SHSpector:aa
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From: Sarah H. Spector

Spoke to James Denny, Executive Secretary of Patent Advisory Panel with regard to the compatability of our 8.2(b) determinations with the President's Statement inasmuch as a case has arisen in which it would be in the public interest to allow the University to retain rights to an invention ~~in the public interest~~ which requires commercial exploitation.

Mr. Denny agreed that the statement could be literally interpreted or could be read in terms of its general intent as to what makes sense and what is equitable. In case of the latter interpretation, there is room for 8.2(b) determinations as an exceptional circumstance, provided it is approved by the head of the agency, meaning the Secretary of HEW. What can be done at the time of contracting can also be done where the Government reserves the right to acquire at the time of contracting and then on a case by case basis, declares an exceptional circumstance. This he distinguished from the situation in the last sentence "after the invention has been identified" where the invention is not the direct object of the grant and therefore the decision can be made at a lower level. He therefore feels that there would be no incompatability between our regulations and the President's Statement.

Additionally, he suggests that section 2 of the President's Statement, making available Government owned-patents through dedication or licensing in the shortest time possible, provides a means for leaving exclusive licenses with the inventor (not issuing) which is leaving less than title with the right to sublicense as another means to do essentially what 8.2(b) provides.