THE WHITE HOUSE

WASHINGTON

July 21, 1982

Dear Senator McClure:

This letter presents the Administration's position on the provisions of S.1657, the "Uniform Science and Technology Research and Development Utilization Act," concerning rights to inventions resulting from research performed by Government-Owned Contractor-Operated (GOCO) entities.

The Administration strongly supports the approach to this issue embodied in S.1657. That Bill, as reported by the Senate Committee on Commerce, Science, and Transportation, provides GOCOs the first option to ownership of inventions made with federal support, unless "exceptional circumstances" dictate otherwise. This approach is consistent with the central thrust of this important legislation -- private sector ownership of rights to patents resulting from federally-funded research, unless such ownership is contrary to the national interest.

Although this approach reverses the long-standing patent ownership practice of DOE and its predecessor agencies, as well as that of some other agencies, we have concluded, after careful study, that there is need for the change reflected in S.1657.

Successful technology development and commercialization by the private sector are critical to efforts to revitalize our economy and enhance our international stature. To this end, the Reagan Administration is committed to removing barriers to, and providing incentives for, increased private sector technological innovation and productivity. The major thrust of S.1657 is to stimulate innovation and productivity in the United States by encouraging transfer of federal R&D results to the private sector for commercialization. We, therefore, support S.1657 as a means of enhancing this country's efforts to commercialize technologies, increase productivity, and contribute substantially to job creation. Because GOCOs represent a tremendous source of technological innovations with significant commercial potential, they should have every incentive to identify and transfer these innovations to the private sector. Patent ownership has proven to be a powerful incentive to innovation and commercialization of technology.

Those promoting retention of the present policy suggest it is necessary to maintain GOCO commitment to agency goals and prevent the possibility that GOCO ownership of inventions might diminish or distract from the performance of assigned tasks and lead to a conflict of interest. In our review, no such conflicts were identified in the performance of any long-term government R&D contracts where contractors retained ownership of government-funded inventions. Absent compelling arguments to the contrary, we believe it inappropriate to establish any sweeping exceptions to the general policy proposed by S.1657.

In those specific situations where government ownership of inventions by GOCOs is justified, S.1657 authorizes agencies to limit the rights of a contractor simply by determining "that there are exceptional circumstances requiring such action to better promote the policy and objectives" of the act (Section 301(a)(2). This is consistent with the policy established in Section 101(5), to "guarantee the protection of the public interest."

We hope that this discussion clarifies the Administration's strong support for Senate passage of S.1657, including its handling of the GOCO issue. We will be pleased to discuss this issue with you and your Committee further as required.

We are advised by the Office of Management and Budget that there is no objection to the submission of this report for your consideration and that the adoption of the recommendations made herein would be consistent with the program of the President.

Sincerely,



G. A. Keyworth
Science Advisor to the President

The Honorable James A. McClure
United States Senate
Committee on Energy and Natural Resources
3121 Dirksen Office Building
Washington, D.C. 20510