

§1071(b)(13), Dec. 19, 2014, 128 Stat. 3429, 3507, which authorized certain officials, as designated by the Secretary of Defense, to carry out prototype projects directly relevant to enhancing the mission effectiveness of military personnel and the supporting platforms, systems, components, or materials proposed to be acquired or developed by or in use by the Department of Defense, was repealed by Pub. L. 114-92, div. A, title VIII, §815(c), Nov. 25, 2015, 129 Stat. 896.

[Pub. L. 114-92, div. A, title VIII, §815(c), Nov. 25, 2015, 129 Stat. 896, provided that: “Section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note) [formerly set out above] is hereby repealed. Transactions entered into under the authority of such section 845 shall remain in force and effect and shall be modified as appropriate to reflect the amendments made by this section [enacting section 2371b of this title, amending section 2302 of this title, and amending provisions set out as a note under section 2358 of this title].”]

§ 2371a. Cooperative research and development agreements under Stevenson-Wydler Technology Innovation Act of 1980

The Secretary of Defense, in carrying out research projects through the Defense Advanced Research Projects Agency, and the Secretary of each military department, in carrying out research projects, may permit the director of any federally funded research and development center to enter into cooperative research and development 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 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a). Technology may be transferred to a non-Federal party to such an agreement consistent with the provisions of sections 11 and 12 of such Act (15 U.S.C. 3710, 3710a).

(Added and amended Pub. L. 104-201, div. A, title II, §267(c)(1)(A), (B), Sept. 23, 1996, 110 Stat. 2468; Pub. L. 105-85, div. A, title X, §1073(a)(50), Nov. 18, 1997, 111 Stat. 1903.)

CODIFICATION

The text of section 2371(i) of this title, which was transferred to this section, redesignated as text of section, and amended by Pub. L. 104-201, §267(c)(1)(A), (B), was based on Pub. L. 103-355, title I, §1301(b), Oct. 13, 1994, 108 Stat. 3286.

AMENDMENTS

1997—Pub. L. 105-85 inserted “Defense” before “Advanced Research Projects Agency”.

1996—Pub. L. 104-201 transferred section 2371(i) of this title to this section, added section catchline, and struck out subsec. (i) designation and heading which read as follows: “Cooperative Research and Development Agreements Under Stevenson-Wydler Technology Innovation Act of 1980”. See Codification note above.

§ 2371b. Authority of the Department of Defense to carry out certain prototype projects

(a) **AUTHORITY.**—(1) Subject to paragraph (2), the Director of the Defense Advanced Research Projects Agency, the Secretary of a military department, or any other official designated by the Secretary of Defense may, under the authority of section 2371 of this title, carry out prototype projects that are directly relevant to enhancing the mission effectiveness of military personnel and the supporting platforms, systems, components, or materials proposed to be

acquired or developed by the Department of Defense, or to improvement of platforms, systems, components, or materials in use by the armed forces.

(2) The authority of this section—

(A) may be exercised for a transaction for a prototype project, and any follow-on production contract or transaction that is awarded pursuant to subsection (f), that is expected to cost the Department of Defense in excess of \$100,000,000 but not in excess of \$500,000,000 (including all options) only upon a written determination by the senior procurement executive for the agency as designated for the purpose of section 1702(c) of title 41, or, for the Defense Advanced Research Projects Agency or the Missile Defense Agency, the director of the agency that—

(i) the requirements of subsection (d) will be met; and

(ii) the use of the authority of this section is essential to promoting the success of the prototype project; and

(B) may be exercised for a transaction for a prototype project, and any follow-on production contract or transaction that is awarded pursuant to subsection (f), that is expected to cost the Department of Defense in excess of \$500,000,000 (including all options) only if—

(i) the Under Secretary of Defense for Research and Engineering or the Under Secretary of Defense for Acquisition and Sustainment determines in writing that—

(I) the requirements of subsection (d) will be met; and

(II) the use of the authority of this section is essential to meet critical national security objectives; and

(ii) the congressional defense committees are notified in writing at least 30 days before such authority is exercised.

(3) The authority of a senior procurement executive or director of the Defense Advanced Research Projects Agency or Missile Defense Agency under paragraph (2)(A), and the authority of the Under Secretaries of Defense under paragraph (2)(B), may not be delegated.

(b) **EXERCISE OF AUTHORITY.**—

(1) Subsections (e)(1)(B) and (e)(2) of such section 2371 shall not apply to projects carried out under subsection (a).

(2) To the maximum extent practicable, competitive procedures shall be used when entering into agreements to carry out the prototype projects under subsection (a).

(c) **COMPTROLLER GENERAL ACCESS TO INFORMATION.**—(1) Each agreement entered into by an official referred to in subsection (a) to carry out a project under that subsection that provides for payments in a total amount in excess of \$5,000,000 shall include a clause that provides for the Comptroller General, in the discretion of the Comptroller General, to examine the records of any party to the agreement or any entity that participates in the performance of the agreement.

(2) The requirement in paragraph (1) shall not apply with respect to a party or entity, or a subordinate element of a party or entity, that has