''(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

develop and implement a cash awards program to reward its scientific, engineering, and technical personnel for—

(1) inventions, innovations, computer software, or other outstanding scientific or technological contributions of value to the United States due to commercial application or due to contributions to missions of the Federal agency or the Federal government,[1] or

(2) exemplary activities that promote the domestic transfer of science and technology development within the Federal Government and result in utilization of such science and technology by American industry or business, universities, State or local governments, or other non-Federal parties.

(Pub. L. 96–480, § 13, as added and renumbered § 12, Pub. L. 99–502, §§ 6, 9(e)(1), Oct. 20, 1986, 100 Stat. 1792, 1797; renumbered § 13, Pub. L. 100–418, title V, § 5122(a)(1), Aug. 23, 1988, 102 Stat. 1438; amended Pub. L. 100–519, title III, § 302, Oct. 24, 1988, 102 Stat. 2597.)

AMENDMENTS

1988—Par. (1). Pub. L. 100–519 inserted ''computer software,'' after ''inventions, innovations,''.

§ 3710c. Distribution of royalties received by Federal agencies

(a) In general

(1) Except as provided in paragraphs (2) and (4), any royalties or other payments received by a Federal agency from the licensing and assignment of inventions under agreements entered into by Federal laboratories under section 3710a of this title, and from the licensing of inventions of Federal laboratories under section 207 of title 35 or under any other provision of law, shall be retained by the laboratory which produced the invention and shall be disposed of as follows:

(A)(i) The head of the agency or laboratory, or such individual's designee, shall pay each year the first $2,000, and thereafter at least 15 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 assigned to the United States.

(ii) An agency or laboratory 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 such inventions.

(iii) The agency or laboratory shall retain the royalties and other payments received from an invention until the agency or laboratory makes payments to employees of a laboratory under clause (i) or (ii).

(B) 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—

(i) 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;

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

(iv) 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

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

(C) All royalties or other payments retained by the agency or laboratory after payments have been made pursuant to subparagraphs (A) and (B) that is 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.

(2) If, after payments to inventors under paragraph (1), the royalties or other payments received by an agency in any fiscal year exceed 5 percent of the budget of the agency 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) 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 he is otherwise entitled or for which he is otherwise eligible or limit the amount thereof. Any payment made to an inventor as such shall continue after the inventor leaves the laboratory or agency. Payments made under this section shall not exceed $150,000 per year to any one person, unless the President approves a larger award (with the excess over $150,000 being treated as a Presidential award under section 4504 of title 5).

(4) A Federal agency 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, may retain such royalties or payments to the extent required to offset payments to inventors under clause (i) of paragraph (1)(A), costs and expenses incurred under clause (iv) of paragraph

[1] So in original. Probably should be capitalized.