UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Productivity, Technology and Innovation
Washington, D.C. 20230
(202) 377-1984

JUN 1 1987

MEMORANDUM FOR Robert Ortner
Under Secretary for Economic Affairs

Subject: Implementation of the Federal Technology Transfer Act of 1986

By memorandum of February 12, you asked that I consider forming a third operating unit in PTI that would combine the new responsibilities created under PL 99-502 and the NTIS patent licensing function. In my response of March 4, I suggested that any reorganization proposal should await clarification of the PTI budget situation.

With issuance of the Executive Order 12591, April 10, 1987, the strong likelihood of full OPTI funding in FY 1988, and the numerous 'competitiveness' legislative proposals affecting OPTI's agenda, I believe it is now time for this Department to assume publically a lead focal role in both the public and private sectors in implementing the Federal Technology Transfer Act. My primary recommendations are threefold:

1. That a new office, reporting to me, be created with the name, "Office of Federal Technology Management." The attached proposed modification to Departmental Order 10-1 provides for this change.

Regarding inclusion in that office of the NTIS patent licensing function, my discussions with Dr. Caponio and others indicate that no transfer of patent licensing functions should occur. However, there should be closer coordination between the proposed new Office of Federal Technology Management and the NTIS patent licensing function. I intend to take steps to ensure this close coordination.

Further, and building upon my comments of March 4, other OPTI programs are also critical and inextricably intertwined in the commercialization of federally funded technology, such as cooperative R&D consortia, R&D funding, assistance to State government technology commercialization programs, small business assistance, our work with industry, State governments and DoD on flexible manufacturing systems, productivity improvement information, and so forth. It is only by being successful in all of them will the U.S. achieve maximum success in its competitiveness objectives. These complementary and indespensable functions are provided by other OPTI units and NTIS.

2. That, the intra- and interagency committees and other activities undertaken by my office to implement the Federal Technology Transfer Act continue to proceed while the new office is under consideration.

3. That, given the proposed new PTI structure (with three constituent units) and the greatly enhanced Congressional and private sector attention to the role of technology and innovation, we believe the position of Deputy Assistant Secretary (DAS) for PTI should be filled, possibly by a career officer. Departmental Order 10-1 provides the authority for that DAS. In the meantime, I hope to have my de facto deputy, Jack Williams, designated as Acting DAS.

(signed)
D. B. Merrifield

D. Bruce Merrifield

Attachment

OPTI/Williams/mb/5/28/87
bc: Dr. Merrifield
Chron

OFFICE OF FEDERAL TECHNOLOGY MANAGEMENT

SECTION 1. PURPOSE

This Order prescribes the organization and the functions of the Office of Federal Technology Management.

SECTION 2. STATUS AND LINE OF AUTHORITY

The Office of Federal Technology Management, a constituent operating unit of the Department, shall be headed by a Director who shall report to and be responsible to the Assistant Secretary for Productivity, Technology and Innovation.

SECTION 3. FUNCTIONS

The Office of Federal Technology Management shall be the principal unit in the Department on issues and policies relating to technology developed in Federal laboratories, developed with Federal funding, or utilized by Federal programs and activities. In carrying out these responsibilities, the Office shall:

a. Assist the A/S for PTI to advise the Under Secretary for Economic Affairs and other Department officials on important policy questions and problems relating to private sector use of Federal technology.

b. Enhance the flow of Federally funded technologies to the private sector and minimize adverse effects of Federal programs on Federal technology developed by the private sector.

c. Assist the A/S for PTI to advise the Under Secretary for Economic Affairs in performing the lead agency functions delegated by the Secretary, concerning Federal technology management policy under Public Laws 96-480, 96-517, 98-620, 98-622, and 99-502 and Executive Orders 10096 and 12591 and the President's patent policy memorandum, including coordinating, monitoring, gathering relevant data, evaluating relevant programs and activities, developing uniform Government-wide standards for implementing Federal patent policy, preparing reports, disseminating information, making recommendations, and taking other actions necessary to assure maximium private sector opportunity for commercializing technology resulting from projects performed by Federal agencies or financed with Federal Government funds.

(1) Provide advice and assistance as requested by other Federal agencies on model agreements and cooperative research and development projects as authorized by paragraph 10(g)(1) of P.L. 99-502.

(2) Develop the biennial report required by subparagraph 10(g)(2) of P.L. 99-502 to the President and Congress on Government-wide use of the authorities provided in the Act.

(3) Issue, interpret, and maintain regulations under P.L. 96-517 and 98-620 on ownership of Government funded inventions (37 CFR Part 401) and licensing of Government-owned inventions (37 CFR Ch.IV).

(4) Interpret and administer the Government Employee Inventor Program under E.O. 10096, including recommendations for changing the Order if necessary to conform with new legislation.

(5) Interpret and administer Sections 1, 5 and 7 of the technology transfer program under Executive Order 12591.

(6) Work with agencies to help take advantage of the Statutory Invention Recording process authorized by P.L. 98-622 and develop the required annual report.

(7) Analyze, review and propose new legislation or other policies including Government-wide regulations on Federal agency management of technology developed by the Government or with Government funding, including preparation of the report to Congress and the President required by paragraph 10(g)(3) of P.L. 99-502.

d. Serve as Executive Director to the Chairman of the Federal Coordinating Council on Science, Engineering, and Technology Committee on Intellectual Property for Technology Transfer.

e. Develop a Government-wide policy on technical data used or developed at Government expense.

f. Develop training materials and programs for helping Federal laboratories or Federally-funded laboratories improve their technology transfer capabilities.

g. Chair the Commerce Committee on Laboratory Technology Management, to coordinate implementation of authorities delegated to DOC laboratories under subsection 11(a); the awards program authorized by section 12 of P.L. 99-502 and the distribution of royalties under Section 13 of P.L. 99-502.

(1) Draft Commerce regulations as may be necessary to comply with subsection 11(c) of P.L. 99-502.

(2) Develop and administer policies for distributing royalty income within the Department of Commerce in accordance with subsection 13(a) of P.L. 99-502.

h. Chair the executive subcommittee and provide staff to the DOC Interagency Committee on Laboratory Technology Management to coordinate implementation authorities delegated to DOC under subsection 10(g) of P.L. 99-502.

i. Prepare the reports from the Secretary to the President and Congress as required in P.L. 99-502.

j. In carrying out these functions the office will coordinate its activities with the other constituent units of PTI.