EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
ROUTE SLIP

TO Sal Ambrosio
Joe Clark
Fred Dietrich
Norm Latker (5217) ✓
Dennis Prager

- [ ] Take necessary action
- [ ] Approval or signature
- [ ] Comment
- [ ] Prepare reply
- [ ] Discuss with me
- [ ] For your information
- [ ] See remarks below

FROM W.A. Maxwell (x3890) DATE 9/24/81

REMARKS

Attached is a copy of views on Uniform Patent Policy Bill from two elements in Interior.

Thanks.

OMB FORM 4
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UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

September 21, 1981

Memorandum

To: Delmas Escoe, Attorney, Office of Legislative Counsel

From: Assistant Solicitor, Branch of Patents, Division of General Law

Subject: OMB #11 - Proposed "Uniform Science and Technology Research and Development Utilization Act" (97th. Congress, 1st. Session)

Since we did not receive the proposed legislation until very late on Friday, September 18, 1981, it was impossible for us to prepare a line-by-line analysis of the proposed bill. However, we were able to review the substance of the document as a whole and reach some general conclusions and recommendations.

In general the proposed legislation will:

a) extend the provisions of new Chapter 38, U.S.C. 200 (P.L. 96-517) et seq. to all Government contractors, large or small, profit or nonprofit, whereby the contractors may retain title in and to inventions and patent rights made under Government contract except in instances where the Government asserts and can justify its retention of title because of exceptional circumstances such as national security, necessity to continue operation of Government facilities without interference, lessening of competition in the marketplace, or violation of antitrust laws;

b) establish the Department of Commerce as the "lead" agency for implementing the legislation through the promulgation of uniform regulations, directives, procedures, and accumulate, analyze, and disseminate data to effectively evaluate the administration and effectiveness of policies set forth in the Act.

For the last several years, this Branch has advocated the need for a uniform patent policy throughout the Government and, in particular, the Department of the Interior. A quick glance at the repealer section of the proposed legislation, Title IV, shows that we are inundated with statutory mandates which preclude us from establishing a uniform policy in dealing with our contractors. To make matters even more complicated, each Executive agency has established its own patent policy tailored to suit its own philosophic direction with the result that there have been and will continue to be internal squabbles in inter-agency agreements as to which agency's policy should prevail.

INTERIOR DEPT.

SEP 21 1981

LEGISLATIVE COUNSEL

We, therefore, recommend that, if the decision is made as to what position and how actively this Department will participate in advancing its position before Congress, the Department should support the proposed legislation in principal. A detailed consideration of various provisions in the proposal can be deferred until such time as hearings are held or comments solicited as to specific provisions of the bill when introduced.

Our reasons for support of the proposal are practical as well as philosophic, and can be summarized thus:

1. ultimate benefit to the public from Government-funded research and development programs by utilization of newly evolved proprietary data;

2. stimulation of private industry to bring new proprietary data to the marketplace with some assurance of cost recovery at least;

3. lessening of tension between the Government and private industry;

4. reduction of protracted negotiations in the award of R&D contracts;

5. enable us to concentrate our efforts to exploit "in house" inventions to the best interest of the public and Government efforts; and

6. assure that the most qualified contractors, big or small, will participate in Government R&D programs.

We could enumerate a slew of other considerations, but time does not permit of a more detailed discussion of the advantages of the proposed legislation.

If you have any questions, please do not hesitate to contact the Branch.

/s/

Donald A. Gardiner

Attachment

cc: W. Satterfield, DGL, w/e
Deputy Solicitor, w/e

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

SEP 22 1981

Memorandum

To: Legislative Council
Attention: Mr. Delmas Escoe

From: Director, Office of Acquisition and Property Management

Subject: OMB #11, A Draft Bill Entitled the "Uniform Science and Technology Research and Development Utilization Act." (Your Memorandum Dated September 17, 1981)

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This Office concurs in subject draft bill but suggests that Sec. 305(a) under General Provisions be modified to require the Office of Federal Procurement Policy to develop a standard contract clause (General Provision) to implement the bill. As now written each agency would develop its own contractual provision, thereby potentially frustrating the stated purpose of ". . . maintain[ing] a uniform Federal policy for management and use . . ."

R. W. Plasecki

[illegible] DEPT.

SEP 23 1981

LEGISLATIVE COUNSEL