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112TH CONGRESS }
1st Session

HOUSE OF REPRESENTATIVES

{ REPORT
112-284

AGRICULTURE, RURAL DEVELOPMENT,
FOOD AND DRUG ADMINISTRATION, AND
RELATED AGENCIES PROGRAMS FOR THE
FISCAL YEAR ENDING SEPTEMBER 30,
2012, AND FOR OTHER PURPOSES

CONFERENCE REPORT

TO ACCOMPANY

H.R. 2112



NOVEMBER 14, 2011.—Ordered to be printed

total amount of such offsetting collections be less than \$2,706,313,000 this amount shall be reduced accordingly: Provided further, That any amount received in excess of \$2,706,313,000 in fiscal year 2012 and deposited in the Patent and Trademark Fee Reserve Fund shall remain available until expended: Provided further, That the Director of USPTO shall submit a spending plan to the Committees on Appropriations of the House of Representatives and the Senate for any amounts made available by the preceding proviso and such spending plan shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: Provided further, That from amounts provided herein, not to exceed \$900 shall be made available in fiscal year 2012 for official reception and representation expenses: Provided further, That in fiscal year 2012 from the amounts made available for "Salaries and Expenses" for the USPTO, the amounts necessary to pay (1) the difference between the percentage of basic pay contributed by the USPTO and employees under section 8334(a) of title 5, United States Code, and the normal cost percentage (as defined by section 8331(17) of that title) as provided by the Office of Personnel Management (OPM) for USPTO's specific use, of basic pay, of employees subject to subchapter III of chapter 83 of that title, and (2) the present value of the otherwise unfunded accruing costs, as determined by OPM for USPTO's specific use of post-retirement life insurance and post-retirement health benefits coverage for all USPTO employees who are enrolled in Federal Employees Health Benefits (FEHB) and Federal Employees Group Life Insurance (FGLI), shall be transferred to the Civil Service Retirement and Disability Fund, the Employees Life Insurance Fund, and the Employees Health Benefits Fund, as appropriate, and shall be available for the authorized purposes of those accounts: Provided further, That any differences between the present value factors published in OPM's yearly 300 series benefit letters and the factors that OPM provides for USPTO's specific use shall be recognized as an imputed cost on USPTO's financial statements, where applicable: Provided further, That, notwithstanding any other provision of law, all fees and surcharges assessed and collected by USPTO are available for USPTO only pursuant to section 42(c) of title 35, United States Code, as amended by section 22 of the Leahy-Smith America Invents Act (Public Law 112-29): Provided further, That within the amounts appropriated, \$1,000,000 shall be transferred to the "Office of Inspector General" account for activities associated with carrying out investigations and audits related to the USPTO.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, \$567,000,000, to remain available until expended, of which not to exceed \$9,000,000 may be transferred to the "Working Capital Fund": Provided, That not to exceed \$5,000 shall be for official reception and representation expenses.

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Hollings Manufacturing Extension Partnership of the National Institute of Standards and Technology, \$128,443,000, to remain available until expended.

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, and for renovation and maintenance of existing facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c-278e, \$55,381,000, to remain available until expended: Provided, That the Secretary of Commerce shall include in the budget justification materials that the Secretary submits to Congress in support of the Department of Commerce budget (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) an estimate for each National Institute of Standards and Technology construction project having a total multi-year program cost of more than \$5,000,000 and simultaneously the budget justification materials shall include an estimate of the budgetary requirements for each such project for each of the five subsequent fiscal years.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft and vessels; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and relocation of facilities, \$3,022,231,000, to remain available until September 30, 2013, except that funds provided for cooperative enforcement shall remain available until September 30, 2014: Provided, That fees and donations received by the National Ocean Service for the management of national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: Provided further, That in addition, \$109,098,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": Provided further, That of the \$3,139,329,000 provided for in direct obligations under this heading \$3,022,231,000 is appropriated from the general fund, \$109,098,000 is provided by transfer and \$8,000,000 is derived from recoveries of prior year obligations: Provided further, That the total amount available for National Oceanic and Atmospheric Administration corporate services administrative support costs shall not exceed \$230,738,000, of which \$5,000,000 shall not be available until the Administrator provides the Committees on Appropriations of the House of Representatives and the Senate with revised and detailed lifecycle costs of all satellite programs funded under the "Procurement, Acquisition and Construction" account: Provided further, That any deviation from the amounts designated for specific activi-

section 22 of the Leahy-Smith America Invents Act (P. L. 112–29) and includes language making available to the PTO any excess fee collections above the amount appropriated, subject to section 505 reporting requirements in this Act. The conference agreement does not include a general provision carried in previous years prohibiting funds to issue patents on claims directed to or encompassing a human organism. This language is no longer necessary as a similar permanent prohibition was enacted in the Leahy-Smith America Invents Act.

National security concerns.—The conferees adopt by reference House report language regarding the need to update security procedures for patent applications that have national security implications and direct PTO to report to the Committees on Appropriations within 60 days of enactment of this Act regarding practices currently used by third parties to safeguard sensitive patent applications. This report shall provide a framework for suggested improvements for security standards used in the private sector.

Establishment of satellite offices.—The conferees encourage PTO to establish satellite offices in areas that are advantageous to both PTO and its customers.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

The conference agreement includes \$750,824,000 for the National Institute of Standards and Technology (NIST).

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

The conference agreement includes \$567,000,000 for NIST's scientific and technical core programs, including \$10,000,000 for a Cybersecurity Center of Excellence and \$16,500,000 for the National Strategy for Trusted Identities in Cyberspace. The conferees do not adopt Senate language regarding specific direction pertaining to greenhouse gas measurements but do encourage NIST to pursue research in this area.

INDUSTRIAL TECHNOLOGY SERVICES

The conference agreement includes \$128,443,000 for the Hollings Manufacturing Extension Partnership Program.

CONSTRUCTION OF RESEARCH FACILITIES

The conference agreement includes \$55,381,000 for NIST construction. The conferees do not adopt House language designating funds for ongoing construction projects but expect NIST to continue to submit quarterly reports on the status of all construction projects as directed by the Senate.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The conference agreement includes a total of \$4,893,675,000 in discretionary funds for the National Oceanic and Atmospheric Administration (NOAA). The conference agreement does not establish a NOAA Climate Service as proposed by the Senate.