

tion 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 Repealed.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—