

non-profit organizations (or consortia of such institutions or organizations) to carry out a comprehensive national initiative to facilitate the development of networks and partnerships to build on and scale up effective practices in broadening participation in STEM studies and careers of groups historically underrepresented in such studies and careers.

**(b) Change of name**

The initiative under subsection (a) shall be known as the “Eddie Bernice Johnson Inclusion across the Nation of Communities of Learners of Underrepresented Discoverers in Engineering and Science Initiative” or the “Eddie Bernice Johnson INCLUDES Initiative”.

(Pub. L. 117–167, div. B, title III, §10323, Aug. 9, 2022, 136 Stat. 1539.)

**§ 19013. Broadening participation on major facilities awards**

The Director shall require organizations seeking a cooperative agreement for the management of the operations and maintenance of a Foundation project to demonstrate prior experience and current capabilities in or to have a plan for employing best practices in broadening participation in science and engineering and ensure implementation of such practices is considered in oversight of the award.

(Pub. L. 117–167, div. B, title III, §10324, Aug. 9, 2022, 136 Stat. 1539.)

**§ 19014. Expanding geographic and institutional diversity in research**

**(a) Continuing support for EPSCoR**

**(1) Sense of Congress**

It is the sense of Congress that—

(A) because maintaining the Nation’s scientific and economic leadership requires the participation of talented individuals nationwide, EPSCoR investments into State research and education capacities are in the Federal interest and should be sustained;

(B) EPSCoR should maintain its experimental component by supporting innovative methods for improving research capacity and competitiveness; and

(C) the Director should carry out this subsection while maintaining or increasing proposal success rates at emerging research institutions throughout the United States and without precluding access to awards for such institutions.

**(2) Omitted**

**(3) Geographic diversity and inclusion**

**(A) In general**

To the maximum extent practicable, not less than—

- (i) 15.5 percent in fiscal year 2023,
- (ii) 16 percent in fiscal year 2024,
- (iii) 16.5 percent in fiscal year 2025,
- (iv) 17 percent in fiscal year 2026,
- (v) 18 percent in fiscal year 2027,
- (vi) 19 percent in fiscal year 2028, and
- (vii) 20 percent in fiscal year 2029,

of the amounts appropriated to the Foundation for research and related activities, and

science, mathematics, and engineering education and human resources programs and activities, excluding those amounts made available for polar research and operations support (and operations and maintenance of research facilities), shall be awarded to EPSCoR institutions.

**(B) Scholarships**

To the maximum extent practicable, not less than—

- (i) 16 percent in fiscal year 2023,
- (ii) 18 percent in fiscal year 2024, and
- (iii) 20 percent in each of fiscal years 2025 through 2029,

of the amounts appropriated to the Foundation for scholarships (including at community colleges), graduate fellowships and traineeships, and postdoctoral awards shall be used to support EPSCoR institutions.

**(C) Considerations**

The Director shall consider prioritizing funding and activities that enable sustainable growth in the competitiveness of EPSCoR jurisdictions, including—

(i) infrastructure investments to build research capacity in EPSCoR jurisdictions;

(ii) scholarships, fellowships, and traineeships within new and existing programs, to promote the development of sustainable research and academic personnel;

(iii) partnerships between eligible organizations in EPSCoR and non-EPSCoR jurisdictions, to develop administrative, grant management, and proposal writing capabilities in EPSCoR jurisdictions;

(iv) capacity building activities for emerging research institutions, historically Black colleges and universities, Tribal Colleges or Universities, and minority serving institutions, consistent with this section and section 19183 of this title; and

(v) leveraging the Partnerships for Innovation program, as well as the Foundation coordination role in the Department of Commerce technology and innovation hub program under section 3722a of title 15 as added by section 10621, to build sustainable innovation ecosystems in EPSCoR jurisdictions.

**(D) Merit review**

The Director shall achieve the percentages specified in this paragraph to the maximum extent practicable, consistent with the National Science Foundation merit review process.

**(E) Consortia**

In the case of an award to a consortium, the Director may count the entire award toward meeting the funding requirements of subparagraph (A) if the lead entity of the consortium is located in an EPSCoR institution<sup>1</sup>

**(F) Annual reporting**

Beginning with the fiscal year 2023, the Director shall submit to Congress a report describing—

<sup>1</sup> So in original. Probably should be followed by a period.

(i) the Foundation's implementation of this paragraph;

(ii) progress in building research capacity, including both infrastructure and personnel, in EPSCoR jurisdictions, including at historically Black colleges and universities, Tribal Colleges or Universities, minority-serving institutions, and emerging research institutions; and

(iii) if the Foundation does not meet the requirement described in subparagraph (A), an explanation relating thereto and a plan for compliance in the following fiscal year and remediation.

**(G) Analysis and sustainability report**

Not later than December 31, 2026, the Director shall submit to Congress a report containing an analysis of the impacts of the requirements under subparagraphs (A) and (B). The report shall include—

(i) an analysis of how the requirements under this paragraph affected the balance of total funding awarded by the Foundation to states and territories across the United States;

(ii) an analysis of any changes in award success and total funding awarded to historically black colleges and universities, Tribal Colleges or Universities, minority-serving institutions, and emerging research institutions between August 9, 2022, and December 31, 2026;

(iii) an analysis of the gains in academic research capacity, quality, and competitiveness and in science and technology human resource development in EPSCoR jurisdictions made between August 9, 2022, and December 31, 2026;

(iv) an assessment of EPSCoR eligibility criteria and determination on whether new eligibility criteria should be developed based on the findings from clauses (i), (ii), and (iii); and

(v) a plan to sustain and grow improvements in research capacity and competitiveness in EPSCoR jurisdictions.

**(H) EPSCoR eligibility**

**(i) In general**

The Director shall ensure eligibility for current EPSCoR jurisdictions for five years from August 9, 2022, after which the Director shall determine whether new eligibility criteria should be developed based on the findings in the report required under subparagraph (G).

**(ii) Report**

Not later than December 31, 2028, the Director shall report to Congress regarding any new eligibility criteria determined under clause (i), any changes to jurisdictional eligibility based on such criteria, and the necessity and practicality of continuing or modifying the requirement under subparagraph (A) given any such changes to eligibility. The report shall include an analysis of options to support regions in non-EPSCoR jurisdictions, adjacent to EPSCoR jurisdictions, that historically receive disproportionately low levels

of funding from the Foundation, including, if appropriate, options to expand the EPSCoR program or to establish new programs.

**(b) Fostering STEM research diversity and capacity program**

**(1) In general**

The Director shall make awards on a competitive, merit-reviewed basis to eligible institutions to implement and study innovative approaches for building research capacity in order to engage and retain students from a range of institutions and diverse backgrounds in STEM.

**(2) Eligible institution defined**

In this subsection the term “eligible institution” means an institution of higher education that, according to the data published by the National Center for Science and Engineering Statistics, is not, on average, among the top 100 institutions in Federal research and development expenditures during the 3-year period prior to the year of the award.

**(3) Purpose**

The activities under this subsection shall be focused on achieving simultaneous impacts at the student, faculty, and institutional levels by increasing the research capacity at eligible institutions and the number of undergraduate and graduate students pursuing STEM degrees from eligible institutions.

**(4) Requirements**

In carrying out this program, the Director shall—

(A) require eligible institutions seeking funding under this subsection to submit an application to the Director at such time, in such manner, containing such information and assurances as the Director may require. The application shall include, at a minimum a description of how the eligible institution plans to sustain the proposed activities beyond the duration of the award;

(B) require applicants to identify disciplines and focus areas in which the eligible institution can excel, and explain how the applicant will use the award to build capacity to bolster the institutional research competitiveness of eligible entities to support awards made by the Foundation and increase regional and national capacity in STEM;

(C) require the awards funded under this subsection to support research and related activities, which may include—

(i) development or expansion of research programs in disciplines and focus areas in subparagraph (B);

(ii) faculty recruitment and professional development in disciplines and focus areas in subparagraph (B), including for early-career researchers;

(iii) stipends for undergraduate and graduate students participating in research in disciplines and focus areas in subparagraph (B);

(iv) acquisition of instrumentation necessary to build research capacity at an eli-

gible institution in disciplines and focus areas in subparagraph (B);

(v) an assessment of capacity-building and research infrastructure needs;

(vi) administrative research development support; and

(vii) other activities necessary to build research capacity; and

(D) require that no eligible institution should receive more than \$10,000,000 in any single year of funds made available under this section.

**(5) Additional considerations**

In making awards under this subsection, the Director may also consider—

(A) the extent to which the applicant will support students from diverse backgrounds, including first-generation undergraduate students;

(B) the geographic and institutional diversity of the applying institutions; and

(C) how the applicants can leverage public-private partnerships and existing partnerships with Federal Research Agencies.

**(6) Duplication**

The Director shall ensure the awards made under this subsection are complementary and not duplicative of existing programs.

**(7) Report**

The Director shall submit a report to Congress after the third year of the program that includes—

(A) an assessment of the effectiveness of the program for growing the geographic and institutional diversity of institutions of higher education receiving research awards from the Foundation;

(B) an assessment of the quality, quantity, and geographic and institutional diversity of institutions of higher education conducting Foundation-sponsored research since the establishment of the program in this subsection;

(C) an assessment of the quantity and diversity of undergraduate and graduate students graduating from eligible institutions with STEM degrees; and

(D) statistical summary data on the program, including the geographic and institutional allocation of award funding, the number and diversity of supported graduate and undergraduate students, and how it contributes to capacity building at eligible entities.

**(8) Authorization of appropriations**

There is authorized to be appropriated to the Director \$150,000,000 for each of the fiscal years 2023 through 2027 to carry out the activities under this subsection.

**(c) Partnerships with emerging research institutions**

**(1) In general**

The Director shall establish a five-year pilot program for awards to research partnerships that involve emerging research institutions and may involve institutions classified as very high research activity by the Carnegie Classification of Institutions of Higher Education at the time of application.

**(2) Requirements**

In carrying out this program, the Director shall—

(A) require that each proposal submitted by a multi-institution collaboration for an award, including those under part G of this subchapter, that exceeds \$1,000,000, as appropriate, specify how the applicants will support substantive, meaningful, sustainable, and mutually beneficial partnerships with one or more emerging research institutions;

(B) require recipients funded under this subsection to direct no less than 35 percent of the total award to one or more emerging research institutions;

(C) require recipients funded under this subsection to report on the partnership activities as part of the annual reporting requirements of the Foundation; and

(D) solicit feedback on the partnership directly from partner emerging research institutions, in such form as the Director deems appropriate.

**(3) Capacity building**

Funds awarded to emerging research institutions under this subsection may be used to build research capacity, including through support for faculty salaries and training, field and laboratory research experiences for undergraduate and graduate students, and maintenance and repair of research equipment and instrumentation.

**(4) Report**

The Director shall submit a report to Congress after the third year of the pilot program that includes—

(A) an assessment, drawing on feedback from the research community and other sources of information, of the effectiveness of the pilot program for improving the quality of partnerships with emerging research institutions; and

(B) if deemed effective, a plan for permanent implementation of the pilot program.

(Pub. L. 117-167, div. B, title III, §10325, Aug. 9, 2022, 136 Stat. 1539.)

**Editorial Notes**

REFERENCES IN TEXT

Section 10621, referred to in subsec. (a)(3)(C)(v), is section 10621 of div. B of Pub. L. 117-167, which enacted sections 3722a and 3722b of Title 15, Commerce and Trade, amended section 3723 of Title 15, and enacted provisions set out as notes under sections 3722a and 3722b of Title 15.

August 9, 2022, referred to in subsec. (a)(3)(G)(ii), (iii), was in the original “the date of enactment” in cl. (ii) and “the enactment of this Act” in cl. (iii), and both instances were translated as meaning the date of enactment of Pub. L. 117-167, which was approved Aug. 9, 2022.

CODIFICATION

Section is comprised of section 10325 of div. B of Pub. L. 117-167. Subsec. (a)(2) of section 10325 of div. B of Pub. L. 117-167 amended section 1862p-9 of this title.

**§ 19015. Diversity in tech research**

The Director shall make awards, on a competitive basis, to institutions of higher education or