

lish a process by which a round of closures and realignments would be carried out and any additional legislative authority necessary to implement the recommendations. The Secretary shall submit the recommendations as part of the infrastructure plan under subsection (a).

“(c) DEFINITIONS.—In this section:

“(1) The terms ‘Secretary’ and ‘Secretary of Energy’ mean the Secretary of Energy, acting after consideration of the recommendations of the Administrator for Nuclear Security.

“(2) The term ‘nuclear weapons complex’ means the national security laboratories and nuclear weapons production facilities (as such terms are defined in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471)) and the facilities of the Naval Nuclear Propulsion Program provided for under the Naval Nuclear Propulsion Executive Order (as such term is defined in section 3216 of such Act (50 U.S.C. 2406)).”

STUDY AND REPORT RELATED TO IMPROVING MISSION EFFECTIVENESS, PARTNERSHIPS, AND TECHNOLOGY TRANSFER AT NATIONAL SECURITY LABORATORIES AND NUCLEAR WEAPONS PRODUCTION FACILITIES

Pub. L. 106-398, § 1 [div. C, title XXXI, §3163], Oct. 30, 2000, 114 Stat. 1654, 1654A-473, provided that:

“(a) STUDY AND REPORT REQUIRED.—The Secretary of Energy shall direct the Secretary of Energy Advisory Board to study and to submit to the Secretary not later than one year after the date of the enactment of this Act [Oct. 30, 2000] a report regarding the following topics:

“(1) The advantages and disadvantages of providing the Administrator for Nuclear Security with authority, notwithstanding the limitations otherwise imposed by the Federal Acquisition Regulation, to enter into transactions with public agencies, private organizations, or individuals on terms the Administrator considers appropriate to the furtherance of basic, applied, and advanced research functions. The Advisory Board shall consider, in its assessment of this authority, the management history of the Department of Energy and the effect of this authority on the National Nuclear Security Administration’s use of contractors to operate the national security laboratories.

“(2) The advantages and disadvantages of establishing and implementing policies and procedures to facilitate the transfer of scientific, technical, and professional personnel among national security laboratories and nuclear weapons production facilities.

“(3) The advantages and disadvantages of making changes in—

“(A) the indemnification requirements for patents or other intellectual property licensed from a national security laboratory or nuclear weapons production facility;

“(B) the royalty and fee schedules and types of compensation that may be used for patents or other intellectual property licensed to a small business concern from a national security laboratory or nuclear weapons production facility;

“(C) the licensing procedures and requirements for patents and other intellectual property;

“(D) the rights given to a small business concern that has licensed a patent or other intellectual property from a national security laboratory or nuclear weapons production facility to bring suit against third parties infringing such intellectual property;

“(E) the advance funding requirements for a small business concern funding a project at a national security laboratory or nuclear weapons production facility through a funds-in agreement;

“(F) the intellectual property rights allocated to a business when it is funding a project at a national security laboratory or nuclear weapons production facility through a funds-in agreement; and

“(G) policies on royalty payments to inventors employed by a contractor operating a national se-

curity laboratory or nuclear weapons production facility, including those for inventions made under a funds-in agreement.

“(b) DEFINITION OF FUNDS-IN AGREEMENT.—For the purposes of this section, the term ‘funds-in agreement’ means a contract between the Department and a non-Federal organization under which that organization pays the Department to provide a service or material not otherwise available in the domestic private sector.

“(c) SUBMISSION TO CONGRESS.—Not later than one month after receiving the report under subsection (a), the Secretary shall submit to Congress that report, along with the Secretary’s recommendations for action and proposals for legislation to implement the recommendations.”

DEFINITIONS FOR PURPOSES OF PUB. L. 106-398

Pub. L. 106-398, § 1 [div. C, title XXXI, §3165], Oct. 30, 2000, 114 Stat. 1654, 1654A-475, provided that: “For purposes of this subtitle [subtitle E (§§3161-3165)] of title XXXI of div. C of H.R. 5408, as enacted by section 1 of Pub. L. 106-398, enacting provisions set out as notes under this section and section 2402 of this title], the terms ‘national security laboratory’ and ‘nuclear weapons production facility’ have the meanings given such terms in section 3281 of the National Nuclear Security Administration Act (title XXXII of Public Law 106-65; 113 Stat. 968; 50 U.S.C. 2471).”

REPORT CONTAINING IMPLEMENTATION PLAN OF SECRETARY OF ENERGY

Pub. L. 106-65, div. C, title XXXII, §3297, Oct. 5, 1999, 113 Stat. 971, which provided that not later than January 1, 2000, the Secretary of Energy was to submit to the Armed Services committees a report containing the Secretary’s plan for the implementation of the provisions of this title, was repealed by Pub. L. 112-239, div. C, title XXXI, §3132(c)(1)(D), Jan. 2, 2013, 126 Stat. 2187.

CLASSIFICATION IN UNITED STATES CODE

Pub. L. 106-65, div. C, title XXXII, §3298, Oct. 5, 1999, 113 Stat. 971, provided that: “Subtitles A through F of this title [§§3211-3281, enacting this chapter and amending sections 5595 and 8905a of Title 5, Government Organization and Employees] (other than provisions of those subtitles amending existing provisions of law) shall be classified to the United States Code as a new chapter of title 50, United States Code.”

§ 2402. Administrator for Nuclear Security

(a) In general

(1) There is at the head of the Administration an Administrator for Nuclear Security (in this chapter referred to as the “Administrator”).

(2) Pursuant to subsection (c) of section 7132 of title 42, the Under Secretary for Nuclear Security of the Department of Energy serves as the Administrator.

(b) Functions

The Administrator has authority over, and is responsible for, all programs and activities of the Administration (except for the functions of the Deputy Administrator for Naval Reactors specified in the Executive order referred to in section 2406(b) of this title), including the following:

- (1) Strategic management.
- (2) Policy development and guidance.
- (3) Budget formulation, guidance, and execution, and other financial matters.
- (4) Resource requirements determination and allocation.
- (5) Program management and direction.
- (6) Safeguards and security.

- (7) Emergency management.
- (8) Integrated safety management.
- (9) Environment, safety, and health operations.
- (10) Administration of contracts, including the management and operations of the nuclear weapons production facilities and the national security laboratories.
- (11) Intelligence.
- (12) Counterintelligence.
- (13) Personnel, including the selection, appointment, distribution, supervision, establishing of compensation, and separation of personnel in accordance with subchapter III of this chapter.
- (14) Procurement of services of experts and consultants in accordance with section 3109 of title 5.
- (15) Legal matters.
- (16) Legislative affairs.
- (17) Public affairs.
- (18) Eliminating inventories of surplus fissile materials usable for nuclear weapons.
- (19) Liaison with other elements of the Department of Energy and with other Federal agencies, State, tribal, and local governments, and the public.

(c) Procurement authority

The Administrator is the senior procurement executive for the Administration for the purposes of section 414(3) of title 41.¹

(d) Policy authority

The Administrator may establish Administration-specific policies, unless disapproved by the Secretary of Energy.

(e) Membership on Nuclear Weapons Council

The Administrator serves as a member of the Nuclear Weapons Council under section 179 of title 10.

(f) Reorganization authority

Except as provided by subsections (b) and (c) of section 2481 of this title:

- (1) The Administrator may establish, abolish, alter, consolidate, or discontinue any organizational unit or component of the Administration, or transfer any function of the Administration.
- (2) Such authority does not apply to the abolition of organizational units or components established by law or the transfer of functions vested by law in any organizational unit or component.

(Pub. L. 106-65, div. C, title XXXII, § 3212, Oct. 5, 1999, 113 Stat. 957; Pub. L. 106-398, § 1 [div. C, title XXXI, §§ 3152(b), 3159(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-464, 1654A-469; Pub. L. 107-107, div. A, title X, § 1048(i)(12), Dec. 28, 2001, 115 Stat. 1230; Pub. L. 108-375, div. A, title IX, § 902(e), Oct. 28, 2004, 118 Stat. 2025; Pub. L. 110-417, div. C, title XXXI, § 3111, Oct. 14, 2008, 122 Stat. 4753; Pub. L. 112-239, div. C, title XXXI, § 3132(d)(1), Jan. 2, 2013, 126 Stat. 2187.)

REFERENCES IN TEXT

Section 414 of title 41, referred to in subsec. (c), was amended generally by Pub. L. 108-136, div. A, title XIV,

¹ See References in Text note below.

§ 1421(a)(1), Nov. 24, 2003, 117 Stat. 1666, and, as so amended, the substance of par. (3) was restated in subsec. (c)(1) of section 414. Section 414(c) of title 41 was subsequently repealed and restated as section 1702(c) of Title 41, Public Contracts, by Pub. L. 111-350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

AMENDMENTS

2013—Subsec. (a)(2). Pub. L. 112-239 made technical amendment to reference in original act which appears in text as reference to section 7132 of title 42.

2008—Subsec. (b)(18), (19). Pub. L. 110-417 added par. (18) and redesignated former par. (18) as (19).

2004—Subsec. (e). Pub. L. 108-375 struck out “Joint” before “Nuclear” in heading and text.

2001—Subsecs. (e), (f). Pub. L. 107-107 redesignated subsec. (e), relating to reorganization authority, as (f).

2000—Subsec. (e). Pub. L. 106-398, § 1 [div. C, title XXXI, § 3159(a)], added subsec. (e) relating to reorganization authority.

Pub. L. 106-398, § 1 [div. C, title XXXI, § 3152(b)], added subsec. (e) relating to membership on Joint Nuclear Weapons Council.

TECHNOLOGY INFRASTRUCTURE PILOT PROGRAM

Pub. L. 106-398, § 1 [div. C, title XXXI, § 3161], Oct. 30, 2000, 114 Stat. 1654, 1654A-470, provided that:

“(a) ESTABLISHMENT.—The Administrator for Nuclear Security shall establish a Technology Infrastructure Pilot Program in accordance with this section.

“(b) PURPOSE.—The purpose of the program shall be to explore new methods of collaboration and improvements in the management and effectiveness of collaborative programs carried out by the national security laboratories and nuclear weapons production facilities in partnership with private industry and institutions of higher education and to improve the ability of those laboratories and facilities to support missions of the Administration.

“(c) FUNDING.—(1) Except as provided in paragraph (2), funding shall be available for the pilot program only to the extent of specific authorizations and appropriations enacted after the date of the enactment of this Act [Oct. 30, 2000].

“(2) From amounts available in fiscal years 2001 and 2002 for technology partnership programs of the Administration, the Administrator may allocate to carry out the pilot program not more than \$5,000,000.

“(d) PROJECT REQUIREMENTS.—A project may not be approved for the pilot program unless the project meets the following requirements:

“(1) The participants in the project include—

“(A) a national security laboratory or nuclear weapons production facility; and

“(B) one or more of the following:

“(i) A business.

“(ii) An institution of higher education.

“(iii) A nonprofit institution.

“(iv) An agency of a State, local, or tribal government.

“(2)(A) Not less than 50 percent of the costs of the project are to be provided by non-Federal sources.

“(B)(i) The calculation of the amount of the costs of the project provided by non-Federal sources shall include cash, personnel, services, equipment, and other resources expended on the project.

“(ii) No funds or other resources expended before the start of the project or outside the project’s scope of work may be credited toward the costs provided by non-Federal sources to the project.

“(3) The project (other than in the case of a project under which the participating laboratory or facility receives funding under this section) shall be competitively selected by that laboratory or facility using procedures determined to be appropriate by the Administrator.

“(4) No Federal funds shall be made available under this section for—

“(A) construction; or
 “(B) any project for more than five years.
 “(e) SELECTION CRITERIA.—(1) The projects selected for the pilot program shall—
 “(A) stimulate the development of technology expertise and capabilities in private industry and institutions of higher education that can support the nuclear weapons and nuclear nonproliferation missions of the national security laboratories and nuclear weapons production facilities on a continuing basis;
 “(B) improve the ability of those laboratories and facilities [to] benefit from commercial research, technology, products, processes, and services that can support the nuclear weapons and nuclear nonproliferation missions of those laboratories and facilities on a continuing basis; and
 “(C) encourage the exchange of scientific and technological expertise between those laboratories and facilities and—
 “(i) institutions of higher education;
 “(ii) technology-related business concerns;
 “(iii) nonprofit institutions; and
 “(iv) agencies of State, tribal, or local governments;
 that can support the missions of those laboratories and facilities.
 “(2) The Administrator may authorize the provision of Federal funds for a project under this section only if the director of the laboratory or facility managing the project determines that the project is likely to improve the ability of that laboratory or facility to achieve technical success in meeting nuclear weapons and nuclear nonproliferation missions of the Administration.
 “(3) The Administrator shall require the director of the laboratory or facility to consider the following criteria in selecting a project to receive Federal funds:
 “(A) The potential of the project to succeed, based on its technical merit, team members, management approach, resources, and project plan.
 “(B) The potential of the project to promote the development of a commercially sustainable technology, determined by considering whether the project will derive sufficient demand for its products or services from the private sector to support the nuclear weapons and nuclear nonproliferation missions of the participating laboratory or facility on a continuing basis.
 “(C) The potential of the project to promote the use of commercial research, technology, products, processes, and services by the participating laboratory or facility to achieve its nuclear weapons and nuclear nonproliferation missions.
 “(D) The commitment shown by non-Federal organizations to the project, based primarily on the nature and amount of the financial and other resources they will risk on the project.
 “(E) The extent to which the project involves a wide variety and number of institutions of higher education, nonprofit institutions, and technology-related business concerns that can support the nuclear weapons and nuclear nonproliferation missions of the participating laboratory or facility on a continuing basis and that will make substantive contributions to achieving the goals of the project.
 “(F) The extent of participation in the project by agencies of State, tribal, or local governments that will make substantive contributions to achieving the goals of the project.
 “(G) The extent to which the project focuses on promoting the development of technology-related business concerns that are small business concerns or involves small business concerns substantively in the project.
 “(f) IMPLEMENTATION PLAN.—No funds may be allocated for the pilot program until 30 days after the date on which the Administrator submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for the implementation of the pilot program. The plan shall, at a minimum—

“(1) identify the national security laboratories and nuclear weapons production facilities that have been designated by the Administrator to participate in the pilot program; and
 “(2) with respect to each laboratory or facility identified under paragraph (1)—

“(A) identify the businesses, institutions of higher education, nonprofit institutions, and agencies of State, local, or tribal government that are expected to participate in the pilot program at that laboratory or facility;
 “(B) identify the technology areas to be addressed by the pilot program at that laboratory or facility and the manner in which the pilot program will support high-priority missions of that laboratory or facility on a continuing basis; and
 “(C) describe the management controls that have been put into place to ensure that the pilot program as conducted at that laboratory or facility is conducted in a cost-effective manner consistent with the objectives of the pilot program.

“(g) REPORT ON IMPLEMENTATION.—(1) Not later than February 1, 2002, the Administrator shall submit to the congressional defense committees a report on the implementation and management of the pilot program. The report shall take into consideration the results of the pilot program to date and the views of the directors of the participating laboratories and facilities. The report shall include any recommendations the Administrator may have concerning the future of the pilot program.
 “(2) Not later than 30 days after the date on which the Administrator submits the report required by paragraph (1), the Comptroller General shall submit to the congressional defense committees a report containing the Comptroller General’s assessment of that report.”
 [For definitions of “national security laboratory” and “nuclear weapons production facility” as used in section 1 [div. C, title XXXI, §3161] of Pub. L. 106-398, set out above, see section 1 [div. C, title XXXI, §3165] of Pub. L. 106-398, set out as a note under section 2401 of this title.]

§ 2403. Principal Deputy Administrator for Nuclear Security

(a) In general

(1) There is in the Administration a Principal Deputy Administrator, who is appointed by the President, by and with the advice and consent of the Senate.

(2) The Principal Deputy Administrator shall be appointed from among persons who have extensive background in organizational management and are well qualified to manage the nuclear weapons, nonproliferation, and materials disposition programs of the Administration in a manner that advances and protects the national security of the United States.

(b) Duties

Subject to the authority, direction, and control of the Administrator, the Principal Deputy Administrator shall perform such duties and exercise such powers as the Administrator may prescribe, including the coordination of activities among the elements of the Administration. The Principal Deputy Administrator shall act for, and exercise the powers of, the Administrator when the Administrator is disabled or the position of Administrator is vacant.

(Pub. L. 106-65, div. C, title XXXII, §3213, as added Pub. L. 107-107, div. C, title XXXI, §3141(a)(2), Dec. 28, 2001, 115 Stat. 1370.)

PRIOR PROVISIONS

A prior section 2403, Pub. L. 106-65, div. C, title XXXII, §3213, Oct. 5, 1999, 113 Stat. 958; Pub. L. 106-398,