

compensated at the rate provided for level V of the Executive Schedule in section 5316 of title 5”.

Subsec. (c). Pub. L. 99-502, §9(b)(5)(A), substituted “the Assistant Secretary” for “the Director” in provisions preceding par. (1).

Subsec. (c)(6). Pub. L. 99-502, §9(b)(5)(A), substituted “the Assistant Secretary” for “the Director”.

Subsec. (c)(7) to (10). Pub. L. 99-502, §9(b)(5)(B), (C), added pars. (7) and (8) and redesignated former pars. (7) and (8) as (9) and (10), respectively.

Subsec. (d). Pub. L. 99-382, §2(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 99-502, §9(e)(2)(A), which directed the insertion of “(as then in effect)” in subsec. (d), was executed to subsec. (e) to reflect the probable intent of Congress in view of the redesignation of subsec. (d) as (e) by Pub. L. 99-382.

Pub. L. 99-382, §2(1), redesignated subsec. (d) as (e).

#### CONSTRUCTION

Pub. L. 110-69, title III, §3002(b), Aug. 9, 2007, 121 Stat. 586, provided that: “The amendments made by subsection (a) [amending this section] shall not be construed to eliminate the National Institute of Standards and Technology or the National Technical Information Service.”

#### TRANSITION PROVISION

Pub. L. 100-519, title II, §201(e), Oct. 24, 1988, 102 Stat. 2594, provided that: “The individual serving as the Assistant Secretary of Commerce for Productivity, Technology, and Innovation immediately before the date of enactment of this Act [Oct. 24, 1988] shall serve as Acting Assistant Secretary of Commerce for Technology Policy until the Assistant Secretary takes office.”

#### COMMERCIAL SPACE PROGRAMS

Pub. L. 100-519, title II, §201(f), as added by Pub. L. 100-685, title II, §219, Nov. 17, 1988, 102 Stat. 4095, provided that: “Nothing in this section [amending this section, sections 3703 and 3710 of this title, and section 5314 of Title 5, Government Organization and Employees, and enacting provisions formerly set out as a note above] authorizes the Department to establish an Office of Commercial Space Programs or to place such an office into the Technology Administration without prior authorization of the Congress.”

### § 3704a. Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation

#### (a) Establishment

There is established within the Office of Productivity, Technology, and Innovation a Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation. The Clearinghouse shall serve as a central repository of information on initiatives by State and local governments to enhance the competitiveness of American business through the stimulation of productivity, technology, and innovation and Federal efforts to assist State and local governments to enhance competitiveness.

#### (b) Responsibilities

The Clearinghouse may—

(1) establish relationships with State and local governments, and regional and multistate organizations of such governments, which carry out such initiatives;

(2) collect information on the nature, extent, and effects of such initiatives, particularly information useful to the Congress, Federal agencies, State and local governments, regional and multistate organizations of such

governments, businesses, and the public throughout the United States;

(3) disseminate information collected under paragraph (2) through reports, directories, handbooks, conferences, and seminars;

(4) provide technical assistance and advice to such governments with respect to such initiatives, including assistance in determining sources of assistance from Federal agencies which may be available to support such initiatives;

(5) study ways in which Federal agencies, including Federal laboratories, are able to use their existing policies and programs to assist State and local governments, and regional and multistate organizations of such governments, to enhance the competitiveness of American business;

(6) make periodic recommendations to the Secretary, and to other Federal agencies upon their request, concerning modifications in Federal policies and programs which would improve Federal assistance to State and local technology and business assistance programs;

(7) develop methodologies to evaluate State and local programs, and, when requested, advise State and local governments, and regional and multistate organizations of such governments, as to which programs are most effective in enhancing the competitiveness of American business through the stimulation of productivity, technology, and innovation; and

(8) make use of, and disseminate, the nationwide study of State industrial extension programs conducted by the Secretary.

#### (c) Contracts

In carrying out subsection (b) of this section, the Secretary may enter into contracts for the purpose of collecting information on the nature, extent, and effects of initiatives.

(Pub. L. 96-480, §6, as added Pub. L. 100-418, title V, §5122(a)(2), Aug. 23, 1988, 102 Stat. 1438.)

#### CODIFICATION

Subsec. (d) of this section, which required the Secretary to prepare and transmit a triennial report to Congress, including recommendations to the President, Congress, and Federal agencies, on initiatives by State and local governments to enhance the competitiveness of American businesses through the stimulation of productivity, technology, and innovation, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 50 of House Document No. 103-7.

### § 3704b. National Technical Information Service

#### (a) Powers

(1) The Secretary of Commerce, acting through the Director of the National Technical Information Service (hereafter in this section referred to as the “Director”) is authorized to do the following:

(A) Enter into such contracts, cooperative agreements, joint ventures, and other transactions, in accordance with all relevant provisions of Federal law applicable to such contracts and agreements, and under reasonable terms and conditions, as may be necessary in the conduct of the business of the National

Technical Information Service (hereafter in this section referred to as the "Service").

(B) In addition to the authority regarding fees contained in section 2 of the Act entitled "An Act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes" enacted September 9, 1950 (15 U.S.C. 1152), retain and, subject to appropriations Acts, utilize its net revenues to the extent necessary to implement the plan submitted under subsection (f)(3)(D) of this section.

(C) Enter into contracts for the performance of part or all of the functions performed by the Promotion Division of the Service prior to October 24, 1988. The details of any such contract, and a statement of its effect on the operations and personnel of the Service, shall be provided to the appropriate committees of the Congress 30 days in advance of the execution of such contract.

(D) Employ such personnel as may be necessary to conduct the business of the Service.

(E) For the period of October 1, 1991 through September 30, 1992, only, retain and use all earned and unearned monies heretofore or hereafter received, including receipts, revenues, and advanced payments and deposits, to fund all obligations and expenses, including inventories and capital equipment.

An increase or decrease in the personnel of the Service shall not affect or be affected by any ceilings on the number or grade of personnel.

(2) The functions and activities of the Service specified in subsection (e)(1) through (6) of this section are permanent Federal functions to be carried out by the Secretary through the Service and its employees, and shall not be transferred from the Service, by contract or otherwise, to the private sector on a permanent or temporary basis without express approval of the Congress. Functions or activities—

(A) for the procurement of supplies, materials, and equipment by the Service;

(B) referred to in paragraph (1)(C); or

(C) to be performed through joint ventures or cooperative agreements which do not result in a reduction in the Federal workforce of the affected programs of the service,<sup>1</sup>

shall not be considered functions or activities for purposes of this paragraph.

(3) For the purposes of this subsection, the term "net revenues" means the excess of revenues and receipts from any source, other than royalties and other income described in section 3710c(a)(4)<sup>2</sup> of this title, over operating expenses.

(4) Omitted.

**(b) Director of the Service**

The management of the Service shall be vested in a Director who shall report to the Director of the National Institute of Standards and Technology and the Secretary of Commerce.

**(c) Advisory Board**

(1) There is established the Advisory Board of the National Technical Information Service,

which shall be composed of a chairman and four other members appointed by the Secretary.

(2) In appointing members of the Advisory Board the Secretary shall solicit recommendations from the major users and beneficiaries of the Service's activities and shall select individuals experienced in providing or utilizing technical information.

(3) The Advisory Board shall review the general policies and operations of the Service, including policies in connection with fees and charges for its services, and shall advise the Secretary and the Director with respect thereto.

(4) The Advisory Board shall meet at the call of the Secretary, but not less often than once each six months.

**(d) Audits**

The Secretary of Commerce shall provide for annual independent audits of the Service's financial statements beginning with fiscal year 1988, to be conducted in accordance with generally accepted accounting principles.

**(e) Functions**

The Secretary of Commerce, acting through the Service, shall—

(1) establish and maintain a permanent repository of nonclassified scientific, technical, and engineering information;

(2) cooperate and coordinate its operations with other Government scientific, technical, and engineering information programs;

(3) make selected bibliographic information products available in a timely manner to depository libraries as part of the Depository Library Program of the Government Printing Office;

(4) in conjunction with the private sector as appropriate, collect, translate into English, and disseminate unclassified foreign scientific, technical, and engineering information;

(5) implement new methods or media for the dissemination of scientific, technical, and engineering information, including producing and disseminating information products in electronic format; and

(6) carry out the functions and activities of the Secretary under the Act entitled "An Act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes" enacted September 9, 1950 [15 U.S.C. 1151 et seq.], and the functions and activities of the Secretary performed through the National Technical Information Service as of October 24, 1988, under this chapter.

**(f) Notification of Congress**

(1) The Secretary of Commerce and the Director shall keep the appropriate committees of Congress fully and currently informed about all activities related to the carrying out of the functions of the Service, including changes in fee policies.

(2) Within 90 days after October 24, 1988, the Secretary of Commerce shall submit to the Congress a report on the current fee structure of the Service, including an explanation of the basis for the fees, taking into consideration all applicable costs, and the adequacy of the fees, along with reasons for the declining sales at the Serv-

<sup>1</sup> So in original. Probably should be capitalized.

<sup>2</sup> See References in Text note below.

ice of scientific, technical, and engineering publications. Such report shall explain any actions planned or taken to increase such sales at reasonable fees.

(3) The Secretary shall submit an annual report to the Congress which shall—

(A) summarize the operations of the Service during the preceding year, including financial details and staff levels broken down by major activities;

(B) detail the operating plan of the Service, including specific expense and staff needs, for the upcoming year;

(C) set forth details of modernization progress made in the preceding year;

(D) describe the long-term modernization plans of the Service; and

(E) include the results of the most recent annual audit carried out under subsection (d) of this section.

(4) The Secretary shall also give the Congress detailed advance notice of not less than 30 calendar days of—

(A) any proposed reduction-in-force;

(B) any joint venture or cooperative agreement which involves a financial incentive to the joint venturer or contractor; and

(C) any change in the operating plan submitted under paragraph (3)(B) which would result in a variation from such plan with respect to expense levels of more than 10 percent.

(Pub. L. 100-519, title II, §212, Oct. 24, 1988, 102 Stat. 2594; Pub. L. 102-140, title II, Oct. 28, 1991, 105 Stat. 804; Pub. L. 102-245, title V, §506(c), Feb. 14, 1992, 106 Stat. 27; Pub. L. 110-161, div. B, title I, §109, Dec. 26, 2007, 121 Stat. 1893.)

#### REFERENCES IN TEXT

This section, referred to in subsec. (a)(1), was in the original “this subtitle”, meaning subtitle B (§§211, 212) of title II of Pub. L. 100-519, Oct. 24, 1988, 102 Stat. 2594, which enacted section 3704b of this title and amended section 3710 of this title. For complete classification of this subtitle to the Code, see Short Title of 1988 Amendment note set out under section 3701 of this title and Tables.

Section 3710c(a)(4) of this title, referred to in subsec. (a)(3), was in the original a reference to section 13(a)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 which was translated as reading section 14(a)(4) of the Act to reflect the probable intent of Congress and the renumbering of section 13 of the Act as section 14 by section 5122(a)(1) of Pub. L. 100-418.

The Act entitled “An Act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes” enacted September 9, 1950, referred to in subsec. (e)(6), is act Sept. 9, 1950, ch. 936, 64 Stat. 823, as amended, which is classified generally to chapter 23 (§1151 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

Section was enacted as part of the National Technical Information Act of 1988, and not as part of the Stevenson-Wydler Technology Innovation Act of 1980 which comprises this chapter.

Subsec. (a)(4) of this section repealed subsec. (h) of section 3710 of this title.

#### AMENDMENTS

2007—Subsec. (b). Pub. L. 110-161 substituted “Director of the National Institute of Standards and Technology” for “Under Secretary of Commerce for Technology”.

1992—Subsec. (e)(5). Pub. L. 102-245 inserted “, including producing and disseminating information products in electronic format” after “engineering information”.

1991—Subsec. (a)(1)(E). Pub. L. 102-140 added subpar. (E).

#### TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

#### NATIONAL TECHNICAL INFORMATION SERVICE REVOLVING FUND

Pub. L. 102-395, title II, Oct. 6, 1992, 106 Stat. 1853, provided that: “For establishment of a National Technical Information Service Revolving Fund, \$8,000,000 without fiscal year limitation: *Provided*, That unexpended balances in Information Products and Services shall be transferred to and merged with this account, to remain available until expended. Notwithstanding 15 U.S.C. 1525 and 1526, all payments collected by the National Technical Information Service in performing its activities authorized by chapters 23 and 63 of title 15 of the United States Code shall be credited to this Revolving Fund. Without further appropriations action, all expenses incurred in performing the activities of the National Technical Information Service, including modernization, capital equipment and inventory, shall be paid from the fund. A business-type budget for the fund shall be prepared in the manner prescribed by 31 U.S.C. 9103.”

#### § 3704b-1. Recovery of operating costs through fee collections

Operating costs for the National Technical Information Service associated with the acquisition, processing, storage, bibliographic control, and archiving of information and documents shall be recovered primarily through the collection of fees.

(Pub. L. 102-245, title I, §103(c), Feb. 14, 1992, 106 Stat. 8.)

#### CODIFICATION

Section was enacted as part of the American Technology Preeminence Act of 1991, and not as part of the Stevenson-Wydler Technology Innovation Act of 1980 which comprises this chapter.

#### § 3704b-2. Transfer of Federal scientific and technical information

##### (a) Transfer

The head of each Federal executive department or agency shall transfer in a timely manner to the National Technical Information Service unclassified scientific, technical, and engineering information which results from federally funded research and development activities for dissemination to the private sector, academia, State and local governments, and Federal agencies. Only information which would otherwise be available for public dissemination shall be transferred under this subsection. Such information shall include technical reports and information, computer software, application as-