generally. Prior to amendment, text related to program for establishment of cooperative arrangements between Department of Defense and eligible entities.

1994—Subsec. (c)(3). Pub. L. 103–337 added par. (3).

1993—Subsec. (c). Pub. L. 103–160, §1315(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The Secretary of Defense shall ensure that, to the maximum extent he determines to be practicable, the amount of the funds provided by the Federal Government under a partnership does not exceed the total amount provided by non-Federal Government participants in that partnership.''

Subsec. (e). Pub. L. 103–160, §1317(c), struck out '', except that procedures other than competitive procedures may be used in any case in which an exception set out in section 2304(c) of this title applies'' after ''partnerships''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

DUAL-USE SCIENCE AND TECHNOLOGY PROGRAM

Pub. L. 105–85, div. A, title II, §203, Nov. 18, 1997, 111 Stat. 1655, as amended by Pub. L. 106–65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717; Pub. L. 115–232, div. A, title VIII, §811(h), Aug. 13, 2018, 132 Stat. 1846, provided that:

''(a) FUNDING 1998.—Of the amounts authorized to be appropriated by section 201 [111 Stat. 1655], $75,000,000 is authorized for dual-use projects.

''(b) GOALS.—(1) Subject to paragraph (3), it shall be the objective of the Secretary of each military department to obligate for dual-use projects in each fiscal year referred to in paragraph (2), out of the total amount authorized to be appropriated for such fiscal year for the applied research programs of the military department, the percent of such amount that is specified for that fiscal year in paragraph (2).

''(2) The objectives for fiscal years under paragraph (1) are as follows:

''(A) For fiscal year 1998, 5 percent.

''(B) For fiscal year 1999, 7 percent.

''(C) For fiscal year 2000, 10 percent.

''(D) For fiscal year 2001, 15 percent.

''(3) The Secretary of Defense may establish for a military department for a fiscal year an objective different from the objective set forth in paragraph (2) if the Secretary—

''(A) determines that compelling national security considerations require the establishment of the different objective; and

''(B) notifies Congress of the determination and the reasons for the determination.

''[(c) Repealed. Pub. L. 115–232, div. A, title VIII, §811(h), Aug. 13, 2018, 132 Stat. 1846.]

''(d) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—The total amount of funds provided by a military department for a dual-use project entered into by the Secretary of that department shall not exceed 50 percent of the total cost of the project. In the case of a dual-use project initiated after the date of the enactment of this Act [Nov. 18, 1997], the Secretary may consider in-kind contributions by non-Federal participants only to the extent such contributions constitute 50 percent or less of the share of the project costs by such participants.

''(e) USE OF COMPETITIVE PROCEDURES.—Funds obligated for a dual-use project may be counted toward meeting an objective under subsection (a) only if the funds are obligated for a contract, grant, cooperative agreement, or other transaction that was entered into through the use of competitive procedures.

''(f) REPORT.—(1) Not later than March 1 of each of 1998, 1999, and 2000, the Secretary of Defense shall submit a report to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] on the progress made by the Department of Defense in meeting the objectives set forth in subsection (b) during the preceding fiscal year.

''(2) The report for a fiscal year shall contain, at a minimum, the following:

''(A) The aggregate value of all contracts, grants, cooperative agreements, or other transactions entered into during the fiscal year for which funding is counted toward meeting an objective under this section, expressed in relationship to the total amount appropriated for the applied research programs in the Department of Defense for that fiscal year.

''(B) For each military department, the value of all contracts, grants, cooperative agreements, or other transactions entered into during the fiscal year for which funding is counted toward meeting an objective under this section, expressed in relationship to the total amount appropriated for the applied research program of the military department for that fiscal year.

''(C) A summary of the cost-sharing arrangements in dual-use projects that were initiated during the fiscal year and are counted toward reaching an objective under this section.

''(D) A description of the regulations, directives, or other procedures that have been issued by the Secretary of Defense or the Secretary of a military department to increase the percentage of the total value of the dual-use projects undertaken to meet or exceed an objective under this section.

''(E) Any recommended legislation to facilitate achievement of objectives under this section.

''(g) COMMERCIAL OPERATIONS AND SUPPORT SAVINGS INITIATIVE.—(1) The Secretary of Defense shall establish a Commercial Operations and Support Savings Initiative (in this subsection referred to as the 'Initiative') to develop commercial products and processes that the military departments can incorporate into operational military systems to reduce costs of operations and support.

''(2) Of the amounts authorized to be appropriated by section 201, $50,000,000 is authorized for the Initiative.

''(3) Projects and participants in the Initiative shall be selected through the use of competitive procedures.

''(4) The budget submitted to Congress by the President for fiscal year 1999 and each fiscal year thereafter pursuant to section 1105(a) of title 31, United States Code, shall set forth separately the funding request for the Initiative.

''(h) REPEAL OF SUPERSEDED AUTHORITY.—[Repealed section 203 of Pub. L. 104–201, 110 Stat. 2451.]

''(i) DEFINITIONS.—In this section:

''(1) The term 'applied research program' means a program of a military department which is funded under the 6.2 Research, Development, Test and Evaluation account of that department.

''(2) The term 'dual-use project' means a project under a program of a military department or a defense agency under which research or development of a dual-use technology is carried out and the costs of which are shared by the Department of Defense and non-Government entities.''

§ 4832. Encouragement of technology transfer

(a) ENCOURAGEMENT OF TRANSFER REQUIRED.—The Secretary of Defense shall encourage, to the extent consistent with national security objectives, the transfer of technology between laboratories and research centers of the Department of Defense and other Federal agencies, State and local governments, colleges and universities, and private persons in cases that are likely to result in accomplishing the objectives set forth in section 4811(a) of this title.

(b) EXAMINATION AND IMPLEMENTATION OF METHODS TO ENCOURAGE TRANSFER.—The Sec-

retary shall examine and implement methods, in addition to the encouragement referred to in subsection (a) and the program described in subsection (c), that are consistent with national security objectives and will enable Department of Defense personnel to promote technology transfer.

(c) PROGRAM TO ENCOURAGE DIVERSIFICATION OF DEFENSE LABORATORIES.—(1) The Secretary of Defense shall establish and implement a program to be known as the Federal Defense Laboratory Diversification Program (hereinafter in this subsection referred to as the ''Program''). The purpose of the Program shall be to encourage greater cooperation in research and production activities carried out by defense laboratories and by private industry of the United States in order to enhance and improve the products of such research and production activities.

(2) Under the Program, the defense laboratories, in coordination with the Office of Technology Transfer in the Office of the Secretary of Defense, shall carry out cooperative activities with private industry in order to promote (by the use or exchange of patents, licenses, cooperative research and development agreements and other cooperative agreements, and the use of symposia, meetings, and other similar mechanisms) the transfer of defense or dual-use technologies from the defense laboratories to private industry, and the development and application of such technologies by the defense laboratories and private industry, for the purpose of the commercial utilization of such technologies by private industry.

(3) The Secretary of Defense shall develop and annually update a plan for each defense laboratory that participates in the Program under which plan the laboratory shall carry out cooperative activities with private industry to promote the transfers described in subsection (b).

(4) In this subsection, the term ''defense laboratory'' means any laboratory owned or operated by the Department of Defense that carries out research in fiscal year 1993 in an amount in excess of $50,000,000.

(Added Pub. L. 102–484, div. D, title XLII, § 4224(a), Oct. 23, 1992, 106 Stat. 2682, § 2514; amended Pub. L. 104–201, div. A, title VIII, § 829(f), Sept. 23, 1996, 110 Stat. 2614; renumbered § 4832 and amended Pub. L. 116–283, div. A, title XVIII, § 1868(b), (c)(2), Jan. 1, 2021, 134 Stat. 4282, 4283.)

Editorial Notes

PRIOR PROVISIONS

A prior section 4832, act Aug. 10, 1956, ch. 1041, 70A Stat. 272, authorized Secretary of the Army to prescribe regulations for the accounting for Army property, prior to repeal by Pub. L. 110–181, div. A, title III, §375(c)(1)(A), Jan. 28, 2008, 122 Stat. 83.

Provisions similar to those in subsecs. (a) and (b) of this section were contained in section 2363 of this title prior to repeal by Pub. L. 102–484, §§ 4224(c), 4271(a)(2).

AMENDMENTS

2021—Pub. L. 116–283, § 1868(b), renumbered section 2514 of this title as this section.

Subsec. (a). Pub. L. 116–283, § 1868(c)(2), substituted ''section 4811(a)'' for ''section 2501(a)''.

1996—Subsec. (c)(5). Pub. L. 104–201 struck out par. (5) which read as follows: ''The Secretary shall coordinate the Program with the National Defense Technology and Industrial Base Council.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

NATIONAL ACTION PLAN ON ADVANCED SUPERCONDUCTIVITY RESEARCH AND DEVELOPMENT

Superconductivity research and development activities by Secretary of Defense and by Defense Advanced Research Projects Agency, see section 5207 of Title 15, Commerce and Trade.

PILOT PROGRAM TO IMPROVE INCENTIVES FOR TECHNOLOGY TRANSFER FROM DEPARTMENT OF DEFENSE LABORATORIES

Pub. L. 115–91, div. A, title II, § 233, Dec. 12, 2017, 131 Stat. 1339, as amended by Pub. L. 116–283, div. A, title II, § 216(c), Jan. 1, 2021, 134 Stat. 3460, provided that:

''(a) IN GENERAL.—The Secretary of Defense shall establish a pilot program to assess the feasibility and advisability of distributing royalties and other payments as described in this section. Under the pilot program, except as provided in subsections (b) and (d), any royalties or other payments received by a Federal agency from the licensing and assignment of inventions under agreements entered into by Department of Defense laboratories, and from the licensing of inventions of Department of Defense laboratories, shall be retained by the laboratory which produced the invention and shall be disposed of as follows:

''(1)(A) The laboratory director shall pay each year the first $2,000, and thereafter at least 20 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 directly assigned to the United States.

''(B) A laboratory director 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 the inventions.

''(C) The laboratory shall retain the royalties and other payments received from an invention until the laboratory makes payments to employees of a laboratory under subparagraph (A) or (B).

''(2) 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—

''(A) 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;

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

''(C) 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;

''(D) 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

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

''(3) All royalties or other payments retained by the laboratory after payments have been made pursuant to paragraphs (1) and (2) that are 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 of the United States.

''(b) TREATMENT OF PAYMENTS TO EMPLOYEES.—

''(1) IN GENERAL.—Any payment made to an employee under the pilot program 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 the employee is otherwise entitled or for which the employee is otherwise eligible or limit the amount thereof. Any payment made to an inventor as such shall continue after the inventor leaves the laboratory.

''(2) CUMULATIVE PAYMENTS.—(A) Cumulative payments made under the pilot program while the inventor is still employed at the laboratory shall not exceed $500,000 per year to any one person, unless the Secretary concerned (as defined in section 101(a) of title 10, United States Code) approves a larger award.

''(B) Cumulative payments made under the pilot program after the inventor leaves the laboratory shall not exceed $150,000 per year to any one person, unless the head of the agency approves a larger award (with the excess over $150,000 being treated as an agency award to a former employee under section 4505 of title 5, United States Code).

''(c) INVENTION MANAGEMENT SERVICES.—Under the pilot program, a laboratory 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, United States Code, may retain such royalties or payments to the extent required to offset payments to inventors under subparagraph (A) of subsection (a)(1), costs and expenses incurred under subparagraph (D) of subsection (a)(2), 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 subsection (a)(2).

''(d) CERTAIN ASSIGNMENTS.—Under the pilot program, if the invention involved was one assigned to the laboratory—

''(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.

''(e) SUNSET.—The pilot program under this section shall terminate on September 30, 2025.''

ENHANCED TRANSFER OF TECHNOLOGY DEVELOPED AT DEPARTMENT OF DEFENSE LABORATORIES

Pub. L. 113–66, div. A, title VIII, §801, Dec. 26, 2013, 127 Stat. 802, as amended by Pub. L. 114–328, div. A, title VIII, §818, Dec. 23, 2016, 130 Stat. 2273; Pub. L. 117–81, div. A, title VIII, §832, Dec. 27, 2021, 135 Stat. 1832, provided that:

''(a) DEFINITIONS.—As used in this section:

''(1) The term 'military department' has the meaning provided in section 101 of title 10, United States Code.

''(2) The term 'DOD laboratory' or 'laboratory' means any facility or group of facilities that—

''(A) is owned, leased, operated, or otherwise used by the Department of Defense; and

''(B) meets the definition of 'laboratory' as provided in subsection (d)(2) of section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

''(b) AUTHORITY.—

''(1) IN GENERAL.—The Secretary of Defense and the Secretary of a military department each may authorize the heads of DOD laboratories to grant nonexclusive, exclusive, or partially exclusive licenses, royalty free or for royalties or for rights to other intellectual property, for computer software and its related documentation developed at a DOD laboratory, but only if—

''(A) the computer software and related documentation would be a trade secret under the meaning of section 552(b)(4) of title 5, United States Code, if the information had been obtained from a non-Federal party;

''(B) the public is notified of the availability of the software and related documentation for licensing and interested parties have a fair opportunity to submit applications for licensing;

''(C) such licensing activities and licenses comply with the requirements under section 209 of title 35, United States Code; and

''(D) the software originally was developed to meet the military needs of the Department of Defense.

''(2) PROTECTIONS AGAINST UNAUTHORIZED DISCLOSURE.—The Secretary of Defense and the Secretary of a military department each shall provide appropriate precautions against the unauthorized disclosure of any computer software or documentation covered by paragraph (1)(A), including exemption from section 552 of title 5, United States Code, for a period of up to 5 years after the development of the computer software by the DOD laboratory.

''(c) ROYALTIES.—

''(1) USE OF ROYALTIES.—Except as provided in paragraph (2), any royalties or other payments received by the Department of Defense or a military department from licensing computer software or documentation under paragraph (b)(1) shall be retained by the Department of Defense or the military department and shall be disposed of as follows:

''(A)(i) The Department of Defense or the military department shall pay each year the first $2,000, and thereafter at least 15 percent, of the royalties or other payments, to be divided among the employees who developed the computer software.

''(ii) The Department of Defense or the military department may provide appropriate lesser incentives, from the royalties or other payments, to laboratory employees who are not developers of such computer software but who substantially increased the technical value of the software.

''(iii) The Department of Defense or the military department shall retain the royalties and other payments received until it makes payments to employees of a DOD laboratory under clause (i) or (ii).

''(iv) The Department of Defense or the military department may retain an amount reasonably necessary to pay expenses incidental to the administration and distribution of royalties or other payments under this section by an organizational unit of the Department of Defense or military department other than its laboratories.

''(B) The balance of the royalties or other payments shall be transferred by the Department of Defense or the military department to its laboratories, with the majority share of the royalties or other payments going to the laboratory where the development occurred. The royalties or other payments so transferred to any DOD 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 DOD 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 Department of Defense, military department, or DOD laboratory, and for other activities that increase the potential for transfer of the technology of the DOD laboratory;

''(iv) for payment of expenses incidental to the administration and licensing of computer software or other intellectual property made at the DOD 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 DOD laboratory.

''(C) All royalties or other payments retained by the Department of Defense, military department, or DOD laboratory after payments have been made pursuant to subparagraphs (A) and (B) that are 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 of the United States.

''(2) EXCEPTION.—If, after payments under paragraph (1)(A), the balance of the royalties or other payments received by the Department of Defense or the military department in any fiscal year exceed 5 percent of the funds received for use by the DOD laboratory for research, development, engineering, testing, and evaluation or other related administrative, processing, or value-added activities 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) STATUS OF PAYMENTS TO EMPLOYEES.—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 the employee is otherwise entitled or for which the employee is otherwise eligible or limit the amount thereof except that the monetary value of an award for the same project or effort shall be deducted from the amount otherwise available under this paragraph. Payments, determined under the terms of this paragraph and made to an employee developer as such, may continue after the developer leaves the DOD laboratory or the Department of Defense or military department. Payments made under this section shall not exceed $75,000 per year to any one person, unless the President approves a larger award (with the excess over $75,000 being treated as a Presidential award under section 4504 of title 5, United States Code).

''(d) DATA COLLECTION.—The Secretary of Defense shall develop and implement a plan to collect and analyze data on the use of authority under this section for the purposes of—

''(1) developing and sharing best practices; and

''(2) providing information to the Secretary of Defense and Congress on the use of authority under this section and related policy issues.

''(e) REPORT.—The Secretary of Defense shall submit a report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the activities carried out under this section not later than December 31, 2025.

''(f) EXPIRATION.—The authority provided in this section shall expire on December 31, 2026.''

TECHNOLOGY TRANSFER TO PRIVATE SECTOR

Pub. L. 100–180, div. A, title II, § 218(c), Dec. 4, 1987, 101 Stat. 1053, as amended by Pub. L. 103–160, div. A, title IX, § 904(f), Nov. 30, 1993, 107 Stat. 1729; Pub. L. 106–65, div. A, title IX, § 911(a)(1), Oct. 5, 1999, 113 Stat. 717, provided that:

''(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall take appropriate action to ensure that high-temperature superconductivity technology resulting from the research activities of the Department of Defense is transferred to the private sector. Such transfer shall be made in accordance with section 10(e) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)), other applicable provisions of law, and Executive Order Number 12591, dated April 10, 1987 [set out as a note under 15 U.S.C. 3710].

''(2) The Secretary of Energy, in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall ensure that the national laboratories of the Department of Energy participate, to the maximum appropriate extent, in the transfer to the private sector of technology developed under the Department of Defense superconductivity program in the national laboratories.''

§ 4833. Federal Defense Laboratory Diversification Program

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall conduct a program in accordance with this section for the purpose of promoting cooperation between Department of Defense laboratories and industry on research and development of dual-use technologies in order to further the national security objectives set forth in section 4811(a) of this title.

(b) PARTNERSHIPS.—(1) The Secretary shall provide for the establishment under the program of cooperative arrangements (hereinafter in this section referred to as ''partnerships'') between a Department of Defense laboratory and eligible firms and nonprofit research corporations. A partnership may also include one or more additional Federal laboratories, institutions of higher education, agencies of State and local governments, and other entities, as determined appropriate by the Secretary.

(2) For purposes of this section, a federally funded research and development center shall be considered a Department of Defense laboratory if the center is sponsored by the Department of Defense.

(c) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, enter into cooperative agreements and other transactions pursuant to section 4021 of this title, and enter into cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) in order to establish partnerships.

(2) Subject to subsection (d), the Secretary may provide a partnership with technical and other assistance in order to facilitate the achievement of the purpose of this section.

(d) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The Secretary shall ensure that the non-Federal Government participants in a partnership make a substantial contribution to the total cost of partnership activities. The amount of the contribution shall be commensurate with the risk undertaken by such