

AMENDMENTS

2011—Subsec. (a). Pub. L. 111-383 substituted “strategy, management, budget allocation,” for “budget allocation, weapons”.

1996—Pub. L. 104-201 substituted “Department of Defense technology and industrial base policy guidance” for “National technology and industrial base: periodic defense capability plan” in section catchline and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (e) providing for the National Defense Technology and Industrial Base Council to prepare, at least annually through fiscal year 1997 and biennially thereafter, a multiyear plan for ensuring that the policies and programs of the Department of Defense, the Department of Energy, and other Federal departments and agencies were planned, coordinated, funded, and implemented in a manner designed to attain national security objectives.

IMPLEMENTING REGULATIONS CONCERNING NATIONAL TECHNOLOGY AND INDUSTRIAL BASE PERIODIC PLAN

Section 4220 of Pub. L. 102-484 set forth requirements for the initial regulations prescribed to implement this section, prior to repeal by Pub. L. 104-201, div. A, title VIII, § 829(h), Sept. 23, 1996, 110 Stat. 2614.

§ 2507. Data collection authority of President

(a) **AUTHORITY.**—The President shall be entitled, by regulation, subpoena, or otherwise, to obtain such information from, require such reports and the keeping of such records by, make such inspection of the books, records, and other writings, premises or property of, and take the sworn testimony of, and administer oaths and affirmations to, any person as may be necessary or appropriate, in the President’s discretion, to the enforcement or the administration of this chapter and the regulations issued under this chapter.

(b) **CONDITION FOR USE OF AUTHORITY.**—The President shall issue regulations insuring that the authority of this section will be used only after the scope and purpose of the investigation, inspection, or inquiry to be made have been defined by competent authority and it is assured that no adequate and authoritative data are available from any Federal or other responsible agency.

(c) **PENALTY FOR NONCOMPLIANCE.**—Any person who willfully performs any act prohibited or willfully fails to perform any act required by the provisions of subsection (a), or any rule, regulation, or order thereunder, shall be fined under title 18 or imprisoned not more than one year, or both.

(d) **LIMITATIONS ON DISCLOSURE OF INFORMATION.**—Information obtained under subsection (a) which the President deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information shall not be published or disclosed unless the President determines that the withholding thereof is contrary to the interest of the national defense. Any person who willfully violates this subsection shall be fined under title 18 or imprisoned not more than one year, or both.

(e) **REGULATIONS.**—The President may make such rules, regulations, and orders as he considers necessary or appropriate to carry out the provisions of this section. Any regulation or order under this section may be established in such form and manner, may contain such classi-

fication and differentiations, and may provide for such adjustments and reasonable exceptions as in the judgment of the President are necessary or proper to effectuate the purposes of this section, or to prevent circumvention or evasion, or to facilitate enforcement of this section, or any rule, regulation, or order issued under this section.

(f) **DEFINITIONS.**—In this section:

(1) The term “person” includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing, except that no punishment provided by this section shall apply to the United States, or to any such government, political subdivision, or government agency.

(2) The term “national defense” means programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity.

(Added Pub. L. 102-484, div. D, title XLII, § 4217, Oct. 23, 1992, 106 Stat. 2670; amended Pub. L. 103-160, div. A, title XI, § 1182(b)(1), Nov. 30, 1993, 107 Stat. 1772; Pub. L. 109-163, div. A, title X, § 1056(c)(5), Jan. 6, 2006, 119 Stat. 3439.)

PRIOR PROVISIONS

A prior section 2507 was renumbered section 2534 of this title.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109-163 substituted “subsection (a)” for “section (a)”.

1993—Pub. L. 103-160 inserted headings in subsecs. (a) to (f).

§ 2508. Industrial Base Fund

(a) **ESTABLISHMENT.**—The Secretary of Defense shall establish an Industrial Base Fund (in this section referred to as the “Fund”).

(b) **CONTROL OF FUND.**—The Fund shall be under the control of the Under Secretary of Defense for Acquisition, Technology, and Logistics, acting through the Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy.

(c) **AMOUNTS IN FUND.**—The Fund shall consist of amounts appropriated or otherwise made available to the Fund.

(d) **USE OF FUND.**—Subject to subsection (e), the Fund shall be used—

(1) to support the monitoring and assessment of the industrial base required by this chapter;

(2) to address critical issues in the industrial base relating to urgent operational needs;

(3) to support efforts to expand the industrial base; and

(4) to address supply chain vulnerabilities.

(e) **USE OF FUND SUBJECT TO APPROPRIATIONS.**—The authority of the Secretary of Defense to use the Fund under this section in any fiscal year is subject to the availability of appropriations for that purpose.

(f) **EXPENDITURES.**—The Secretary shall establish procedures for expending monies in the

Fund in support of the uses identified in subsection (d), including the following:

(1) Direct obligations from the Fund.

(2) Transfers of monies from the Fund to relevant appropriations of the Department of Defense.

(Added Pub. L. 111-383, div. A, title VIII, § 896(b)(1), Jan. 7, 2011, 124 Stat. 4315.)

CODIFICATION

Pub. L. 111-383, div. A, title VIII, § 896(b)(1), Jan. 7, 2011, 124 Stat. 4315, which directed the addition of section 2508 at end of this chapter, was executed by adding this section at the end of subchapter II of this chapter to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 2508 was renumbered section 2522 of this title and subsequently repealed.

A prior section 2509, added Pub. L. 101-510, div. A, title VIII, § 825(a), Nov. 5, 1990, 104 Stat. 1604; amended Pub. L. 102-484, div. A, title X, § 1052(34), Oct. 23, 1992, 106 Stat. 2501, required submission of defense industrial base annual reports, prior to repeal by Pub. L. 102-484, § 4202(a).

A prior section 2510, added Pub. L. 101-510, div. A, title VIII, § 826(a)(1), Nov. 5, 1990, 104 Stat. 1605, related to defense industrial base for textile and apparel products, prior to repeal by Pub. L. 102-484, § 4202(a).

SUBCHAPTER III—PROGRAMS FOR DEVELOPMENT, APPLICATION, AND SUPPORT OF DUAL-USE TECHNOLOGIES

Sec.

- 2511. Defense dual-use critical technology program. [2512, 2513. Repealed.]
- 2514. Encouragement of technology transfer.
- 2515. Office of Technology Transition. [2516. Repealed.]
- 2517. Office for Foreign Defense Critical Technology Monitoring and Assessment.
- 2518. Overseas foreign critical technology monitoring and assessment financial assistance program.
- 2519. Federal Defense Laboratory Diversification Program.
- [2520. Repealed.]

AMENDMENTS

1996—Pub. L. 104-106, div. A, title X, § 1081(i)(2), Feb. 10, 1996, 110 Stat. 455, substituted “program” for “partnerships” in item 2511 and struck out items 2512 “Commercial-military integration partnerships”, 2513 “Regional technology alliances assistance program”, 2516 “Military-Civilian Integration and Technology Transfer Advisory Board”, and 2520 “Navy Reinvestment Program”.

1994—Pub. L. 103-337, div. A, title XI, § 1113(c), Oct. 5, 1994, 108 Stat. 2866, added items 2519 and 2520.

§ 2511. Defense dual-use critical technology program

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall conduct a program to further the national security objectives set forth in section 2501(a) of this title by encouraging and providing for research, development, and application of dual-use critical technologies. The Secretary may make grants, enter into contracts, or enter into cooperative agreements and other transactions pursuant to section 2371 of this title in furtherance of the program. The Secretary shall identify projects to be conducted as part of the program.

(b) ASSISTANCE AUTHORIZED.—The Secretary of Defense may provide technical and other assistance to facilitate the achievement of the purposes of projects conducted under the program. In providing such assistance, the Secretary shall make available, as appropriate for the work to be performed, equipment and facilities of Department of Defense laboratories (including the scientists and engineers at those laboratories) for purposes of projects selected by the Secretary.

(c) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The total amount of funds provided by the Federal Government for a project conducted under the program may not exceed 50 percent of the total cost of the project. However, the Secretary of Defense may agree to a project in which the total amount of funds provided by the Federal Government exceeds 50 percent if the Secretary determines the project is particularly meritorious, but the project would not otherwise have sufficient non-Federal funding or in-kind contributions.

(2) The Secretary may prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a project conducted under the program for the purpose of calculating the share of the project costs that has been or is being undertaken by such participants. In such regulations, the Secretary may authorize a participant that is a small business concern to use funds received under the Small Business Innovation Research Program or the Small Business Technology Transfer Program to help pay the costs of project activities. Any such funds so used may be considered in calculating the amount of the financial commitment undertaken by the non-Federal Government participants unless the Secretary determines that the small business concern has not made a significant equity percentage contribution in the project from non-Federal sources.

(3) The Secretary shall consider a project proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated project costs. Upon the selection of a project proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the project from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated project costs, the Secretary shall revoke the selection of the project proposal submitted by the small business concern.

(d) SELECTION PROCESS.—Competitive procedures shall be used in the conduct of the program.

(e) SELECTION CRITERIA.—The criteria for the selection of projects under the program shall include the following:

- (1) The extent to which the proposed project advances and enhances the national security objectives set forth in section 2501(a) of this title.