amendment or in Institutional Patent Agreements now in effect that were entered into before that law was enacted on November 8, 1984, unless, in the case of an invention that has not been marketed, the funding agency determines, based on information in its files, that the contractor or grantee has not taken adequate steps to market the inventions, in accordance with applicable law or an Institutional Patent Agreement;

(6) implement, as expeditiously as practicable, royalty-sharing programs with inventors who were employees of the agency at the time their inventions were made, and cash award programs; and

(7) cooperate, under policy guidance provided by the Office of Federal Procurement Policy, with the heads of other affected departments and agencies in the development of a uniform policy permitting Federal contractors to retain rights to software, engineering drawings, and other technical data generated by Federal grants and contracts, in exchange for royalty-free use by or on behalf of the government.

SEC. 2. *Establishment of the Technology Share Program.* The Secretaries of Agriculture, Commerce, Energy, and Health and Human Services and the Administrator of the National Aeronautics and Space Administration shall select one or more of their Federal laboratories to participate in the Technology Share Program. Consistent with its mission and policies and within its overall funding allocation in any year, each Federal laboratory so selected shall:

(a) Identify areas of research and technology of potential importance to long-term national economic competitiveness and in which the laboratory possesses special competence and/or unique facilities;

(b) Establish a mechanism through which the laboratory performs research in areas identified in Section 2(a) as a participant of a consortium composed of United States industries and universities. All consortia so established shall have, at a minimum, three individual companies that conduct the majority of their business in the United States; and

(c) Limit its participation in any consortium so established to the use of laboratory personnel and facilities. However, each laboratory may also provide financial support generally not to exceed 25 percent of the total budget for the activities of the consortium. Such financial support by any laboratory in all such consortia shall be limited to a maximum of $5 million per annum.

SEC. 3. *Technology Exchange—Scientists and Engineers.* The Executive Director of the President's Commission on Executive Exchange shall assist Federal agencies, where appropriate, by developing and implementing an exchange program whereby scientists and engineers in the private sector may take temporary assignments in Federal laboratories, and scientists and engineers in Federal laboratories may take temporary assignments in the private sector.

SEC. 4. *International Science and Technology.* In order to ensure that the United States benefits from and fully exploits scientific research and technology developed abroad,

(a) The head of each Executive department and agency, when negotiating or entering into cooperative research and development agreements and licensing arrangements with foreign persons or industrial organizations (where these entities are directly or indirectly controlled by a foreign company or government), shall, in consultation with the United States Trade Representative, give appropriate consideration:

(1) to whether such foreign companies or governments permit and encourage United States agencies, organizations, or persons to enter into cooperative research and development agreements and licensing arrangements on a comparable basis;

(2) to whether those foreign governments have policies to protect the United States intellectual property rights; and

(3) where cooperative research will involve data, technologies, or products subject to national security export controls under the laws of the United States, to whether those foreign governments have adopted adequate measures to prevent the transfer of strategic technology to destinations prohibited under such national security export controls, either through participation in the Coordinating Committee for Multilateral Export Controls (COCOM) or through other international agreements to which the United States and such foreign governments are signatories.

(b) The Secretary of State shall develop a recruitment policy that encourages scientists and engineers from other Federal agencies, academic institutions, and industry to apply for assignments in embassies of the United States; and

(c) The Secretaries of State and Commerce and the Director of the National Science Foundation shall develop a central mechanism for the prompt and efficient dissemination of science and technology information developed abroad to users in Federal laboratories, academic institutions, and the private sector on a fee-for-service basis.

SEC. 5. *Technology Transfer from the Department of Defense.* Within 6 months of the date of this Order [Apr. 10, 1987], the Secretary of Defense shall identify a list of funded technologies that would be potentially useful to United States industries and universities. The Secretary shall then accelerate efforts to make these technologies more readily available to United States industries and universities.

SEC. 6. *Basic Science and Technology Centers.* The head of each Executive department and agency shall examine the potential for including the establishment of university research centers in engineering, science, or technology in the strategy and planning for any future research and development programs. Such university centers shall be jointly funded by the Federal Government, the private sector, and, where appropriate, the States and shall focus on areas of fundamental research and technology that are both scientifically promising and have the potential to contribute to the Nation's long-term economic competitiveness.

SEC. 7. *Reporting Requirements.* (a) Within 1 year from the date of this Order [Apr. 10, 1987], the Director of the Office of Science and Technology Policy shall convene an interagency task force comprised of the heads of representative agencies and the directors of representative Federal laboratories, or their designees, in order to identify and disseminate creative approaches to technology transfer from Federal laboratories. The task force will report to the President on the progress of and problems with technology transfer from Federal laboratories.

(b) Specifically, the report shall include:

(1) a listing of current technology transfer programs and an assessment of the effectiveness of these programs;

(2) identification of new or creative approaches to technology transfer that might serve as model programs for Federal laboratories;

(3) criteria to assess the effectiveness and impact on the Nation's economy of planned or future technology transfer efforts; and

(4) a compilation and assessment of the Technology Share Program established in Section 2 and, where appropriate, related cooperative research and development venture programs.

SEC. 8. *Relation to Existing Law.* Nothing in this Order shall affect the continued applicability of any existing laws or regulations relating to the transfer of United States technology to other nations. The head of any Executive department or agency may exclude from consideration, under this Order, any technology that would be, if transferred, detrimental to the interests of national security.

RONALD REAGAN.

§ 3710a. Cooperative research and development agreements

(a) General authority

Each Federal agency may permit the director of any of its Government-operated Federal lab-

oratories, and, to the extent provided in an agency-approved joint work statement or, if permitted by the agency, in an agency-approved annual strategic plan, the director of any of its Government-owned, contractor-operated laboratories—

(1) to enter into cooperative research and development agreements on behalf of such agency (subject to subsection (c) of this section) with other Federal agencies; units of State or local government; industrial organizations (including corporations, partnerships, and limited partnerships, and industrial development organizations); public and private foundations; nonprofit organizations (including universities); or other persons (including licensees of inventions owned by the Federal agency); and

(2) to negotiate licensing agreements under section 207 of title 35, or under other authorities (in the case of a Government-owned, contractor-operated laboratory, subject to subsection (c) of this section) for inventions made or other intellectual property developed at the laboratory and other inventions or other intellectual property that may be voluntarily assigned to the Government.

(b) Enumerated authority

(1) Under an agreement entered into pursuant to subsection (a)(1), the laboratory may grant, or agree to grant in advance, to a collaborating party patent licenses or assignments, or options thereto, in any invention made in whole or in part by a laboratory employee under the agreement, or, subject to section 209 of title 35, may grant a license to an invention which is federally owned, for which a patent application was filed before the signing of the agreement, and directly within the scope of the work under the agreement, for reasonable compensation when appropriate. The laboratory shall ensure, through such agreement, that the collaborating party has the option to choose an exclusive license for a pre-negotiated field of use for any such invention under the agreement or, if there is more than one collaborating party, that the collaborating parties are offered the option to hold licensing rights that collectively encompass the rights that would be held under such an exclusive license by one party. In consideration for the Government's contribution under the agreement, grants under this paragraph shall be subject to the following explicit conditions:

(A) A nonexclusive, nontransferable, irrevocable, paid-up license from the collaborating party to the laboratory to practice the invention or have the invention practiced throughout the world by or on behalf of the Government. In the exercise of such license, the Government shall not publicly disclose trade secrets or commercial or financial information that is privileged or confidential within the meaning of section 552(b)(4) of title 5 or which would be considered as such if it had been obtained from a non-Federal party.

(B) If a laboratory assigns title or grants an exclusive license to such an invention, the Government shall retain the right—

(i) to require the collaborating party to grant to a responsible applicant a nonexclusive, partially exclusive, or exclusive license to use the invention in the applicant's licensed field of use, on terms that are reasonable under the circumstances; or

(ii) if the collaborating party fails to grant such a license, to grant the license itself.

(C) The Government may exercise its right retained under subparagraph (B) only in exceptional circumstances and only if the Government determines that—

(i) the action is necessary to meet health or safety needs that are not reasonably satisfied by the collaborating party;

(ii) the action is necessary to meet requirements for public use specified by Federal regulations, and such requirements are not reasonably satisfied by the collaborating party; or

(iii) the collaborating party has failed to comply with an agreement containing provisions described in subsection (c)(4)(B).

This determination is subject to administrative appeal and judicial review under section 203(2)[1] of title 35.

(2) Under agreements entered into pursuant to subsection (a)(1), the laboratory shall ensure that a collaborating party may retain title to any invention made solely by its employee in exchange for normally granting the Government a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government for research or other Government purposes.

(3) Under an agreement entered into pursuant to subsection (a)(1), a laboratory may—

(A) accept, retain, and use funds, personnel, services, and property from a collaborating party and provide personnel, services, and property to a collaborating party;

(B) use funds received from a collaborating party in accordance with subparagraph (A) to hire personnel to carry out the agreement who will not be subject to full-time-equivalent restrictions of the agency;

(C) to the extent consistent with any applicable agency requirements or standards of conduct, permit an employee or former employee of the laboratory to participate in an effort to commercialize an invention made by the employee or former employee while in the employment or service of the Government; and

(D) waive, subject to reservation by the Government of a nonexclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government, in advance, in whole or in part, any right of ownership which the Federal Government may have to any subject invention made under the agreement by a collaborating party or employee of a collaborating party.

(4) A collaborating party in an exclusive license in any invention made under an agreement entered into pursuant to subsection (a)(1) shall have the right of enforcement under chapter 29 of title 35.

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[1] See References in Text note below.

(5) A Government-owned, contractor-operated laboratory that enters into a cooperative research and development agreement pursuant to subsection (a)(1) may use or obligate royalties or other income accruing to the laboratory under such agreement with respect to any invention only—

(A) for payments to inventors;

(B) for purposes described in clauses (i), (ii), (iii), and (iv) of section 3710c(a)(1)(B) of this title; and

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

(6)(A) In the case of a laboratory that is part of the National Nuclear Security Administration, a designated official of that Administration may waive any license retained by the Government under paragraph (1)(A), (2), or (3)(D), in whole or in part and according to negotiated terms and conditions, if the designated official finds that the retention of the license by the Government would substantially inhibit the commercialization of an invention that would otherwise serve an important national security mission.

(B) The authority to grant a waiver under subparagraph (A) shall expire on the date that is five years after October 30, 2000. The expiration under the preceding sentence of authority to grant a waiver under subparagraph (A) shall not affect any waiver granted under that subparagraph before the expiration of such authority.

(C) Not later than February 15 of each year, the Administrator for Nuclear Security shall submit to Congress a report on any waivers granted under this paragraph during the preceding year.

(c) Contract considerations

(1) A Federal agency may issue regulations on suitable procedures for implementing the provisions of this section; however, implementation of this section shall not be delayed until issuance of such regulations.

(2) The agency in permitting a Federal laboratory to enter into agreements under this section shall be guided by the purposes of this chapter.

(3)(A) Any agency using the authority given it under subsection (a) shall review standards of conduct for its employees for resolving potential conflicts of interest to make sure they adequately establish guidelines for situations likely to arise through the use of this authority, including but not limited to cases where present or former employees or their partners negotiate licenses or assignments of titles to inventions or negotiate cooperative research and development agreements with Federal agencies (including the agency with which the employee involved is or was formerly employed).

(B) If, in implementing subparagraph (A), an agency is unable to resolve potential conflicts of interest within its current statutory framework, it shall propose necessary statutory changes to be forwarded to its authorizing committees in Congress.

(4) The laboratory director in deciding what cooperative research and development agreements to enter into shall—

(A) give special consideration to small business firms, and consortia involving small business firms; and

(B) give preference to business units located in the United States which agree that products embodying inventions made under the cooperative research and development agreement or produced through the use of such inventions will be manufactured substantially in the United States and, in the case of any industrial organization or other person subject to the control of a foreign company or government, as appropriate, take into consideration whether or not such foreign government permits United States agencies, organizations, or other persons to enter into cooperative research and development agreements and licensing agreements.

(5)(A) If the head of the agency or his designee desires an opportunity to disapprove or require the modification of any such agreement presented by the director of a Government-operated laboratory, the agreement shall provide a 30-day period within which such action must be taken beginning on the date the agreement is presented to him or her by the head of the laboratory concerned.

(B) In any case in which the head of an agency or his designee disapproves or requires the modification of an agreement presented by the director of a Government-operated laboratory under this section, the head of the agency or such designee shall transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.

(C)(i) Any non-Federal entity that operates a laboratory pursuant to a contract with a Federal agency shall submit to the agency any cooperative research and development agreement that the entity proposes to enter into and the joint work statement if required with respect to that agreement.

(ii) A Federal agency that receives a proposed agreement and joint work statement under clause (i) shall review and approve, request specific modifications to, or disapprove the proposed agreement and joint work statement within 30 days after such submission. No agreement may be entered into by a Government-owned, contractor-operated laboratory under this section before both approval of the agreement and approval of a joint work statement under this clause.

(iii) In any case in which an agency which has contracted with an entity referred to in clause (i) disapproves or requests the modification of a cooperative research and development agreement or joint work statement submitted under that clause, the agency shall transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.

(iv) Any agency that has contracted with a non-Federal entity to operate a laboratory may develop and provide to such laboratory one or more model cooperative research and development agreements for purposes of standardizing practices and procedures, resolving common legal issues, and enabling review of cooperative research and development agreements to be carried out in a routine and prompt manner.

(v) A Federal agency may waive the requirements of clause (i) or (ii) under such circumstances as the agency considers appropriate.

(6) Each agency shall maintain a record of all agreements entered into under this section.

(7)(A) No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, which is obtained in the conduct of research or as a result of activities under this chapter from a non-Federal party participating in a cooperative research and development agreement shall be disclosed.

(B) The director, or in the case of a contractor-operated laboratory, the agency, for a period of up to 5 years after development of information that results from research and development activities conducted under this chapter and that would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from a non-Federal party participating in a cooperative research and development agreement, may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5.

(d) Definitions

As used in this section—

(1) the term ''cooperative research and development agreement'' means any agreement between one or more Federal laboratories and one or more non-Federal parties under which the Government, through its laboratories, provides personnel, services, facilities, equipment, intellectual property, or other resources with or without reimbursement (but not funds to non-Federal parties) and the non-Federal parties provide funds, personnel, services, facilities, equipment, intellectual property, or other resources toward the conduct of specified research or development efforts which are consistent with the missions of the laboratory; except that such term does not include a procurement contract or cooperative agreement as those terms are used in sections 6303, 6304, and 6305 of title 31;

(2) the term ''laboratory'' means—

(A) a facility or group of facilities owned, leased, or otherwise used by a Federal agency, a substantial purpose of which is the performance of research, development, or engineering by employees of the Federal Government;

(B) a group of Government-owned, contractor-operated facilities (including a weapon production facility of the Department of Energy) under a common contract, when a substantial purpose of the contract is the performance of research and development, or the production, maintenance, testing, or dismantlement of a nuclear weapon or its components, for the Federal Government; and

(C) a Government-owned, contractor-operated facility (including a weapon production facility of the Department of Energy) that is not under a common contract described in subparagraph (B), and the primary purpose of which is the performance of research and development, or the production, maintenance, testing, or dismantlement of a nuclear weapon or its components, for the Federal Government,

but such term does not include any facility covered by Executive Order No. 12344, dated February 1, 1982, pertaining to the naval nuclear propulsion program;

(3) the term ''joint work statement'' means a proposal prepared for a Federal agency by the director of a Government-owned, contractor-operated laboratory describing the purpose and scope of a proposed cooperative research and development agreement, and assigning rights and responsibilities among the agency, the laboratory, and any other party or parties to the proposed agreement; and

(4) the term ''weapon production facility of the Department of Energy'' means a facility under the control or jurisdiction of the Secretary of Energy that is operated for national security purposes and is engaged in the production, maintenance, testing, or dismantlement of a nuclear weapon or its components.

(e) Determination of laboratory missions

For purposes of this section, an agency shall make separate determinations of the mission or missions of each of its laboratories.

(f) Relationship to other laws

Nothing in this section is intended to limit or diminish existing authorities of any agency.

(g) Principles

In implementing this section, each agency which has contracted with a non-Federal entity to operate a laboratory shall be guided by the following principles:

(1) The implementation shall advance program missions at the laboratory, including any national security mission.

(2) Classified information and unclassified sensitive information protected by law, regulation, or Executive order shall be appropriately safeguarded.

(Pub. L. 96–480, §12, as added and renumbered §11, Pub. L. 99–502, §§2, 9(e)(1), Oct. 20, 1986, 100 Stat. 1785, 1797; renumbered §12, Pub. L. 100–418, title V, §5122(a)(1), Aug. 23, 1988, 102 Stat. 1438; amended Pub. L. 100–519, title III, §301, Oct. 24, 1988, 102 Stat. 2597; Pub. L. 101–189, div. C, title XXXI, §3133(a), (b), Nov. 29, 1989, 103 Stat. 1675, 1677; Pub. L. 102–25, title VII, §705(g), Apr. 6, 1991, 105 Stat. 121; Pub. L. 102–245, title III, §302(a), Feb. 14, 1992, 106 Stat. 20; Pub. L. 102–484, div. C, title XXXI, §3135(a), Oct. 23, 1992, 106 Stat. 2640; Pub. L. 103–160, div. C, title XXXI, §3160, Nov. 30, 1993, 107 Stat. 1957; Pub. L. 104–113, §4, Mar. 7, 1996, 110 Stat. 775; Pub. L. 106–398, §1 [div. C, title XXXI, §3196], Oct. 30, 2000, 114 Stat. 1654, 1654A–481; Pub. L. 106–404, §3, Nov. 1, 2000, 114 Stat. 1742.)

REFERENCES IN TEXT

Section 203(2) of title 35, referred to in subsec. (b)(1)(C), was redesignated section 203(b) of title 35 by Pub. L. 107–273, div. C, title III, §13206(a)(14)(A)(i), Nov. 2, 2002, 116 Stat. 1905.

Executive Order No. 12344, referred to in subsec. (d)(2), is set out as a note under section 2511 of Title 50, War and National Defense.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–398, §1 [div. C, title XXXI, §3196(a)], substituted ''joint work statement or, if permitted by the agency, in an agency-approved annual strategic plan,'' for ''joint work statement,'' in introductory provisions.

Subsec. (b)(1). Pub. L. 106–404, in first sentence, inserted ''or, subject to section 209 of title 35, may grant a license to an invention which is federally owned, for which a patent application was filed before the signing of the agreement, and directly within the scope of the work under the agreement,'' after ''under the agreement,''.

Subsec. (b)(6). Pub. L. 106–398, §1 [div. C, title XXXI, §3196(b)], added par. (6).

Subsec. (c)(5)(C), (D). Pub. L. 106–398, §1 [div. C, title XXXI, §3196(c)], redesignated subpar. (D) as (C), struck out ''with a small business firm'' after ''enter into'' and inserted ''if'' after ''statement'' in cl. (i), added cls. (iv) and (v), and struck out former subpar. (C) which related to the duties of an agency which has contracted with a non-Federal entity to operate a laboratory with respect to review and approval of joint work statements and agreements under this section and with respect to providing the entity with model cooperative research and development agreements.

1996—Subsec. (b). Pub. L. 104–113 amended subsec. (b) generally, to require that laboratory ensure that collaborating party be provided option of choosing exclusive license for pre-negotiated field of use for any invention under agreement or that collaborating party be offered option of holding licensing rights that collectively encompass rights that would be held under such exclusive license by one party, to set forth explicit conditions that grants under par. (1) were to be subject to, and to require laboratory to ensure that collaborating party might retain title to any invention made solely by its employee in exchange for normally granting Government nonexclusive, nontransferable, irrevocable, paid-up license to practice invention by or on behalf of Government for research or for other Government purposes.

1993—Subsec. (d)(2)(B). Pub. L. 103–160, §3160(1), inserted ''(including a weapon production facility of the Department of Energy)'' after ''facilities'' and '', or the production, maintenance, testing, or dismantlement of a nuclear weapon or its components,'' after ''research and development''.

Subsec. (d)(2)(C). Pub. L. 103–160, §3160(2), inserted ''(including a weapon production facility of the Department of Energy)'' after ''facility'' and '', or the production, maintenance, testing, or dismantlement of a nuclear weapon or its components,'' after ''research and development''.

Subsec. (d)(4). Pub. L. 103–160, §3160(3)–(5), added par. (4).

1992—Subsec. (c)(5)(C)(i). Pub. L. 102–484, §3135(a)(1), substituted ''Except as provided in subparagraph (D), any agency'' for ''Any agency''.

Subsec. (c)(5)(D). Pub. L. 102–484, §3135(a)(2), added subpar. (D).

Subsec. (d)(1). Pub. L. 102–245 inserted ''intellectual property,'' after ''equipment,'' in two places.

1991—Subsec. (d)(2). Pub. L. 102–25 substituted ''naval'' for ''Naval'' in concluding provisions.

1989—Subsec. (a). Pub. L. 101–189, §3133(a)(1)(A), inserted '', and, to the extent provided in an agency-approved joint work statement, the director of any of its Government-owned, contractor-operated laboratories'' after ''Government-operated Federal laboratories'' in introductory provisions.

Subsec. (a)(2). Pub. L. 101–189, §3133(a)(1)(B), (C), substituted ''(in the case of a Government-owned, contractor-operated laboratory, subject to subsection (c) of this section) for'' for ''for Government-owned'' and struck out ''of Federal employees'' before ''that may be voluntarily''.

Subsec. (b). Pub. L. 101–189, §3133(a)(2)(A), (C), inserted '', and, to the extent provided in an agency-approved joint work statement, a Government-owned, contractor-operated laboratory,'' after ''Government-operated Federal laboratory'' in introductory provisions and inserted concluding provisions ''A Government-owned, contractor-operated laboratory that enters into a cooperative research and development agreement under subsection (a)(1) of this section may use or obligate royalties or other income accruing to such laboratory under such agreement with respect to any invention only (i) for payments to inventors; (ii) for the purposes described in section 3710c(a)(1)(B)(i), (ii), and (iv) of this title; and (iii) for scientific research and development consistent with the research and development mission and objectives of the laboratory.''

Subsec. (b)(2). Pub. L. 101–189, §3133(a)(2)(B), substituted ''a laboratory employee'' for ''a Federal employee''.

Subsec. (c)(3)(A). Pub. L. 101–189, §3133(a)(3), substituted ''standards of conduct for its employees'' for ''employee standards of conduct''.

Subsec. (c)(5)(A). Pub. L. 101–189, §3133(a)(4), inserted ''presented by the director of a Government-operated laboratory'' after ''any such agreement''.

Subsec. (c)(5)(B). Pub. L. 101–189, §3133(a)(5), inserted ''by the director of a Government-operated laboratory'' after ''an agreement presented''.

Subsec. (c)(5)(C). Pub. L. 101–189, §3133(a)(6), added subpar. (C).

Subsec. (c)(7). Pub. L. 101–189, §3133(a)(7), added par. (7).

Subsec. (d)(2). Pub. L. 101–189, §3133(a)(8)(B), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''the term 'laboratory' means a facility or group of facilities owned, leased, or otherwise used by a Federal agency, a substantial purpose of which is the performance of research, development, or engineering by employees of the Federal Government.''

Subsec. (d)(3). Pub. L. 101–189, §3133(a)(8)(A), (C), added par. (3).

Subsec. (g). Pub. L. 101–189, §3133(b), added subsec. (g).

1988—Subsec. (a)(2). Pub. L. 100–519, §301(1), substituted ''or other intellectual property developed at the laboratory and other inventions or other intellectual property'' for ''at the laboratory and other inventions''.

Subsec. (b)(4), (5). Pub. L. 100–519, §301(2), added par. (4) and redesignated former par. (4) as (5).

REVIEW OF COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENT PROCEDURES

Pub. L. 106–404, §8, Nov. 1, 2000, 114 Stat. 1746, provided that:

''(a) REVIEW.—Within 90 days after the date of the enactment of this Act [Nov. 1, 2000], each Federal agency with a federally funded laboratory that has in effect on that date of the enactment one or more cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) shall report to the Committee on National Security of the National Science and Technology Council and the Congress on the general policies and procedures used by that agency to gather and consider the views of other agencies on—

''(1) joint work statements under section 12(c)(5)(C) or (D) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(5)(C) or (D)); or

''(2) in the case of laboratories described in section 12(d)(2)(A) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)(A)), cooperative research and development agreements under such section 12,

with respect to major proposed cooperative research and development agreements that involve critical national security technology or may have a significant impact on domestic or international competitiveness.

''(b) PROCEDURES.—Within 1 year after the date of the enactment of this Act [Nov. 1, 2000], the Committee on National Security of the National Science and Technology Council, in conjunction with relevant Federal agencies and national laboratories, shall—

''(1) determine the adequacy of existing procedures and methods for interagency coordination and awareness with respect to cooperative research and development agreements described in subsection (a); and

''(2) establish and distribute to appropriate Federal agencies—

''(A) specific criteria to indicate the necessity for gathering and considering the views of other agencies on joint work statements or cooperative research and development agreements as described in subsection (a); and

''(B) additional procedures, if any, for carrying out such gathering and considering of agency views with respect to cooperative research and development agreements described in subsection (a).

Procedures established under this subsection shall be designed to the extent possible to use or modify existing procedures, to minimize burdens on Federal agencies, to encourage industrial partnerships with national laboratories, and to minimize delay in the approval or disapproval of joint work statements and cooperative research and development agreements.

''(c) LIMITATION.—Nothing in this Act [see Short Title of 2000 Amendment note set out under section 3701 of this title], nor any procedures established under this section shall provide to the Office of Science and Technology Policy, the National Science and Technology Council, or any Federal agency the authority to disapprove a cooperative research and development agreement or joint work statement, under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a), of another Federal agency.''

MAGNETIC LEVITATION TECHNOLOGY

The Secretary of the Army, in cooperation with the Secretary of Transportation, authorized to conduct research and development activities on magnetic levitation technology using contracts or cooperative research and development agreements under this section, see section 417 of Pub. L. 101–640, set out as a note under section 2313 of Title 33, Navigation and Navigable Waters.

CONTRACT PROVISIONS

Section 3133(d) of Pub. L. 101–189, as amended by Pub. L. 101–510, div. A, title VIII, §828(a), Nov. 5, 1990, 104 Stat. 1607, provided that:

''(1) Not later than 150 days after the date of enactment of this Act [Nov. 29, 1989], each agency which has contracted with a non-Federal entity to operate a Government-owned laboratory shall propose for inclusion in that laboratory's operating contract, to the extent not already included and subject to paragraph (6), appropriate contract provisions that—

''(A) establish technology transfer, including cooperative research and development agreements, as a mission for the laboratory under section 11(a)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 [15 U.S.C. 3710(a)(1)];

''(B) describe the respective obligations and responsibilities of the agency and the laboratory with respect to this part [part C (§§3131–3133) of title XXXI of div. C of Pub. L. 101–189, see Short Title of 1989 Amendment note under section 3701 of this title] and section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 [15 U.S.C. 3710a];

''(C) require that, except as provided in paragraph (2), no employee of the laboratory shall have a substantial role (including an advisory role) in the preparation, negotiation, or approval of a cooperative research and development agreement if, to such employee's knowledge—

''(i) such employee, or the spouse, child, parent, sibling, or partner of such employee, or an organization (other than the laboratory) in which such employee serves as an officer, director, trustee, partner, or employee—

''(I) holds a financial interest in any entity, other than the laboratory, that has a substantial interest in the preparation, negotiation, or approval of the cooperative research and development agreement; or

''(II) receives a gift or gratuity from any entity, other than the laboratory, that has a substantial interest in the preparation, negotiation, or approval of the cooperative research and development agreement; or

''(ii) a financial interest in any entity, other than the laboratory, that has a substantial interest in the preparation, negotiation, or approval of the cooperative research and development agreement, is held by any person or organization with whom such employee is negotiating or has any arrangement concerning prospective employment;

''(D) require that each employee of the laboratory who negotiates or approves a cooperative research and development agreement shall certify to the agency that the circumstances described in subparagraph (C)(i) and (ii) do not apply to such employee;

''(E) require the laboratory to widely disseminate information on opportunities to participate with the laboratory in technology transfer, including cooperative research and development agreements; and

''(F) provides for an accounting of all royalty or other income received under cooperative research and development agreements.

''(2) The requirements described in paragraph (1)(C) and (D) shall not apply in a case where the negotiating or approving employee advises the agency that reviewed the applicable joint work statement under section 12(c)(5)(C)(i) of the Stevenson-Wydler Technology Innovation Act of 1980 [15 U.S.C. 3710a(c)(5)(C)(i)] in advance of the matter in which he is to participate and the nature of any financial interest described in paragraph (1)(C), and where the agency employee determines that such financial interest is not so substantial as to be considered likely to affect the integrity of the laboratory employee's service in that matter.

''(3) Not later than 180 days after the date of enactment of this Act [Nov. 29, 1989], each agency which has contracted with a non-Federal entity to operate a Government-owned laboratory shall submit a report to the Congress which includes a copy of each contract provision amended pursuant to this subsection.

''(4) No Government-owned, contractor-operated laboratory may enter into a cooperative research and development agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 [15 U.S.C. 3710a] unless—

''(A) that laboratory's operating contract contains the provisions described in paragraph (1)(A) through (F); or

''(B) such laboratory agrees in a separate writing to be bound by the provisions described in paragraph (1)(A) through (F).

''(5) Any contract for a Government-owned, contractor-operated laboratory entered into after the expiration of 150 days after the date of enactment of this Act [Nov. 29, 1989] shall contain the provisions described in paragraph (1)(A) through (F).

''(6) Contract provisions referred to in paragraph (1) shall include only such provisions as are necessary to carry out paragraphs (1) and (2) of this subsection.''

[Pub. L. 101–510, div. A, title VIII, §828(b), Nov. 5, 1990, 104 Stat. 1607, provided that: ''Paragraph (6) of 3133(d) of such Act [Pub. L. 101–189, set out above], as added by subsection (a), shall apply only to contracts entered into after the date of enactment of this Act [Nov. 5, 1990].'']

§ 3710b. Rewards for scientific, engineering, and technical personnel of Federal agencies

The head of each Federal agency that is making expenditures at a rate of more than $50,000,000 per fiscal year for research and development in its Government-operated laboratories shall use the appropriate statutory authority to