

1 **SEC. 1012. OTHER TRANSACTIONS AUTHORITY.**

2 Section 646 of the Department of Energy Organiza-
3 tion Act (42 U.S.C. 7256) is amended by adding at the
4 end the following:

5 “(g)(1) In addition to authority granted to the Sec-
6 retary under any other provision of law, the Secretary may
7 exercise the same authority to enter into transactions
8 (other than contracts, cooperative agreements, and
9 grants), subject to the same terms and conditions as the
10 Secretary of Defense under section 2371 of title 10,
11 United States Code (other than subsections (b) and (f)
12 of that section).

13 “(2) In applying section 2371 of title 10, United
14 States Code, to the Secretary under paragraph (1)—

15 “(A) the term ‘basic’ shall be replaced by the
16 term ‘research’;

17 “(B) the term ‘applied’ shall be replaced by the
18 term ‘development’; and

19 “(C) the terms ‘advanced research projects’ and
20 ‘advanced research’ shall be replaced by the term
21 ‘demonstration projects’.

22 “(3) The authority of the Secretary under paragraph
23 (1) shall not be subject to—

1 “(A) section 9 of the Federal Nonnuclear En-
2 ergy Research and Development Act of 1974 (42
3 U.S.C. 5908); or

4 “(B) section 152 of the Atomic Energy Act of
5 1954 (42 U.S.C. 2182).

6 “(4)(A) The Secretary shall use such competitive,
7 merit-based selection procedures in entering into trans-
8 actions under paragraph (1), as the Secretary determines
9 in writing to be practicable.

10 “(B) A transaction under paragraph (1) shall relate
11 to a research, development, or demonstration project only
12 if the Secretary determines in writing that the use of a
13 standard contract, grant, or cooperative agreement for the
14 project is not feasible or appropriate.

15 “(5) The Secretary may protect from disclosure, for
16 up to 5 years after the date on which the information is
17 developed, any information developed pursuant to a trans-
18 action under paragraph (1) that would be protected from
19 disclosure under section 552(b)(4) of title 5, United States
20 Code, if obtained from a person other than a Federal
21 agency.

22 “(6)(A) Not later than 90 days after the date of en-
23 actment of this subsection, the Secretary shall issue guide-
24 lines for transactions under paragraph (1).

1 “(B) The guidelines shall be published in the Federal
2 Register for public comment in accordance with rule-
3 making procedures of the Department.

4 “(C) The Secretary shall not have authority to carry
5 out transactions under paragraph (1) until the guidelines
6 for transactions required under subparagraph (A) are
7 final.

8 “(7) The annual report of the head of an executive
9 agency under section 2371(h) of title 10, United States
10 Code, shall be submitted to Congress.

11 “(8)(A) In this paragraph, the term ‘nontraditional
12 Government contractor’ has the meaning given the term
13 ‘nontraditional defense contractor’ in section 845(f) of the
14 National Defense Authorization Act for Fiscal Year 1994
15 (Public Law 103–160; 10 U.S.C. 2371 note).

16 “(B) Not later than 1 year after the date on which
17 the final guidelines are published under paragraph (6), the
18 Comptroller General of the United States shall submit to
19 Congress a report describing—

20 “(i) the use by the Department of authorities
21 under this section, including the ability to attract
22 nontraditional Government contractors; and

23 “(ii) whether additional safeguards are nec-
24 essary to carry out the authorities.

1 “(9) The authority of the Secretary under this sub-
2 section may be delegated only to an officer of the Depart-
3 ment who is appointed by the President by and with the
4 advice and consent of the Senate.

5 “(10) Notwithstanding any other provision of law,
6 the authority to enter into transactions under paragraph
7 (1) shall terminate on September 30, 2010.”.