

L. 103-160, div. A, title XI, §1182(g)(2), title XIII, §§1315(c), 1316, Nov. 30, 1993, 107 Stat. 1774, 1787, 1789; Pub. L. 103-337, div. A, title XI, §1115(c), Oct. 5, 1994, 108 Stat. 2868, related to regional technology alliances assistance program.

A prior section 2513, added Pub. L. 101-510, div. A, title VIII, §823(a)(3), Nov. 5, 1990, 104 Stat. 1601; amended Pub. L. 102-190, div. A, title II, §203(c), Dec. 5, 1991, 105 Stat. 1314, required annual National Defense Manufacturing Technology Plan, prior to repeal by Pub. L. 102-484, §4202(a).

§ 2514. Encouragement of technology transfer

(a) ENCOURAGEMENT OF TRANSFER REQUIRED.—The Secretary of Defense shall encourage, to the extent consistent with national security objectives, the transfer of technology between laboratories and research centers of the Department of Defense and other Federal agencies, State and local governments, colleges and universities, and private persons in cases that are likely to result in accomplishing the objectives set forth in section 2501(a) of this title.

(b) EXAMINATION AND IMPLEMENTATION OF METHODS TO ENCOURAGE TRANSFER.—The Secretary shall examine and implement methods, in addition to the encouragement referred to in subsection (a) and the program described in subsection (c), that are consistent with national security objectives and will enable Department of Defense personnel to promote technology transfer.

(c) PROGRAM TO ENCOURAGE DIVERSIFICATION OF DEFENSE LABORATORIES.—(1) The Secretary of Defense shall establish and implement a program to be known as the Federal Defense Laboratory Diversification Program (hereinafter in this subsection referred to as the “Program”). The purpose of the Program shall be to encourage greater cooperation in research and production activities carried out by defense laboratories and by private industry of the United States in order to enhance and improve the products of such research and production activities.

(2) Under the Program, the defense laboratories, in coordination with the Office of Technology Transfer in the Office of the Secretary of Defense, shall carry out cooperative activities with private industry in order to promote (by the use or exchange of patents, licenses, cooperative research and development agreements and other cooperative agreements, and the use of symposia, meetings, and other similar mechanisms) the transfer of defense or dual-use technologies from the defense laboratories to private industry, and the development and application of such technologies by the defense laboratories and private industry, for the purpose of the commercial utilization of such technologies by private industry.

(3) The Secretary of Defense shall develop and annually update a plan for each defense laboratory that participates in the Program under which plan the laboratory shall carry out cooperative activities with private industry to promote the transfers described in subsection (b).

(4) In this subsection, the term “defense laboratory” means any laboratory owned or operated by the Department of Defense that carries out research in fiscal year 1993 in an amount in excess of \$50,000,000.

(Added Pub. L. 102-484, div. D, title XLII, §4224(a), Oct. 23, 1992, 106 Stat. 2682; amended Pub. L. 104-201, div. A, title VIII, §829(f), Sept. 23, 1996, 110 Stat. 2614.)

PRIOR PROVISIONS

A prior section 2514, added Pub. L. 101-510, div. A, title VIII, §823(a)(3), Nov. 5, 1990, 104 Stat. 1601, directed Secretary of Defense to enhance research relating to manufacturing technology, prior to repeal by Pub. L. 102-484, §4202(a).

Provisions similar to those in subsections (a) and (b) of this section were contained in section 2363 of this title prior to repeal by Pub. L. 102-484, §§4224(c), 4271(a)(2).

AMENDMENTS

1996—Subsec. (c)(5). Pub. L. 104-201 struck out par. (5) which read as follows: “The Secretary shall coordinate the Program with the National Defense Technology and Industrial Base Council.”

NATIONAL ACTION PLAN ON ADVANCED SUPERCONDUCTIVITY RESEARCH AND DEVELOPMENT

Superconductivity research and development activities by Secretary of Defense and by Defense Advanced Research Projects Agency, see section 5207 of Title 15, Commerce and Trade.

PILOT PROGRAM TO IMPROVE INCENTIVES FOR TECHNOLOGY TRANSFER FROM DEPARTMENT OF DEFENSE LABORATORIES

Pub. L. 115-91, div. A, title II, §233, Dec. 12, 2017, 131 Stat. 1339, provided that:

“(a) IN GENERAL.—The Secretary of Defense shall establish a pilot program to assess the feasibility and advisability of distributing royalties and other payments as described in this section. Under the pilot program, except as provided in subsections (b) and (d), any royalties or other payments received by a Federal agency from the licensing and assignment of inventions under agreements entered into by Department of Defense laboratories, and from the licensing of inventions of Department of Defense laboratories, shall be retained by the laboratory which produced the invention and shall be disposed of as follows:

“(1)(A) The laboratory director shall pay each year the first \$2,000, and thereafter at least 20 percent, of the royalties or other payments, other than payments of patent costs as delineated by a license or assignment agreement, to the inventor or coinventors, if the inventor’s or coinventor’s rights are directly assigned to the United States.

“(B) A laboratory director may provide appropriate incentives, from royalties or other payments, to laboratory employees who are not an inventor of such inventions but who substantially increased the technical value of the inventions.

“(C) The laboratory shall retain the royalties and other payments received from an invention until the laboratory makes payments to employees of a laboratory under subparagraph (A) or (B).

“(2) The balance of the royalties or other payments shall be transferred by the agency to its laboratories, with the majority share of the royalties or other payments from any invention going to the laboratory where the invention occurred. The royalties or other payments so transferred to any laboratory may be used or obligated by that laboratory during the fiscal year in which they are received or during the 2 succeeding fiscal years—

“(A) to reward scientific, engineering, and technical employees of the laboratory, including developers of sensitive or classified technology, regardless of whether the technology has commercial applications;

“(B) to further scientific exchange among the laboratories of the agency;

“(C) for education and training of employees consistent with the research and development missions

and objectives of the agency or laboratory, and for other activities that increase the potential for transfer of the technology of the laboratories of the agency;

“(D) for payment of expenses incidental to the administration and licensing of intellectual property by the agency or laboratory with respect to inventions made at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for intellectual property management and licensing services; or

“(E) for scientific research and development consistent with the research and development missions and objectives of the laboratory.

“(3) All royalties or other payments retained by the laboratory after payments have been made pursuant to paragraphs (1) and (2) that are unobligated and unexpended at the end of the second fiscal year succeeding the fiscal year in which the royalties and other payments were received shall be paid into the Treasury of the United States.

“(b) TREATMENT OF PAYMENTS TO EMPLOYEES.—

“(1) IN GENERAL.—Any payment made to an employee under the pilot program shall be in addition to the regular pay of the employee and to any other awards made to the employee, and shall not affect the entitlement of the employee to any regular pay, annuity, or award to which the employee is otherwise entitled or for which the employee is otherwise eligible or limit the amount thereof. Any payment made to an inventor as such shall continue after the inventor leaves the laboratory.

“(2) CUMULATIVE PAYMENTS.—(A) Cumulative payments made under the pilot program while the inventor is still employed at the laboratory shall not exceed \$500,000 per year to any one person, unless the Secretary concerned (as defined in section 101(a) of title 10, United States Code) approves a larger award.

“(B) Cumulative payments made under the pilot program after the inventor leaves the laboratory shall not exceed \$150,000 per year to any one person, unless the head of the agency approves a larger award (with the excess over \$150,000 being treated as an agency award to a former employee under section 4505 of title 5, United States Code).

“(c) INVENTION MANAGEMENT SERVICES.—Under the pilot program, a laboratory receiving royalties or other payments as a result of invention management services performed for another Federal agency or laboratory under section 207 of title 35, United States Code, may retain such royalties or payments to the extent required to offset payments to inventors under subparagraph (A) of subsection (a)(1), costs and expenses incurred under subparagraph (D) of subsection (a)(2), and the cost of foreign patenting and maintenance for any invention of the other agency. All royalties and other payments remaining after offsetting the payments to inventors, costs, and expenses described in the preceding sentence shall be transferred to the agency for which the services were performed, for distribution in accordance with subsection (a)(2).

“(d) CERTAIN ASSIGNMENTS.—Under the pilot program, if the invention involved was one assigned to the laboratory—

“(1) by a contractor, grantee, or participant, or an employee of a contractor, grantee, or participant, in an agreement or other arrangement with the agency; or

“(2) by an employee of the agency who was not working in the laboratory at the time the invention was made,

the agency unit that was involved in such assignment shall be considered to be a laboratory for purposes of this section.

“(e) SUNSET.—The pilot program under this section shall terminate 5 years after the date of the enactment of this Act [Dec. 12, 2017].”

ENHANCED TRANSFER OF TECHNOLOGY DEVELOPED AT
DEPARTMENT OF DEFENSE LABORATORIES

Pub. L. 113–66, div. A, title VIII, §801, Dec. 26, 2013, 127 Stat. 802, as amended by Pub. L. 114–328, div. A, title VIII, §818, Dec. 23, 2016, 130 Stat. 2273, provided that:

“(a) DEFINITIONS.—As used in this section:

“(1) The term ‘military department’ has the meaning provided in section 101 of title 10, United States Code.

“(2) The term ‘DOD laboratory’ or ‘laboratory’ means any facility or group of facilities that—

“(A) is owned, leased, operated, or otherwise used by the Department of Defense; and

“(B) meets the definition of ‘laboratory’ as provided in subsection (d)(2) of section 12 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a).

“(b) AUTHORITY.—

“(1) IN GENERAL.—The Secretary of Defense and the Secretary of a military department each may authorize the heads of DOD laboratories to grant nonexclusive, exclusive, or partially exclusive licenses, royalty free or for royalties or for rights to other intellectual property, for computer software and its related documentation developed at a DOD laboratory, but only if—

“(A) the computer software and related documentation would be a trade secret under the meaning of section 552(b)(4) of title 5, United States Code, if the information had been obtained from a non-Federal party;

“(B) the public is notified of the availability of the software and related documentation for licensing and interested parties have a fair opportunity to submit applications for licensing;

“(C) such licensing activities and licenses comply with the requirements under section 209 of title 35, United States Code; and

“(D) the software originally was developed to meet the military needs of the Department of Defense.

“(2) PROTECTIONS AGAINST UNAUTHORIZED DISCLOSURE.—The Secretary of Defense and the Secretary of a military department each shall provide appropriate precautions against the unauthorized disclosure of any computer software or documentation covered by paragraph (1)(A), including exemption from section 552 of title 5, United States Code, for a period of up to 5 years after the development of the computer software by the DOD laboratory.

“(c) ROYALTIES.—

“(1) USE OF ROYALTIES.—Except as provided in paragraph (2), any royalties or other payments received by the Department of Defense or a military department from licensing computer software or documentation under paragraph (b)(1) shall be retained by the Department of Defense or the military department and shall be disposed of as follows:

“(A)(i) The Department of Defense or the military department shall pay each year the first \$2,000, and thereafter at least 15 percent, of the royalties or other payments, to be divided among the employees who developed the computer software.

“(ii) The Department of Defense or the military department may provide appropriate lesser incentives, from the royalties or other payments, to laboratory employees who are not developers of such computer software but who substantially increased the technical value of the software.

“(iii) The Department of Defense or the military department shall retain the royalties and other payments received until it makes payments to employees of a DOD laboratory under clause (i) or (ii).

“(iv) The Department of Defense or the military department may retain an amount reasonably necessary to pay expenses incidental to the administration and distribution of royalties or other payments under this section by an organizational unit of the Department of Defense or military department other than its laboratories.

“(B) The balance of the royalties or other payments shall be transferred by the Department of Defense or the military department to its laboratories, with the majority share of the royalties or other payments going to the laboratory where the development occurred. The royalties or other payments so transferred to any DOD laboratory may be used or obligated by that laboratory during the fiscal year in which they are received or during the 2 succeeding fiscal years—

“(i) to reward scientific, engineering, and technical employees of the DOD laboratory, including developers of sensitive or classified technology, regardless of whether the technology has commercial applications;

“(ii) to further scientific exchange among the laboratories of the agency;

“(iii) for education and training of employees consistent with the research and development missions and objectives of the Department of Defense, military department, or DOD laboratory, and for other activities that increase the potential for transfer of the technology of the DOD laboratory;

“(iv) for payment of expenses incidental to the administration and licensing of computer software or other intellectual property made at the DOD laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for intellectual property management and licensing services; or

“(v) for scientific research and development consistent with the research and development missions and objectives of the DOD laboratory.

“(C) All royalties or other payments retained by the Department of Defense, military department, or DOD laboratory after payments have been made pursuant to subparagraphs (A) and (B) that are unobligated and unexpended at the end of the second fiscal year succeeding the fiscal year in which the royalties and other payments were received shall be paid into the Treasury of the United States.

“(2) EXCEPTION.—If, after payments under paragraph (1)(A), the balance of the royalties or other payments received by the Department of Defense or the military department in any fiscal year exceed 5 percent of the funds received for use by the DOD laboratory for research, development, engineering, testing, and evaluation or other related administrative, processing, or value-added activities for that year, 75 percent of such excess shall be paid to the Treasury of the United States and the remaining 25 percent may be used or obligated under paragraph (1)(B). Any funds not so used or obligated shall be paid into the Treasury of the United States.

“(3) STATUS OF PAYMENTS TO EMPLOYEES.—Any payment made to an employee under this section shall be in addition to the regular pay of the employee and to any other awards made to the employee, and shall not affect the entitlement of the employee to any regular pay, annuity, or award to which the employee is otherwise entitled or for which the employee is otherwise eligible or limit the amount thereof except that the monetary value of an award for the same project or effort shall be deducted from the amount otherwise available under this paragraph. Payments, determined under the terms of this paragraph and made to an employee developer as such, may continue after the developer leaves the DOD laboratory or the Department of Defense or military department. Payments made under this section shall not exceed \$75,000 per year to any one person, unless the President approves a larger award (with the excess over \$75,000 being treated as a Presidential award under section 4504 of title 5, United States Code).

“(d) INFORMATION IN REPORT.—The report required by [former] section 2515(d) of title 10, United States Code, shall include information regarding the implementation and effectiveness of this section.

“(e) EXPIRATION.—The authority provided in this section shall expire on December 31, 2021.”

TECHNOLOGY TRANSFER TO PRIVATE SECTOR

Pub. L. 100-180, div. A, title II, §218(c), Dec. 4, 1987, 101 Stat. 1053, as amended by Pub. L. 103-160, div. A, title IX, §904(f), Nov. 30, 1993, 107 Stat. 1729; Pub. L. 106-65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717, provided that:

“(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall take appropriate action to ensure that high-temperature superconductivity technology resulting from the research activities of the Department of Defense is transferred to the private sector. Such transfer shall be made in accordance with section 10(e) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)), other applicable provisions of law, and Executive Order Number 12591, dated April 10, 1987 [set out as a note under 15 U.S.C. 3710].

“(2) The Secretary of Energy, in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall ensure that the national laboratories of the Department of Energy participate, to the maximum appropriate extent, in the transfer to the private sector of technology developed under the Department of Defense superconductivity program in the national laboratories.”

§ 2515. Repealed. Pub. L. 115-232, div. A, title VIII, § 811(b)(1), Aug. 13, 2018, 132 Stat. 1845]

Section, added Pub. L. 102-484, div. D, title XLII, §4225(a), Oct. 23, 1992, 106 Stat. 2683; amended Pub. L. 104-106, div. A, title XV, §1502(a)(22), Feb. 10, 1996, 110 Stat. 505; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108-136, div. A, title X, §1031(a)(23), Nov. 24, 2003, 117 Stat. 1598; Pub. L. 108-375, div. A, title X, §1084(b)(3), Oct. 28, 2004, 118 Stat. 2060; Pub. L. 112-81, div. A, title X, §1061(18), Dec. 31, 2011, 125 Stat. 1584, established an Office of Technology Transition within the Office of the Secretary of Defense and set out its purpose and duties.

A prior section 2515, added Pub. L. 101-510, div. A, title VIII, §823(a)(3), Nov. 5, 1990, 104 Stat. 1602, related to computer-integrated manufacturing technology, prior to repeal by Pub. L. 102-484, §4202(a).

§ 2516. Repealed. Pub. L. 104-106, div. A, title X, § 1081(g), Feb. 10, 1996, 110 Stat. 455]

Section, added Pub. L. 102-484, div. D, title XLII, §4225(a), Oct. 23, 1992, 106 Stat. 2684; amended Pub. L. 103-35, title II, §201(g)(8), May 31, 1993, 107 Stat. 100, related to Military-Civilian Integration and Technology Transfer Advisory Board.

A prior section 2516, added Pub. L. 101-510, div. A, title VIII, §823(a)(3), Nov. 5, 1990, 104 Stat. 1602, related to enhancement of concurrent engineering practices in design and development of weapon systems, prior to repeal by Pub. L. 102-484, §4202(a).

§ 2517. Repealed. Pub. L. 115-232, div. A, title VIII, § 811(c)(1), Aug. 13, 2018, 132 Stat. 1845]

Section, added Pub. L. 102-190, div. A, title VIII, §821(a), Dec. 5, 1991, 105 Stat. 1430, §2525; renumbered §2517 and amended Pub. L. 102-484, div. D, title XLII, §4227, Oct. 23, 1992, 106 Stat. 2685; Pub. L. 111-383, div. A, title IX, §901(j)(4), Jan. 7, 2011, 124 Stat. 4324, established the Office for Foreign Defense Critical Technology Monitoring and Assessment and set out its responsibilities.

A prior section 2517 was renumbered section 2523 of this title and subsequently repealed.

§ 2518. Overseas foreign critical technology monitoring and assessment financial assistance program

(a) ESTABLISHMENT AND PURPOSE OF PROGRAM.—The Secretary of Defense may establish