

§ 7261. Acquisition of copyrights, patents, etc.

The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

- (1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;
- (2) licenses under copyrights, patents, and applications for patents; and
- (3) releases, before suit is brought, for past infringement of patents or copyrights.

(Pub. L. 95–91, title VI, § 651, Aug. 4, 1977, 91 Stat. 601.)

§ 7261a. Protection of sensitive technical information**(a) Property rights in inventions and discoveries; timely determination; reports to Congressional committees**

(1) Whenever any contractor makes an invention or discovery to which the title vests in the Department of Energy pursuant to exercise of section 202(a)(ii) or (iv) of title 35, or pursuant to section 2182 of this title or section 5908 of this title in the course of or under any Government contract or subcontract of the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy and the contractor requests waiver of any or all of the Government's property rights, the Secretary of Energy may decide to waive the Government's rights and assign the rights in such invention or discovery.

(2) Such decision shall be made within 150 days after the date on which a complete request for waiver of such rights has been submitted to the Secretary by the contractor. For purposes of this paragraph, a complete request includes such information, in such detail and form, as the Secretary by regulation prescribes as necessary to allow the Secretary to take into consideration the matters described in subsection (b) in making the decision.

(3) If the Secretary fails to make the decision within such 150-day period, the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate, within 10 days after the end of the 150-day period, a report on the reasons for such failure. The submission of such report shall not relieve the Secretary of the requirement to make the decision under this section. The Secretary shall, at the end of each 30-day period after submission of the first report during which the Secretary continues to fail to make the decision required by this section, submit another report on the reasons for such failure to the committees listed in this paragraph.

(b) Matters to be considered

In making a decision under this section, the Secretary shall consider, in addition to the applicable policies of section 2182 of this title or subsections (c) and (d) of section 5908 of this title—

- (1) whether national security will be compromised;
- (2) whether sensitive technical information (whether classified or unclassified) under the

Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy for which dissemination is controlled under Federal statutes and regulations will be released to unauthorized persons;

(3) whether an organizational conflict of interest contemplated by Federal statutes and regulations will result; and

(4) whether failure to assert such a claim will adversely affect the operation of the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy.

(Pub. L. 99–661, div. C, title I, § 3131, Nov. 14, 1986, 100 Stat. 4062; Pub. L. 100–180, div. C, title I, § 3135(a), Dec. 4, 1987, 101 Stat. 1240.)

Editorial Notes**CODIFICATION**

Section was enacted as part of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 and also as part of the National Defense Authorization Act for Fiscal Year 1987, and not as part of the Department of Energy Organization Act which comprises this chapter.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–180 designated existing provisions as par. (1), struck out at end “Such decision shall be made within a reasonable time (which shall usually be six months from the date of the request by the contractor for assignment of such rights).”, and added pars. (2) and (3).

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1987 AMENDMENT**

Pub. L. 100–180, div. C, title I, § 3135(b), Dec. 4, 1987, 101 Stat. 1241, provided that: “Paragraphs (2) and (3) of section 3131(a) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 [subsec. (a)(2), (3) of this section] (as added by subsection (a)) shall apply with respect to waiver requests submitted by contractors under that section after March 1, 1988.”

§ 7261b. Technology transfer to small businesses

(1) The Secretary of Energy shall establish a program to facilitate and encourage the transfer of technology to small businesses and shall issue guidelines relating to the program not later than May 1, 1993.

(2) For the purposes of this section, the term “small business” means a business concern that meets the applicable size standards prescribed pursuant to section 632(a) of title 15.

(Pub. L. 102–484, div. C, title XXXI, § 3135(b), Oct. 23, 1992, 106 Stat. 2641.)

Editorial Notes**CODIFICATION**

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

§ 7261c. Technology partnerships ombudsman**(a) Appointment of ombudsman**

The Secretary of Energy shall direct the director of each national laboratory of the Depart-

ment of Energy, and may direct the director of each facility under the jurisdiction of the Department of Energy, to appoint a technology partnership ombudsman to hear and help resolve complaints from outside organizations regarding the policies and actions of each such laboratory or facility with respect to technology partnerships (including cooperative research and development agreements), patents, and technology licensing.

(b) Qualifications

An ombudsman appointed under subsection (a) shall be a senior official of the national laboratory or facility who is not involved in day-to-day technology partnerships, patents, or technology licensing, or, if appointed from outside the laboratory or facility, function as such a senior official.

(c) Duties

Each ombudsman appointed under subsection (a) shall—

(1) serve as the focal point for assisting the public and industry in resolving complaints and disputes with the national laboratory or facility regarding technology partnerships, patents, and technology licensing;

(2) promote the use of collaborative alternative dispute resolution techniques such as mediation to facilitate the speedy and low-cost resolution of complaints and disputes, when appropriate; and

(3) report quarterly on the number and nature of complaints and disputes raised, along with the ombudsman's assessment of their resolution, consistent with the protection of confidential and sensitive information, to—

(A) the Secretary;

(B) the Administrator for Nuclear Security;

(C) the Director of the Office of Dispute Resolution of the Department of Energy; and

(D) the employees of the Department responsible for the administration of the contract for the operation of each national laboratory or facility that is a subject of the report, for consideration in the administration and review of that contract.

(Pub. L. 106-404, § 11, Nov. 1, 2000, 114 Stat. 1749.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Technology Transfer Commercialization Act of 2000, and not as part of the Department of Energy Organization Act which comprises this chapter.

§ 7262. Repealed. Pub. L. 104-206, title V, § 502, Sept. 30, 1996, 110 Stat. 3002

Section, Pub. L. 95-91, title VI, § 652, Aug. 4, 1977, 91 Stat. 601, authorized Secretary to accept gifts, bequests, and devises of property for purpose of aiding or facilitating work of Department.

Editorial Notes

CODIFICATION

Pub. L. 104-206, which directed the repeal of 42 U.S.C. 7262, was executed by repealing section 652 of Pub. L. 95-91, which was classified to this section, to reflect the probable intent of Congress.

§ 7263. Capital fund

The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain said fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund, in such amounts as may be necessary to provide additional working capital, are authorized.

(Pub. L. 95-91, title VI, § 653, Aug. 4, 1977, 91 Stat. 601.)

§ 7264. Seal of Department

The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve and judicial notice shall be taken of such seal.

(Pub. L. 95-91, title VI, § 654, Aug. 4, 1977, 91 Stat. 602.)

§ 7265. Regional Energy Advisory Boards

(a) Establishment; membership

The Governors of the various States may establish Regional Energy Advisory Boards for their regions with such membership as they may determine.

(b) Observers

Representatives of the Secretary, the Secretary of Commerce, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Commandant of the Coast