.

(5) Payment of losses

(A) In general

If, as a result of a default by a borrower under a loan guaranteed under this subsection, after the holder has made such further collection efforts and instituted such enforcement proceedings as the Secretary may require, the Secretary determines that the holder has suffered a loss, the Secretary shall pay to the holder the percentage of the loss specified in the guarantee contract. Upon making any such payment, the Secretary shall be subrogated to all the rights of the recipient of the payment. The Secretary shall be entitled to recover from the borrower the amount of any payments made pursuant to any guarantee entered into under this section.

(B) Enforcement of rights

The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States as a result of the issuance of any guarantee under this section.

(C) Forbearance

Nothing in this section may be construed to preclude any forbearance for the benefit of the borrower which may be agreed upon by the parties to the guaranteed loan and approved by the Secretary, if budget authority for any resulting subsidy costs (as defined in section 661a(5) of title 2) is available.

(6) Evaluation of credit risk

(A) The Secretary shall periodically assess the credit risk of new and existing direct loans or guaranteed loans.

(B) Not later than 2 years after January 4, 2011, the Comptroller General of the United States shall—

(i) conduct a review of the subsidy estimates for the loan guarantees under this section; and

(ii) submit to Congress a report on the review conducted under this paragraph.

(7) Termination

A loan may not be guaranteed under this section after September 30, 2013.

(8) Authorization of appropriations

There are authorized to be appropriated $7,000,000 for each of fiscal years 2011 through 2013 for the cost (as defined in section 661a(5) of title 2) of guaranteeing $300,000,000 in loans under this section, such sums to remain available until expended.

(e) Regional innovation research and information program

(1) In general

As part of the program established under subsection (a), the Secretary shall establish a regional innovation research and information program—

(A) to gather, analyze, and disseminate information on best practices for regional innovation strategies (including regional innovation clusters), including information relating to how innovation, productivity, and economic development can be maximized through such strategies;

(B) to provide technical assistance, including through the development of technical assistance guides, for the development and implementation of regional innovation strategies (including regional innovation clusters);

(C) to support the development of relevant metrics and measurement standards to evaluate regional innovation strategies (including regional innovation clusters), including the extent to which such strategies stimulate innovation, productivity, and economic development; and

(D) to collect and make available data on regional innovation cluster activity in the United States, including data on—

(i) the size, specialization, and competitiveness of regional innovation clusters;

(ii) the regional domestic product contribution, total jobs and earnings by key occupations, establishment size, nature of specialization, patents, Federal research and development spending, and other relevant information for regional innovation clusters; and

(iii) supply chain product and service flows within and between regional innovation clusters.

(2) Research grants

The Secretary may award research grants on a competitive basis to support and further the goals of the program established under this subsection.

(3) Dissemination of information

Data and analysis compiled by the Secretary under the program established in this subsection shall be made available to other Federal agencies, State and local governments, and nonprofit and for-profit entities.

(4) Regional innovation grant program

The Secretary shall incorporate data and analysis relating to any grant under subsection (b) or (c) and any loan guarantee under subsection (d) into the program established under this subsection.

(f) Interagency coordination

(1) In general

To the maximum extent practicable, the Secretary shall ensure that the activities carried out under this section are coordinated with, and do not duplicate the efforts of, other programs at the Department of Commerce or other Federal agencies.

(2) Collaboration

(A) In general

The Secretary shall explore and pursue collaboration with other Federal agencies, including through multiagency funding opportunities, on regional innovation strategies.

(B) Small businesses

The Secretary shall ensure that such collaboration with Federal agencies prioritizes the needs and challenges of small businesses.

(g) Evaluation

(1) In general

Not later than 3 years after January 4, 2011, the Secretary shall enter into a contract with an independent entity, such as the National Academy of Sciences, to conduct an evaluation of the program established under subsection (a).

(2) Requirements

The evaluation shall include—

(A) whether the program is achieving its goals;

(B) any recommendations for how the program may be improved; and

(C) a recommendation as to whether the program should be continued or terminated.

(h) Definitions

In this section:

(1) Regional innovation cluster

The term ''regional innovation cluster'' means a geographically bounded network of similar, synergistic, or complementary entities that—

(A) are engaged in or with a particular industry sector;

(B) have active channels for business transactions and communication;

(C) share specialized infrastructure, labor markets, and services; and

(D) leverage the region's unique competitive strengths to stimulate innovation and create jobs.

(2) Science park

The term ''Science[1] park'' means a property-based venture, which has—

(A) master-planned property and buildings designed primarily for private-public research and development activities, high technology and science-based companies, and research and development support services;

(B) a contractual or operational relationship with one or more science- or research-related institution of higher education or governmental or non-profit research laboratories;

(C) a primary mission to promote research and development through industry partnerships, assisting in the growth of new ventures and promoting innovation-driven economic development;

(D) a role in facilitating the transfer of technology and business skills between researchers and industry teams; and

(E) a role in promoting technology-led economic development for the community or region in which the science park is located. A science park may be owned by a governmental or not-for-profit entity, but it may enter into partnerships or joint ventures with for-profit entities for development or

[1] So in original. Probably should not be capitalized.

management of specific components of the park.

(3) State

The term ''State'' means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

(i) Authorization of appropriations

Except as provided in subsection (d)(8), there are authorized to be appropriated $100,000,000 for each of fiscal years 2011 through 2013 to carry out this section (other than for loan guarantees under subsection (d)).

(Pub. L. 96–480, § 27, as added Pub. L. 111–358, title VI, § 603, Jan. 4, 2011, 124 Stat. 4030.)

CHAPTER 64—METHANE TRANSPORTATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION

Sec.
3801. Congressional statement of findings and declaration of policy.
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3809. Authorization of appropriations; required funding.
3810. Relationship to other laws.

§ 3801. Congressional statement of findings and declaration of policy

(a) The Congress finds and declares that—

(1) gasoline and diesel fuel for vehicular use are in short supply and constitute a sizable portion of domestic petroleum consumption;

(2) methane use in fleet-operated vehicles would result in substantial reduction in oil imports;

(3) methane is in more abundant domestic supply than petroleum products, is the primary component of natural gas and can be derived in increased quantities from coal, biomass, waste products, and other renewable resources;

(4) recoverable methane presently available in the United States is not fully utilized;

(5) test results to date indicate that methane use as a substitute for gasoline as a motor fuel can result in emission reductions;

(6) experience to date has shown methane to be a safe motor fuel in properly modified vehicles and is therefore particularly suitable as fuel for fleet vehicles; and

(7) the introduction into commerce of methane-fueled vehicles would be expedited and facilitated by the establishment of a Federal program of research, development, and demonstration to explore and refine technologies related to methane use as a vehicular fuel.

(b) It is therefore declared to be the policy of the Congress in this chapter to—

(1) provide for and support advanced and accelerated research into, and development of, methane vehicle design, and related technologies;

(2) demonstrate the economic and technological practicalities of methane-fueled vehicles for fleet use and of methane-fueled farm equipment;

(3) facilitate, and remove barriers to, the use of methane-fueled vehicles in lieu of gasoline- or diesel-powered motor vehicles where practicable;

(4) promote the substitution of methane-fueled vehicles for gasoline- and diesel-powered vehicles currently used on farms and in fleet operations, particularly in areas where such substitution would facilitate plans to meet air quality standards set under the Clean Air Act, as amended [42 U.S.C. 7401 et seq.]; and

(5) supplement, but neither supplant nor duplicate, the automotive propulsion system research and development efforts of private industry.

(Pub. L. 96–512, § 2, Dec. 12, 1980, 94 Stat. 2827.)

REFERENCES IN TEXT

The Clean Air Act, as amended, referred to in subsec. (b)(4), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

SHORT TITLE

Section 1 of Pub. L. 96–512 provided: ''That this Act [enacting this chapter] may be cited as the 'Methane Transportation Research, Development, and Demonstration Act of 1980'.''

§ 3802. Definitions

For purposes of this chapter—

(a) the term ''methane'' means either natural gas (as defined in section 3301(1) of this title), gas derived from coal, liquefied natural gas, or any gaseous transportation fuel produced from biomass, waste products, and other renewable resources;

(b) the term ''Secretary'' means the Secretary of Energy;

(c) the term ''public entities'' means any unit or units of State and/or local governments;

(d) the term ''private entities'' means any person, such as any organization incorporated under State law, for profit or not-for-profit, or a consortium of such organizations, but does not include public entities;

(e) the term ''vehicle'' means any truck, van, station wagon, bus, or car used on public roads or highways as well as off-road agricultural equipment, such as tractors, harvesters, and so forth, which presently burn gasoline or diesel fuel; and

(f) the terms ''facilities for the transmission and storage of methane'', ''methane transmission, storage and dispensing facilities'', and any variant thereof means such facilities which are (1) directly necessary for the conduct of a demonstration, (2) for the exclusive use of a demonstration and (3) reasonably incidental to a demonstration.