

such form and manner, may contain such classification and differentiations, and may provide for such adjustments and reasonable exceptions as in the judgment of the President are necessary or proper to effectuate the purposes of this section, or to prevent circumvention or evasion, or to facilitate enforcement of this section, or any rule, regulation, or order issued under this section.

(f) DEFINITIONS.—In this section:

(1) The term “person” includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing, except that no punishment provided by this section shall apply to the United States, or to any such government, political subdivision, or government agency.

(2) The term “national defense” means programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity.

(Added Pub. L. 102-484, div. D, title XLII, § 4217, Oct. 23, 1992, 106 Stat. 2670; amended Pub. L. 103-160, div. A, title XI, § 1182(b)(1), Nov. 30, 1993, 107 Stat. 1772; Pub. L. 109-163, div. A, title X, § 1056(c)(5), Jan. 6, 2006, 119 Stat. 3439.)

PRIOR PROVISIONS

A prior section 2507 was renumbered section 2534 of this title.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109-163 substituted “subsection (a)” for “section (a)”.

1993—Pub. L. 103-160 inserted headings in subsecs. (a) to (f).

§ 2508. Industrial Base Fund

(a) ESTABLISHMENT.—The Secretary of Defense shall establish an Industrial Base Fund (in this section referred to as the “Fund”).

(b) CONTROL OF FUND.—The Fund shall be under the control of the Under Secretary of Defense for Acquisition, Technology, and Logistics, acting through the Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy.

(c) AMOUNTS IN FUND.—The Fund shall consist of amounts appropriated or otherwise made available to the Fund.

(d) USE OF FUND.—Subject to subsection (e), the Fund shall be used—

- (1) to support the monitoring and assessment of the industrial base required by this chapter;
- (2) to address critical issues in the industrial base relating to urgent operational needs;
- (3) to support efforts to expand the industrial base; and
- (4) to address supply chain vulnerabilities.

(e) USE OF FUND SUBJECT TO APPROPRIATIONS.—The authority of the Secretary of Defense to use the Fund under this section in any fiscal year is subject to the availability of appropriations for that purpose.

(f) EXPENDITURES.—The Secretary shall establish procedures for expending monies in the Fund in support of the uses identified in subsection (d), including the following:

(1) Direct obligations from the Fund.

(2) Transfers of monies from the Fund to relevant appropriations of the Department of Defense.

(Added Pub. L. 111-383, div. A, title VIII, § 896(b)(1), Jan. 7, 2011, 124 Stat. 4315.)

CODIFICATION

Pub. L. 111-383, div. A, title VIII, § 896(b)(1), Jan. 7, 2011, 124 Stat. 4315, which directed the addition of section 2508 at end of this chapter, was executed by adding this section at the end of subchapter II of this chapter to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 2508 was renumbered section 2522 of this title and subsequently repealed.

A prior section 2509, added Pub. L. 101-510, div. A, title VIII, § 825(a), Nov. 5, 1990, 104 Stat. 1604; amended Pub. L. 102-484, div. A, title X, § 1052(34), Oct. 23, 1992, 106 Stat. 2501, required submission of defense industrial base annual reports, prior to repeal by Pub. L. 102-484, § 4202(a).

A prior section 2510, added Pub. L. 101-510, div. A, title VIII, § 826(a)(1), Nov. 5, 1990, 104 Stat. 1605, related to defense industrial base for textile and apparel products, prior to repeal by Pub. L. 102-484, § 4202(a).

SUBCHAPTER III—PROGRAMS FOR DEVELOPMENT, APPLICATION, AND SUPPORT OF DUAL-USE TECHNOLOGIES

Sec.

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| 2511. | Defense dual-use critical technology program. [2512, 2513. Repealed.] |
| 2514. | Encouragement of technology transfer. |
| 2515. | Office of Technology Transition. |
| [2516.] | Repealed.] |
| 2517. | Office for Foreign Defense Critical Technology Monitoring and Assessment. |
| 2518. | Overseas foreign critical technology monitoring and assessment financial assistance program. |
| 2519. | Federal Defense Laboratory Diversification Program. |
| [2520.] | Repealed.] |

AMENDMENTS

1996—Pub. L. 104-106, div. A, title X, § 1081(i)(2), Feb. 10, 1996, 110 Stat. 455, substituted “program” for “partnerships” in item 2511 and struck out items 2512 “Commercial-military integration partnerships”, 2513 “Regional technology alliances assistance program”, 2516 “Military-Civilian Integration and Technology Transfer Advisory Board”, and 2520 “Navy Reinvestment Program”.

1994—Pub. L. 103-337, div. A, title XI, § 1113(c), Oct. 5, 1994, 108 Stat. 2866, added items 2519 and 2520.

§ 2511. Defense dual-use critical technology program

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall conduct a program to further the national security objectives set forth in section 2501(a) of this title by encouraging and providing for research, development, and application of dual-use critical technologies. The Secretary may make grants, enter into contracts, or enter into cooperative agreements and other transactions pursuant to section 2371 of this title in furtherance of the program. The

Secretary shall identify projects to be conducted as part of the program.

(b) ASSISTANCE AUTHORIZED.—The Secretary of Defense may provide technical and other assistance to facilitate the achievement of the purposes of projects conducted under the program. In providing such assistance, the Secretary shall make available, as appropriate for the work to be performed, equipment and facilities of Department of Defense laboratories (including the scientists and engineers at those laboratories) for purposes of projects selected by the Secretary.

(c) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The total amount of funds provided by the Federal Government for a project conducted under the program may not exceed 50 percent of the total cost of the project. However, the Secretary of Defense may agree to a project in which the total amount of funds provided by the Federal Government exceeds 50 percent if the Secretary determines the project is particularly meritorious, but the project would not otherwise have sufficient non-Federal funding or in-kind contributions.

(2) The Secretary may prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a project conducted under the program for the purpose of calculating the share of the project costs that has been or is being undertaken by such participants. In such regulations, the Secretary may authorize a participant that is a small business concern to use funds received under the Small Business Innovation Research Program or the Small Business Technology Transfer Program to help pay the costs of project activities. Any such funds so used may be considered in calculating the amount of the financial commitment undertaken by the non-Federal Government participants unless the Secretary determines that the small business concern has not made a significant equity percentage contribution in the project from non-Federal sources.

(3) The Secretary shall consider a project proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated project costs. Upon the selection of a project proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the project from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated project costs, the Secretary shall revoke the selection of the project proposal submitted by the small business concern.

(d) SELECTION PROCESS.—Competitive procedures shall be used in the conduct of the program.

(e) SELECTION CRITERIA.—The criteria for the selection of projects under the program shall include the following:

(1) The extent to which the proposed project advances and enhances the national security

objectives set forth in section 2501(a) of this title.

(2) The technical excellence of the proposed project.

(3) The qualifications of the personnel proposed to participate in the research activities of the proposed project.

(4) An assessment of timely private sector investment in activities to achieve the goals and objectives of the proposed project other than through the project.

(5) The potential effectiveness of the project in the further development and application of each technology proposed to be developed by the project for the national technology and industrial base.

(6) The extent of the financial commitment of eligible firms to the proposed project.

(7) The extent to which the project does not unnecessarily duplicate projects undertaken by other agencies.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the purposes of this section.

(Added Pub. L. 102-484, div. D, title XLII, § 4221(a), Oct. 23, 1992, 106 Stat. 2677; amended Pub. L. 103-160, div. A, title XIII, §§ 1315(a), 1317(c), Nov. 30, 1993, 107 Stat. 1787, 1789; Pub. L. 103-337, div. A, title XI, § 1115(a), Oct. 5, 1994, 108 Stat. 2868; Pub. L. 104-106, div. A, title X, § 1081(c), Feb. 10, 1996, 110 Stat. 452.)

PRIOR PROVISIONS

A prior section 2511, added Pub. L. 101-510, div. A, title VIII, § 823(a)(3), Nov. 5, 1990, 104 Stat. 1600; amended Pub. L. 102-190, div. A, title VIII, § 824(b), Dec. 5, 1991, 105 Stat. 1438, defined “manufacturing technology”, “manufacturing extension program”, and “United States-based small manufacturing firm” for purposes of former chapter 149 of this title, prior to repeal and re-statement in section 2491 of this title by Pub. L. 102-484, §§ 4202(a), 4203(a).

Another prior section 2511 was renumbered section 2540 of this title and subsequently repealed.

Provisions similar to those in this section were contained in section 2523 of this title, prior to repeal by Pub. L. 102-484, § 4202(a).

AMENDMENTS

1996—Pub. L. 104-106 substituted “program” for “partnerships” in section catchline and amended text generally. Prior to amendment, text related to program for establishment of cooperative arrangements between Department of Defense and eligible entities.

1994—Subsec. (c)(3). Pub. L. 103-337 added par. (3).

1993—Subsec. (c). Pub. L. 103-160, § 1315(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The Secretary of Defense shall ensure that, to the maximum extent he determines to be practicable, the amount of the funds provided by the Federal Government under a partnership does not exceed the total amount provided by non-Federal Government participants in that partnership.”

Subsec. (e). Pub. L. 103-160, § 1317(c), struck out “, except that procedures other than competitive procedures may be used in any case in which an exception set out in section 2304(c) of this title applies” after “partnerships”.

DUAL-USE SCIENCE AND TECHNOLOGY PROGRAM

Pub. L. 105-85, div. A, title II, § 203, Nov. 18, 1997, 111 Stat. 1655, as amended by Pub. L. 106-65, div. A, title IX, § 911(a)(1), Oct. 5, 1999, 113 Stat. 717, provided that: “(a) FUNDING 1998.—Of the amounts authorized to be appropriated by section 201 [111 Stat. 1655], \$75,000,000 is authorized for dual-use projects.

“(b) GOALS.—(1) Subject to paragraph (3), it shall be the objective of the Secretary of each military department to obligate for dual-use projects in each fiscal year referred to in paragraph (2), out of the total amount authorized to be appropriated for such fiscal year for the applied research programs of the military department, the percent of such amount that is specified for that fiscal year in paragraph (2).

“(2) The objectives for fiscal years under paragraph (1) are as follows:

“(A) For fiscal year 1998, 5 percent.

“(B) For fiscal year 1999, 7 percent.

“(C) For fiscal year 2000, 10 percent.

“(D) For fiscal year 2001, 15 percent.

“(3) The Secretary of Defense may establish for a military department for a fiscal year an objective different from the objective set forth in paragraph (2) if the Secretary—

“(A) determines that compelling national security considerations require the establishment of the different objective; and

“(B) notifies Congress of the determination and the reasons for the determination.

“(c) DESIGNATION OF OFFICIAL FOR DUAL-USE PROGRAMS.—(1) The Secretary of Defense shall designate a senior official in the Office of the Secretary of Defense to carry out responsibilities for dual-use projects under this subsection. The designated official shall report directly to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

“(2) The primary responsibilities of the designated official shall include developing policy and overseeing the establishment of, and adherence to, procedures for ensuring that dual-use projects are initiated and administered effectively and that applicable commercial technologies are integrated into current and future military systems.

“(3) In carrying out the responsibilities, the designated official shall ensure that—

“(A) dual-use projects are consistent with the joint warfighting science and technology plan referred to in section 270 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 10 U.S.C. 2501 note); and

“(B) the dual-use projects of the military departments and defense agencies of the Department of Defense are coordinated and avoid unnecessary duplication.

“(d) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—The total amount of funds provided by a military department for a dual-use project entered into by the Secretary of that department shall not exceed 50 percent of the total cost of the project. In the case of a dual-use project initiated after the date of the enactment of this Act [Nov. 18, 1997], the Secretary may consider in-kind contributions by non-Federal participants only to the extent such contributions constitute 50 percent or less of the share of the project costs by such participants.

“(e) USE OF COMPETITIVE PROCEDURES.—Funds obligated for a dual-use project may be counted toward meeting an objective under subsection (a) only if the funds are obligated for a contract, grant, cooperative agreement, or other transaction that was entered into through the use of competitive procedures.

“(f) REPORT.—(1) Not later than March 1 of each of 1998, 1999, and 2000, the Secretary of Defense shall submit a report to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] on the progress made by the Department of Defense in meeting the objectives set forth in subsection (b) during the preceding fiscal year.

“(2) The report for a fiscal year shall contain, at a minimum, the following:

“(A) The aggregate value of all contracts, grants, cooperative agreements, or other transactions entered into during the fiscal year for which funding is counted toward meeting an objective under this section, expressed in relationship to the total amount

appropriated for the applied research programs in the Department of Defense for that fiscal year.

“(B) For each military department, the value of all contracts, grants, cooperative agreements, or other transactions entered into during the fiscal year for which funding is counted toward meeting an objective under this section, expressed in relationship to the total amount appropriated for the applied research program of the military department for that fiscal year.

“(C) A summary of the cost-sharing arrangements in dual-use projects that were initiated during the fiscal year and are counted toward reaching an objective under this section.

“(D) A description of the regulations, directives, or other procedures that have been issued by the Secretary of Defense or the Secretary of a military department to increase the percentage of the total value of the dual-use projects undertaken to meet or exceed an objective under this section.

“(E) Any recommended legislation to facilitate achievement of objectives under this section.

“(g) COMMERCIAL OPERATIONS AND SUPPORT SAVINGS INITIATIVE.—(1) The Secretary of Defense shall establish a Commercial Operations and Support Savings Initiative (in this subsection referred to as the ‘Initiative’) to develop commercial products and processes that the military departments can incorporate into operational military systems to reduce costs of operations and support.

“(2) Of the amounts authorized to be appropriated by section 201, \$50,000,000 is authorized for the Initiative.

“(3) Projects and participants in the Initiative shall be selected through the use of competitive procedures.

“(4) The budget submitted to Congress by the President for fiscal year 1999 and each fiscal year thereafter pursuant to section 1105(a) of title 31, United States Code, shall set forth separately the funding request for the Initiative.

“(h) REPEAL OF SUPERSEDED AUTHORITY.—[Repealed section 203 of Pub. L. 104-201, 110 Stat. 2451.]

“(i) DEFINITIONS.—In this section:

“(1) The term ‘applied research program’ means a program of a military department which is funded under the 6.2 Research, Development, Test and Evaluation account of that department.

“(2) The term ‘dual-use project’ means a project under a program of a military department or a defense agency under which research or development of a dual-use technology is carried out and the costs of which are shared by the Department of Defense and non-Government entities.”

APPLICATION OF 1993 AMENDMENTS TO EXISTING TECHNOLOGY REINVESTMENT PROJECTS

Pub. L. 103-160, div. A, title XIII, §1315(g), Nov. 30, 1993, 107 Stat. 1789, provided that in the case of projects funded under section 2511, 2512, 2513, 2523, or 2524 of this title with funds appropriated for a fiscal year beginning before Oct. 1, 1993, the amendments made by section 1315 of Pub. L. 103-160 would not alter the financial commitment requirements in effect on Nov. 30, 1993, for the non-Federal Government participants in the project.

[§§ 2512, 2513. Repealed. Pub. L. 104-106, div. A, title X, § 1081(f), Feb. 10, 1996, 110 Stat. 454]

Section 2512, added Pub. L. 102-484, div. D, title XLII, § 4222(a), Oct. 23, 1992, 106 Stat. 2679; amended Pub. L. 103-160, div. A, title XIII, §1315(b), Nov. 30, 1993, 107 Stat. 1787; Pub. L. 103-337, div. A, title XI, §1115(b), Oct. 5, 1994, 108 Stat. 2868, related to commercial-military integration partnerships.

A prior section 2512, added Pub. L. 101-510, div. A, title VIII, §823(a)(3), Nov. 5, 1990, 104 Stat. 1600, related to responsibility of Secretary of Defense to provide management and planning, prior to repeal by Pub. L. 102-484, §4202(a).

Section 2513, added Pub. L. 102-190, div. A, title VIII, §821(a), Dec. 5, 1991, 105 Stat. 1428, §2524; renumbered