

quirement for such an agreement may be waived by the Federal agency under whose funding agreement the invention was made upon a showing by the small business firm, nonprofit organization, or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(Added Pub. L. 96-517, § 6(a), Dec. 12, 1980, 94 Stat. 3023.)

§ 205. Confidentiality

Federal agencies are authorized to withhold from disclosure to the public information disclosing any invention in which the Federal Government owns or may own a right, title, or interest (including a nonexclusive license) for a reasonable time in order for a patent application to be filed. Furthermore, Federal agencies shall not be required to release copies of any document which is part of an application for patent filed with the United States Patent and Trademark Office or with any foreign patent office.

(Added Pub. L. 96-517, § 6(a), Dec. 12, 1980, 94 Stat. 3023.)

§ 206. Uniform clauses and regulations

The Secretary of Commerce may issue regulations which may be made applicable to Federal agencies implementing the provisions of sections 202 through 204 of this chapter and shall establish standard funding agreement provisions required under this chapter. The regulations and the standard funding agreement shall be subject to public comment before their issuance.

(Added Pub. L. 96-517, § 6(a), Dec. 12, 1980, 94 Stat. 3023; amended Pub. L. 98-620, title V, § 501(10), Nov. 8, 1984, 98 Stat. 3367.)

AMENDMENTS

1984—Pub. L. 98-620 amended section generally. Prior to amendment, section read as follows: “The Office of Federal Procurement Policy, after receiving recommendations of the Office of Science and Technology Policy, may issue regulations which may be made applicable to Federal agencies implementing the provisions of sections 202 through 204 of this chapter and the Office of Federal Procurement Policy shall establish standard funding agreement provisions required under this chapter.”

§ 207. Domestic and foreign protection of federally owned inventions

(a) Each Federal agency is authorized to—

(1) apply for, obtain, and maintain patents or other forms of protection in the United States and in foreign countries on inventions in which the Federal Government owns a right, title, or interest;

(2) grant nonexclusive, exclusive, or partially exclusive licenses under federally owned inventions, royalty-free or for royalties or other consideration, and on such terms and conditions, including the grant to the licensee of the right of enforcement pursuant to the provisions of chapter 29 of this title as determined appropriate in the public interest;

(3) undertake all other suitable and necessary steps to protect and administer rights to federally owned inventions on behalf of the Federal Government either directly or through contract, including acquiring rights for and administering royalties to the Federal Government in any invention, but only to the extent the party from whom the rights are acquired voluntarily enters into the transaction, to facilitate the licensing of a federally owned invention; and

(4) transfer custody and administration, in whole or in part, to another Federal agency, of the right, title, or interest in any federally owned invention.

(b) For the purpose of assuring the effective management of Government-owned inventions, the Secretary of Commerce is authorized to—

(1) assist Federal agency efforts to promote the licensing and utilization of Government-owned inventions;

(2) assist Federal agencies in seeking protection and maintaining inventions in foreign countries, including the payment of fees and costs connected therewith; and

(3) consult with and advise Federal agencies as to areas of science and technology research and development with potential for commercial utilization.

(Added Pub. L. 96-517, § 6(a), Dec. 12, 1980, 94 Stat. 3023; amended Pub. L. 98-620, title V, § 501(11), Nov. 8, 1984, 98 Stat. 3367; Pub. L. 106-404, § 6(2), Nov. 1, 2000, 114 Stat. 1745; Pub. L. 112-29, § 20(j), Sept. 16, 2011, 125 Stat. 335.)

AMENDMENT OF SECTION

Pub. L. 112-29, § 20(j), (l), Sept. 16, 2011, 125 Stat. 335, provided that, effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, this section is amended by striking “of this title” each place that term appears. See 2011 Amendment note below.

AMENDMENTS

2011—Subsec. (a)(2). Pub. L. 112-29 struck out “of this title” after “29”.

2000—Subsec. (a)(2). Pub. L. 106-404, § 6(2)(A), substituted “inventions” for “patent applications, patents, or other forms of protection obtained”.

Subsec. (a)(3). Pub. L. 106-404, § 6(2)(B), inserted “, including acquiring rights for and administering royalties to the Federal Government in any invention, but only to the extent the party from whom the rights are acquired voluntarily enters into the transaction, to facilitate the licensing of a federally owned invention” after “or through contract”.

1984—Pub. L. 98-620 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(l) of Pub. L. 112-29, set out as a note under section 2 of this title.

Ex. ORD. NO. 9424. ESTABLISHMENT OF A REGISTER OF GOVERNMENT INTERESTS IN PATENTS

Ex. Ord. No. 9424, Feb. 18, 1944, 9 F.R. 1959, provided:

1. The Secretary of Commerce shall cause to be established in the United States Patent Office [now Patent