

numbered § 4004 and amended Pub. L. 116-283, div. A, title VIII, § 831(a), title XVIII, §§ 1818(c), 1841(b)(1), Jan. 1, 2021, 134 Stat. 3753, 4243; Pub. L. 116-283, div. A, title XVIII, § 1841(b)(2)(D), as added Pub. L. 117-81, div. A, title XVII, § 1701(u)(2)(F)(i)(V), Dec. 27, 2021, 135 Stat. 2152; Pub. L. 117-81, div. A, title XVII, § 1701(u)(2)(B), (v)(1)(A), Dec. 27, 2021, 135 Stat. 2151, 2154.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, § 1841(b)(1), as amended by Pub. L. 117-81, § 1701(u)(2)(B), renumbered section 2302e of this title as this section.

Pub. L. 116-283, § 1818(c), which directed the renumbering of section 2302e of this title as section 3345 instead of this section and the substitution of “section 3012(2)” for “section 2302(2)(B)” in subsec. (a), was repealed by Pub. L. 117-81, § 1701(v)(1)(A), effective as if included therein, so that such renumbering and substitution were no longer directed.

Pub. L. 116-283, § 831(a)(1), substituted “development and demonstration” for “advanced development” in section catchline.

Subsec. (a). Pub. L. 116-283, § 1841(b)(2)(D), as added by Pub. L. 117-81, § 1701(u)(2)(F)(i)(V), substituted “section 3012(2)” for “section 2302(2)(B)” in introductory provisions.

Subsec. (a)(1). Pub. L. 116-283, § 831(a)(2), substituted “development and demonstration” for “provision of advanced component development, prototype.”

Subsec. (c). Pub. L. 116-283, § 831(a)(3), added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-81 applicable as if included in the enactment of title XVIII of Pub. L. 116-283 as enacted, see section 1701(a)(2) of Pub. L. 117-81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1818(c) of Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

§ 4007. Science and technology programs to be conducted so as to foster the transition of science and technology to higher levels of research, development, test, and evaluation

(a) **POLICY.**—Each official specified in subsection (b) shall ensure that the management and conduct of the science and technology programs under the authority of that official are carried out in a manner that will foster the transition of science and technology to higher levels of research, development, test, and evaluation.

(b) **COVERED OFFICIALS.**—Subsection (a) applies to the following officials of the Department of Defense:

- (1) The Under Secretary of Defense for Research and Engineering.
- (2) The Secretary of each military department.
- (3) The Director of the Defense Advanced Research Projects Agency.
- (4) The directors and heads of other offices and agencies of the Department of Defense with assigned research, development, test, and evaluation responsibilities.

(Added Pub. L. 106-398, § 1 [[div. A], title IX, § 904(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-225, § 2359; amended Pub. L. 116-92, div. A, title IX, § 902(55), Dec. 20, 2019, 133 Stat. 1549; renumbered § 4007, Pub. L. 116-283, div. A, title XVIII, § 1841(b)(1), (c), Jan. 1, 2021, 134 Stat. 4243; Pub. L. 117-81, div. A, title XVII, § 1701(u)(2)(B), (D), Dec. 27, 2021, 135 Stat. 2151.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, § 1841(c), which directed the renumbering of section 2359 of this title as this section, was amended generally by Pub. L. 117-81, § 1701(u)(2)(D), effective as if included therein, so that such renumbering was no longer directed.

Pub. L. 116-283, § 1841(b)(1), as amended by Pub. L. 117-81, § 1701(u)(2)(B), renumbered section 2359 of this title as this section.

2019—Subsec. (b)(1). Pub. L. 116-92 substituted “Under Secretary of Defense for Research and Engineering” for “Under Secretary of Defense for Acquisition, Technology, and Logistics”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-81 applicable as if included in the enactment of title XVIII of Pub. L. 116-283 as enacted, see section 1701(a)(2) of Pub. L. 117-81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

PILOT PROGRAM ON THE USE OF PRIVATE SECTOR PARTNERSHIPS TO PROMOTE TECHNOLOGY TRANSITION

Pub. L. 117-81, div. A, title II, § 231, Dec. 27, 2021, 135 Stat. 1612, provided that:

“(a) **IN GENERAL.**—Consistent with section 2359 of title 10, United States Code [now 10 U.S.C. 4007], the Secretary of Defense shall carry out a pilot program to foster the transition of the science and technology programs, projects, and activities of the Department of Defense from the research, development, pilot, and prototyping phases into acquisition activities and operational use. Under the pilot program, the Secretary shall seek to enter into agreements with qualified private sector organizations to support—

“(1) matching technology developers with programs, projects, and activities of the Department that may have a use for the technology developed by such developers;

“(2) providing technical assistance to appropriate parties on participating in the procurement programs and acquisition processes of the Department, including training and consulting on programming, budgeting, contracting, requirements, and other relevant processes and activities; and

“(3) overcoming barriers and challenges facing technology developers, including challenges posed by restrictions on accessing secure facilities, networks, and information.

“(b) **PRIORITY.**—In carrying out the activities described in paragraphs (1) through (3) of subsection (a), a qualified private sector organization shall give priority to technology producers that are small business concerns (as defined under section 3 of the Small Business Act (15 U.S.C. 632)), research institutions (as defined in section 9(e) of such Act [15 U.S.C. 638(e)]), or institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).

“(c) **TERMS OF AGREEMENTS.**—The terms of an agreement under subsection (a) shall be determined by the Secretary of Defense.

“(d) DATA COLLECTION.—

“(1) PLAN REQUIRED BEFORE IMPLEMENTATION.—The Secretary of Defense may not enter into an agreement under subsection (a) until the date on which the Secretary—

“(A) completes a plan to for carrying out the data collection required under paragraph (2); and

“(B) submits the plan to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

“(2) DATA COLLECTION REQUIRED.—The Secretary of Defense shall collect and analyze data on the pilot program under this section for the purposes of—

“(A) developing and sharing best practices for facilitating the transition of science and technology from the research, development, pilot, and prototyping phases into acquisition activities and operational use within the Department of Defense;

“(B) providing information to the leadership of the Department on the implementation of the pilot program and related policy issues; and

“(C) providing information to the congressional defense committees as required under subsection (e).

“(e) BRIEFING.—Not later than December 31, 2022, the Secretary of Defense shall provide to the congressional defense committees a briefing on the progress of the Secretary in implementing the pilot program under this section and any related policy issues.

“(f) CONSULTATION.—In carrying out the pilot program under this section, the Secretary of Defense shall consult with—

“(1) service acquisition executives (as defined in section 101 of title 10, United States Code);

“(2) the heads of appropriate Defense Agencies and Department of Defense Field Activities;

“(3) procurement technical assistance centers (as described in chapter 142 [see 10 U.S.C. 4951 et seq.] of title 10, United States Code); and

“(4) such other individuals and organizations as the Secretary determines appropriate.

“(g) TERMINATION.—The pilot program under this section shall terminate on the date that is five years after the date on which Secretary of Defense enters into the first agreement with a qualified private sector organization under subsection (a).

“(h) COMPTROLLER GENERAL ASSESSMENT AND REPORT.—

“(1) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the pilot program under this section. The assessment shall include an evaluation of the effectiveness of the pilot program with respect to—

“(A) facilitating the transition of science and technology from the research, development, pilot, and prototyping phases into acquisition activities and operational use within the Department of Defense; and

“(B) protecting sensitive information in the course of the pilot program.

“(2) REPORT.—Not later than the date specified in paragraph (3), the Comptroller General shall submit to the congressional defense committees a report on the results of the assessment conducted under paragraph (1).

“(3) DATE SPECIFIED.—The date specified in this paragraph is the earlier of—

“(A) four years after the date on which the Secretary of Defense enters into the first agreement with a qualified private sector organization under subsection (a); or

“(B) five years after the date of the enactment of this Act [Dec. 27, 2021].”

PROOF OF CONCEPT COMMERCIALIZATION OF DUAL-USE TECHNOLOGY PILOT PROGRAM

Pub. L. 113-66, div. A, title XVI, §1603, Dec. 26, 2013, 127 Stat. 944, as amended by Pub. L. 113-291, div. A, title VIII, §818, Dec. 19, 2014, 128 Stat. 3432; Pub. L. 116-92,

div. A, title II, §217, Dec. 20, 2019, 133 Stat. 1258, provided that:

“(a) PILOT PROGRAM.—The Secretary of Defense, acting through the Assistant Secretary of Defense for Research and Engineering and the Secretary of each military department, may establish and implement a pilot program, to be known as the ‘Proof of Concept Commercialization of Dual-Use Technology Pilot Program’, with a focus on priority defense technology areas that attract public and private sector funding, as well as private sector investment capital, including from venture capital firms in the United States, in accordance with this section.

“(b) PURPOSE.—The purpose of the pilot program is to accelerate the commercialization of basic research innovations from qualifying institutions.

“(c) AWARDS.—

“(1) IN GENERAL.—Under the pilot program, the Secretary shall make financial awards to qualifying institutions in accordance with this subsection.

“(2) COMPETITIVE, MERIT-BASED PROCESS.—An award under the pilot program shall be made using a competitive, merit-based process.

“(3) ELIGIBILITY.—A qualifying institution shall be eligible for an award under the pilot program if the institution agrees to—

“(A) use funds from the award for the uses specified in paragraph (5); and

“(B) oversee the use of the funds through—

“(i) rigorous review of commercialization potential or military utility of technologies, including through use of outside expertise;

“(ii) technology validation milestones focused on market feasibility;

“(iii) simple reporting on program progress; and

“(iv) a process to reallocate funding from poor performing projects to those with more potential.

“(4) CRITERIA.—An award may be made under the pilot program to a qualifying institution in accordance with the following criteria:

“(A) The extent to which a qualifying institution—

“(i) has an established and proven technology transfer or commercialization office and has a plan for engaging that office in the program’s implementation or has outlined an innovative approach to technology transfer that has the potential to increase or accelerate technology transfer outcomes and can be adopted by other qualifying institutions;

“(ii) can assemble a project management board comprised of industry, start-up, venture capital, technical, financial, and business experts;

“(iii) has an intellectual property rights strategy or office; and

“(iv) demonstrates a plan for sustainability beyond the duration of the funding from the award, which may include access to venture capital.

“(B) Such other criteria as the Secretary determines necessary.

“(5) USE OF AWARD.—

“(A) IN GENERAL.—Subject to subparagraph (B), the funds from an award may be used to evaluate the commercial potential of existing discoveries, including activities that contribute to determining a project’s commercialization path, including technical validations, market research, clarifying intellectual property rights, and investigating commercial and business opportunities.

“(B) LIMITATIONS.—

“(i) The amount of an award may not exceed \$1,000,000 a year.

“(ii) Funds from an award may not be used for basic research, or to fund the acquisition of research equipment or supplies unrelated to commercialization activities.

“(d) QUALIFYING INSTITUTION DEFINED.—In this section, the term ‘qualifying institution’ means a non-profit institution, as defined in section 4(3) of the Stevenson-Wylder Technology Innovation Act of 1980 (15

U.S.C. 3703(3)), or a Federal laboratory, as defined in section 4(4) of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3703(4)).

“(e) **AUTHORITIES.**—In carrying out this section, the Secretary may use the following authorities:

“(1) Section 1599g of title 10 of the United States Code, relating to public-private talent exchanges.

“(2) Section 2368 of such title [now 10 U.S.C. 4124], relating to Centers for Science, Technology, and Engineering Partnerships.

“(3) Section 2374a of such title [now 10 U.S.C. 4025], relating to prizes for advanced technology achievements.

“(4) Section 2474 of such title, relating to Centers of Industrial and Technical Excellence.

“(5) Section 2521 of such title [now 10 U.S.C. 4841, 4842], relating to the Manufacturing Technology Program.

“(6) Section 225 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 10 U.S.C. 2359 note [now 10 U.S.C. 4061 note prec.]).

“(7) Section 1711 of such Act (Public Law 115–91; 10 U.S.C. 2505 note [now 10 U.S.C. 4816 note]), relating to a pilot program on strengthening manufacturing in the defense industrial base.

“(8) Section 12 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a) and section 6305 of title 31, United States Code, relating to cooperative research and development agreements.

“(f) **TERMINATION.**—The pilot program conducted under this section shall terminate on September 30, 2024.”

[§§ 4008, 4009. Omitted]

Editorial Notes

CODIFICATION

As enacted, Pub. L. 116–283, div. A, title XVIII, §1841(c), Jan. 1, 2021, 134 Stat. 4243, originally transferred sections 2374 and 2357 of this title to sections 4008 and 4009, respectively, to become effective Jan. 1, 2022. Subsequently, Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(D), Dec. 27, 2021, 135 Stat. 2151, amended section 1841(c) of Pub. L. 116–283, effective as if included therein, so as to eliminate those transfers, thereby omitting these sections before they took effect. Other amendments by Pub. L. 117–81 resulted in transfers of sections 2374 and 2357 to sections 4024 and 4067 of this title, respectively.

Pub. L. 117–81, div. A, title XVII, §1701(d)(7), Dec. 27, 2021, 135 Stat. 2136, which directed amendment of section 4008 of this title by substituting “section 3063” for “section 2303(a)” in subsecs. (a) and (d), effective after the amendments by title XVIII of Pub. L. 116–283 took effect, could not be executed after the amendment by section 1701(u)(2)(D) of Pub. L. 117–81, which eliminated the transfer of section 2374 of this title to section 4008, effective as if included in title XVIII of Pub. L. 116–283.

§ 4010. Defense Established Program to Stimulate Competitive Research

(a) **PROGRAM REQUIRED.**—The Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering, shall carry out a Defense Established Program to Stimulate Competitive Research (DEPSCoR) as part of the university research programs of the Department of Defense.

(b) **PROGRAM OBJECTIVES.**—The objectives of the program are as follows:

(1) To increase the number of university researchers in eligible States capable of performing science and engineering research responsive to the needs of the Department of Defense.

(2) To enhance the capabilities of institutions of higher education in eligible States to

develop, plan, and execute science and engineering research that is relevant to the mission of the Department of Defense and competitive under the peer-review systems used for awarding Federal research assistance.

(3) To increase the probability of long-term growth in the competitively awarded financial assistance that institutions of higher education in eligible States receive from the Federal Government for science and engineering research.

(c) **PROGRAM ACTIVITIES.**—In order to achieve the program objectives, the following activities are authorized under the program:

(1) Competitive award of grants for research and instrumentation to support such research.

(2) Competitive award of financial assistance for graduate students.

(3) To provide assistance to science and engineering researchers at institutions of higher education in eligible States through collaboration between Department of Defense laboratories and such researchers.

(4) Any other activities that are determined necessary to further the achievement of the objectives of the program.

(d) **ELIGIBLE STATES.**—(1) The Under Secretary of Defense for Research and Engineering shall designate which States are eligible States for the purposes of this section.

(2) The Under Secretary shall designate a State as an eligible State if, as determined by the Under Secretary—

(A) the average annual amount of all Department of Defense obligations for science and engineering research and development that were in effect with institutions of higher education in the State for the three fiscal years preceding the fiscal year for which the designation is effective or for the last three fiscal years for which statistics are available is less than the amount determined by multiplying 60 percent times the amount equal to 1/50 of the total average annual amount of all Department of Defense obligations for science and engineering research and development that were in effect with institutions of higher education in the United States for such three preceding or last fiscal years, as the case may be; and

(B) the State has demonstrated a commitment to developing research bases in the State and to improving science and engineering research and education programs in areas relevant to the mission of the Department of Defense at institutions of higher education in the State.

(3) The Under Secretary shall not remove a designation of a State under paragraph (2) because the State exceeds the funding levels specified under subparagraph (A) of such paragraph unless the State has exceeded such funding levels for at least two consecutive years.

(e) **COORDINATION WITH SIMILAR FEDERAL PROGRAMS.**—(1) The Secretary may consult with the Director of the National Science Foundation and the Director of the Office of Science and Technology Policy in the planning, development, and execution of the program and may coordinate the program with the Established Pro-