

from non-homeland security missions to the ports, waterways and coastal security mission. (Pub. L. 107–296, title III, § 307, Nov. 25, 2002, 116 Stat. 2168; Pub. L. 114–22, title III, § 302(c), formerly § 302(d), May 29, 2015, 129 Stat. 255; renumbered § 302(d), Pub. L. 115–392, § 23(c)(2), Dec. 21, 2018, 132 Stat. 5264.)

Editorial Notes

REFERENCES IN TEXT

Section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, referred to in subsec. (b)(6), is section 1101 of Pub. L. 105–261, which was formerly set out as a note under section 3104 of Title 5, Government Organization and Employees, prior to repeal by Pub. L. 114–328, div. A, title XI, § 1121(b), Dec. 23, 2016, 130 Stat. 2452. See section 4092 of Title 10, Armed Forces.

AMENDMENTS

2015—Subsec. (b)(3)(D). Pub. L. 114–22 added subpar. (D).

§ 188. Conduct of research, development, demonstration, testing and evaluation

(a) In general

The Secretary, acting through the Under Secretary for Science and Technology, shall carry out the responsibilities under section 182(4) of this title through both extramural and intramural programs.

(b) Extramural programs

(1) In general

The Secretary, acting through the Under Secretary for Science and Technology, shall operate extramural research, development, demonstration, testing, and evaluation programs so as to—

(A) ensure that colleges, universities, private research institutes, and companies (and consortia thereof) from as many areas of the United States as practicable participate;

(B) ensure that the research funded is of high quality, as determined through merit review processes developed under section 182(14) of this title; and

(C) distribute funds through grants, cooperative agreements, and contracts.

(2) University-based centers for homeland security

(A) Designation

The Secretary, acting through the Under Secretary for Science and Technology, shall designate a university-based center or several university-based centers for homeland security. The purpose of the center or these centers shall be to establish a coordinated, university-based system to enhance the Nation's homeland security.

(B) Criteria for designation

Criteria for the designation of colleges or universities as a center for homeland security, shall include, but are not limited to, demonstrated expertise in—

- (i) The training of first responders.
- (ii) Responding to incidents involving weapons of mass destruction and biological warfare.

(iii) Emergency and diagnostic medical services.

(iv) Chemical, biological, radiological, and nuclear countermeasures or detection.

(v) Animal and plant health and diagnostics.

(vi) Food safety.

(vii) Water and wastewater operations.

(viii) Port and waterway security.

(ix) Multi-modal transportation.

(x) Information security and information engineering.

(xi) Engineering.

(xii) Educational outreach and technical assistance.

(xiii) Border transportation and security.

(xiv) The public policy implications and public dissemination of homeland security related research and development.

(C) Discretion of Secretary

To the extent that exercising such discretion is in the interest of homeland security, and with respect to the designation of any given university-based center for homeland security, the Secretary may except certain criteria as specified in subparagraph (B) and consider additional criteria beyond those specified in subparagraph (B). Upon designation of a university-based center for homeland security, the Secretary shall that day publish in the Federal Register the criteria that were excepted or added in the selection process and the justification for the set of criteria that were used for that designation.

(D) Report to Congress

The Secretary shall report annually, from the date of enactment, to Congress concerning the implementation of this section. That report shall indicate which center or centers have been designated and how the designation or designations enhance homeland security, as well as report any decisions to revoke or modify such designations.

(E) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

(c) Intramural programs

(1) Consultation

In carrying out the duties under section 182 of this title, the Secretary, acting through the Under Secretary for Science and Technology, may draw upon the expertise of any laboratory of the Federal Government, whether operated by a contractor or the Government.

(2) Laboratories

The Secretary, acting through the Under Secretary for Science and Technology, may establish a headquarters laboratory for the Department at any laboratory or site and may establish additional laboratory units at other laboratories or sites.

(3) Criteria for headquarters laboratory

If the Secretary chooses to establish a headquarters laboratory pursuant to paragraph (2), then the Secretary shall do the following:

- (A) Establish criteria for the selection of the headquarters laboratory in consultation

with the National Academy of Sciences, appropriate Federal agencies, and other experts.

(B) Publish the criteria in the Federal Register.

(C) Evaluate all appropriate laboratories or sites against the criteria.

(D) Select a laboratory or site on the basis of the criteria.

(E) Report to the appropriate congressional committees on which laboratory was selected, how the selected laboratory meets the published criteria, and what duties the headquarters laboratory shall perform.

(4) Limitation on operation of laboratories

No laboratory shall begin operating as the headquarters laboratory of the Department until at least 30 days after the transmittal of the report required by paragraph (3)(E).

(d) Preference for United States industry

(1) Definitions

In this subsection:

(A) Country of concern

The term “country of concern” means a country that—

(i) is a covered nation, as such term is defined in section 4872(d) of title 10; or

(ii) the Secretary determines is engaged in conduct that is detrimental to the national security of the United States.

(B) Nonprofit organization; small business firm; subject invention

The terms “nonprofit organization”, “small business firm”, and “subject invention” have the meanings given such terms in section 201 of title 35.

(C) Manufactured substantially in the United States

The term “manufactured substantially in the United States” means an item is a domestic end product.

(D) Domestic end product

The term “domestic end product” has the meaning given such term in section 25.003 of title 48, Code of Federal Regulations, or any successor thereto.

(3)¹ Waivers

(A) In general

Subject to subparagraph (B), in individual cases, the requirements under section 204 of title 35 may be waived by the Secretary 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.

(B) Conditions on waivers granted by Department

(i) Before grant of waiver

Before granting a waiver under subparagraph (A), the Secretary shall comply with

the procedures developed and implemented by the Department pursuant to section 70923(b)(2) of the Build America, Buy America Act (enacted as subtitle A of title IX of division G of Public Law 117-58).

(ii) Prohibition on granting certain waivers

The Secretary may not grant a waiver under subparagraph (A) if, as a result of such waiver, products embodying the applicable subject invention, or produced through the use of the applicable subject invention, would be manufactured substantially in a country of concern.

(Pub. L. 107-296, title III, § 308, Nov. 25, 2002, 116 Stat. 2170; Pub. L. 108-7, div. L, § 101(1), Feb. 20, 2003, 117 Stat. 526; Pub. L. 117-263, div. G, title LXXI, § 7114, Dec. 23, 2022, 136 Stat. 3633.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment, referred to in subsec. (b)(2)(D), probably means the date of enactment of this section by Pub. L. 107-296, which was approved Nov. 25, 2002.

Section 70923(b)(2) of the Build America, Buy America Act, referred to in subsec. (d)(3)(B)(i), is section 70923(b)(2) of Pub. L. 117-58, div. G, title IX, Nov. 15, 2021, 135 Stat. 1306, which is not classified to the Code.

AMENDMENTS

2022—Subsec. (d). Pub. L. 117-263 added subsec. (d).

2003—Subsecs. (a) to (c)(1). Pub. L. 108-7 added subsecs. (a) to (c)(1) and struck out former subsecs. (a) to (c)(1) which related to the responsibilities of the Secretary, acting through the Under Secretary for Science and Technology, to carry out the responsibilities under section 182(4) of this title through both extramural and intramural programs, to operate extramural research, development, demonstration, testing, and evaluation programs, to establish a coordinated, university-based system to enhance the Nation's homeland security, and to draw upon the expertise of any laboratory of the Federal Government.

§ 189. Utilization of Department of Energy national laboratories and sites in support of homeland security activities

(a) Authority to utilize national laboratories and sites

(1) In general

In carrying out the missions of the Department, the Secretary may utilize the Department of Energy national laboratories and sites through any 1 or more of the following methods, as the Secretary considers appropriate:

(A) A joint sponsorship arrangement referred to in subsection (b).

(B) A direct contract between the Department and the applicable Department of Energy laboratory or site, subject to subsection (c).

(C) Any “work for others” basis made available by that laboratory or site.

(D) Any other method provided by law.

(2) Acceptance and performance by labs and sites

Notwithstanding any other law governing the administration, mission, use, or operations of any of the Department of Energy national laboratories and sites, such laboratories

¹ So in original. There is no par. (2).