

financial assistance awarded by the Secretary of Commerce to a Regional Center for the Transfer of Manufacturing Technology could continue beyond six years and could be renewed for additional periods, not to exceed one year, at a rate not to exceed one-third of the Center's total annual costs or the level of funding in the sixth year, whichever was less, subject before any such renewal to a positive evaluation of the Center and to a finding by the Secretary of Commerce that continuation of Federal funding to the Center was in the best interest of the Regional Centers for the Transfer of Manufacturing Technology Program, was from the Departments of Commerce Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, and was not repeated in subsequent appropriations Acts. Similar provisions were contained in the following prior appropriation acts:

- Pub. L. 105-119, title II, Nov. 26, 1997, 111 Stat. 2476.
- Pub. L. 104-208, div. A, title I, §101(a) [title II], Sept. 30, 1996, 110 Stat. 3009, 3009-36.
- Pub. L. 103-317, title II, Aug. 26, 1994, 108 Stat. 1741.

#### PUBLICATION IN FEDERAL REGISTER

Pub. L. 100-519, title I, §102(d), Oct. 24, 1988, 102 Stat. 2590, provided that: "The requirement of section 25(c)(2) of the Act of March 3, 1901, [15 U.S.C. 278k(c)(2)], shall be considered to have been met by the publication made by the National Bureau of Standards on July 18, 1988 (53 Fed. Reg. 27060)."

#### § 278I. Assistance to State technology programs

(a) In addition to the Centers program created under section 278k of this title, the Secretary, through the Director and, if appropriate, through other officials, shall provide technical assistance to State technology programs throughout the United States, in order to help those programs help businesses, particularly small- and medium-sized businesses, to enhance their competitiveness through the application of science and technology.

(b) Such assistance from the Institute to State technology programs shall include, but not be limited to—

- (1) technical information and advice from Institute personnel;
- (2) workshops and seminars for State officials interested in transferring Federal technology to businesses; and
- (3) entering into cooperative agreements when authorized to do so under this chapter or any other Act.

(Mar. 3, 1901, ch. 872, §26, as added Pub. L. 100-418, title V, §5121(a), Aug. 23, 1988, 102 Stat. 1435.)

#### TECHNOLOGY EXTENSION SERVICES

Pub. L. 100-418, title V, §5121(b), (c), Aug. 23, 1988, 102 Stat. 1436, 1437, as amended by Pub. L. 102-245, title I, §105(d), Feb. 14, 1992, 106 Stat. 12, provided that:

"(b) TECHNOLOGY EXTENSION SERVICES.—(1) The Secretary shall conduct a nationwide study of current State technology extension services. The study shall include—

- "(A) a thorough description of each State program, including its duration, its annual budget, and the number and types of businesses it has aided;
- "(B) a description of any anticipated expansion of each State program and its associated costs;
- "(C) an evaluation of the success of the services in transferring technology, modernizing manufacturing processes, and improving the productivity and profitability of businesses;
- "(D) an assessment of the degree to which State services make use of Federal programs, including the

Small Business Innovative Research program and the programs of the Federal Laboratory Consortium, the National Technical Information Service, the National Science Foundation, the Office of Productivity, Technology, and Innovation, and the Small Business Administration;

"(E) a survey of what additional Federal information and technical assistance the services could utilize; and

"(F) an assessment of how the services could be more effective agents for the transfer of Federal scientific and technical information, including the results and application of Federal and federally funded research.

The Secretary shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, at the time of submission of the organization plan for the Institute under section 5112(d)(1) [of Pub. L. 100-418, set out as a note under section 272 of this title], the results of the study and an initial implementation plan for the programs under section 26 of the Act of March 3, 1901 [15 U.S.C. 278I], and under this section [enacting sections 278k to 278m of this title]. The implementation plan shall include methods of providing technical assistance to States and criteria for awarding financial assistance under this section. The Secretary may make use of contractors and experts for any or all of the studies and findings called for in this section.

"(2)(A) The Institute shall enter into cooperative agreements with State technology extension services to—

"(i) demonstrate methods by which the States can, in cooperation with Federal agencies, increase the use of Federal technology by businesses within their States to improve industrial competitiveness; or

"(ii) help businesses in their States take advantage of the services and information offered by the Regional Centers for the Transfer of Manufacturing Technology created under section 25 of the Act of March 3, 1901 [15 U.S.C. 278k].

"(B) Any State, for itself or for a consortium of States, may submit to the Secretary an application for a cooperative agreement under this subsection, in accordance with procedures established by the Secretary. To qualify for a cooperative agreement under this subsection, a State shall provide adequate assurances that it will increase its spending on technology extension services by an amount at least equal to the amount of Federal assistance.

"(C) In evaluating each application, the Secretary shall consider—

"(i) the number and types of additional businesses that will be assisted under the cooperative agreement;

"(ii) the extent to which the State extension service will demonstrate new methods to increase the use of Federal technology;

"(iii) geographic diversity; and

"(iv) the ability of the State to maintain the extension service after the cooperative agreement has expired.

"(D) States which are party to cooperative agreements under this subsection may provide services directly or may arrange for the provision of any or all of such services by institutions of higher education or other non-profit institutions or organizations.

"(3) In carrying out section 26 of the Act of March 3, 1901 [15 U.S.C. 278I], and this subsection, the Secretary shall coordinate the activities with the Federal Laboratory Consortium; the National Technical Information Service; the National Science Foundation; the Office of Productivity, Technology, and Innovation; the Small Business Administration; and other appropriate Federal agencies.

"(4) There are authorized to be appropriated for the purposes of this subsection \$2,000,000 for each of the fiscal years 1989, 1990, and 1991.

"(c) FEDERAL TECHNOLOGY TRANSFER ACT OF 1986.—Nothing in sections [sic] 25 or 26 of the Act of March 3,

1901 [15 U.S.C. 278k, 278l], or in subsection (b) of this section shall be construed as limiting the authorities contained in the Federal Technology Transfer Act of 1986 (Public Law 99-502) [see Short Title of 1986 Amendments note set out under section 3701 of this title].”

**§ 278m. Repealed. Pub. L. 110-69, title III, § 3013(d), Aug. 9, 2007, 121 Stat. 599**

Section, act Mar. 3, 1901, ch. 872, §27, as added Pub. L. 100-418, title V, §5121(d), Aug. 23, 1988, 102 Stat. 1437, related to the establishment of a program for the evaluation of non-energy inventions.

**§ 278n. Technology Innovation Program**

**(a) Establishment**

There is established within the Institute a program linked to the purpose and functions of the Institute, to be known as the “Technology Innovation Program” for the purpose of assisting United States businesses and institutions of higher education or other organizations, such as national laboratories and nonprofit research institutions, to support, promote, and accelerate innovation in the United States through high-risk, high-reward research in areas of critical national need.

**(b) External funding**

**(1) In general**

The Director shall award competitive, merit-reviewed grants, cooperative agreements, or contracts to—

- (A) eligible companies that are small-sized businesses or medium-sized businesses; or
- (B) joint ventures.

**(2) Single company awards**

No award given to a single company shall exceed \$3,000,000 over 3 years.

**(3) Joint venture awards**

No award given to a joint venture shall exceed \$9,000,000 over 5 years.

**(4) Federal cost share**

The Federal share of a project funded by an award under the program shall not be more than 50 percent of total project costs.

**(5) Prohibitions**

Federal funds awarded under this program may be used only for direct costs and not for indirect costs, profits, or management fees of a contractor. Any business that is not a small-sized or medium-sized business may not receive any funding under this program.

**(c) Award criteria**

The Director shall only provide assistance under this section to an entity—

- (1) whose proposal has scientific and technical merit and may result in intellectual property vesting in a United States entity that can commercialize the technology in a timely manner;
- (2) whose application establishes that the proposed technology has strong potential to address critical national needs through transforming the Nation’s capacity to deal with major societal challenges that are not currently being addressed, and generate substantial benefits to the Nation that extend significantly beyond the direct return to the applicant;

(3) whose application establishes that the research has strong potential for advancing the state-of-the-art and contributing significantly to the United States science and technology knowledge base;

(4) whose proposal explains why Technology Innovation Program support is necessary, including evidence that the research will not be conducted within a reasonable time period in the absence of financial assistance under this section;

(5) whose application demonstrates that reasonable efforts have been made to secure funding from alternative funding sources and no other alternative funding sources are reasonably available to support the proposal; and

(6) whose application explains the novelty of the technology and demonstrates that other entities have not already developed, commercialized, marketed, distributed, or sold similar technologies.

**(d) Competitions**

The Director shall solicit proposals at least annually to address areas of critical national need for high-risk, high-reward projects.

**(e) Intellectual property rights ownership**

**(1) In general**

Title to any intellectual property developed by a joint venture from assistance provided under this section may vest in any participant in the joint venture, as agreed by the members of the joint venture, notwithstanding section 202(a) and (b) of title 35. The United States may reserve a nonexclusive, nontransferable, irrevocable paid-up license, to have practice for or on behalf of the United States in connection with any such intellectual property, but shall not in the exercise of such license publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a participant in the joint venture, until the expiration of the first patent obtained in connection with such intellectual property.

**(2) Licensing**

Nothing in this subsection shall be construed to prohibit the licensing to any company of intellectual property rights arising from assistance provided under this section.

**(3) Definition**

For purposes of this subsection, the term “intellectual property” means an invention patentable under title 35, or any patent on such an invention, or any work for which copyright protection is available under title 17.

**(f) Program operation**

Not later than 9 months after August 9, 2007, the Director shall promulgate regulations—

- (1) establishing criteria for the selection of recipients of assistance under this section;
- (2) establishing procedures regarding financial reporting and auditing to ensure that awards are used for the purposes specified in this section, are in accordance with sound accounting practices, and are not funding exist-