

**(4) Under Secretary**

The term “Under Secretary” means the Under Secretary for Science and Technology.

**(b) Homeland Security Advanced Research Projects Agency****(1) Establishment**

There is established the Homeland Security Advanced Research Projects Agency.

**(2) Director**

HSARPA shall be headed by a Director, who shall be appointed by the Secretary. The Director shall report to the Under Secretary.

**(3) Responsibilities**

The Director shall administer the Fund to award competitive, merit-reviewed grants, cooperative agreements or contracts to public or private entities, including businesses, federally funded research and development centers, and universities. The Director shall administer the Fund to—

(A) support basic and applied homeland security research to promote revolutionary changes in technologies that would promote homeland security;

(B) advance the development, testing and evaluation, and deployment of critical homeland security technologies;

(C) accelerate the prototyping and deployment of technologies that would address homeland security vulnerabilities; and

(D) conduct research and development for the purpose of advancing technology for the investigation of child exploitation crimes, including child victim identification, trafficking in persons, and child pornography, and for advanced forensics.

**(4) Targeted competitions**

The Director may solicit proposals to address specific vulnerabilities identified by the Director.

**(5) Coordination**

The Director shall ensure that the activities of HSARPA are coordinated with those of other relevant research agencies, and may run projects jointly with other agencies.

**(6) Personnel**

In hiring personnel for HSARPA, the Secretary shall have the hiring and management authorities described in section 1101<sup>1</sup> of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105-261). The term of appointments for employees under subsection (c)(1) of that section may not exceed 5 years before the granting of any extension under subsection (c)(2) of that section.

**(7) Demonstrations**

The Director, periodically, shall hold homeland security technology demonstrations to improve contact among technology developers, vendors and acquisition personnel.

**(c) Fund****(1) Establishment**

There is established the Acceleration Fund for Research and Development of Homeland

Security Technologies, which shall be administered by the Director of HSARPA.

**(2) Authorization of appropriations**

There are authorized to be appropriated \$500,000,000 to the Fund for fiscal year 2003 and such sums as may be necessary thereafter.

**(3) Coast Guard**

Of the funds authorized to be appropriated under paragraph (2), not less than 10 percent of such funds for each fiscal year through fiscal year 2005 shall be authorized only for the Under Secretary, through joint agreement with the Commandant of the Coast Guard, to carry out research and development of improved ports, waterways and coastal security surveillance and perimeter protection capabilities for the purpose of minimizing the possibility that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted 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.

<sup>1</sup> See References in Text note below.

**(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)<sup>1</sup> 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, non-profit 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.

<sup>1</sup> So in original. There is no par. (2).

**§ 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 and sites are authorized to accept and perform work for the Secretary, consistent with resources provided, and perform such work on an equal basis to other missions at the laboratory and not on a noninterference basis with other missions of such laboratory or site.

**(b) Joint sponsorship arrangements**

**(1) Laboratories**

The Department may be a joint sponsor, under a multiple agency sponsorship arrangement with the Department of Energy, of 1 or more Department of Energy national laboratories in the performance of work.

**(2) Sites**

The Department may be a joint sponsor of a Department of Energy site in the performance of work as if such site were a federally funded research and development center and the work were performed under a multiple agency sponsorship arrangement with the Department.

**(3) Primary sponsor**

The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement referred to in paragraph (1) or (2).

**(4) Lead agent**

The Secretary of Energy shall act as the lead agent in coordinating the formation and performance of a joint sponsorship arrangement under this subsection between the Department and a Department of Energy national laboratory or site.

**(5) Federal Acquisition Regulation**

Any work performed by a Department of Energy national laboratory or site under a joint sponsorship arrangement under this subsection shall comply with the policy on the use of federally funded research and development centers under the Federal Acquisition Regulations.