

§ 813(d)(2), Jan. 7, 2011, 124 Stat. 4266, which related to certification and review of programs entering development prior to enactment of section 2366b of this title, was repealed by Pub. L. 112-239, div. A, title VIII, § 814, Jan. 2, 2013, 126 Stat. 1830.

FORMAL REVIEW PROCESS FOR BANDWIDTH REQUIREMENTS

Pub. L. 110-417, [div. A], title X, § 1047(d), Oct. 14, 2008, 122 Stat. 4603, as amended by Pub. L. 111-84, div. A, title X, § 1033, Oct. 28, 2009, 123 Stat. 2449, provided that:

“(1) IN GENERAL.—The Secretary of Defense and the Director of National Intelligence shall, as part of the Milestone B or Key Decision Point B approval process for any major defense acquisition program or major system acquisition program, establish a formal review process to ensure that—

“(A) the bandwidth requirements needed to support such program are or will be met; and

“(B) a determination will be made with respect to how to meet the bandwidth requirements for such program.

“(2) REPORTS.—Not later than January 1 of each year, the Secretary of Defense and the Director of National Intelligence shall each submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a report on any determinations made under paragraph (1) with respect to meeting the bandwidth requirements for major defense acquisition programs and major system acquisition programs during the preceding fiscal year.”

§ 2367. Use of federally funded research and development centers

(a) LIMITATION ON USE OF CENTERS.—Except as provided in subsection (b), the Secretary of Defense may not place work with a federally funded research and development center unless such work is within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement of the Department of Defense with such center.

(b) EXCEPTION FOR APPLIED SCIENTIFIC RESEARCH.—This section does not apply to a federally funded research and development center that performs applied scientific research under laboratory conditions.

(c) LIMITATION ON CREATION OF NEW CENTERS.—(1) The head of an agency may not obligate or expend amounts appropriated to the Department of Defense for purposes of operating a federally funded research center that was not in existence before June 2, 1986, until—

(A) the head of the agency submits to Congress a report with respect to such center that describes the purpose, mission, and general scope of effort of the center; and

(B) a period of 60 days beginning on the date such report is received by Congress has elapsed.

(2) In this subsection, the term “head of an agency” has the meaning given such term in section 2302(1) of this title.

(d) IDENTIFICATION TO CONGRESS OF FFRDC WORKLOAD EFFORT.—After the close of a fiscal year, and not later than January 1 of the next year, the Secretary shall submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a

report setting forth the actual obligations and the actual man-years of effort expended at each federally funded research and development center during that fiscal year.

(Added Pub. L. 99-500, § 101(c) [title X, § 912(a)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-146, and Pub. L. 99-591, § 101(c) [title X, § 912(a)(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-146; Pub. L. 99-661, div. A, title IX, formerly title IV, § 912(a)(1), Nov. 14, 1986, 100 Stat. 3925, renumbered title IX, Pub. L. 100-26, § 3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 102-190, div. A, title II, § 256(a)(1), Dec. 5, 1991, 105 Stat. 1330; Pub. L. 104-106, div. A, title XV, § 1502(a)(9), Feb. 10, 1996, 110 Stat. 503; Pub. L. 106-65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107-314, div. A, title X, § 1041(a)(12), Dec. 2, 2002, 116 Stat. 2645.)

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661 added identical sections.

AMENDMENTS

2002—Subsec. (d). Pub. L. 107-314, § 1041(a)(12), struck out designations for pars. (1) and (2) and text of par. (1). Prior to amendment par. (1) read as follows: “In the documents provided to Congress by the Secretary of Defense in support of the budget submitted by the President under section 1105 of title 31 for any fiscal year, the Secretary shall set forth the proposed amount of the man-years of effort to be funded by the Department of Defense for each federally funded research and development center for the fiscal year covered by that budget.”

1999—Subsec. (d)(2). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1996—Subsec. (d)(2). Pub. L. 104-106 substituted “the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the” for “the Committees on Armed Services and the Committees on Appropriations of the Senate and”.

1991—Subsec. (d). Pub. L. 102-190 added subsec. (d).

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-190, div. A, title II, § 256(a)(2), Dec. 5, 1991, 105 Stat. 1330, provided that:

“(A) Paragraph (1) of subsection (d) of section 2367 of title 10, United States Code, as added by paragraph (1), shall take effect with respect to the budget submitted for fiscal year 1994.

“(B) Paragraph (2) of such subsection shall take effect with respect to fiscal year 1992.”

GAO STUDY; REPORT

Pub. L. 99-500, § 101(c) [title X, § 912(b), (c)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-146, Pub. L. 99-591, § 101(c) [title X, § 912(b), (c)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-146, and Pub. L. 99-661, div. A, title IX, formerly title IV, § 912(b), (c), Nov. 14, 1986, 100 Stat. 3926, renumbered title IX, Pub. L. 100-26, § 3(5), Apr. 21, 1987, 101 Stat. 273, directed Comptroller General to conduct a study of national defense role of federally funded research and development centers and submit a report to Congress not later than one year after Oct. 18, 1986.

§ 2368. Centers for Science, Technology, and Engineering Partnership

(a) DESIGNATION.—(1) The Secretary of Defense, in coordination with the Secretaries of the military departments, shall designate each science and technology reinvention laboratory

as a Center for Science, Technology, and Engineering Partnership (in this section referred to as “Centers”) in the recognized core competencies of the designee.

(2) The Secretary of Defense shall establish a policy to encourage the Secretary of each military department to reengineer management and business processes and adopt best-business and personnel practices at the Centers of the Secretary concerned in connection with the capability requirements of the Centers, so as to serve as recognized leaders in such capabilities throughout the Department of Defense and in the national technology and industrial base.

(3) The Secretary of Defense, acting through the directors of the Centers, may conduct one or more pilot programs, consistent with applicable requirements of law, to test any practices referred to in paragraph (2) that the Directors determine could—

(A) improve the efficiency and effectiveness of operations at Centers;

(B) improve the support provided by the Centers for the elements of the Department of Defense who use the services of the Centers; and

(C) enhance capabilities by reducing the cost and improving the performance and efficiency of executing laboratory missions.

(b) PUBLIC-PRIVATE PARTNERSHIPS.—(1) To achieve one or more objectives set forth in paragraph (2), the Secretary may authorize and establish incentives for the Director of a Center to enter into public-private cooperative arrangements (in this section referred to as a “public-private partnership”) to provide for any of the following:

(A) For employees of the Center, academia, private industry, State and local governments, or other entities outside the Department of Defense to perform (under contract, sub-contract, or otherwise) work related to the capabilities of the Center, including any work that—

(i) involves one or more capabilities of the Center; and

(ii) may be applicable to both the Department and commercial entities.

(B) For private industry or other entities outside the Department of Defense to use for either Government or commercial purposes any capabilities of the Center that are not fully used for Department of Defense activities for any period determined to be consistent with the needs of the Department of Defense.

(2) The objectives for exercising the authority provided in paragraph (1) are as follows:

(A) To maximize the use of the capacity of a Center.

(B) To reduce or eliminate the cost of ownership of a Center by the Department of Defense.

(C) To reduce the cost of science, technology, and engineering activities of the Department of Defense.

(D) To leverage private sector investment in—

(i) such efforts as research and equipment recapitalization for a Center; and

(ii) the promotion of the undertaking of commercial business ventures based on the capabilities of a Center, as determined by the director of the Center.

(E) To foster cooperation and technology transfer between the armed forces, academia, private industry, and State and local governments.

(F) To increase access by a Center to a skilled technical workforce that can contribute to the effective and efficient execution of the missions of the Department of Defense.

(G) To increase the ability of a Center to access and use non-Department of Defense methods to develop and innovate and access capabilities that contribute to the effective and efficient execution of the missions of the Department of Defense.

(3)(A) Public-private partnerships entered into under paragraph (1) may be used for purposes relating to technology transfer and other authorities described in subparagraph (B).

(B) The authorities described in this subparagraph are provisions of law that provide for cooperation and partnership by the Department of Defense with academia, private industry, and State and local governments, including the following:

(i) Sections 3371 through 3375 of title 5.

(ii) Sections 2194, 2358, 2371, 2511, 2539b, and 2563 of this title.

(iii) Section 209 of title 35.

(iv) Sections 8, 12, and 23 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3706, 3710a, and 3715).

(c) PRIVATE SECTOR USE OF EXCESS CAPACITY.—Any capability of a Center made available to the private sector may be used to perform research and testing activities in order to make more efficient and economical use of Government-owned capabilities and encourage the creation and preservation of jobs to ensure the availability of a workforce with the necessary research and technical skills to meet the needs of the armed forces.

(d) CREDITING OF AMOUNTS FOR PERFORMANCE.—Amounts received by a Center for work performed under a public-private partnership may—

(1) be credited to the appropriation or fund, including a working-capital or revolving fund, that incurs the cost of performing the work; or

(2) be used by the Director of the Center as the Director considers appropriate and consistent with section 219 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 10 U.S.C. 2358 note).

(e) AVAILABILITY OF EXCESS CAPACITIES TO PRIVATE-SECTOR PARTNERS.—Capacities of a Center may be made available for use by a private-sector entity under this section only if—

(1) the use of the capacities will not have a significant adverse effect on the performance of the Center or the ability of the Center to achieve the mission of the Center, as determined by the Director of the Center; and

(2) the private-sector entity agrees—

(A) to reimburse the Department of Defense when required in accordance with the guidance of the Department for the direct and indirect costs (including any rental costs) that are attributable to the use of the capabilities by the private-sector entity, as

determined by the Secretary of the military departments; and

(B) to hold harmless and indemnify the United States from—

(i) any claim for damages or injury to any person or property arising out of the use of the capabilities, except under the circumstances described in section 2563(c)(3) of this title; and

(ii) any liability or claim for damages or injury to any person or property arising out of a decision by the Secretary to suspend or terminate that use of capabilities during a war or national emergency.

(f) CONSTRUCTION OF PROVISION.—Nothing in this section may be construed to authorize a change, otherwise prohibited by law, from the performance of work at a Center by personnel of the Department of Defense to performance by a contractor.

(g) DEFINITIONS.—In this section:

(1) The term “capabilities”, with respect to a Center for Science, Technology, and Engineering Partnership, means the facilities, equipment, personnel, intellectual property, and other assets that support the core competencies of the Center.

(2) The term “national technology and industrial base” has the meaning given that term in section 2500 of this title.

(3) The term “science and technology reinvention laboratory” means a science and technology reinvention laboratory designated under section 1105 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 10 U.S.C. 2358 note).

(Added Pub. L. 114–92, div. A, title II, §211(a), Nov. 25, 2015, 129 Stat. 764.)

PRIOR PROVISIONS

A prior section 2368, added Pub. L. 100–456, div. A, title VIII, §823(a)(1), Sept. 29, 1988, 102 Stat. 2018; amended Pub. L. 101–189, div. A, title VIII, §841(c)(1), Nov. 29, 1989, 103 Stat. 1514; Pub. L. 102–25, title VII, §701(g)(1), Apr. 6, 1991, 105 Stat. 115, which authorized studies in fields of research and development essential to development of critical technologies, was repealed by Pub. L. 102–190, div. A, title VIII, §821(c)(1), Dec. 5, 1991, 105 Stat. 1431.

[§ 2369. Repealed. Pub. L. 103–355, title III, § 3062(a), Oct. 13, 1994, 108 Stat. 3336]

Section, added Pub. L. 100–456, div. A, title VIII, §842(a), Sept. 29, 1988, 102 Stat. 2026; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728, related to program for supervision and coordination of product evaluation activities within the Department of Defense.

[§ 2370. Repealed. Pub. L. 104–106, div. A, title X, § 1061(j)(1), Feb. 10, 1996, 110 Stat. 443]

Section, added Pub. L. 101–510, div. A, title II, §241(a), Nov. 5, 1990, 104 Stat. 1516, required annual report to Congress on Biological Defense Research Program.

[§ 2370a. Repealed. Pub. L. 108–375, div. A, title X, § 1005(a), Oct. 28, 2004, 118 Stat. 2036]

Section, added Pub. L. 103–160, div. A, title II, §214(a), Nov. 30, 1993, 107 Stat. 1586, related to medical countermeasures against biowarfare threats and allocation of funding between near-term and other threats.

§ 2371. Research projects: transactions other than contracts and grants

(a) ADDITIONAL FORMS OF TRANSACTIONS AUTHORIZED.—The Secretary of Defense and the Secretary of each military department may enter into transactions (other than contracts, cooperative agreements, and grants) under the authority of this subsection in carrying out basic, applied, and advanced research projects. The authority under this subsection is in addition to the authority provided in section 2358 of this title to use contracts, cooperative agreements, and grants in carrying out such projects.

(b) EXERCISE OF AUTHORITY BY SECRETARY OF DEFENSE.—In any exercise of the authority in subsection (a), the Secretary of Defense shall act through the Defense Advanced Research Projects Agency or any other element of the Department of Defense that the Secretary may designate.

(c) ADVANCE PAYMENTS.—The authority provided under subsection (a) may be exercised without regard to section 3324 of title 31.

(d) RECOVERY OF FUNDS.—(1) A cooperative agreement for performance of basic, applied, or advanced research authorized by section 2358 of this title and a transaction authorized by subsection (a) may include a clause that requires a person or other entity to make payments to the Department of Defense or any other department or agency of the Federal Government as a condition for receiving support under the agreement or other transaction.

(2) The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited, to the extent authorized by the Secretary of Defense, to the appropriate account established under subsection (f). Amounts so credited shall be merged with other funds in the account and shall be available for the same purposes and the same period for which other funds in such account are available.

(e) CONDITIONS.—(1) The Secretary of Defense shall ensure that—

(A) to the maximum extent practicable, no cooperative agreement containing a clause under subsection (d) and no transaction entered into under subsection (a) provides for research that duplicates research being conducted under existing programs carried out by the Department of Defense; and

(B) to the extent that the Secretary determines practicable, the funds provided by the Government under a cooperative agreement containing a clause under subsection (d) or a transaction authorized by subsection (a) do not exceed the total amount provided by other parties to the cooperative agreement or other transaction.

(2) A cooperative agreement containing a clause under subsection (d) or a transaction authorized by subsection (a) may be used for a research project when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate.

(f) SUPPORT ACCOUNTS.—There is hereby established on the books of the Treasury separate accounts for each of the military departments and the Defense Advanced Research Projects Agency