

Consolidated and Further Continuing Appropriations Act of 2013

H.R. 933, Department of Defense, Military Construction and Veterans Affairs, and Full-Year Continuing Appropriations Act, 2013	Explanatory statements for H.R. 933 starting at page 7	House Report 112-463 to accompany H.R. 5326, Commerce, Justice, Science, And Related Agencies Appropriations Bill, 2013	Senate Report 112-158 to accompany S. 2323, Commerce, Justice, Science, And Related Agencies Appropriations Bill, 2013	Miscellaneous
<p>NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES</p> <p>For necessary expenses of the National Institute of Standards and Technology (NIST), \$621,173,000, 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: Provided further, That NIST may provide local transportation for summer undergraduate research fellowship program participants.</p>	<p>NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY This Act includes \$824,173,000 for the National Institute of Standards and Technology (NIST).</p> <p>SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES This Act includes \$621,173,000 for NIST's scientific and technical core programs.</p>	<p>page 17 - The Committee recommendation includes \$621,173,000 for NIST's scientific and technical core programs, which is \$54,173,000 above fiscal year 2012 and \$26,827,000 below the request. The recommendation provides funding above the current year for metrology infrastructure and standards to support biomanufacturing, standards to support nanomanufacturing, the Materials Genome Initiative, measurement science and standards to support smart manufacturing, the NIST Manufacturing Fellowship Program, secure and interoperable communications, and disaster resilience and natural hazards risk reduction. The Committee encourages NIST to continue to explore the research field of graphene ribbon and carbon-based nanomanufacturing.</p>	<p>page 19 - The Committee's recommendation provides \$623,000,000 for NIST research and services. The recommendation is \$56,000,000 above the fiscal year 2012 enacted level and \$25,000,000 below the budget request.</p>	
	<p>Senate language regarding the National Initiative for Cybersecurity Education is modified to direct NIST to use such sums as necessary to fund these activities.</p>	<p>page 17, The Committee encourages NIST, as Federal coordinator for the National Initiative for Cybersecurity Education, to explore establishing a training program at NIST dedicated to cybersecurity education for veterans.</p>	<p>page 19 - In addition, the Committee directs NIST to maintain funding for the National Initiative for Cybersecurity Education at \$4,000,000. The Committee encourages DOC to fund multidisciplinary programs of study and research that focus on tackling cybersecurity issues on a global scale. When establishing criteria for external grant funding, consideration should only be given to institutions of higher education, including community colleges, designated by the National Security Agency as Centers of Academic Excellence for Information Assurance Education and Centers for Academic Excellence for Information Assurance Research.</p>	
	<p>Senate language regarding NIST greenhouse gas research and atmospheric weather monitoring systems is adopted, but NIST is expected to award competitively any funding for these activities.</p>		<p>page 20 - Greenhouse Gas Measurements.— The Committee maintains support for NIST's greenhouse gas measurements programs and is aware of the need to develop prototype greenhouse gas observation networks for measuring carbon dioxide and methane in the atmosphere at local scales. In order to increase confidence in greenhouse gas emissions inventories and to improve current measurement and standards infrastructure, NIST is directed to leverage existing assets and services from the private sector that maintain high quality atmospheric weather monitoring systems.</p>	

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	<p>Language modified from S. 2323 of the 112th Congress allowing NIST to locally transport its Summer Undergraduate Research Fellowship (SURF) program participants is included. This provision shall only apply to NIST's SURF program.</p>		<p>S. 2323, Departments of Commerce and Justice, and Science, and Related Agencies for FY 2013, page 11 "Provided further, That NIST may provide for the transportation of NIST fellowship program participants."</p>
	<p>Centers of Excellence - The creation of centers of excellence is supported, and \$ 20,000,000 is included, as requested, to establish these centers on a competitive basis.</p>	<p>page 17 - Centers of Excellence.—The recommendation includes \$20,000,000 as requested to establish four Centers of Excellence which are designed to focus on innovations in measurement science and emerging technology areas, including advanced communications, advanced manufacturing, biomanufacturing, cyberphysical systems, or quantitative biology. NIST shall use its existing organizational structure to implement this program and not develop another program office.</p>	<p>page 19-20 - Centers of Excellence.—The Committee supports the administration's proposal to create Centers of Excellence that will produce collaborations between NIST, academic, and industry specialists on research focused on innovations in measurement science and new technology developments. Similar collaborations have already yielded significant benefits in areas of nanomaterials, healthcare, batteries and electrochemical energy conversion, and advanced photo- voltaic devices. As part of the agency's 2013 spending plan, NIST is directed to provide an updated framework for creating an appropriate number of new centers of excellence from within the funds provided.</p>
	<p>National Strategy for Trusted Identities in Cyberspace (NSTIC) - Up to \$ 16,500,000 is included for NSTIC. NIST is directed to submit a spending plan for NSTIC as part of the overall spending plan.</p>	<p>page 17 - National Strategy for Trusted Identities in Cyberspace (NSTIC).—The recommendation does not include funding for NSTIC. The Committee understands that fiscal year 2012 funding for pilots will not be obligated until the end of fiscal year 2012. NIST shall report to the Committee no later than 120 days after enactment of this Act listing the pilots funded and then, subsequently, regarding the results of these pilots. These reports shall also detail the activities and accomplishments of the National Program Office and Steering Group. NIST may support the work of the National Program Office in fiscal year 2013 with remaining balances of fiscal year 2012 appropriations. The report mentioned above shall include a spending plan for any such proposed use of fiscal year 2012 balances.</p>	<p>page 19 - Cybersecurity.—The Committee supports the administration's strong request for cybersecurity activities within NIST, which includes: \$10,000,000 for the National Cybersecurity Center of Excellence; \$26,000,000 for the Comprehensive National Cybersecurity Initiative; and \$24,000,000 for the National Strategy for Trusted Identities in Cyberspace. In addition, the Committee directs NIST to maintain funding for the National Initiative for Cybersecurity Education at \$4,000,000. The Committee encourages DOC to fund multidisciplinary programs of study and research that focus on tackling cybersecurity issues on a global scale. When establishing criteria for external grant funding, consideration should only be given to institutions of higher education, including community colleges, designated by the National Security Agency as Centers of Academic Excellence for Information Assurance Education and Centers for Academic Excellence for Information Assurance Research.</p>

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<p>INDUSTRIAL TECHNOLOGY SERVICES For necessary expenses for industrial technology services, \$143,000,000, to remain available until expended, of which \$128,500,000 shall be for the Hollings Manufacturing Extension Partnership, and of which \$14,500,000 shall be for the Advanced Manufacturing Technology Consortia.</p>	<p>INDUSTRIAL TECHNOLOGY SERVICES This Act includes \$143,000,000 for industrial technology services, including \$128,500,000 for the Hollings Manufacturing Extension Partnership (MEP) Program and \$14,500,000 for the Advanced Manufacturing Technology Consortia (AMTech) program.</p>	<p>page 18 - Manufacturing Extension Partnership program (MEP).—The MEP consists of 60 centers around the country that work with small- and medium-sized manufacturers to deliver technical assistance to improve their manufacturing processes. The Committee expects the MEP program to reduce overhead costs, which represent 13 percent of the total program budget in fiscal year 2012, and use this funding to provide direct assistance to additional manufacturers. The GAO shall evaluate the extent to which the MEP program achieves administrative efficiencies and provide a report to the Committee by February 5, 2013. The Committee is disappointed that the Secretary has not submitted the report requested in the statement accompanying Public Law 112–55 regarding the MEP program and directs the Secretary to submit this report no later than May 1, 2012.</p>	<p>page 20, The Committee’s recommendation provides \$143,000,000 for Industrial Technology Services. The recommendation is \$14,557,000 above the fiscal year 2012 enacted level and \$6,000,000 below the budget request. Supporting the Nation’s manufacturers, especially small businesses, is critical to keeping America innovative in a global marketplace. The Committee’s recommendation provides \$128,500,000 for the Hollings Manufacturing Extension Partnership Program and \$14,500,000 for the Advanced Manufacturing Consortia.</p>
	<p>House language regarding a report on AMTech is amended by directing that this report be provided to the Committees on Appropriations no later than 90 days after enactment of this Act.</p>	<p>page 20 - Advanced Manufacturing Technology Consortia.—The Committee recommendation includes \$21,000,000, the full amount requested, to establish industry-led Advanced Manufacturing Technology Consortia to identify and prioritize research projects supporting longterm industrial research needs. NIST shall provide a report and overall assessment to the Committee by February 5, 2013, that includes actual and planned obligation and expenditure data for each activity funded as well as a description of the activities, accomplishments, research areas identified, and long-term goals and milestones of the Advanced Manufacturing Technology Consortia program. The Committee expects NIST to allocate no more than \$1,000,000 under this program for administrative costs and to ensure that competitive research awards under this program benefit all industry members and are based on open access to intellectual property.</p>	
	<p>Also, House report language regarding a GAO report is amended by directing that this study be submitted to the Committees on Appropriations no later than 180 days after enactment of this Act.</p>	<p>page 18 - The GAO shall evaluate the extent to which the MEP program achieves administrative efficiencies and provide a report to the Committee by February 5, 2013.</p>	

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	Finally, it is noted with concern that the Department remains delinquent in submitting the MEP Program report requested in Public Law 112-55, and the Secretary is directed to submit this report to the Committees on Appropriations no later than 60 days after enactment of this Act.	page 18 - The Committee is disappointed that the Secretary has not submitted the report requested in the statement accompanying Public Law 112-55 regarding the MEP program and directs the Secretary to submit this report no later than May 1, 2012.	House Report 112-169 to accompany PL 112-55, page 21 - Within 90 days of the date of enactment of this Act, the Secretary shall submit to the Committee a proposed set of cost-share criteria for the MEP program date of enactment was November 18, 2011
<p>CONSTRUCTION OF RESEARCH FACILITIES</p> <p>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 sections 13 through 15 of the National Institute of Standards and Technology Act (15 U.S.C. 278c-278e), \$60,000,000, 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.</p>	<p>CONSTRUCTION OF RESEARCH FACILITIES</p> <p>This Act includes \$60,000,000 for NIST construction.</p>	<p>page 19 - The Committee recommends \$60,000,000 for NIST construction, which is \$4,619,000 above fiscal year 2012 and the same as the request.</p> <p>Boulder Building 1 renovation.—Of the amounts provided, \$11,800,000 is provided as requested for continued renovation activities at the Boulder, Colorado, facility. NIST shall provide an update on the status of these renovations, to include obligations and expenditures of prior year funds, no later than 120 days after enactment of this Act.</p> <p>Safety, Capacity, Maintenance, and Major Repairs.—The remaining \$48,200,000 in construction funds are provided for Safety, Capacity, Maintenance, and Major Repairs, as requested. NIST shall provide a report to the Committee no later than 30 days after enactment of this Act regarding the projects that will be funded and the milestones for completion. This report shall also include a description of projects previously funded between fiscal years 2009 and 2012, to include a report on the obligations and expenditures of funds associated with each activity. NIST shall also provide a report, including obligations and expenditures, of projects funded with the \$180,000,000 NIST received in the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) to address NIST's backlog of maintenance and renovation projects.</p>	<p>page 20 - The Committee's recommendation provides \$60,000,000 for construction of research facilities. The recommendation is \$4,619,000 above the fiscal year 2012 enacted level and the same as the budget request.</p> <p>The recommendation funds the highest-priority construction, maintenance, and repair projects at NIST. The Committee directs NIST to provide quarterly reports on the status of all construction projects.</p>

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Report language included in House Report 112-463 ("the House report") or Senate Report 112-158 ("the Senate report") that is not changed by this explanatory statement or this Act is approved. The explanatory statement, while repeating some language for emphasis, is not intended to negate the language referred to above unless expressly provided herein. In cases where both the House report and the Senate report address a particular issue not specifically addressed in the explanatory statement, the House report and the Senate report should be read as consistent and are to be interpreted accordingly. In cases where the House report or the Senate report directs the submission of a report, such report is to be submitted to both the House and Senate Committees on Appropriations.

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(2) \$43,000,000 is for research, development, and evaluation programs, and other activities as authorized by part B of title I of the 1968 Act and subtitle D of title II of the 2002 Act: Provided, That of the amounts provided under this paragraph, \$5,000,000 is transferred directly to the National Institute of Standards and Technology's Office of Law Enforcement Standards from the National Institute of Justice for research, testing and evaluation programs;

Division 5, page 42 - DNA and forensics research and evaluation.—The fiscal year 2013 budget request eliminates resources to assist with critical forensics and DNA research and evaluation. Those areas are vital components to maintaining and advancing quality and proficiency within Federal, State, and local crime laboratory facilities. Therefore, from within the amounts provided for NIJ, OJP shall directly transfer \$5,000,000 to the National Institute of Standards and Technology (NIST) Office of Law Enforcement Standards (OLES) to support the continuation of the development of standards and standard reference materials.

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<p>page 131 \$21,500,000 for the matching grant program for law enforcement armor vests, as authorized by section 2501 of title I of the 1968 Act: Provided, That \$1,500,000 is transferred directly to the National Institute of Standards and Technology's Office of Law Enforcement Standards for research, testing and evaluation programs;</p>	<p>Division D – Department of Homeland Security Explanatory Statements Page 58 Disaster Communications In lieu of direction in the House report, the Department of Homeland Security, the Federal Communications Commission, and the National Institute of Standards and Technology are encouraged to explore existing methods and technologies to sustain communications during disasters, and to brief the Committees on its findings within 180 days of the date of enactment of this Act.</p>		<p>(House Report 112-492, to accompany H.R. 5855, Department of Homeland Security Appropriations 2013, page 136 - DISASTER COMMUNICATIONS The Committee is concerned with the availability and sustained operability of communications during emergencies, natural disasters or times of crisis. The Committee encourages the Department of Homeland Security, the Federal Communications Commission (FCC) and the National Institute of Standards and Technology (NIST) to explore existing methods and technologies to sustain communications during disasters, including the potential benefits of using broadcast radio chips in mobile devices, and report back to the Committee on their findings within six months of the date of enactment of this Act.) (House Report 112-492, to accompany H.R. 5855, Department of Homeland Security Appropriations 2013, page 135 FIRST RESPONDER COMMUNICATIONS EQUIPMENT STANDARDS When applicable, Federal funding for first responder communications equipment should support acquisition of technology that meets common system standards (Project 25 standards) for digital public safety radio communications, in order to ensure interoperability of such systems. S&T should continue to collaborate with the Director of the National Institute of Standards and Technology in assessing compliance of first responder communication equipment with Project 25 standards.)</p>
<p>SEC. 3001. (a) There is hereby rescinded the applicable percentage (as specified in subsection (b)) of the budget authority provided (or obligation limit imposed) for fiscal year 2013 for any discretionary account in divisions A through E of this Act; and (b) For purposes of subsection (a), the applicable percentage shall be— (1) for budget authority in the nonsecurity category (as defined in section 250(c)(4)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, in— (A) divisions A and E, 2.513. percent; and (B) division B , 1.877 percent; and</p>	<p>Sec. 3001. Provides for across-the-board reductions to the five bills contained in divisions A through E, to assure compliance with the statutory caps under Congressional Budget Office scoring.</p>		

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<p>SEC. 3002. Notwithstanding any other provision of this Act, if, on or after the date of enactment of this Act, a sequestration order issued by the President pursuant to section 251A(7)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is in effect, the reductions in each discretionary account under such order shall apply to the amounts provided in this Act consistent with section 253(f) of that Act, and shall be in addition to any reductions required by section 251(a) of that Act.</p>	<p>Sec. 3002. Provides language affirming that nothing in the bill changes current law with respect to sequestration.</p>		
<p>SEC. 3003. (a) The head of any Executive branch department, agency, board, commission, or office funded by this or any other appropriations Act shall submit annual reports to the Inspector General or senior ethics official for any entity without an Inspector General, regarding the costs and contracting procedures related to each conference held by any such department, agency, board, commission, or office during fiscal year 2013 for which the cost to the United States Government was more than \$100,000.</p> <p>(b) Each report submitted shall include, for each conference described in subsection (a) held during the applicable period—</p> <ol style="list-style-type: none"> (1) a description of its purpose; (2) the number of participants attending; (3) a detailed statement of the costs to the United States Government, including— <ol style="list-style-type: none"> (A) the cost of any food or beverages; (B) the cost of any audio-visual services; (C) the cost of employee or contractor travel to and from the conference; and (D) a discussion of the methodology used to determine which costs relate to the conference; and (4) a description of the contracting procedures used including— <ol style="list-style-type: none"> (A) whether contracts were awarded on a competitive basis; and (B) a discussion of any cost comparison conducted by the departmental component or office in evaluating potential contractors for the conference. <p>(c) Within 15 days of the date of a conference held by any Executive branch department, agency, board, commission, or office funded by this or any other appropriations Act during</p>	<p>Sec. 3003. Provides government-wide restriction on conferences.</p>	<p>Section 528 prohibits the use of funds to pay for the attendance of more than 50 department or agency employees at any single conference outside the United States, unless the conference is a law enforcement training or operational event where the majority of Federal attendees are law enforcement personnel stationed outside the United States.</p>	<p>Section 529 prohibits the use of funds to pay for the attendance of more than 50 employees at any single conference outside the United States.</p>

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fiscal year 2013 for which the cost to the United States Government was more than \$20,000, the head of any such department, agency, board, commission, or office shall notify the Inspector General or senior ethics official for any entity without an Inspector General, of the date, location, and number of employees attending such conference.

(d) A grant or contract funded by amounts appropriated by this or any other appropriations Act to an Executive branch agency may not be used for the purpose of defraying the costs of a conference described in section (c) that is not directly and programmatically related to the purpose for which the grant or contract was awarded, such as a conference held in connection with planning, training, assessment, review, or other routine purposes related to a project funded by the grant or contract.

(e) None of the funds made available in this or any other appropriations Act may be used for travel and conference activities that are not in compliance with Office of Management and Budget Memorandum M-12-12 dated May 11, 2012.

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SEC. 3004. (a) If, for fiscal year 2013, the amount of new budget authority provided in appropriation Acts exceeds the discretionary spending limits set forth in section 251(c)(2) of the Balanced Budget and Emergency Deficit Control Act on new budget authority for any category due to estimating differences with the Congressional Budget Office, the Director of the Office of Management and Budget shall increase the applicable percentage in subsection (c) with respect to that category by such amount as is necessary to eliminate the amount of the excess in that category.

(b) Subject to subsection (a), there is hereby rescinded the applicable percentage (as specified in subsection (c)) of—

(1) the budget authority provided (or obligation limit imposed) for fiscal year 2013 for any discretionary account in divisions A through F of this Act;

(2) the budget authority provided in any advance appropriation for fiscal year 2013 for any discretionary account in any prior fiscal year appropriation Act; and

(3) the contract authority provided in fiscal year 2013 for any program subject to limitation incorporated or otherwise contained in divisions A through C of this Act.

(c) For purposes of subsection (b), the applicable percentage shall be—

(1) for budget authority in the nonsecurity category (as defined in section 250(c)(4)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985), 0 percent; and

(2) for budget authority in the security category (as defined in section 250(c)(4)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985), 0 percent.

(d) Any rescission made by subsection (b) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in such subsection; and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the applicable appropriation Act or accompanying reports covering such account or item).

(e) This section shall not apply to—

(1) amounts designated by the Congress for

Sec. 3004. Provides for across-the-board reductions to the fiscal year 2013 discretionary appropriations to assure compliance with the statutory caps under Office of Management and Budget scoring.

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(f) Within 30 days after the date of the enactment of this section, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report specifying the account and amount of each rescission made pursuant to this section

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SEC. 525. None of the funds appropriated or otherwise made available by this Act may be used to enter into a contract in an amount greater than \$5,000,000 or to award a grant in excess of such amount unless the prospective contractor or grantee certifies in writing to the agency awarding the contract or grant that, to the best of its knowledge and belief, the contractor or grantee has filed all Federal tax returns required during the three years preceding the certification, has not been convicted of a criminal offense under the Internal Revenue Code of 1986, and has not, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

Section 525 prohibits contracts or grant awards in excess of \$5,000,000 unless the prospective contractor or grantee certifies that the organization has filed Federal tax returns, has not been convicted of a criminal offense under the Internal Revenue Code of 1986, and has no unpaid Federal tax assessment, except in specified circumstances.

Section 525 prohibits contracts or grant awards in excess of \$5,000,000 unless the prospective contractor or grantee has certified in writing that she has filed all Federal tax returns, has not been convicted of a criminal offense under the IRS Code of 1986, and has no unpaid Federal tax assessment.