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U.S. DEPARTMENT OF COMMERCE

EXECUTIVE SECRETARIAT
OFFICE OF THE SECRETARY
1987 APR 14 P 3:26

ABSTRACT OF SECRETARIAL CORRESPONDENCE

TO:	X	The Secretary		The Deputy Secretary

Date: APR 14 1987

DECISION MEMORANDUM

From: Under Secretary for Economic Affairs

Prepared by: Norman J. Latker/EA/OPTI/377-0659

SUBJECT: Implementation of the Federal Technology Transfer Act of 1986 (the Act) Public Law 99-502

STATEMENT OF THE ISSUE

Draft multiple letters to selected heads of other U. S. Government departments and agencies informing them that you have established an Interagency Committee on Federal Laboratory Technology Transfer composed of policy officials to help implement Section 5 of the Act. The committee will be assisted by an executive working group composed of senior operating officials. You request that the heads of agencies designate a representative to the interagency committee and also to the executive working group.

BACKGROUND

Under Section 5 of the Act the Secretary of Commerce, in consultation with other agencies is authorized to:

(1) make available to interested agencies Department of Commerce expertise regarding commercial potential of inventions and methods and options for commercialization available to Federal laboratories;

(2) develop and disseminate to agency and laboratory personnel model provisions for use on a voluntary basis in cooperative research and development arrangements; and

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SURNAME AND ORGANIZATION (Typed)	DBMerrifield A/S, PTI	REllert Ch.C./EA	ES	EA Cong. Affairs	NBS	PTO
INITIALS AND DATE	[illegible] 4/21/87	4/6/87		[illegible] 4/9/87	E.A. ~~4/16~~ 4/30	DJG. 4/29

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(3) furnish advice and assistance, upon request, to Federal agencies concerning cooperative research and development programs and projects.

Also under section 5 of the Act, the Secretary of Commerce is required to report to the President and Congress every two years on the U. S. Government agencies' use of the authorities found in the Act. The first report is due in 1988.

List of addressees attached.

DECISION

Approve ✓ Disapprove_____ Approve with changes_____

Honorable Richard E. Lyng
Secretary of Agriculture
Washington, D. C. 20250

Honorable Caspar W. Weinberger
Secretary of Defense
Washington, D. C. 20301

Honorable John S. Herrington
Secretary of Energy
Washington, D. C. 20545

Honorable Otis R. Bowen, M. D.
Secretary of Health and
Human Services
Washington, D. C. 20201

Honorable Donald Paul Hodel
Secretary of the Interior
Washington, D. C. 20240

Honorable Elizabeth H. Dole
Secretary of Transportation
Washington, D. C. 20590

Honorable Lee M. Thomas
Administrator, Environmental
Protection Agency
Washington, D. C. 20460

Honorable James C. Fletcher
Administrator, National Aeronautics
and Space Administration
Washington, D. C. 20546

Honorable John O. Marsh, Jr.
Secretary of the Army
Washington, D. C. 20310

Honorable James H. Webb, Jr.
Secretary of the Navy
Washington, D. C. 20350

Honorable Edward C. Aldridge, Jr.
Secretary of the Air Force
Washington, D. C. 20330

Dr. William R. Graham
Director, Office of Science
and Technology Policy
The White House
Washington, D. C. 20500

THE SECRETARY OF COMMERCE
Washington, D.C. 20230

19 MAY 1987

Honorable Richard E. Lyng
Secretary of Agriculture
Washington, D. C. 20250

Dear Dick,

I am requesting your help to establish an interagency working group to assist me in implementing Section 5 of the Federal Technology Transfer Act of 1986, Public Law 99-502 (Act)

Section 5 of the Act authorizes me, in consultation with other agencies to:

(1) make available to interested agencies Department of Commerce expertise regarding commercial potential of inventions and methods and options for commercialization available to Federal laboratories;

(2) develop and disseminate to agency and laboratory personnel model provisions for use on a voluntary basis in cooperative research and development arrangements; and

(3) furnish advice and assistance, upon request, to Federal agencies regarding cooperative research and development programs and projects.

This Act also requires me, in cooperation with other Federal agencies, to report to the President and Congress every two years on agencies' use of the authorities provided by the Act. Even though the first report is not due until 1988, it is clear that Congress and the President through Executive Order 12591 expect implementation of the Act to begin promptly. Enclosed is Executive Order 12591 and an example of the types of information that could be included in the report.

In order to fulfill my responsibilities under the Act, I am forming an Interagency Committee for Federal Laboratory Technology Transfer composed of policy officials. This committee will be chaired by Dr. D. Bruce Merrifield, Assistant Secretary for Productivity, Technology and Innovation. The committee will be assisted by an executive working group composed of senior operating officials, chaired by Mr. Norman Latker, Director, Federal Technology Management Division, Office of the Assistant Secretary for Productivity, Technology and Innovation. Please provide the name of your designated representative for the interagency committee and also for the executive working group to Dr. Robert Ortner, Under Secretary for Economic Affairs, U.S. Department of Commerce, Room H-4838, Washington, D.C. 20230.

The first meeting of the executive working group will be on Friday, June 5, 1987 at 10:00 a.m. in Room H-1851. For more information call Mr. Latker at 377-0659.

Sincerely,

/s/

Secretary of Commerce

Enclosures

EXECUTIVE ORDER NO. 12591

THE WHITE HOUSE

Office of the Press Secretary
(Los Angeles, California)

For Immediate Release April 10, 1987

EXECUTIVE ORDER

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FACILITATING ACCESS TO SCIENCE AND TECHNOLOGY

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Technology Transfer Act of 1986 (Public Law 99-502), the Trademark Clarification Act of 1984 (Public Law 98-620), and the University and Small Business Patent Procedure Act of 1980 (Public Law 96-517), and in order to ensure that Federal agencies and laboratories assist universities and the private sector in broadening our technology base by moving new knowledge from the research laboratory into the development of new products and processes, it is hereby ordered as follows:

Section 1. Transfer of Federally Funded Technology.

(a) The head of each Executive department and agency, to the extent permitted by law, shall encourage and facilitate collaboration among Federal laboratories, State and local governments, universities, and the private sector, particularly small business, in order to assist in the transfer of technology to the marketplace.

(b) The head of each Executive department and agency shall, within overall funding allocations and to the extent permitted by law:

(1) delegate authority to its government-owned, government-operated Federal laboratories:

(A) to enter into cooperative research and development agreements with other Federal laboratories, State and local governments, universities, and the private sector; and

(B) to license, assign, or waive rights to intellectual property developed by the laboratory either under such cooperative research or development agreements and from within individual laboratories.

(2) identify and encourage persons to act as conduits between and among Federal laboratories, universities, and the private sector for the transfer of technology developed from federally funded research and development efforts;

(3) ensure that State and local governments, universities, and the private sector are provided with information on the technology, expertise, and facilities available in Federal laboratories;

(4) promote the commercialization, in accord with my Memorandum to the Heads of Executive Departments and Agencies of February 18, 1983, of patentable results of

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federally funded research by granting to all contractors, regardless of size, the title to patents made in whole or in part with Federal funds, in exchange for royalty-free use by or on behalf of the government;

(5) implement, as expeditiously as practicable, royalty-sharing programs with inventors who were employees of the agency at the time their inventions were made, and cash award programs; and

(6) cooperate, under policy guidance provided by the Office of Federal Procurement Policy, with the heads of other affected departments and agencies in the development of a uniform policy permitting Federal contractors to retain rights to software, engineering drawings, and other technical data generated by Federal grants and contracts, in exchange for royalty-free use by or on behalf of the government.

Sec. 2. Establishment of the Technology Share Program. The Secretaries of Agriculture, Commerce, Energy, and Health and Human Services and the Administrator of the National Aeronautics and Space Administration shall select one or more of their Federal laboratories to participate in the Technology Share Program. Consistent with its mission and policies and within its overall funding allocation in any year, each Federal laboratory so selected shall:

(a) Identify areas of research and technology of potential importance to long-term national economic competitiveness and in which the laboratory possesses special competence and/or unique facilities;

(b) Establish a mechanism through which the laboratory performs research in areas identified in Section 2(a) as a participant of a consortium composed of United States industries and universities. All consortia so established shall have, at a minimum, three individual companies that conduct the majority of their business in the United States; and

(c) Limit its participation in any consortium so established to the use of laboratory personnel and facilities. However, each laboratory may also provide financial support generally not to exceed 25 percent of the total budget for the activities of the consortium. Such financial support by any laboratory in all such consortia shall be limited to a maximum of $5 million per annum.

Sec. 3. Technology Exchange -- Scientists and Engineers. The Executive Director of the President's Commission on Executive Exchange shall assist Federal agencies, where appropriate, by developing and implementing an exchange program whereby scientists and engineers in the private sector may take temporary assignments in Federal laboratories, and scientists and engineers in Federal laboratories may take temporary assignments in the private sector.

Sec. 4. International Science and Technology. In order to ensure that the United States benefits from and fully exploits scientific research and technology developed abroad,

(a) The head of each Executive department and agency, when negotiating or entering into cooperative research and development agreements and licensing arrangements with foreign persons or industrial organizations (where these entities are directly or indirectly controlled by a foreign company or government), shall, in consultation with the United States Trade Representative, give appropriate consideration:

(b) Specifically, the report shall include:

(1) a listing of current technology transfer programs and an assessment of the effectiveness of these programs;

(2) identification of new or creative approaches to technology transfer that might serve as model programs for Federal laboratories;

(3) criteria to assess the effectiveness and impact on the Nation's economy of planned or future technology transfer efforts; and

(4) a compilation and assessment of the Technology Share Program established in Section 2 and, where appropriate, related cooperative research and development venture programs.

Sec. 8. Relation to Existing Law. Nothing in this Order shall affect the continued applicability of any existing laws or regulations relating to the transfer of United States technology to other nations. The head of any Executive department or agency may exclude from consideration, under this Order, any technology that would be, if transferred, detrimental to the interests of national security.

RONALD REAGAN

THE WHITE HOUSE,
April 10, 1987.

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THE WHITE HOUSE

Office of the Press Secretary
(Los Angeles, California)

For Immediate Release April 10, 1987

FACT SHEET

"Facilitating Access to Science and Technology"

The Executive Order on Facilitating Access to Science and Technology initiates a number of steps designed to promote cooperation between the Federal Government, State and local governments, industry and academia in cooperative research and the commercialization of research. These steps will:

1. Direct Federal departments and agencies to improve the transfer of federally developed technology and technical information to the marketplace by:

   -- encouraging Federal laboratories to collaborate with State and local governments, universities and business, particularly small business, through cooperative research and development agreements;

   -- licensing intellectual property developed through the cooperative research and development agreements or by individual Federal laboratories;

   -- encouraging "science entrepreneurs" to act as conduits between Federal laboratories, universities, and the private sector;

   -- implementing royalty-sharing programs for Federal inventors; and

   -- developing a uniform Federal policy permitting Federal contractors to retain rights to software, engineering drawings, and other federally generated technical data, in exchange for royalty-free use by the government.

2. Direct the Secretaries of Agriculture, Commerce, Energy, and Health and Human Services and the Administrator of the National Aeronautics and Space Administration to select one or more of their laboratories to participate in the "Technology Share Program," involving multi-year joint basic and applied research with consortia of U.S. firms and universities.

3. Direct the President's Commission on Executive Exchange to assist Federal agencies in developing and implementing an exchange program whereby scientists and engineers in the private sector may take temporary assignments in Federal laboratories and scientists and engineers in Federal laboratories may take temporary assignments in the private sector.

4. Direct:

   a. Federal agencies, when negotiating or entering into cooperative research and development agreements and licensing arrangements with foreign persons or industrial organizations directly or indirectly controlled by a foreign company or government, to give consideration in consultation with the

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United States Trade Representative to whether the country: offers comparable research and development and licensing opportunities for U.S. nationals and companies and protects U.S. intellectual property rights;

b. the Secretary of State to develop a recruitment policy encouraging scientists and engineers from across the Federal Government, academia, and industry to serve in U.S. embassy assignments abroad; and

c. the Secretaries of State and Commerce and the Director of the National Science Foundation to develop a central mechanism for the prompt and efficient dissemination of science and technology information developed abroad to users in Federal laboratories, academic institutions, and the private sector on a fee-for-service basis.

5. Direct the Secretary of Defense to identify within 6 months a list of funded technologies that would be potentially useful to U.S. industries and universities and to then accelerate efforts to make these technologies more readily available.

6. Direct Federal agencies to examine the potential for including the establishment of university-based research centers in engineering, science, or technology in the strategy and planning for any future R&D programs. Such centers would be jointly funded by the Federal Government, the private sector, and, where appropriate, the States and would focus on areas of fundamental research and technology that are both scientifically promising and have the potential to contribute to the nation's long-term economic competitiveness.

7. Direct the Director of the Office of Science and Technology Policy to convene within 1 year an interagency task force of Federal research agencies and their laboratories to assess the progress in transferring technologies from Federal laboratories and to develop and disseminate additional creative approaches to technology transfer.

The President's intention to issue an Executive order was announced in January as part of his 43-point Competitiveness Initiative.

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THE WHITE HOUSE

Office of the Press Secretary
(Los Angeles, California)

For Immediate Release April 10, 1987

STATEMENT BY THE PRESIDENT

I believe a vigorous science and technology enterprise involving the private sector is essential to our economic and national security as we approach the 21st century. Accordingly, I have today issued an Executive Order "Facilitating Access to Science and Technology."

It is important not only to ensure that we maintain American preeminence in generating new knowledge and know-how in advanced technologies, but also that we encourage the swiftest possible transfer of federally developed science and technology to the private sector. All of the provisions of this Executive order are designed to keep the United States on the leading edge of international competition.

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TYPES OF INFORMATION THAT MIGHT BE REQUIRED
FOR THE REPORT TO THE PRESIDENT AND CONGRESS ON IMPLEMENTATION
OF THE FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

1. Delegations of authority to laboratories under section 11.
   - o For cooperative R&D agreements;
     - -- Which laboratories have received delegations?
     - -- When made?
     - -- Per lab, how many cooperative R&D agreements under delegations?
     - -- Per lab, estimate of private sector contributions;
       - Annual amounts.
       - Total commitment.

2. How many cooperative R&D agreements where authorities have not been delegated?
   - -- Per lab, estimate of private sector contributions;
     - Annual amounts.
     - Total commitment.

3. Delegations of authority for licensing inventions.
   - o Which laboratories have received delegations?
     - -- When made?
     - -- Per lab, how many inventions licensed under delegations?
     - -- Anticipated royalty flows?
     - -- Nature of inventor participation in follow-on work;
       - Advice, consultation, continuing technical participation.
       - Financial involvement.

4. Per lab, how many inventions licensed where authorities have not been delegated;
   - o Anticipated royalty flows.
   - o Inventor participation;
     - -- Advice, consultation, continuing technical participation.
     - -- Financial involvement.

5. Patent royalties.
   - o If an alternative to the minimum 15% plan for inventors was selected, is it in operation, or what is the anticipated implementation date?
   - o Details of operation;
     - -- Royalties paid to inventors.
     - -- Numbers of awards by amount ranges.
   - o Anticipated royalty stream two years hence from existing and anticipated agreements.

- o Use of remainder after paying inventor's shares.
  - -- Percentage/amount distributed to inventing labs;
    - - How were these funds used?
    - - Percentage/amount distributed to other labs.
    - - How were these funds used?

6. Inventions retained by employees.
   - o How many?
   - o Agency support and assistance to these employees with patenting and promotion.

7. Education materials developed by the Department of Commerce.
   - o Use by laboratories for education of;
     - -- Directors and senior staff.
     - -- Technology transfer officers.
     - -- Scientists and engineers.
   - o Assessment.
   - o Suggestions for improvement.

8. Assessment of the Act.
   - o Effects of cooperative R&D projects on labs.
   - o Effects of invention licensing on labs.
   - o Effects of laboratories' shares of royalties.
     - -- On the inventing labs.
     - -- On other labs.
   - o Overall effects on economy, agency, laboratories, and employees.
   - o Unresolvable problems needing additional legislation or Government-wide regulation.