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This is in response to your Sept. 14 1981 request for comments on a draft bill intended to establish a uniform government patent policy.

The primary intent of this bill appears to be the extension of the first right of refusal to inventions made under federal contracts grants and cooperative agreements to business concerns not covered by P.L. 96-517. As you know. P.L. 96-517 provided this right to small businesses and Nonprofit organizations. While we take a neutral position on extending ~~this~~ the first right of refusal to other business concerns until the administrative procedures and conditions that attach to the right are definitive, we take issue with the manner that the right is established under the draft bill.

Section 401(v) of the bill repeals all the provisions of P.L. 96-517 that touch on the allocation of invention rights to small business and Nonprofit organizations and substitutes a new set of procedures and conditions that apply equally to all contracts, grants, and cooperative agreements. In some cases the substitute procedures and conditions correspond to procedures and conditions in P.L. 96-517 which were repealed. However in many other situations there are either great differences or no similar procedure or condition substituted

that the substitute provisions are acceptable to these communities, and even if they were, that they would ultimately pass the Congress in their present form.

We strongly question whether the draft bill's technique of wiping the slate clean and starting fresh will enlist the support of the small business and nonprofit communities in light of the enthusiastic support these communities have given to P.L. 96-517. Rather than pursuing this course, we believe it more appropriate to extend the first right of refusal concept to other business concerns by limiting the draft bill to recipients not covered by P.L. 96-517 and permit P.L. 96-517 to stand as is, subject to changes necessary to achieve consistency where desireable or correct problems that have been identified since passage of P.L. 96-517. To the extent that a newly drafted bill differs from P.L. 96-517, we believe the differences will be justified by the inherent differences in recipient groups.