

establish a headquarters laboratory for the Department at any laboratory or site and may establish additional laboratory units at other laboratories or sites.

**(3) Criteria for headquarters laboratory**

If the Secretary chooses to establish a headquarters laboratory pursuant to paragraph (2), then the Secretary shall do the following:

(A) Establish criteria for the selection of the headquarters laboratory in consultation with the National Academy of Sciences, appropriate Federal agencies, and other experts.

(B) Publish the criteria in the Federal Register.

(C) Evaluate all appropriate laboratories or sites against the criteria.

(D) Select a laboratory or site on the basis of the criteria.

(E) Report to the appropriate congressional committees on which laboratory was selected, how the selected laboratory meets the published criteria, and what duties the headquarters laboratory shall perform.

**(4) Limitation on operation of laboratories**

No laboratory shall begin operating as the headquarters laboratory of the Department until at least 30 days after the transmittal of the report required by paragraph (3)(E).

(Pub. L. 107–296, title III, §308, Nov. 25, 2002, 116 Stat. 2170; Pub. L. 108–7, div. L, §101(1), Feb. 20, 2003, 117 Stat. 526.)

REFERENCES IN TEXT

The date of enactment, referred to in subsec. (b)(2)(D), probably means the date of enactment of this section by Pub. L. 107–296, which was approved Nov. 25, 2002.

AMENDMENTS

2003—Subsecs. (a) to (c)(1). Pub. L. 108–7 added subsecs. (a) to (c)(1) and struck out former subsecs. (a) to (c)(1) which related to the responsibilities of the Secretary, acting through the Under Secretary for Science and Technology, to carry out the responsibilities under section 182(4) of this title through both extramural and intramural programs, to operate extramural research, development, demonstration, testing, and evaluation programs, to establish a coordinated, university-based system to enhance the Nation's homeland security, and to draw upon the expertise of any laboratory of the Federal Government.

**§ 189. Utilization of Department of Energy national laboratories and sites in support of homeland security activities**

**(a) Authority to utilize national laboratories and sites**

**(1) In general**

In carrying out the missions of the Department, the Secretary may utilize the Department of Energy national laboratories and sites through any 1 or more of the following methods, as the Secretary considers appropriate:

(A) A joint sponsorship arrangement referred to in subsection (b).

(B) A direct contract between the Department and the applicable Department of Energy laboratory or site, subject to subsection (c).

(C) Any “work for others” basis made available by that laboratory or site.

(D) Any other method provided by law.

**(2) Acceptance and performance by labs and sites**

Notwithstanding any other law governing the administration, mission, use, or operations of any of the Department of Energy national laboratories and sites, such laboratories and sites are authorized to accept and perform work for the Secretary, consistent with resources provided, and perform such work on an equal basis to other missions at the laboratory and not on a noninterference basis with other missions of such laboratory or site.

**(b) Joint sponsorship arrangements**

**(1) Laboratories**

The Department may be a joint sponsor, under a multiple agency sponsorship arrangement with the Department of Energy, of 1 or more Department of Energy national laboratories in the performance of work.

**(2) Sites**

The Department may be a joint sponsor of a Department of Energy site in the performance of work as if such site were a federally funded research and development center and the work were performed under a multiple agency sponsorship arrangement with the Department.

**(3) Primary sponsor**

The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement referred to in paragraph (1) or (2).

**(4) Lead agent**

The Secretary of Energy shall act as the lead agent in coordinating the formation and performance of a joint sponsorship arrangement under this subsection between the Department and a Department of Energy national laboratory or site.

**(5) Federal Acquisition Regulation**

Any work performed by a Department of Energy national laboratory or site under a joint sponsorship arrangement under this subsection shall comply with the policy on the use of federally funded research and development centers under the Federal Acquisition Regulations.

**(6) Funding**

The Department shall provide funds for work at the Department of Energy national laboratories or sites, as the case may be, under a joint sponsorship arrangement under this subsection under the same terms and conditions as apply to the primary sponsor of such national laboratory under section 3303(a)(1)(C) of title 41 or of such site to the extent such section applies to such site as a federally funded research and development center by reason of this subsection.

**(c) Separate contracting**

To the extent that programs or activities transferred by this chapter from the Department of Energy to the Department of Homeland

Security are being carried out through direct contracts with the operator of a national laboratory or site of the Department of Energy, the Secretary of Homeland Security and the Secretary of Energy shall ensure that direct contracts for such programs and activities between the Department of Homeland Security and such operator are separate from the direct contracts of the Department of Energy with such operator.

**(d) Authority with respect to cooperative research and development agreements and licensing agreements**

In connection with any utilization of the Department of Energy national laboratories and sites under this section, the Secretary may permit the director of any such national laboratory or site to enter into cooperative research and development agreements or to negotiate licensing agreements with any person, any agency or instrumentality, of the United States, any unit of State or local government, and any other entity under the authority granted by section 3710a of title 15. Technology may be transferred to a non-Federal party to such an agreement consistent with the provisions of sections 3710 and 3710a of title 15.

**(e) Reimbursement of costs**

In the case of an activity carried out by the operator of a Department of Energy national laboratory or site in connection with any utilization of such laboratory or site under this section, the Department of Homeland Security shall reimburse the Department of Energy for costs of such activity through a method under which the Secretary of Energy waives any requirement for the Department of Homeland Security to pay administrative charges or personnel costs of the Department of Energy or its contractors in excess of the amount that the Secretary of Energy pays for an activity carried out by such contractor and paid for by the Department of Energy.

**(f) Laboratory directed research and development by the Department of Energy**

No funds authorized to be appropriated or otherwise made available to the Department in any fiscal year may be obligated or expended for laboratory directed research and development activities carried out by the Department of Energy unless such activities support the missions of the Department of Homeland Security.

**(g) Office for National Laboratories**

There is established within the Directorate of Science and Technology an Office for National Laboratories, which shall be responsible for the coordination and utilization of the Department of Energy national laboratories and sites under this section in a manner to create a networked laboratory system for the purpose of supporting the missions of the Department.

**(h) Department of Energy coordination on homeland security related research**

The Secretary of Energy shall ensure that any research, development, test, and evaluation activities conducted within the Department of Energy that are directly or indirectly related to homeland security are fully coordinated with the Secretary to minimize duplication of effort

and maximize the effective application of Federal budget resources.

(Pub. L. 107-296, title III, § 309, Nov. 25, 2002, 116 Stat. 2172.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original “this Act”, meaning Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2135, known as the Homeland Security Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 101 of this title and Tables.

CODIFICATION

In subsec. (b)(6), “section 3303(a)(1)(C) of title 41” substituted for “section 303(b)(1)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)(1)(C))” on authority of Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

**§ 190. Transfer of Plum Island Animal Disease Center, Department of Agriculture**

**(a) In general**

In accordance with subchapter XII, the Secretary of Agriculture shall transfer to the Secretary of Homeland Security the Plum Island Animal Disease Center of the Department of Agriculture, including the assets and liabilities of the Center.

**(b) Continued Department of Agriculture access**

On completion of the transfer of the Plum Island Animal Disease Center under subsection (a), the Secretary of Homeland Security and the Secretary of Agriculture shall enter into an agreement to ensure that the Department of Agriculture is able to carry out research, diagnostic, and other activities of the Department of Agriculture at the Center.

**(c) Direction of activities**

The Secretary of Agriculture shall continue to direct the research, diagnostic, and other activities of the Department of Agriculture at the Center described in subsection (b).

**(d) Notification**

**(1) In general**

At least 180 days before any change in the biosafety level at the Plum Island Animal Disease Center, the President shall notify Congress of the change and describe the reasons for the change.

**(2) Limitation**

No change described in paragraph (1) may be made earlier than 180 days after the completion of the transition period (as defined in section 541 of this title).

(Pub. L. 107-296, title III, § 310, Nov. 25, 2002, 116 Stat. 2174.)

DISPOSITION OF PLUM ISLAND PROPERTY AND TRANSPORTATION ASSETS

Pub. L. 112-74, div. D, title V, § 538, Dec. 23, 2011, 125 Stat. 976, provided that:

“(a) Notwithstanding any other provision of law during fiscal year 2012 or any subsequent fiscal year, if the Secretary of Homeland Security determines that the National Bio- and Agro-defense Facility should be located at a site other than Plum Island, New York, the