technology by American industry or business, universities, State or local governments, or other non-Federal parties.

(Pub. L. 96–480, §13, as added and renumbered §12, Pub. L. 99–502, §§6, 9(e)(1), Oct. 20, 1986, 100 Stat. 1792, 1797; renumbered §13, Pub. L. 100–418, title V, §5122(a)(1), Aug. 23, 1988, 102 Stat. 1438; amended Pub. L. 100–519, title III, §302, Oct. 24, 1988, 102 Stat. 2597.)

AMENDMENTS

1988—Par. (1). Pub. L. 100–519 inserted ''computer software,'' after ''inventions, innovations,''.

§ 3710c. Distribution of royalties received by Federal agencies

(a) In general

(1) Except as provided in paragraphs (2) and (4), any royalties or other payments received by a Federal agency from the licensing and assignment of inventions under agreements entered into by Federal laboratories under section 3710a of this title, and from the licensing of inventions of Federal laboratories under section 207 of title 35 or under any other provision of law, shall be retained by the laboratory which produced the invention and shall be disposed of as follows:

(A)(i) The head of the agency or laboratory, or such individual's designee, shall pay each year the first $2,000, and thereafter at least 15 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 assigned to the United States.

(ii) An agency or laboratory 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 such inventions.

(iii) The agency or laboratory shall retain the royalties and other payments received from an invention until the agency or laboratory makes payments to employees of a laboratory under clause (i) or (ii).

(B) 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—

(i) 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;

(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 agency or laboratory, and for other activities that increase the potential for transfer of the technology of the laboratories of the agency;

(iv) 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

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

(C) All royalties or other payments retained by the agency or laboratory after payments have been made pursuant to subparagraphs (A) and (B) that is 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.

(2) If, after payments to inventors under paragraph (1), the royalties or other payments received by an agency in any fiscal year exceed 5 percent of the budget of the agency 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) 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 he is otherwise entitled or for which he is otherwise eligible or limit the amount thereof. Any payment made to an inventor as such shall continue after the inventor leaves the laboratory or agency. Payments made under this section shall not exceed $150,000 per year to any one person, unless the President approves a larger award (with the excess over $150,000 being treated as a Presidential award under section 4504 of title 5).

(4) A Federal agency 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, may retain such royalties or payments to the extent required to offset payments to inventors under clause (i) of paragraph (1)(A), costs and expenses incurred under clause (iv) of paragraph (1)(B), 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 paragraph (1)(B).

(b) Certain assignments

If the invention involved was one assigned to the Federal agency—

(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.

(c) Reports

The Comptroller General shall transmit a report to the appropriate committees of the Senate and House of Representatives on the effectiveness of Federal technology transfer programs, including findings, conclusions, and recommendations for improvements in such programs. The report shall be integrated with, and submitted at the same time as, the report required by section 202(b)(3)[1] of title 35.

(Pub. L. 96–480, §14, as added, renumbered §13, and amended Pub. L. 99–502, §§7, 9(e)(1), (3), Oct. 20, 1986, 100 Stat. 1792, 1797; renumbered §14 and amended Pub. L. 100–418, title V, §§5122(a)(1), 5162(a), Aug. 23, 1988, 102 Stat. 1438, 1450; Pub. L. 100–519, title III, §303(a), Oct. 24, 1988, 102 Stat. 2597; Pub. L. 101–189, div. C, title XXXI, §3133(c), Nov. 29, 1989, 103 Stat. 1677; Pub. L. 104–113, §5, Mar. 7, 1996, 110 Stat. 777; Pub. L. 106–404, §§7(7), 10(b), Nov. 1, 2000, 114 Stat. 1746, 1749.)

REFERENCES IN TEXT

Section 202(b)(3) of title 35, referred to in subsec. (c), was struck out and section 202(b)(4) was redesignated section 202(b)(3) by Pub. L. 111–8, div. G, title I, §1301(h), Mar. 11, 2009, 123 Stat. 829.

AMENDMENTS

2000—Subsec. (a)(1)(A)(i). Pub. L. 106–404, §7(7)(A), (B), inserted '', other than payments of patent costs as delineated by a license or assignment agreement,'' after ''or other payments'' and '', if the inventor's or coinventor's rights are assigned to the United States'' before period at end.

Subsec. (a)(1)(B). Pub. L. 106–404, §7(7)(C), substituted ''2 succeeding fiscal years'' for ''succeeding fiscal year'' in introductory provisions.

Subsec. (a)(2). Pub. L. 106–404, §7(7)(D), struck out ''Government-operated laboratories of the'' before ''agency for that year,''.

Subsec. (b)(2). Pub. L. 106–404, §7(7)(E), substituted ''invention'' for ''inventon''.

Subsec. (c). Pub. L. 106–404, §10(b), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows:

''(1) In making their annual budget submissions Federal agencies shall submit, to the appropriate authorization and appropriation committees of both Houses of the Congress, summaries of the amount of royalties or other income received and expenditures made (including inventor awards) under this section.

''(2) The Comptroller General, five years after October 20, 1986, shall review the effectiveness of the various royalty-sharing programs established under this section and report to the appropriate committees of the House of Representatives and the Senate, in a timely manner, his findings, conclusions, and recommendations for improvements in such programs.''

1996—Subsec. (a)(1). Pub. L. 104–113, §5(1), amended par. (1) generally, restructuring subpar. (A) to require head of agency or his designee to pay each year first $2,000, and thereafter at least 15 percent of royalties or other income received by agency on account of any invention to inventor or coinventors if they had assigned their rights in invention to United States and to authorize agencies to provide incentives to laboratory employees who substantially increase technical value of inventions, restructuring subpar. (B) to reorder cls. (i) to (iv), to add cl. (v), and to strike out closing provisions which required unobligated or unused funds to be paid into Treasury, and adding subpar. (C).

Subsec. (a)(2). Pub. L. 104–113, §5(2), in first sentence, inserted ''or other payments'' after ''royalties'' and substituted ''under paragraph (1)(B)'' for ''for the purposes described in clauses (i) through (iv) of paragraph (1)(B) during that fiscal year or the succeeding fiscal year''.

Subsec. (a)(3). Pub. L. 104–113, §5(3), substituted ''$150,000'' for ''$100,000'' in two places.

Subsec. (a)(4). Pub. L. 104–113, §5(4), in first sentence, substituted ''other payments'' for ''other income'', ''such royalties or payments'' for ''such royalties or income'', ''offset payments to inventors'' for ''offset the payment of royalties to inventors'', and ''clause (iv) of paragraph (1)(B)'' for ''clause (i) of paragraph (1)(B)'' and, in second sentence, substituted ''other payments'' for ''other income'', substituted ''offsetting the payments to inventors'' for ''payment of the royalties'', and struck out ''clauses (i) through (iv) of'' before ''paragraph (1)(B)''.

Subsec. (b)(1). Pub. L. 104–113, §5(5), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''by a contractor, grantee, or participant in a cooperative agreement with the agency, or''.

1989—Subsec. (a)(1). Pub. L. 101–189, §3133(c)(1), in introductory provisions, inserted ''by Government-operated Federal laboratories'' after ''entered into'' and made technical amendment to reference to section 3710a of this title to correct reference to corresponding section of original Act, requiring no change in text.

Subsec. (a)(1)(B)(ii). Pub. L. 101–189, §3133(c)(2), inserted '', including payments to inventors and developers of sensitive or classified technology, regardless of whether the technology has commercial applications'' after ''that laboratory''.

Subsec. (a)(1)(B)(iv). Pub. L. 101–189, §3133(c)(3), substituted ''technology of the laboratories'' for ''technology of the Government-operated laboratories''.

1988—Subsec. (a)(1)(A)(i). Pub. L. 100–519, §303(a)(1), substituted ''has assigned his or her rights in the invention to the United States'' for ''was an employee of the agency at the time the invention was made''.

Subsec. (a)(1)(A)(ii). Pub. L. 100–519, §303(a)(2), substituted ''under clause (i)'' for ''who were employed by the agency at the time the invention was made and whose names appear on licensed inventions''.

Subsec. (a)(4). Pub. L. 100–418, §5162(a), substituted ''may'' for ''shall'' and ''any invention of the other agency'' for ''such invention performed at the request of the other agency or laboratory'' in first sentence.

1986—Subsec. (a)(1). Pub. L. 99–502, §9(e)(3), in introductory par. made technical amendment to reference to section 3710a of this title to reflect renumbering of corresponding section of original act.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 303(b) of Pub. L. 100–519 provided that: ''This section [amending this section] shall be effective as of October 20, 1986.''

§ 3710d. Employee activities

(a) In general

If a Federal agency which has ownership of or the right of ownership to an invention made by a Federal employee does not intend to file for a patent application or otherwise to promote commercialization of such invention, the agency shall allow the inventor, if the inventor is a Government employee or former employee who made the invention during the course of employment with the Government, to obtain or retain title to the invention (subject to reservation by the Government of a nonexclusive, nontrans-

[1] See References in Text note below.