

**Calendar No. 560**

111TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
111-289 }

EXPORT PROMOTION ACT OF 2010

---

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 3084



SEPTEMBER 13, 2010.—Ordered to be printed

---

U.S. GOVERNMENT PRINTING OFFICE

89-006

WASHINGTON : 2010

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

JOHN D. ROCKEFELLER IV, West Virginia, *Chairman*

DANIEL K. INOUE, Hawaii	KAY BAILEY HUTCHISON, Texas
JOHN F. KERRY, Massachusetts	OLYMPIA J. SNOWE, Maine
BYRON L. DORGAN, North Dakota	JOHN ENSIGN, Nevada
BARBARA BOXER, California	JIM DeMINT, South Carolina
BILL NELSON, Florida	JOHN THUNE, South Dakota
MARIA CANTWELL, Washington	ROGER F. WICKER, Mississippi
FRANK R. LAUTENBERG, New Jersey	GEORGE S. LeMIEUX, Florida
MARK PRYOR, Arkansas	JOHNNY ISAKSON, Georgia
CLAIRE McCASKILL, Missouri	DAVID VITTER, Louisiana
AMY KLOBUCHAR, Minnesota	SAM BROWNBACK, Kansas
TOM UDALL, New Mexico	MIKE JOHANNIS, Nebraska
MARK WARNER, Virginia	
MARK BEGICH, Alaska	

ELLEN DONESKI, *Staff Director*

JAMES REID, *Deputy Staff Director*

BRUCE ANDREWS, *General Counsel*

ANN BEGEMAN, *Republican Staff Director*

BRIAN HENDRICKS, *Republican General Counsel*

TODD BERTOSON, *Republican Senior Counsel*

## Calendar No. 560

111TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 111-289

---

---

### EXPORT PROMOTION ACT OF 2010

SEPTEMBER 13, 2010.—Ordered to be printed

Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, submitted the following

### REPORT

[To accompany S. 3084]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 3084) to increase the competitiveness of United States businesses, particularly small- and medium-sized manufacturing firms, in interstate and global commerce, foster job creation in the United States, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

#### PURPOSE OF THE BILL

The purpose of S. 3084, as amended, is to assist U.S. businesses that are interested in exporting their products but do not otherwise have the resources or know-how to pursue international opportunities on their own. The bill would, first, increase the activities and personnel resources of the Department of Commerce (Department) to enhance its ability to carry out its mission to promote U.S. exports and allow the Department to increase coordination with States working on similar efforts. Second, the bill would increase funding for export grants available to industry associations and other non-profit institutions. Third, the bill would require the Department to consider export potential as a factor when reviewing applications for manufacturing grants and innovation grants. Finally, the bill would require the Secretary of Commerce to report to Congress within 90 days of the date of enactment on the tariff and nontariff barriers to trade imposed by Columbia, South Korea, and Panama.

## BACKGROUND AND NEEDS

In 2008, the share of gross domestic product (GDP) resulting from U.S. exports reached 12.7 percent—its highest level since 1916. In 2008, the country exported approximately \$1.7 trillion in goods and services and the Department estimates that these exports supported 10.3 million jobs. Based on these figures, a new job was created for every \$165,000 increase in export sales.

Despite America's strong export sector, the U.S. has not come close to realizing its full export potential according to international trade experts.<sup>1</sup> Less than one percent of U.S. businesses engage in exporting, and nearly 60 percent of these companies only trade in one foreign country. Moreover, exports account for a smaller proportion of American GDP than other leading exporting nations.

DEPARTMENT OF COMMERCE'S INTERNATIONAL TRADE  
ADMINISTRATION

Export promotion in the U.S. involves an array of efforts by businesses, trade associations, and Federal, State, and local government offices. Within the Federal government, 20 different agencies are responsible for trade promotion activities, which are connected through a Trade Promotion Coordinating Committee (TPCC) chaired by the Department. The main export promotion efforts at the Department are conducted by the International Trade Administration (ITA).

The ITA's trade promotion efforts are spearheaded by the United States and Foreign Commercial Service (USFCS or Commercial Service), a subdivision of ITA that has trade specialists in 109 U.S. cities and in 77 countries. Trade specialists in these offices assist U.S. exporters at every step of the export process, including market research, overseas advertising, and in locating foreign buyers, distributors, and business partners. The three priorities of the Commercial Service are: 1) increasing the number of U.S. companies that export overseas; 2) helping smaller companies expand to new export markets; and 3) assisting exporters to overcome hurdles in foreign markets.

Export assistance often takes the following forms:

- **Matchmaking and Counseling.** The Commercial Service's trade specialists often recommend that U.S. companies develop a partnership with an overseas agent or distributor and facilitate the creation of such relationships. For example, trade specialists will contact a group of pre-screened overseas businesses and then narrow that list based on the specific needs of the U.S. company. This work is done before a company makes a trip overseas, saving it time and money.

- **Trade Missions.** In 2008, the Commercial Service supported trade missions to 27 overseas markets, with 420 U.S. companies participating. Such missions introduce U.S. exporters to potential foreign buyers, locate agents and distributors, identify joint venture partners, and facilitate introductions with foreign government officials.

---

<sup>1</sup> See, for example, the testimony of Liz J. Reilly, U.S. Chamber of Commerce, before the Senate Committee on Commerce, Science and Transportation, October 6, 2009.

- **Commercial Diplomacy and Advocacy.** In certain cases, the U.S. government will weigh in on behalf of a U.S. company with a foreign government to assist in resolving a trade issue. These services can be particularly useful for firms exporting to emerging markets.

In 2008, the Commercial Service assisted 426 U.S. companies that had previously never exported goods, and assisted in more than 3,000 transactions for firms that were exporting products to new markets. More than 80 percent of the 12,000 export transactions facilitated by the Department in 2008 were reported by small- and medium-sized businesses. The Department reports that these efforts support more than \$67 billion in exports. Despite this success, the Commercial Service has lost approximately 200 employees since 2004 due to attrition and budgetary constraints. S. 3084 would direct the Department to replace those lost workers over the next five years, subject to appropriations.

#### THE DEPARTMENT OF COMMERCE'S EXPORTECH PROGRAM

Developed in 2006 as a pilot program by the Manufacturing Extension Partnership (MEP) and various other Federal and State agencies, ExporTech assists U.S. companies in developing a customized export plan. The companies meet for three one-day sessions over a three-month period, and, in between sessions, participants work with ExporTech counselors on developing their export plans. Throughout the program, experts are brought in to provide information and guidance to enable companies to accelerate their export plans and speed their products to market. In the final work session, a panel of experienced business professionals reviews each participating company's export growth plan and provides feedback. One of the keys to ExporTech's success is that it customizes each program to the participant's export needs. Each workshop includes a maximum of eight participating companies, allowing it to provide sufficient time and attention to each company's specific challenges.

Since 2006, ExporTech has conducted 23 workshops with 180 companies. The average return on investment for these companies is approximately 100:1. S. 3084 would provide \$11 million to allow ExporTech to expand its service offerings nationwide.

#### THE DEPARTMENT OF COMMERCE'S MARKET DEVELOPMENT COOPERATOR PROGRAM (MDCP)

Under MDCP, the ITA awards grants to support projects that enhance the competitiveness of U.S. manufacturing and service industries. MDCP grants establish partnerships between the Department and non-profit industry groups to fund long-term export promotion activities. Past award recipients have included trade associations, State departments of trade, regional associations of trade and economic development, chambers of commerce, and non-profit industry organizations. These groups are particularly effective in reaching small- and medium-sized U.S. businesses that the Department would likely not otherwise encounter. To qualify for a grant, an applicant must pledge to pay a minimum of two-thirds of the project cost and to sustain the project after the MDCP award period ends.

The ITA has awarded MDCP grants since 1993. On average the program has generated \$134 of exports for every Federal dollar invested. Since 1997, the MDCP has helped U.S. industry generate over \$2.9 billion in exports. S. 3084 would authorize \$15 million for new MDCP export promotion grants.

#### SUMMARY OF PROVISIONS

S. 3084, as reported, would direct the Department, subject to appropriations, to increase by approximately 200 the number of its employees whose primary responsibilities involve export promotion. The bill would further authorize \$25 million over five years to the Department to be spent on improving export promotion for rural businesses. Additionally, the bill contains a Sense of the Senate section urging the Department to work closely with the States and enter into agreements with State trade agencies on export promotion to extend the reach of the Department's export promotion efforts. The bill would also require the Secretary to report to Congress on the tariff and nontariff trade barriers imposed by Columbia, South Korea, and Panama within 90 days of the date of enactment.

In order to increase exports in the short term, the bill would authorize \$30 million to be used by the Department to expand efforts by current U.S. exporters and \$11 million to be used by the MEP to expand the ExporTech program. The bill would also authorize \$15 million to be used by the MDCP for export promotion grants. In total, the bill would authorize \$81 million to the Department to improve its export promotion programs and direct it to increase staff levels by 200 personnel over five years.

Finally, the bill would allow for additional criteria to be used in determining MEP and the Technology Innovation Program (TIP) awards. Such expanded criteria would include whether an application has significant potential for enhancing the competitiveness of small- and medium-sized U.S. manufacturers in the global marketplace.

#### LEGISLATIVE HISTORY

On October 6, 2009, Senator Klobuchar held a hearing in the Subcommittee on Competitiveness, Innovation, and Export Promotion that examined the Federal government's role in promoting exports. On March 5, 2010, Senator Klobuchar introduced S. 3084 with Senator LeMieux. The bill was referred to the Committee on Commerce, Science, and Transportation. On June 9, 2010, the Committee met in open executive session and, by a voice vote, ordered a substitute amendment to S. 3084 reported with an amendment by Senator Johanns.

The substitute amendment sponsored by Senators Klobuchar, LeMieux and Kerry added four provisions to the introduced bill. It authorized an additional \$56 million to be used within 18 months by the Department for export promotion efforts. Of the total funding, \$30 million is expected to be used to target and assist known U.S. exporters that have an immediate capacity to grow their international sales; \$11 million is to be used to expand the ExporTech program; and \$15 million is to be provided to the MDCP. The substitute amendment also incorporated a Sense of the Senate that the

Department should work closely with the States to extend the reach of its export promotion efforts.

In addition to the changes made to S. 3084 by the substitute, the Committee adopted an amendment by Senator Johanns that would require the Secretary of Commerce, within 90 days of the date of enactment, to report to Congress on the tariff and nontariff trade barriers imposed by Columbia, South Korea, and Panama on U.S. exports.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

JUNE 28, 2010.

Hon. JOHN D. ROCKEFELLER IV,  
*Chairman, Committee on Commerce, Science, and Transportation,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3084, the Export Promotion Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*S. 3084—Export Promotion Act of 2010*

Summary: S. 3084 would authorize the International Trade Administration (ITA) to increase the number of employees that promote the participation of United States companies in international markets. The bill also would authorize appropriations for various programs in the Department of Commerce that improve the competitiveness of domestic companies in foreign markets.

Based on information from the ITA, CBO estimates that implementing S. 3084 would cost \$248 million over the 2011–2015 period, assuming the appropriation of the necessary amounts. Enacting S. 3084 would not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply.

S. 3084 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 3084 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year in millions of dollars—					
	2011	2012	2013	2014	2015	2011–2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Global Business Development:						
Estimated Authorization Level .....	12	24	36	48	59	179
Estimated Outlays .....	10	22	34	45	57	168

	By fiscal year in millions of dollars—					
	2011	2012	2013	2014	2015	2011–2015
Rural Export Initiative:						
Authorization Level .....	5	5	5	5	5	25
Estimated Outlays .....	4	5	5	5	5	24
Global Business Development:						
Authorization Level .....	30	0	0	0	0	30
Estimated Outlays .....	26	4	0	0	0	30
ExporTech Program:						
Authorization Level .....	11	0	0	0	0	11
Estimated Outlays .....	9	2	0	0	0	11
Market Development Cooperator:						
Authorization Level .....	15	0	0	0	0	15
Estimated Outlays .....	13	2	0	0	0	15
Total Changes:						
Estimated Authorization Level .....	73	29	41	53	64	260
Estimated Outlays .....	62	35	39	50	62	248

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted before the end of fiscal year 2010, that the necessary amounts will be appropriated for each year, and that spending will follow historical patterns for similar programs. CBO estimates that implementing S. 3084 would cost \$248 million over the 2011–2015 period, assuming appropriation of the necessary amounts.

#### *Global Business Development*

S. 3084 would require the ITA to increase the number of employees whose primary responsibilities involve promoting the participation of U.S. firms in foreign markets. Within five years of enactment, the agency would be required to increase the number of staff performing those activities to the same number that performed this work in fiscal year 2004. Based on information from the ITA, CBO expects that the agency would need to hire about 210 additional employees over five years to reach that staffing level. We estimate that implementing those requirements would cost \$168 million over the 2011–2015 period.

#### *Other Export Initiatives*

The bill would authorize the appropriation of \$81 million for a number of programs designed to improve the competitiveness of U.S. businesses in international markets. CBO estimates that implementing those provisions would cost \$80 million over the 2011–2015 period. Those costs would include:

- \$24 million for a program to improve the access of rural businesses to the global marketplace;
- \$30 million to promote the expansion of small- and medium-sized businesses in foreign markets;
- \$11 million to expand ExporTech, a program jointly sponsored by the ITA, the National Institute of Standards and Technology, and educational, state, and private institutions that provides technical assistance to small- and medium-sized businesses that want to expand into international markets; and
- \$15 million to establish partnerships between public institutions and private enterprises through the ITA's Market Development Cooperator Program (MDCP). The MDCP provides



technical and financial assistance to nonprofit groups representing manufacturing and service industries to support projects that improve their industries' competitiveness in foreign markets.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: S. 3084 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Susan Willie; Impact on State, Local, and Tribal Governments: Elizabeth Cove Delisle; Impact on the Private Sector: Sam Wice.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

##### NUMBER OF PERSONS COVERED

The bill does not impose any new rules or otherwise modify the jurisdictional reach of the Department. Consequently, the Committee does not expect that it will subject any additional individuals or businesses to regulations.

##### ECONOMIC IMPACT

The bill would authorize an increase of approximately 200 employees and \$81 million to the Department for specific export promotion programs. Based on the historical return on investment of these programs, S. 3084 should support the creation of export-based American jobs.

##### PRIVACY

The Committee does not anticipate that the bill would have any adverse impact on the personal privacy of individuals.

##### PAPERWORK

While the Committee does not anticipate a major increase in paperwork burdens resulting from the passage of this legislation, the legislation would require one report from the Department to be issued within 90 days of the date of enactment. The Secretary of Commerce, in consultation with the United States Trade Representative (USTR), must report to Congress on the tariff and non-tariff trade barriers imposed by Columbia, South Korea, and Panama on U.S. exports. USTR currently produces a similar report—the National Trade Estimate Report—which will significantly assist in the creation of the Department of Commerce report.

##### CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no items con-

tained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title.*

Section 1 would provide that the bill may be cited as the Export Promotion Act of 2010.

##### *Section 2. Commerce Department global business development and promotion activities.*

Section 2 would direct the Department to increase the number of full-time employees whose primary responsibilities involve promoting or facilitating participation by U.S. businesses in the global marketplace. The number of employees would be equal to the number at the Department in 2004. In carrying out the section, the Department would take such action as necessary to ensure that its global marketplace promotional activities include efforts focused on small and medium-sized businesses. The section would authorize appropriations of such sums as necessary for fiscal years 2011 through 2015.

##### *Section 3. Improved access to global markets for rural businesses.*

Section 3 would authorize \$25 million over 5 years to the Department to focus its activities on improving access to the global marketplace for rural businesses.

##### *Section 4. Additional funding for interstate commerce and global business development activities of the Department of Commerce.*

Section 4 would authorize \$30 million in additional funds to be used within 18 months by the Department to promote or facilitate participation by U.S. businesses in the global marketplace. In obligating and expending the funds, the Secretary would give preference to activities that assist small and medium-sized businesses, create or sustain the greatest number of jobs in the United States, and obtain the maximum return on investment.

##### *Section 5. Additional funding for the ExporTech program.*

Section 5 would authorize \$11 million to be used within 18 months by the MEP to expand the ExporTech program.

##### *Section 6. Additional funding for the market development cooperator program of the Department of Commerce.*

Section 6 would authorize \$15 million for the ITA to award MDCP grants in order to establish public-private partnerships to underwrite a portion of the start-up costs for new export projects. These funds must be used within 18 months. The underwriting for each project would not exceed one-third of the total start-up costs or \$500,000, whichever is less. In obligating and expending the funds, the Secretary would give preference to small and medium-sized businesses and to activities that create or sustain the greatest number of jobs in the United States and obtain the maximum return on investment.

*Section 7. Hollings manufacturing extension partnerships; technology innovation program.*

Section 7 would allow for additional criteria to be used in determining MEP and TIP awards. Such expanded criteria would include whether an application has significant potential for enhancing the competitiveness of small and medium-sized U.S. manufacturers in the global marketplace.

*Section 8. Sense of the Senate concerning Federal collaboration with States on export promotion issues.*

Section 8 would provide the Sense of the Senate that the Secretary of Commerce should enhance Federal collaboration with the States on export promotion by: (1) providing the necessary training to the staff at State international trade agencies; and (2) entering into agreements with State international trade agencies to deliver USFCS offerings in their local communities in order to extend the outreach of USFCS programs.

*Section 9. Report on tariff and nontariff barriers.*

Section 9 would require the Secretary of Commerce within 90 days to report to Congress on the tariff and nontariff barriers imposed by Columbia, South Korea, and Panama on U.S. exports.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY  
ACT

**SEC. 25. REGIONAL CENTERS FOR THE TRANSFER OF MANUFACTURING TECHNOLOGY.**

[15 U.S.C. 278k]

(a) CREATION AND SUPPORT OF CENTERS; AFFILIATIONS; MERIT REVIEW IN DETERMINING AWARDS; OBJECTIVES.—The Secretary, through the Director and, if appropriate, through other officials, shall provide assistance for the creation and support of Regional Centers for the Transfer of Manufacturing Technology (hereafter in this Act referred to as the “Centers”). Such centers shall be affiliated with any United States-based nonprofit institution or organization, or group thereof, that applies for and is awarded financial assistance under this section in accordance with the description published by the Secretary in the Federal Register under subsection (c)(2). Individual awards shall be decided on the basis of merit review. The objective of the Centers is to enhance productivity and technological performance in United States manufacturing through—

(1) the transfer of manufacturing technology and techniques developed at the Institute to Centers and, through them, to manufacturing companies throughout the United States;

(2) the participation of individuals from industry, universities, State governments, other Federal agencies, and, when

appropriate, the Institute in cooperative technology transfer activities;

(3) efforts to make new manufacturing technology and processes usable by United States-based small- and medium-sized companies;

(4) the active dissemination of scientific, engineering, technical, and management information about manufacturing to industrial firms, including small- and medium-sized manufacturing companies; and

(5) the utilization, when appropriate, of the expertise and capability that exists in Federal laboratories other than the Institute.

(b) ACTIVITIES OF CENTERS.—The activities of the Centers shall include—

(1) the establishment of automated manufacturing systems and other advanced production technologies, based on research by the Institute, for the purpose of demonstrations and technology transfer;

(2) the active transfer and dissemination of research findings and Center expertise to a wide range of companies and enterprises, particularly small- and medium-sized manufacturers; and

(3) loans, on a selective, short-term basis, of items of advanced manufacturing equipment to small manufacturing firms with less than 100 employees.

(c) DURATION AND AMOUNT OF SUPPORT; PROGRAM DESCRIPTIONS; APPLICATIONS; MERIT REVIEW; EVALUATIONS OF ASSISTANCE; APPLICABILITY OF PATENT LAW.—

(1) The Secretary may provide financial support to any Center created under subsection (a) for a period not to exceed six years. The Secretary may not provide to a Center more than 50 percent of the capital and annual operating and maintenance funds required to create and maintain such Center.

(2) The Secretary shall publish in the Federal Register, within 90 days after the date of the enactment of this section, a draft description of a program for establishing Centers, including—

(A) a description of the program;

(B) procedures to be followed by applicants;

(C) criteria for determining qualified applicants;

(D) criteria, including those listed under paragraph (4), for choosing recipients of financial assistance under this section from among the qualified applicants; and

(E) maximum support levels expected to be available to Centers under the program in the fourth through sixth years of assistance under this section.

The Secretary shall publish a final description under this paragraph after the expiration of a 30-day comment period.

(3)(A) Any nonprofit institution, or group thereof, or consortia of nonprofit institutions, including entities existing on August 23, 1988, may submit to the Secretary an application for financial support under this subsection, in accordance with the procedures established by the Secretary and published in the Federal Register under paragraph (2).

(B) In order to receive assistance under this section, an applicant for financial assistance under subparagraph (A) shall provide adequate assurances that non-Federal assets obtained from the applicant and the applicant's partnering organizations will be used as a funding source to meet not less than 50 percent of the costs incurred for the first 3 years and an increasing share for each of the last 3 years. For purposes of the preceding sentence, the costs incurred means the costs incurred in connection with the activities undertaken to improve the management, productivity, and technological performance of small- and medium-sized manufacturing companies.

(C) In meeting the 50 percent requirement, it is anticipated that a Center will enter into agreements with other entities such as private industry, universities, and State governments to accomplish programmatic objectives and access new and existing resources that will further the impact of the Federal investment made on behalf of small- and medium-sized manufacturing companies. All non-Federal costs[,] contributed by such entities and determined by a Center as programmatically reasonable and allocable under MEP program procedures are includable as a portion of the Center's contribution.

(D) Each applicant under subparagraph (A) shall also submit a proposal for the allocation of the legal rights associated with any invention which may result from the proposed Center's activities.

(4) The Secretary shall subject each such application to merit review. In making a decision whether to approve such application and provide financial support under this subsection, the Secretary shall consider at a minimum (A) the merits of the application, particularly those portions of the application regarding technology transfer, training and education, and adaptation of manufacturing technologies to the needs of particular industrial sectors, (B) the quality of service to be provided, (C) geographical diversity and extent of service area, and (D) the percentage of funding and amount of in-kind commitment from other sources.

(5) Each Center which receives financial assistance under this section shall be evaluated during its third year of operation by an evaluation panel appointed by the Secretary. Each such evaluation panel shall be composed of private experts, none of whom shall be connected with the involved Center, and Federal officials. An official of the Institute shall chair the panel. Each evaluation panel shall measure the involved Center's performance against the objectives specified in this section. The Secretary shall not provide funding for the fourth through the sixth years of such Center's operation unless the evaluation is positive. If the evaluation is positive, the Secretary may provide continued funding through the sixth year at declining levels. A Center that has not received a positive evaluation by the evaluation panel shall be notified by the panel of the deficiencies in its performance and shall be placed on probation for one year, after which time the panel shall re-evaluate the Center. If the Center has not addressed the deficiencies identified by the panel, or shown a significant improvement in its performance, the Director shall conduct a new

competition to select an operator for the Center or may close the Center. After the sixth year, a Center may receive additional financial support under this section if it has received a positive evaluation through an independent review, under procedures established by the Institute. Such an independent review shall be required at least every two years after the sixth year of operation. Funding received for a fiscal year under this section after the sixth year of operation shall not exceed one third of the capital and annual operating and maintenance costs of the Center under the program.

(6) The provisions of chapter 18 of title 35, United States Code, shall (to the extent not inconsistent with this section) apply to the promotion of technology from research by Centers under this section except for contracts for such specific technology extension or transfer services as may be specified by statute or by the Director.

(d) ACCEPTANCE OF FUNDS.—

(1) IN GENERAL.—In addition to such sums as may be appropriated to the Secretary and Director to operate the Centers program, the Secretary and Director also may accept funds from other Federal departments and agencies and under section 2(c)(7) from the private sector for the purpose of strengthening United States manufacturing.

(2) ALLOCATION OF FUNDS.—

(A) FUNDS ACCEPTED FROM OTHER FEDERAL DEPARTMENTS OR AGENCIES.—The Director shall determine whether funds accepted from other Federal departments or agencies shall be counted in the calculation of the Federal share of capital and annual operating and maintenance costs under subsection (c).

(B) FUNDS ACCEPTED FROM THE PRIVATE SECTOR.—Funds accepted from the private sector under section 2(c)(7), if allocated to a Center, shall not be considered in the calculation of the Federal share under subsection (c) of this section.

(e) MEP ADVISORY BOARD.—

(1) ESTABLISHMENT.—There is established within the Institute a Manufacturing Extension Partnership Advisory Board (in this subsection referred to as the “MEP Advisory Board”).

(2) MEMBERSHIP.—

(A) IN GENERAL.—The MEP Advisory Board shall consist of 10 members broadly representative of stakeholders, to be appointed by the Director. At least 2 members shall be employed by or on an advisory board for the Centers, and at least 5 other members shall be from United States small businesses in the manufacturing sector. No member shall be an employee of the Federal Government.

(B) TERM.—Except as provided in subparagraph (C) or (D), the term of office of each member of the MEP Advisory Board shall be 3 years.

(C) CLASSES.—The original members of the MEP Advisory Board shall be appointed to 3 classes. One class of 3 members shall have an initial term of 1 year, one class of 3 members shall have an initial term of 2 years, and one class of 4 members shall have an initial term of 3 years.

(D) VACANCIES.—Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(E) SERVING CONSECUTIVE TERMS.—Any person who has completed two consecutive full terms of service on the MEP Advisory Board shall thereafter be ineligible for appointment during the one-year period following the expiration of the second such term.

(3) MEETINGS.—The MEP Advisory Board shall meet not less than 2 times annually, and provide to the Director—

(A) advice on Manufacturing Extension Partnership programs, plans, and policies;

(B) assessments of the soundness of Manufacturing Extension Partnership plans and strategies; and

(C) assessments of current performance against Manufacturing Extension Partnership program plans.

(4) FEDERAL ADVISORY COMMITTEE ACT.—In discharging its duties under this subsection, the MEP Advisory Board shall function solely in an advisory capacity, in accordance with the Federal Advisory Committee Act.

(5) REPORT.—The MEP Advisory Board shall transmit an annual report to the Secretary for transmittal to Congress within 30 days after the submission to Congress of the President's annual budget request in each year. Such report shall address the status of the program established pursuant to this section and comment on the relevant sections of the programmatic planning document and updates thereto transmitted to Congress by the Director under subsections (c) and (d) of section 23.

(f) COMPETITIVE GRANT PROGRAM.—

(1) ESTABLISHMENT.—The Director shall establish, within the Centers program under this section and section 26 of this Act, a program of competitive awards among participants described in paragraph (2) for the purposes described in paragraph (3).

(2) PARTICIPANTS.—Participants receiving awards under this subsection shall be the Centers, or a consortium of such Centers.

(3) PURPOSE.—The purpose of the program under this subsection is to develop projects to solve new or emerging manufacturing problems as determined by the Director, in consultation with the Director of the Centers program, the Manufacturing Extension Partnership Advisory Board, and small and medium-sized manufacturers. One or more themes for the competition may be identified, which may vary from year to year, depending on the needs of manufacturers and the success of previous competitions. These themes shall be related to projects associated with manufacturing extension activities, including supply chain integration and quality management, and including the transfer of technology based on the technological needs of manufacturers and available technologies from institutions of higher education, laboratories, and other technology producing entities, or extend beyond these traditional areas.

(4) APPLICATIONS.—Applications for awards under this subsection shall be submitted in such manner, at such time, and

containing such information as the Director shall require, in consultation with the Manufacturing Extension Partnership Advisory Board.

(5) SELECTION.—Awards under this subsection shall be peer reviewed and competitively awarded. The Director shall select proposals to receive awards—

(A) that utilize innovative or collaborative approaches to solving the problem described in the competition;

(B) that will improve the competitiveness of industries in the region in which the Center or Centers are located; and

(C) that will contribute to the long-term economic stability of that region.

(6) PROGRAM CONTRIBUTION.—Recipients of awards under this subsection shall not be required to provide a matching contribution.

(7) GLOBAL MARKETPLACE PROJECTS.—*In making awards under this subsection, the Director, in consultation with the Manufacturing Extension Partnership Advisory Board and the Secretary of Commerce, may take into consideration whether an application has significant potential for enhancing the competitiveness of small and medium-sized United States manufacturers in the global marketplace and may give a preference to applications for such projects to the extent the Director deems appropriate, taking into account the broader purposes of this subsection.*

