

111TH CONGRESS
2D SESSION

S. 3530

To amend the Stevenson-Wydler Technology Innovation Act of 1980 to provide for prize competitions to stimulate innovations that advance the missions of Federal agencies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2010

Mr. PRYOR (for himself and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Stevenson-Wydler Technology Innovation Act of 1980 to provide for prize competitions to stimulate innovations that advance the missions of Federal agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Reward Innovation in
5 America Act of 2010”.

1 **SEC. 2. PRIZE COMPETITIONS.**

2 The Stevenson-Wydler Technology Innovation Act of
3 1980 (15 U.S.C. 3701 et seq.) is amended by adding at
4 the end the following:

5 **“SEC. 24. PRIZE COMPETITIONS.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) AGENCY.—The term ‘agency’ means a
8 Federal agency.

9 “(2) FEDERAL AGENCY.—The term ‘Federal
10 agency’ has the meaning given under section 4, ex-
11 cept that term shall not include any agency of the
12 legislative branch of the Federal Government.

13 “(3) HEAD OF AN AGENCY.—The term ‘head of
14 an agency’ means the head of a Federal agency.

15 “(b) IN GENERAL.—Each head of an agency may
16 carry out a program to award prizes competitively to stim-
17 ulate innovation that has the potential to advance the mis-
18 sion of the respective agency.

19 “(c) PRIZES.—For purposes of this section, a prize
20 may be one or more of the following:

21 “(1) A point solution prize that rewards and
22 spurs the development of solutions for a particular,
23 well-defined problem.

24 “(2) An exposition prize that helps identify and
25 promote a broad range of ideas and practices that
26 may not otherwise attract attention, facilitating fur-

1 ther development of the idea or practice by third
2 parties.

3 “(3) Participation prizes that create value dur-
4 ing and after the competition by encouraging con-
5 testants to change their behavior or develop new
6 skills that may have beneficial effects during and
7 after the competition.

8 “(4) Such other types of prizes as each head of
9 an agency considers appropriate to stimulate innova-
10 tion that has the potential to advance the mission of
11 the respective agency.

12 “(d) TOPICS.—In selecting topics for prize competi-
13 tions, the head of an agency shall consult widely both with-
14 in and outside the Federal Government, and may empanel
15 advisory committees.

16 “(e) ADVERTISING.—The head of an agency shall
17 widely advertise each prize competition to encourage broad
18 participation.

19 “(f) REQUIREMENTS AND REGISTRATION.—For each
20 prize competition, the head of an agency shall publish a
21 notice in the Federal Register announcing—

22 “(1) the subject of the competition;

23 “(2) the rules for being eligible to participate in
24 the competition;

1 “(3) the process for participants to register for
2 the competition;

3 “(4) the amount of the prize; and

4 “(5) the basis on which a winner will be se-
5 lected.

6 “(g) ELIGIBILITY.—To be eligible to win a prize
7 under this section, an individual or entity—

8 “(1) shall have registered to participate in the
9 competition under any rules promulgated by the
10 head of an agency under subsection (f);

11 “(2) shall have complied with all the require-
12 ments under this section;

13 “(3) in the case of a private entity, shall be in-
14 corporated in and maintain a primary place of busi-
15 ness in the United States, and in the case of an in-
16 dividual, whether participating singly or in a group,
17 shall be a citizen or permanent resident of the
18 United States; and

19 “(4) may not be a Federal entity or Federal
20 employee acting within the scope of their employ-
21 ment.

22 “(h) CONSULTATION WITH FEDERAL EMPLOYEES.—
23 An individual or entity shall not be deemed ineligible
24 under subsection (g) because such individual or entity
25 used Federal facilities or consulted with Federal employ-

ees during a competition if such facilities and employees
are made available to all individuals and entities partici-
pating 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 sub-
contractor at any tier, and a supplier, user, cus-
tomer, 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 Gov-
ernment 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 consequen-
tial, arising from their participation in a com-
petition, whether such injury, death, damage, or
loss arises through negligence or otherwise.

“(2) INSURANCE.—Participants shall be re-
quired to obtain liability insurance or demonstrate
financial responsibility, in amounts determined by
the head of an agency, for claims by—

1 “(A) a third party for death, bodily injury,
2 or property damage, or loss resulting from an
3 activity carried out in connection with participa-
4 tion in a competition, with the Federal Govern-
5 ment named as an additional insured under the
6 registered participant’s insurance policy and
7 registered participants agreeing to indemnify
8 the Federal Government against third-party
9 claims for damages arising from or related to
10 competition activities; and

11 “(B) the Federal Government for damage
12 or loss to Government property resulting from
13 such an activity.

14 “(3) EXCEPTION.—The head of an agency may
15 not require a participant to waive claims against the
16 administering entity arising out of the unauthorized
17 use or disclosure by the agency of the intellectual
18 property, trade secrets, or confidential business in-
19 formation of the participant.

20 “(j) INTELLECTUAL PROPERTY.—

21 “(1) PROHIBITION ON THE GOVERNMENT AC-
22 QUIRING INTELLECTUAL PROPERTY RIGHTS.—The
23 Federal Government may not gain an interest in in-
24 tellectual property developed by a participant in a

1 competition without the written consent of the par-
2 ticipant.

3 “(2) LICENSES.—The Federal Government may
4 negotiate a license for the use of intellectual prop-
5 erty developed by a participant for a competition.

6 “(k) JUDGES.—

7 “(1) IN GENERAL.—For each competition, the
8 head of an agency, either directly or through an
9 agreement under subsection (l), shall appoint one or
10 more qualified judges to select the winner or winners
11 of the prize competition on the basis described under
12 subsection (f). Judges for each competition may in-
13 clude individuals from outside the agency, including
14 from the private sector.

15 “(2) RESTRICTIONS.—A judge may not—

16 “(A) have personal or financial interests
17 in, or be an employee, officer, director, or agent
18 of any entity that is a registered participant in
19 a competition; or

20 “(B) have a familial or financial relation-
21 ship with an individual who is a registered par-
22 ticipant.

23 “(3) GUIDELINES.—The heads of agencies who
24 carry out competitions under this section shall de-
25 velop guidelines to ensure that the judges appointed

1 for such competitions are fairly balanced and oper-
2 ate in a transparent manner.

3 “(4) EXEMPTION FROM FACA.—The Federal
4 Advisory Committee Act (5 U.S.C. App.) shall not
5 apply to any committee, board, commission, panel,
6 task force, or similar entity, created solely for the
7 purpose of judging prize competitions under this sec-
8 tion.

9 “(l) ADMINISTERING THE COMPETITION.—The head
10 of an agency may enter into an agreement with a private,
11 nonprofit entity to administer a prize competition, subject
12 to the provisions of this section.

13 “(m) FUNDING.—

14 “(1) IN GENERAL.—Support for a prize com-
15 petition under this section, including financial sup-
16 port for the design and administration of a prize or
17 funds for a monetary prize purse, may consist of
18 Federal appropriated funds and funds provided by
19 the private sector for such cash prizes. The head of
20 an agency may accept funds from other Federal
21 agencies to support such competitions. The head of
22 an agency may not give any special consideration to
23 any private sector entity in return for a donation.

24 “(2) AVAILABILITY OF FUNDS.—Notwith-
25 standing any other provision of law, funds appro-

1 appropriated for prize awards under this section shall re-
 2 main available until expended, and may be trans-
 3 ferred, reprogrammed, or expended for other pur-
 4 poses only after the expiration of 10 fiscal years
 5 after the fiscal year for which the funds were origi-
 6 nally appropriated. No provision in this section per-
 7 mits obligation or payment of funds in violation of
 8 section 1341 of title 31, United States Code.

9 “(3) AMOUNT OF PRIZE.—

10 “(A) ANNOUNCEMENT.—No prize may be
 11 announced under subsection (f) until all the
 12 funds needed to pay out the announced amount
 13 of the prize have been appropriated or com-
 14 mitted in writing by a private source.

15 “(B) INCREASE IN AMOUNT.—The head of
 16 an agency may increase the amount of a prize
 17 after an initial announcement is made under
 18 subsection (f) only if—

19 “(i) notice of the increase is provided
 20 in the same manner as the initial notice of
 21 the prize; and

22 “(ii) the funds needed to pay out the
 23 announced amount of the increase have
 24 been appropriated or committed in writing
 25 by a private source.

1 “(4) LIMITATION ON AMOUNT.—

2 “(A) NOTICE TO CONGRESS.—No prize
3 competition under this section may offer a prize
4 in an amount greater than \$50,000,000 unless
5 30 days have elapsed after written notice has
6 been transmitted to the Committee on Com-
7 merce, Science, and Transportation of the Sen-
8 ate and the Committee on Science and Tech-
9 nology of the House of Representatives.

10 “(B) APPROVAL OF HEAD OF AGENCY.—

11 No prize competition under this section may re-
12 sult in the award of more than \$1,000,000 in
13 cash prizes without the approval of the head of
14 an agency.

15 “(n) GENERAL SERVICE ADMINISTRATION ASSIST-
16 ANCE.—Not later than 180 days after the date of the en-
17 actment of this Act, the General Services Administration
18 shall provide Government-wide services to share best prac-
19 tices and assist agencies in developing guidelines for
20 issuing prize competitions. The General Services Adminis-
21 tration shall develop a contract vehicle to provide agencies
22 access to relevant products and services, including tech-
23 nical assistance in structuring and conducting prize com-
24 petitions to take maximum benefit of the marketplace as

1 they identify and pursue prize competitions to further the
 2 policy objectives of the Federal Government.

3 “(o) COMPLIANCE WITH EXISTING LAW.—The Fed-
 4 eral Government shall not, by virtue of offering or pro-
 5 viding a prize under this section, be responsible for compli-
 6 ance by registered participants in a prize competition with
 7 Federal law, including licensing, export control, and non-
 8 proliferation laws, and related regulations.

9 “(p) ANNUAL REPORT.—

10 “(1) IN GENERAL.—Not later than March 1 of
 11 each year, the Director of the Office of Science and
 12 Technology Policy shall submit to the Committee on
 13 Commerce, Science, and Transportation of the Sen-
 14 ate and the Committee on Science and Technology
 15 of the House of Representatives a report on the ac-
 16 tivities carried out during the preceding fiscal year
 17 under the authority in subsection (b).

18 “(2) INFORMATION INCLUDED.—The report for
 19 a fiscal year under this subsection shall include, for
 20 each prize competition under subsection (b), the fol-
 21 lowing:

22 “(A) PROPOSED GOALS.—A description of
 23 the proposed goals of each prize competition.

24 “(B) PREFERABLE METHOD.—An analysis
 25 of why the utilization of the authority in sub-

1 section (b) was the preferable method of achiev-
2 ing the goals described in subparagraph (A) as
3 opposed to other authorities available to the
4 agency, such as contracts, grants, and coopera-
5 tive agreements.

6 “(C) AMOUNT OF CASH PRIZES.—The total
7 amount of cash prizes awarded for each prize
8 competition, including a description of amount
9 of private funds contributed to the program, the
10 sources of such funds, and the manner in which
11 the amounts of cash prizes awarded and
12 claimed were allocated among the accounts of
13 the agency for recording as obligations and ex-
14 penditures.

15 “(D) SOLICITATIONS AND EVALUATION OF
16 SUBMISSIONS.—The methods used for the solie-
17 itation and evaluation of submissions under
18 each prize competition, together with an assess-
19 ment of the effectiveness of such methods and
20 lessons learned for future prize competitions.

21 “(E) RESOURCES.—A description of the
22 resources, including personnel and funding,
23 used in the execution of each prize competition
24 together with a detailed description of the ac-
25 tivities for which such resources were used and

1 an accounting of how funding for execution was
2 allocated among the accounts of the agency for
3 recording as obligations and expenditures.

4 “(F) RESULTS.—A description of how each
5 prize competition advanced the mission of the
6 agency concerned.”.

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