FORM CD-183
(REV2-80)
FORMERLY SEC-350

U.S. DEPARTMENT OF COMMERCE

ABSTRACT OF SECRETARIAL CORRESPONDENCE

TO:				
	X	The Secretary		The Deputy Secretary

Date: NOV 25

From: Robert Ortner RO
Under Secretary for Economic Affairs

Prepared by: Robert Ellert/Ch.C/EA/377-5394

Subject: Letter to Heads of Agencies on the Use of DoC Patent Clauses for Small Business Firms and Non-Profit Organizations

Outgoing: Letter to heads of Federal agencies emphasizes that the patent clauses set out in DoC regulations (37 CFR Part 401) for small business firms and non-profit organizations take precedence over any inconsistent patent clauses set out in the Federal Acquisition Regulations, (FAR). Letter concludes that in such instances the DoC patent clauses should be followed.

Background: The DoC patent clauses allow small business firms and non-profit organizations to take title to inventions arising under a funding agreement. At present patent clauses set out in FAR are inconsistent with those set out in the DoC regulations for small business firms and non-profit organizations. Some agencies are not using the DoC patent clauses because they are not yet set out in the FAR. Outgoing points out that all Federal agencies are required to use the DoC patent clauses for small business firms and non-profit organizations in all instances and that the DoC patent clauses take precedence over inconsistent patent clauses in FAR. Outgoing also points out the DoC patent clauses facilitate technology transfer under Executive Order 12591.

Control No. _____

	PREPARED BY	CLEARED BY	CLEARED BY
SURNAME AND ORGANIZATION (Typed)	BBeringer Assoc./US/EA	DBMerrifield A/S, PTI	ES
INITIALS AND DATE			

Control No. _____

	PREPARED BY	CLEARED BY	CLEARED BY
SURNAME AND ORGANIZATION (Typed)	BBeringer Assoc./US/EA	DBMerrifield A/S, PTI	ES
INITIALS AND DATE			

THE SECRETARY OF COMMERCE
Washington, D.C. 20230

14 DEC 1987

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

Dear Dick:

On March 18, 1987, this Department published in the Federal Register regulations which set out the patent clauses to be used in funding agreements with small business firms and nonprofit organizations, 37 CFR Part 401 (enclosed). The authority for these regulations is contained in Title 35, Section 206 of the United States Code (enclosed).

The patent clauses contained in these regulations allow small business firms and nonprofit organizations to take title to any inventions arising under a funding agreement. These clauses ease technology transfer as set out in Executive Order 12591.

Subsection 401.1(e) of the regulations states that they shall take precedence over any other inconsistent regulations dealing with ownership of inventions made by small business and nonprofit organizations. Thus, where patent clauses set out in the Federal Acquisition Regulation (FAR) are inconsistent with the 37 CFR Part 401 patent clauses for small business firms and nonprofit organizations, the latter clauses must be used.

Accordingly, your agency should use the patent clauses for small business firms and nonprofit organizations as set out in 37 CFR Part 401. These clauses take precedence over the inconsistent clauses in the FAR.

Sincerely,

/s/
Secretary of Commerce

Enclosures

United States of America DEPARTMENT OF COMMERCE	DEPARTMENT ORGANIZATION ORDER 10-1 Amendment 1	
DEPARTMENT ORGANIZATION ORDER SERIES	DATE OF ISSUANCE March 1, 1985	EFFECTIVE DATE February 26, 1985

SUBJECT

ASSISTANT SECRETARY FOR PRODUCTIVITY, TECHNOLOGY AND INNOVATION

Department Organization Order 10-1, dated January 22, 1984 is hereby amended as shown below. The purpose of this amendment is to delegate the Secretary's authorities under P.L. 98-620, the Bayh-Dole Act, and P.L. 98-622, the Patent Improvements Act of 1984.

SECTION 3. DELEGATION OF AUTHORITY. New subparagraphs .01f. and .01g. are added to read as follows:

"f. The functions prescribed by TitleV of P.L. 98-620, 35 U.S.C. 200 et seq., (35 U.S.C. 206, 207(b), and 208) regarding the authority of the Secretary of Commerce (a) to issue regulations which may be made applicable to Federal agencies implementing the provisions of Sections 202, 203 and 204, Chapter 18 of Title 35 U.S.C.; (b) to establish standard funding agreement provisions required under Chapter18; (c) to ensure effective management of Government-owned inventions; and (d) to promulgate regulations specifying the terms and conditions upon which inventions may be licensed.

"g. The responsibility in P.L. 98-622 to prepare for the Secretary's signature, an annual report on the Statutory Invention Registration procedure as prescribed by 35 U.S.C. 157(d)."

Malcolm Baldrige
Secretary of Commerce

USCOMM-DC - 85-8954

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* * * COMMUNICATION RESULT REPORT (AUG. 31. 2007 5:13PM) * * *

FAX HEADER 1: BROWDY AND NEIMARK
FAX HEADER 2:

TRANSMITTED/STORED : AUG. 31. 2007 5:07PM

FILE MODE	OPTION	ADDRESS	RESULT	PAGE
8071 MEMORY TX		3042307289	OK	25/25

REASON FOR ERROR
E-1) HANG UP OR LINE FAIL
E-2) BUSY
E-3) NO ANSWER
E-4) NO FACSIMILE CONNECTION

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TELEFAX CONTROL SHEET

SENT TO: Joe Allen

DATE SENT: 8/31/07

SUBJECT: Delegation J

No. of pages (including this cover sheet): 24

FROM: Norm Latker

Remarks:

See my E-mail

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JAN 12 1982

MEMORANDUM FOR: HONORABLE MALCOLM BALDRIDGE
SECRETARY OF COMMERCE

FROM: DAVID A. STOCKMAN D. A. S.
DIRECTOR

SUBJECT: Assignment of Lead Agency for Implementation of P.L. 96-517

As you may know, we will soon issue a new OMB Circular which provides uniform implementing guidance for the Government patent policy section of Public Law 96-517, "The Patent and Trademark Amendments of 1980." This Act gives nonprofit organizations and small businesses a first right of refusal to title in inventions they have made in performance of Government grants and contracts. The Act takes precedent over approximately 26 conflicting statutory and administrative policies.

Since the Act is a fundamental change in the more traditional policy of Government ownership to inventions made with its support, we believe it is essential that a lead agency be designated to review agency implementing regulations; disseminate and collect information; monitor administrative or compliance measures; evaluate the Act's implementation; and recommend appropriate changes to OMB/OFPP. (A more detailed list of proposed lead agency functions and staffing is provided in Attachment A.)

The Department of Commerce seems the natural choice for assignment of this new lead agency function due to its prior experience and wide ranging interest in technology transfer. productivity, innovation and Government patent policy. In order to take full advantage of Commerce's experience and to support the expansion of the concept of P.L. 96-517 to all recipients of Federal research and development funding, the proposed functions include authority to collect information and recommend policy and regulatory changes that affect recipients beyond those covered by the Act.

11088

and recommend policy and regulatory changes that affect recipients beyond those covered by the Act.

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I hope you will accept the responsibility for the lead agency which we believe will be challenging and rewarding. I would appreciate your designating an official to work with my staff in developing the details necessary to assure smooth implementation of the Circular and the lead agency.

I have designated Don Sowle, the Administrator of the Office of Federal Procurement Policy as my staff focal point, who has responsibilitiy for issuing patent policy regulations implementing P.L. 96-517.

The Director

Donald E. Bowle

SUBJECT: Decision Paper - Assignment of Lead Agency for "Patent & Trademark Amendments Act of 1980" (P.L. 96-517)

Issue

Establishment of uniform regulations implementing the subject Act requires that OMB decide which agency should receive the lead agency assignment to oversee implementation of the law and regulations.

Background

The "Patent and Trademark Amendments Act of 1980" repeals 26 agency statutes and regulations and establishes a set of guidelines for giving universities, non-profit organizations and small businesses the right of first refusal of title to inventions resulting from performance of Government grants and contracts. As noted in the Senate Report accompanying the bill, "patent policies . . . represent a serious impediment to the effective transferral of new technologies." The bill represents "an important first step in turning around the undesirable productivity and innovation slumps that the United States is now experiencing."

On June 3, 1981, the Office of Federal Procurement Policy (OFPP) sought your decision about whether "uniform Government-wide regulations implementing the Act for both procurement and grant transactions (should) be issued by OMB." You concurred, and OFPP, with the support of Intergovernmental Affairs Division (IGA), issued Bulletin 81-22, "Patents--Small Business Firms and Non-Profit Organizations," setting forth interim regulations with public comments due by September 1. We have completed the assessment of comments received and will soon be submitting a revised Circular for your signature.

We have completed the assessment of comments received and will soon be submitting a revised Circular for your signature.

In order to complete preparation of a Final Circular, the issue of which agency should be assigned lead responsibility must be decided. On the earlier memo cited above, you selected the lead agency alternative rather than other approaches and suggested the Department of Commerce.

Discussion

The Act itself specifies no lead agency, nor does the legislative history indicate any desire for such a mechanism. The Act applies statutory requirements on all Federal agencies generally, with only limited citation of specific agencies for technical or pro forma functions. The following discusses the choices, then recommends that the Department of Commerce be assigned the role.

Relationship to Current Situation. Recently the Congress has stipulated a lead agency to implement a similar bill introduced by Senator Harrison Schmitt (R. -New Mex.). This bill (S. 1657) extends to all private organizations, regardless of size, the rights to patents as are now conferred on small businesses and non-profit organizations. There is a companion measure in the House (H.R. 4564) introduced by Congressman Allen Ertel (D. PA). The Schmitt bill designates Commerce as lead agency, while the Ertel bill cites a special coordinating council. The Administration has testified in support of the Schmitt Lead Agency concept, although reserving to the President the choice of which agency to serve as lead.

Also, the OMB Associate Director for Management has an initiative under way to designate or redesignate lead agency responsibility for all 61 generally applicable requirements tied to assistance programs. Assignment of a lead agency for the new patent requirement is fully consistent with that program.

Lead Agency Selection. To assess which agency should receive the lead, it is necessary to identify the functions that a lead agency would fulfill. In general, the agency would provide advocacy, and assess effectiveness of P.L. 96-517. It would review agency implementing regulations and procedures and disseminate information both within and without Government; evaluate the Act's implementation and recommend

changes to OMB/OFPP; and oversee necessary administrative or other compliance measures. A more detailed list of proposed lead agency functions is shown in Attachment A.

In light of the foregoing, we have applied the following criteria to assessing which agency to designate:

1. Does the agency have existing responsibilities in any of the following areas:

   a. Patents and patent law;

   b. Technological innovation and commercialization;

   c. Technology transfer;

   d. Small business advocacy?

2. Does the agency have sufficient personnel skilled in the above areas, and in the area of grants and contract monitoring or cross-agency relations?

3. Is the agency likely to be supportive of the law?

4. Could the agency expand to take on a larger policy role regarding patents and innovation if the Administration should so determine?

Assessment of Choices. In summary, the following organizations show limited capacity to meet the above criteria:

-- General Services Administration -- GSA has existing responsibilities in the areas of procurement and property management and regulations. It is also geared to deal with a wide variety of agencies. It is argued, however, that GSA is not well suited to leading the effort to translate intellectual property into new commercial enterprises. Further, GSA has neither R & D nor patent programs and would have difficulty in coordinating cabinet-level agencies outside of its Government licensing functions.

-- Department of Justice -- This choice might allow any enforcement function to take on a certain formalistic strength. But our review does not suggest an appropriate affiliation within Justice, and there is reluctance to

strength. But our review does not suggest an appropriate affiliation within Justice, and there is reluctance to

attach a litigational mentality to implementing this law. The Department is unlikely to want new functions not directly related to its present law enforcement functions and would have little active interest in the commercialization process. The Justice Department has in the past taken a position against private ownership of patents resulting from Government sponsored R & D.

-- National Science Foundation and HHS. -- These agencies have a strong commitment to basic research and have close connections to the university community, where much basic research and invention takes place. But these agencies are less familiar with the business world, and would not be seen by the business community as an effective advocate of applied research and technology transfer.

-- OMB/-OFPP/-OSTP -- The Executive Office, primarily OFPP, has a statutory role in the law and is well situated to pressure operating agencies not in compliance. It can also serve as a prominent spokesman for efforts to promote innovation. While the Executive Office may be a suitable policy broker and "court of appeals," however, placing the daily implementation burden here would increase the number of operating functions to Presidential staff.

-- Small Business Administration -- This agency has a Chief Counsel for Advocacy with responsibilities in aiding small business innovation. It also has staff dedicated to funneling Government grants and contracts to small business. On the other hand, the agency has little experience with the university and non-profit communities; it also could not naturally expand to cover large businesses should such legislation be enacted. It would have limited clout among Cabinet-level departments.

-- Patent and Trademarks Office -- This office within the Department of Commerce deals principally with the technical merits of patent applications and has little involvement with patent ownership problems, innovation, productivity issues, or broad patent policy issues. The Department of Commerce has recently testified in behalf of strengthening PTO as part of an overall effort to strengthen its patent policy functions, but PTO in its present form could not encompass the lead agency role.

agency function be assigned to the Department of Commerce for the following reasons:

1. The Department has a natural scope and previous experience covering patents, commercial affairs and technological innovation. Critics might argue that it is less experienced in technology transfer and has limited involvement with the academic community (compared to NSF & HHS). However, the Department is moving to strengthen its ability to address issues of productivity and innovation. It is presently reorganizing its economic affairs activities to comprise an Undersecretary for Economic Affairs supervising an Assistant Secretary for Productivity, Technology and Innovation (PTI). Furthermore, OSTP recommends that the academic view, where Commerce is weak, could be strengthened via an advisory group utilizing it's statutorily created FCCSET, as well as NSF.

2. The new Assistant Secretary (PTI) was conceived to use existing staff resources to concentrate on sector analysis of major industries. This would give little attention to technological innovation in the small business and non-profit sectors. As a Cabinet agency already overseeing staffs for small business, patents, promotion of commerce, and industrial analysis, however, the Department is best able of all the candidates to reassign or recruit sufficient staff for the proposed function.

3. Although it may be difficult to oversee such Departments as Defense and Health and Human Services, who may resist intrusion by a lead agency into disposition of their own substantial research programs, a Cabinet agency is more likely to succeed than are other candidates. Even the Executive Office would fail to provide the detailed daily oversight necessary to implement the law. The Assistant Secretary (PTI) could represent this function with suitable rank for most purposes, then have recourse, as necessary, through the Cabinet and working with Executive Office Staff.

4. Commerce has expressed support, in principle, for updating the patent system as an incentive to industrial productivity. The Department has recently requested more

resources to strengthen its patent licensing functions, and the Schmitt bill would definitely require Commerce to take the lead in patent reform.

5. **The Schmitt bill exemplifies the possibility for Commerce to grow beyond implementation of the present Act into a broadened strategy for innovation and productivity. Of all the agencies, it is best equipped by size and mission to provide the 'line" forces in such an effort.**

Decision

OMB assign the lead agency function specifically to the Department of Commerce.

____ **Concur; designation letter for OMB Director to sign to Secretary of Commerce is attached.**

____ **Not concur.**

____ Other

Comments

cc:
Official File
DO Records
Mr. Sowle
Mr. Carpenter
OFPP:Chron/Read
OFPP:JCarpenter/12/21/81:bfh

Sample Legislative Policy Functions

A. Functions Specific to Public Law 96-517:

1. Review agency implementation to determine compliance with the Act and OFPP regulations.

2. Develop formats and procedures for the collection of utilization information from contractors and grantees. Collect and publish utilization information.

3. Provide, as determined necessary, recommendations to OFPP/OMB on changes to Government-wide implementing regulations.

4. As part of carrying out of functions of A.1-3, establish and chair an advisory group or groups, including representatives of the agencies and the grantee/contractor community and other private organizations.

5. Operate the NTIS Government licensing program under the authority of P.L. 96-517 and provide, when determined necessary, recommendations on improvements that could be made in this area.

B. General Functions

1. Review and evaluate the effectiveness of existing Government policies on the ownership of inventions by Government contractors, and make recommendations to OMB as to how such policies could be improved to more effectively stimulate innovation and productivity.

2. Collect and maintain statistics on Government patent policies and practices to provide a base for policy development and evaluation.

3. Establish and chair an advisory group or groups, including representatives of agencies and performers of Government research, to discuss issues related to Government policies on ownership of inventions made with Government support. FCSSET & NSF should participate.

4. Coordinate administration positions on proposed legislation related to ownership of inventions made with Government support.

5. Operate the PTO government-employee invention disposition program and provide, when determined necessary, recommendations on improvements that could be made in this area.

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TRANSMITTAL

United States of America DEPARTMENT OF COMMERCE	DEPARTMENT ORGANIZATION ORDER 10-1	
DEPARTMENT ORGANIZATION ORDER SERIES	DATE OF ISSUANCE June 26, 1984	EFFECTIVE DATE January 22, 19

SUBJECT

ASSISTANT SECRETARY FOR PRODUCTIVITY, TECHNOLOGY AND INNOVATIO

SECTION 1. PURPOSE.

.01 This Order prescribes the scope of authority and the functions of the Assistant Secretary for Productivity, Technology and Innovation.

.02 This revision reflects the transfer of the Office of Competitive Assessment's functions to the International Trade Administration; a change in the reporting relationships to have the Office of Strategic Resources directly responsible to the Under Secretary for Economic Affairs; and incorporates outstanding amendments to the Order.

SECTION 2. ADMINISTRATIVE DESIGNATION AND LINE OF AUTHORITY.

.01 The position of Assistant Secretary of Commerce, established by the Act of February 16, 1962, (15 U.S.C. 1507), shall be designated as the Assistant Secretary fo Productivity, Technology and Innovation (the "Assistant Secretary"). The Assistant Secretary is appointed by the President, by and with the advice and consent of the Senate.

.02 The Assistant Secretary shall report and be responsible to the Under Secretary for Economic Affairs.

.03 The Assistant Secretary shall be assisted principally by a Deputy Assistant Secretary for Productivity, Technology and Innovation, who shall perform such duties as the Assistant Secretary shall prescribe and shall perform the functions of the Assistant Secretary during the latter's absence.

SECTION 3. DELEGATION OF AUTHORITY.

.01 Pursuant to the authority vested in the Secretary of Commerce by law, and subject to such policies and directives as the Secretary and the Under Secretary for Economic Affairs may prescribe, the Assistant Secretary is hereby delegated the following authorities vested in the Secretary.

a. The Act of February 14, 1903, as amended (15 U.S.C. 1512 et seq., 15 U.S.C. 171 et seq.), to foster, promote and develop the foreign and domestic commerce of th United States, to the extent necessary for the performance of the Assistant Secretary's functions.

b. Sections 5, 6 and 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (P.L. 96-480) relating to studies of technological development in the United

[illegible] 171 et seq.), to foster, promote and develop the foreign and domestic commerce of th United States, to the extent necessary for the performance of the Assistant Secretary's functions.

b. Sections 5, 6 and 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (P.L. 96-480) relating to studies of technological development in the United

States, cooperative technology arrangements, and the transfer of industrial technology from the Federal Government to the private sector.

c. Section 18 of the Office of Management and Budget Circular A-124, dated February 19, 1982, issued pursuant to P.L. 96-517, assigning to the Department lead agency responsibility with respect to the implementation of Federal patent policy.

d. Section 759(f) of Title 40, U.S.C., insofar as is required to: (1) exercise the functions of the Secretary of Commerce under provisions in Federal Information Processing Standards authorizing the Secretary to waive compliance with requirements of the standards; (2) issue interpretative guidelines concerning the waiver provisions of the standards; and (3) join with the Director, National Bureau of Standards, in recommending to the Secretary the establishment of uniform Federal automatic data processing standards.

e. Title 15 U.S.C. 171 et seq. as it relates to the collection and dissemination of statistical information.

.02 The Assistant Secretary may exercise other authorities of the Secretary as applicable to performing the functions assigned in this Order.

.03 The authorities delegated to the Assistant Secretary in this Order may be redelegated, subject to conditions as may be prescribed by the Secretary.

SECTION 4. FUNCTIONS.

The Assistant Secretary shall serve as a principal deputy to the Under Secretary for Economic Affairs, and as the principal Departmental advisor on issues of productivity and technological innovation as they relate to public policy and the performance of the U.S. economy. In this capacity, the Assistant Secretary shall:

a. Advise the Under Secretary for Economic Affairs and other Department officials on important policy questions and problems relating to productivity and technological innovation;

b. Coordinate Departmental programs relating to productivity, technology and innovation, and any other efforts within the Department to stimulate research and development activities in the private sector;

c. Identify and analyze barriers to productivity improvement and technological growth in the U.S. economy, and provide leadership and assistance in developing policies and programs designed to foster greater private sector use of productivity measurement and improvement techniques, enhance the flow of Federally funded technologies to the private sector, and facilitate cooperative research and development arrangements;

e. Perform lead agency functions concerning Federal patent policy, including coordinating, monitoring, gathering relevant data, evaluating relevant programs and activities, developing uniform Government-wide standards for implementation of Federal patent policy, preparing reports, disseminating information, making recommendations, and taking other actions necessary to assure maximum private

technologies to the private sector, and facilitate cooperative research and development arrangements;

e. Perform lead agency functions concerning Federal patent policy, including coordinating, monitoring, gathering relevant data, evaluating relevant programs and activities, developing uniform Government-wide standards for implementation of Federal patent policy, preparing reports, disseminating information, making recommendations, and taking other actions necessary to assure maximum private

sector opportunity for commercializing inventions resulting from projects financed with Federal Government funds;

f. Provide liaison between the public and private sectors on voluntary metric conversion, assist and respond to inquiries from the private sector, coordinate the Federal Government's own metric conversion activities, including coordination of Interagency Committee(s), assist State and local governments in metric problems, and identify existing barriers to voluntary conversion and recommend appropriate action; and

g. Render final decisions pursuant to 41 CFR Part 101-4 on behalf of the Department on appeals concerning the licensing of Department and/or Federally-owned patents and patent applications.

SECTION 5. UNITS REPORTING TO THE ASSISTANT SECRETARY FOR PRODUCTIVITY, TECHNOLOGY AND INNOVATION.

.01 The Office of the Assistant Secretary, which shall consist of:

a. Office of Productivity, Technology and Innovation (DOO 35-9); and

b. Such other offices as the Assistant Secretary, in conjunction with the Under Secretary for Economic Affairs and the Assistant Secretary for Administration, may establish for the purpose of carrying out assigned functions and responsibilities.

.02 The National Technical Information Service (DOO 30-7A).

SECTION 6. EFFECT ON OTHER ORDERS.

This Order supersedes Department Organization Order 10-1, dated April 19, 1982, as amended.

Malcolm Baldrige

Secretary of Commerce

USCOMM-DC - 84-8990

USCOMM-DC - 84-8990

United States of America DEPARTMENT OF COMMERCE	DEPARTMENT ORGANIZATION ORDER 10-1 Amendment 1	
DEPARTMENT ORGANIZATION ORDER SERIES	DATE OF ISSUANCE March 1, 1985	EFFECTIVE DATE February 26, 1985

SUBJECT

ASSISTANT SECRETARY FOR PRODUCTIVITY, TECHNOLOGY AND INNOVATION

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"g. The responsibility in P.L. 98-622 to prepare for the Secretary's signature, an annual report on the Statutory Invention Registration procedure as prescribed by 35 U.S.C. 157(d)."

Malcolm Baldrige

Secretary of Commerce

USCOMM-DC - 85-8954

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POSITION DESCRIPTION *(Please Read Instructions on the Back)*

1. Agency Position No

2. Reason for Submission: [X] Redescription [ ] Reestablishment [ ] New [ ] Other
Explanation *(Show any positions replaced)*

3. Service: [X] Dept'l [ ] Field

4. Employing Office Location: Washington, D.C.

5. Duty Station: Washington, D.C.

6. CSC Certification No

7. Fair Labor Standards Act: [X] Exempt [ ] Nonexempt

8. Employment/Financial Stmt Required: [X] Yes [ ] No

9. Subject to IA Action: [ ] Yes [X] No

10. Position Status: [X] Competitive [ ] Excepted *(Specify)*

11. Position is: [X] Supvrsry [ ] Managerial [ ] Neither

12. Sensitivity: [ ] Critical [X] Noncritical [ ] Nonsensitive

13. Competitive Level Code

14. Agency Use

15. Classified/Graded by	Official Title of Position	Pay Plan	Occupational Code	Grade	Initials	Date
a. Civil Service Commission						
b. Department, Agency, or Establishment						
c. Bureau	Supervisory Policy Officer	GM	301	15		
d. Field Office						
e. Recommended by Supervisor or Initiating Office						

16. Organizational Title of Position *(if different from official title)*
Director, Federal Technology Management Policy Div.

17. Name of Employee *(if vacancy, specify)*
Norman J. Latker

18. Department, Agency, or Establishment
U.S. Department of Commerce

a. First Subdivision: Ofc. of the Under Secretary for Economic Affairs

b. Second Subdivision: Ofc. of the Assistant Secy for Productivity, Tech. & Innovation

c. Third Subdivision: Office of Productivity, Tech. and Innovation

d. Fourth Subdivision: Federal Technology Management Policy Division

e. Fifth Subdivision

19. Employee Review. *This is an accurate description of the major duties and responsibilities of my position*

Signature of Employee *(optional)*

20. Supervisory Certification. *I certify that this is an accurate statement of the major duties and responsibilities of this position and its organizational relationships, and that the position is necessary to carry out Government functions for which I am responsible. This certification is made with the knowledge that this information is to be used for statutory purposes relating to appointment and payment of public funds, and that false or misleading statements may constitute violations of such statutes or their implementing regulations.*

a. Typed Name and Title of Immediate Supervisor
Jack Williams, Director, Ofc. of Productivity, Technology & Innovation

Signature: Jack Williams Date: 6 Jan 86

b. Typed Name and Title of Higher-Level Supervisor or Manager *(optional)*
D. Bruce Merrifield, Assistant Secretary for Productivity, Technology & Innovation

Signature: D. Bruce Merrifield Date: JAN 6 1986

21. Classification/Job Grading Certification. *I certify that this position has been classified/graded as required by Title 5, U. S. Code, in conformance with standards published by the Civil Service Commission or, if no published standards apply directly, consistently with the most applicable published standards.*

Typed Name and Title of Official Taking Action

Signature Date

22. Standards Used in Classifying/Grading Position

Information for Employees. The standards, and information on their application, are available in the personnel office. The classification of the position may be reviewed and corrected by the agency or the Civil Service Commission. Information on classification/job grading appeals, and complaints on exemption from FLSA, is available from the personnel office or the Commission.

23. Position Review	Initials	Date	Initials	Date	Initials	Date	Initials	Date	Initials	Date
a. Employee *(optional)*										
b. Supervisor										
c. Classifier										

24. Remarks

25. Description of Major Duties and Responsibilities *(see attached)*

5008-105

Optional Form 8 (Revised 8-77)
U.S. Civil Service Commission, FPM Chap. 295

b. Supervisor										
c. Classifier										

24. Remarks

25. Description of Major Duties and Responsibilities *(see attached)*

5008-105

Optional Form 8 (Revised 8-77)
U.S. Civil Service Commission, FPM Chap. 295

EA 86-99
06/09/86

Standard Form 52
Rev. January 1982
U.S. Office of Personnel Management
FPM Chapter 296

REQUEST FOR PERSONNEL ACTION

Part I—Requesting Office Also complete Part II, Items 1 and 20-34 as necessary.

A. For Agency Use		B. For Additional Information Call (Name and Telephone Number)
U. S. Department of Commerce		Doris Trunfio 377-4165
C. Personnel Action Required: Redescription of Duties	D. Proposed Effective Date	E. Requested by (Signature, Title, and Date): Jack Williams, Director, OPTI 6/9/86
F. Position Action Requested	G. Proposed Effective Date	H. Approved by (Signature, Title, and Date): D. Bruce Merrifield, A/S for PTI

I. Remarks by Requesting Office (Note Supervisors: If action requested is employee resignation and if you know of additional or conflicting reasons for the resignation, please state these facts on a separate sheet and attach to SF 52.)

F.T. Knickerbocker, Executive Director
For Ofc. of the U/S for Economic Affairs

Part II—For Preparation of SF 50

1. Name (Last, First, Middle)	2. SSN	3. Position Sensitivity (Opt)	4. Date of Birth
Latker, Norman J.	356-22-3260		

5. Veteran Preference	6. Serv Comp Date (Leave)	7. Tenure	8. Retirement
1—None 2—5 Pt 3—10 Pt Disab 4—10 Pt Comp 5—10 Pt Other 6—10 Pt /30% Comp			1—CS 2—RCA 3—FS 4—None 5—Other 6—CS Spec

9. FEGLI	10. FLSA	11. Sex	12. Citizenship	13. Comp Level (Opt)
	E—Exempt N—Nonexempt		1—US 8—Other	

14. Effective Date	15. Annuitant Indicator	16. Work Schedule	17. (Reserved for OPM Use)
	1—Reempl Ann-CS 2—RETO 3—RETM 4—RETO & CS 5—RETM & CS 9—Not Applicable	F—Full-time P—Part-time I—Intermittent G—FT Seasonal Q—PT Seasonal J—INT Seasonal	

18-A NOAC	18-B Nature of Action	19-A NOAC	19-B Nature of Action
18-C Auth Code	**18-D Authority**	**19-C Auth Code**	**19-D Authority**
18-E Auth Code	**18-F Authority**	**19-E Auth Code**	**19-F Authority**

20. FROM: Position Title and Number	27. TO: Position Title and Number
Patent Policy Officer #1588701	Supervisory Policy Officer #1588701
21. Name and Location of Employing Office: U. S. Department of Commerce, Office of the U/S for Economic Affairs, Office of the A/S for PTI/OPTI, Federal Technology Management Policy Div.	28. Name and Location of Employing Office: U. S. Department of Commerce, Office of the U/S for Economic Affairs, Office of the A/S for PTI/OPTI, Federal Technology Management Policy Div.

22. Pay Plan & Occupational Code	23. Grade or Level	24. Step or Rate	25. Salary	26. Pay Basis	29. Pay Plan & Occupational Code	30. Grade or Level	31. Step or Rate	32. Salary	33. Pay Basis
GM-0301	15	00		PA	GM-0301	15	00		PA

34. Duty Station	35. Position Occupied	36. Appropriation Code (Optional)
Washington, D. C.	1—Competitive 2—Excepted 3—SES General 4—SES Career Reserved	C/601/1471-00/47-00/10

37. Remarks

CONTINUED ON REVERSE SIDE 52-112 Previous Editions Unusable After 12/31/81
NSN-7540-01-109-8814

SF 52 (Reverse)

Part II—Continued

38. Approval

I certify to the accuracy of the information entered on this form and that the proposed action is in compliance with statutory and regulatory requirements.

Signature and Date

39. FPMIS Data

A. Supv or Nonsupv Ind	B. VEV Ind	C. PRD	D. Barg. Unit Status	E. Functional Class

F. Educational Level	G. Year Degree Attained	H. Academic Discipline	I. Agency Code

J. Location Code			K. SON	[redacted]
[redacted]	N	O	P.	Q.

Part III—Clearances

A. Office/Function	Initials/Signature	Date
1		
2. Ceiling/Position Control	[illegible]	[illegible]
3. Classification		
4. Placement/Employment		
5.		

B. Position Classification Action

☐ Identical Additional ☐ New

☐ Vice ☐ Regraded

C. Remarks *(NOTE: Use item 37 on reverse for SF 50 Remarks.)*

Qualification Standard:

Part IV—Employee Resignation

Privacy Act Statement

You are requested to furnish a specific reason for your resignation and a forwarding address. Your reason for resigning may be considered in any future decision regarding your re-employment in the Federal service and may also be used to determine your eligibility for unemployment compensation benefits. Your forwarding address will be primarily used to mail you copies of any documents you should have or any pay or compensation you are entitled to.

This information is requested under authority of sections 301, 3301, and 8506 of title 5, U.S. Code. Sections 301 and 3301 authorize OPM and agencies to issue regulations with regard to employment of individuals in the Federal service and their records, while section 8506 requires agencies to furnish the specific reason for termination of Federal service to the Secretary of Labor or a State agency in connection with administration of unemployment compensation programs.

The furnishing of this information is voluntary; however, failure to provide it may result in your not receiving: (1) your copies of those documents you should have, (2) pay or other compensation due you; and (3) any unemployment compensation benefits to which you may be entitled.

A. Reason for Resignation *(NOTE: Please give specific reasons for your resignation. Avoid generalized reasons.)*

B. Effective Date of Resignation	C. Employee's Signature	D. Date Signed

E. Forwarding Address *(Number, Street, City, State, and Zip Code)*

☆ U.S. GOVERNMENT PRINTING OFFICE: 1984 — [illegible]

B. Effective Date of Resignation	C. Employee's Signature	D. Date Signed

E. Forwarding Address *(Number, Street, City, State, and Zip Code)*

☆ U.S. GOVERNMENT PRINTING OFFICE: 1984 — [illegible]

Introduction

The Federal Technology Management Policy Division assists the Executive Office of the President, affected agencies, and the Congress when requested, in developing the statutory, regulatory, and administrative procedures necessary to establish, implement, and evaluate policies to effectively manage the technologies developed by Federal agencies or with Federal funding. This includes government-wide policies on ownership, protection, and disposition of inventions, rights to technical data, and the transfer of technology from the government to the private sector.

Duties

Incumbent is responsible for the management and supervision of the Federal technology management policy program in the Office of Productivity, Technology and Innovation. Incumbent reports to the Assistant Secretary for PTI.

The incumbent identifies the management and intellectual property problems that would affect the use of technology resulting from federally performed or funded research and resolves such problems by developing and presenting persuasive administrative, legislative, or regulatory positions on behalf of the Assistant Secretary.

Incumbent manages and supervises the following functions in performance of these duties:

1. The review and evaluation of the effectiveness of existing government policies for protecting the government interests and promoting the commercial use of inventions made by government contractors, grantees, and employees. The performance of major tasks as assigned, including developing and issuing government-wide regulations on the ownership and licensing of patents to implement Public Laws 96-517, 97-219, 98-620, and 98-622, replacement of OMB Circular A-124 and GSA patent licensing regulations, and coordinating with the Office of Federal Procurement Policy on the maintenance of Part 27 of the Federal Acquisition Regulation.

2. The development of more efficient techniques for agencies to use when determining the commercial value of inventions as a basis for deciding whether to file for a patent or a Statutory Invention Registration as authorized by P. L. 98-622, and deciding whether to pay patent maintenance charges or allow a patent to become inactive.

agencies to use when determining the commercial value of inventions as a basis for deciding whether to file for a patent or a Statutory Invention Registration as authorized by P. L. 98-622, and deciding whether to pay patent maintenance charges or allow a patent to become inactive.

3. The development of reports, recommendations and legislative proposals on ways to improve the management and transfer to the private sector of technology developed in federal laboratories to further the objectives of P. L. 96-480 and implement pertinent recommendations of the White House policy councils.

4. The maintenance of close liaison with universities, small businesses, non-profit organizations, private industry, other agencies, professional associations, and committees of Congress on matters related to government technology management and patent policies. Pays particular attention to the issues related to implementation of Public Laws 96-480, 96-517, 97-219, 98-620, and 98-622.

5. The provision of advice to state and local governments, universities, businesses, and federal agencies on ways to accomplish effective transfers of technology, and on ways to avoid disputes or resolve those which may occur.

6. The provision of legal advice to the Assistant Secretary on ways to resolve industry protests of licensing actions taken by NTIS.

7. The provision of staff support to the Interagency Committee on Intellectual Property chaired by the Assistant Secretary, including development of a government-wide policy statement on the rights of government contractors to technical data.

8. The development of information and analysis in support of departmental participation on interagency or government-wide policymaking boards, commissions, task forces, advisory committees, professional organizations, etc.

9. The development of systems for collecting and evaluating information on government patent and technology management policies and practices to provide a basis for policy development and evaluation, and preparation of reports as required.

10. The coordination with agencies, OMB and the private sector to achieve adequate collection of information with minimum reporting burdens.

11. The review of implementing actions by Federal agencies to assure compliance with Federal patent laws and regulations.

with minimum reporting burdens.

11. The review of implementing actions by Federal agencies to assure compliance with Federal patent laws and regulations.

12. The provision of OPTI leadership of interagency and public-private sector task teams as necessary to accomplish the above duties.

13. The conduct of special reviews, analyses, and projects on technology management, innovation, productivity or government patent policy as assigned by the Assistant Secretary.

14. The contact with public and private patent licensing organizations that manage sizable invention portfolios for the purpose of keeping the Assistant Secretary alert to current licensing practices and important technologies.

Supervision Received

The incumbent is a recognized expert in the field of intellectual property and as such receives only administrative guidance from the Assistant Secretary.

Critical Elements

The incumbent must have an in-depth knowledge of the industrial innovation process, experience in coordinating and developing government-wide policies, and experience in intellectual property policies, (including but not limited to patents, technical data, copyrights, trademarks, and trade secrets) in all Federal research, development and procurement programs.

The incumbent must be licensed to practice law in a state or in the District of Columbia and admitted to practice before the U. S. Patent and Trademark Office.

3

CHARTER OF COMMITTEE ON INTELLECTUAL PROPERTY
FOR INNOVATION AND TECHNOLOGY TRANSFER

of the

FEDERAL COORDINATING COUNCIL FOR SCIENCE, ENGINEERING,
AND TECHNOLOGY

Establishment

Issues related to intellectual property, ranging from commercial utilization of the results of federally-funded R&D programs to federal policies affecting private sector R&D constitute a set of problems that cut across many Departments and agencies of the Executive Branch. To ensure that the economic, scientific, technological and administrative policies of the Executive Branch effectively address these issues, it is desirable to establish an interagency mechanism for monitoring the implementation of policy. Therefore, a Committee on Intellectual Property for Innovation and Technology Transfer is hereby established by the Federal Coordinating Council for Science, Engineering, and Technology (FCCSET). The Federal Coordinating Council for Science, Engineering, and Technology was established by 42 U.S.C. 6651. Under Reorganization Plan Number 1 of 1977, it has been established by the Executive Office of the President under the Chairmanship of the Director of the Office of Science and Technology Policy.

Purpose

This Committee is concerned with establishment, maintenance, licensing, disposal and infringement of intellectual property rights in ideas, writings, computer programs, inventions and technical data created in performance of or affected by government programs and policies. Intellectual property rights for the purpose of Committee consideration, include patents, copyrights, trademarks, trade secrets or other legal means of affording proprietorship in a person or the government.

The Committee addresses the implementation of policy issues related to intellectual property and makes recommendations which will:

a) Stimulate private sector commercialization of ideas and inventions resulting from government programs while safeguarding the government's interests.

b) Provide a framework for government-wide regulations and practices consistent with executive policies and legislation.

a) Stimulate private sector commercialization of ideas and inventions resulting from government programs while safeguarding the government's interests.

b) Provide a framework for government-wide regulations and practices consistent with executive policies and legislation.

c) Encourage effective use of resources for the management of intellectual property matters and utilization of R&D results.

Members and Chairperson

The Chairperson of the Committee on Intellectual Property for Innovation and Technology Transfer shall be the Assistant Secretary of Commerce for Productivity, Technology, and Innovation. The Executive Secretary shall be appointed by the Chairperson. Membership of the Committee shall be drawn from the subcabinet or other Senior Policy officials who are qualified to address intellectual property, innovation, and technology transfer issues from those agencies having significant research and development programs or private sector policy roles. In addition, as deemed necessary by the Committee Chairperson and with the concurrence of the members of the FCCSET, or at the request of the Chairperson of the FCCSET, subcommittees may be established as necessary and additional members or observers may be appointed to provide specific expertise. The Committee includes respresentation from:

Department of Agriculture

Department of Commerce

Department of Defense

Department of Education

Department of Energy

Department of Health and Human Services

Department of the Interior

Department of Justice

Department of State

Department of Transportation

Environmental Protection Agency

General Services Administration

National Aeronautics and Space Administration

National Science Foundation

Environmental Protection Agency

General Services Administration

National Aeronautics and Space Administration

National Science Foundation

Small Business Administration

Veterans Administration

Nuclear Regulatory Commission

Office of Federal Procurement Policy/OMB (Ex Officio)

Office of Science and Technology Policy (Ex Officio)

Administrative Provisions

a) The Committee will report to the FCCSET through the Chairperson of that body.

b) Meetings of the Committee shall be called as deemed appropriate by the Committee Chairperson or at the request of the FCCSET. At least two meetings of the full Committee should be held each year to serve as a forum for the identification of problem areas and for the discussion and exchange of relevant program information and for the evaluation of the programs undertaken by the Committee.

c) Special studies, analyses and recommendations may be initiated by the Committee. As necessary, ad hoc subcommittees or working groups with participation not restricted to Committee members may be formed to assist the Committee in its work.

d) Staff support shall be obtained in the same manner as specified in Section (c) above. Committee members will assign such working staff as requested by the Committee Chairperson and as is necessary and feasible for the conduct of Committee activities and the achievement of its purpose. The agencies shall pay for direct and incidental costs arising from the participation of their members and staff in Committee activities.

Reporting

The Committee will submit a report on its activities annually to the Chairman of the FCCSET.

Compensation

All members will be full-time Federal employees who are allowed reimbursement for travel expenses by their agencies plus per diem for subsistence while serving away from their duty stations in accordance with Standard Government Travel Regulations.

Compensation

All members will be full-time Federal employees who are allowed reimbursement for travel expenses by their agencies plus per diem for subsistence while serving away from their duty stations in accordance with Standard Government Travel Regulations.

Duration

The Committee shall continue as described herein, subject to annual determination by the Chairman of the FCCSET that its continuation is in the public interest.

Determination

I hereby determine that the formation of the Committee on Intellectual Property for Innovation and Technology Transfer is in the public interest in connection with the performance of duties imposed on the Executive Branch by law, and that such duties can best be performed through the advice and counsel of such a group.

Date: 9/8/83 Approved: G A Keyworth

George A. Keyworth
Science Advisor to the President

FEDERAL TECHNOLOGY MANAGEMENT POLICY DIVISION
AUTHORITIES RELATED TO THE TECHNOLOGY TRANSFOR PROCESS CHART

"GOVERNMENT RESEARCH ESTABLISHMENTS" -- (GOGOs)

P.L. 96-517 -- Basic invention ownership and Government licensing policies
P.L. 98-620 -- Regulations for licensing Government-owned patents
P.L. 98-622 -- Report on Government use of Statutory Invention Registration
P.L. 96-480 -- Section 5 on innovation, including Stevenson/ Wydler report and support of Section 11 on Federal laboratories.
E.O. 10096 -- Policies and operation of Government employee inventor program
H.R. 3773/ S. 1914 -- Model agreements for laboratory/industry collaboration
-- Advice on evaluating commercial potential of inventions
-- Bi-annual report on agency use of provisions

"UNIVERSITIES AND RESEARCH COUNCILS" -- (All Government-funded non-profit R&D organizations including GOCO contractors)

P.L. 96-517 -- Basic policies
Cir. A-124 -- OMB Implementing regulations, lead agency assignment
P.L. 98-620 -- DOC implementing regulations, particularly for GOCOs, statutory lead agency assignment
FAR -- Guide FAR implementation of 98-620
-- Guide FAR implementation of Technical Data

"INVENTOR ENTREPRENEURS" -- (Small business)

P.L. 96-517 -- Basic policies
P.L. 97-219 -- Small Business Innovation Research Program, based on patent policies in 96-517
P.L. 98-620 -- DOC regulations for small business
FAR Technical data provisions

"CONTRACT RESEARCH AND RAs" -- All other R&D contractors

OMB memo delegating DOC as policy lead agency
Presidential Patent Policy Memorandum
FAR -- Uniform provisions for all contractors including for-profit operators of GOCOs
S. 64 -- Coordinate Administration support

"COMPANY LABORATORIES"

P.L. 98-622 -- Study of employeed inventors' rights

"FOREIGN SOURCES" ?

FAR -- Uniform provisions for all contractors including for-profit operators of GOCOs
S. 64 -- Coordinate Administration support

"COMPANY LABORATORIES"

P.L. 98-622 -- Study of employeed inventors' rights

"FOREIGN SOURCES" ?

FEDERAL TECHNOLOGY MANAGEMENT POLICY DIVISION
AUTHORITIES RELATED TO THE TECHNOLOGY TRANSFOR PROCESS CHART

"GOVERNMENT RESEARCH ~~ESTABLISHMENTS~~ Laboratories" -- (GOGOs)

P.L. 96-517 -- Basic invention ownership and Government licensing policies
P.L. 98-620 -- Regulations for licensing Government-owned patents
P.L. 98-622 -- Report on Government use of Statutory Invention Registration
P.L. 96-480 -- Section 5 on innovation, including Stevenson/Wydler report and support of Section 11 on Federal laboratories.
E.O. 10096 -- Policies and operation of Government employee inventor program
PL 99-502
~~H.R. 3773~~/ ~~S. 1914~~ -- Model agreements for laboratory/industry collaboration
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P.L. 98-620 -- DOC implementing regulations, particularly for GOCOs, statutory lead agency assignment
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"FOREIGN SOURCES" ?

including for-profit operators of GOCOs
S. 64 -- Coordinate Administration support

"COMPANY LABORATORIES"

P.L. 98-622 -- Study of employeed inventors' rights

"FOREIGN SOURCES" ?

DEPARTMENT OF HEALTH & HUMAN SERVICES Public Health Service

Memorandum

Date OCT 14 1987

From Assistant Secretary for Health

Subject Implementation of the Federal Technology Transfer Act of 1986: Delegation of Authority

To Heads of PHS Agencies, Centers and Institutes

The Secretary has delegated to me by the memorandum dated June 23, 1987 (Attachment I) all the HHS authorities under the Federal Technology Transfer Act of 1986 (FTTA), (Attachment II), excepting issuance of regulations and submission of reports to Congress. This action responds to the President's April 10, 1987 Executive Order No. 12591 directing the heads of all Federal agencies to delegate the authorities of Section 2 of the FTTA to enter into cooperative research and development and licensing agreements to the heads of its laboratories (15 U.S.C. 3710a(a)(1) and (2)).

In order to expedite the President's and Secretary Bowen's wishes, I am: (1) making appropriate delegations; (2) asking for your agency's participation on a PHS Technology Management Advisory Board; and (3) asking for your agency to develop policies, implementation plans, procedures and reporting relationships necessary to implement and monitor the Act. Implementation of this legislation opens new opportunities for PHS laboratories that call for you and your entire staff to understand the FTTA. The intent of the Congress, the President's Executive Order and the Secretary's wishes require that we move quickly to decentralize technology management to the level closest to our creative investigators consistent with general policy coordination. Since this has already been undertaken government-wide in regard to universities and other federally-funded performers, there is an additional need to act to preserve PHS' ability to compete for the country's best investigators.

Accordingly, the Heads of PHS agencies, centers and institutes (delegatees) are each hereby separately authorized, within existing resources, to enter into cooperative research and development or license agreements as described by Section 2 of the FTTA (15 U.S.C. 3710a(a)(1) and (2)). In addition to having authority to enter directly into collaborations when special circumstances warrant, each

PHS agency head will be responsible for coordinating and monitoring activities under the FTTA within the agency. In particular, while delegatees are proceeding with cooperative or license agreements, each agency should develop an agency implementation plan, establish appropriate policy guidelines and procedures for carrying out the plan, and develop reporting, data collection, and other mechanisms necessary to assure that the FTTA is implemented in an appropriate manner. In addition, each institute and center should develop an implementation plan for carrying out their responsibilities under the delegation.

The PHS agency delegation also includes the general agency responsibilities assigned to "a Federal Agency" in Sections 2, 6, 7, and 8 of the FTTA (15 U.S.C. 3710a through 3710d), with respect to their centers and institutes subject to Appendix A and ASH's general management and oversight responsibilities. In the same context, the institutes and centers, when acting under 15 U.S.C. 3710a(a)(1) and (2), will undertake the responsibilities assigned to "a Government-operated Federal laboratory" in Sections 2, 6, 7 and 8 of the FTTA subject to Appendix A.

These delegations will be reviewed one year from this date. At the end of the year I intend to evaluate our progress, problems, procedures and implementation and the delegations made under the Secretary's memo. In the meantime, delegatees shall exercise the delegations made by this memo in accordance with Appendix A.

For the purpose of assisting me in fulfilling coordination and monitoring responsibilities at the PHS level, I am creating a PHS Technology Management Advisory Board. The Board will consist of Dr. Harmison, Deputy Assistant Secretary for Health, as Chair, the Associate General Counsel for Business and Administrative Law and the respective agency heads. A mechanism for appropriate rotating representation from the concerned institutes and centers will be determined at the Board's first meeting. Others may also be invited to attend meetings in order to provide coordination with the Office of the Secretary and with the Department of Commerce and to assist in implementing the Act. We hope to convene a meeting of the Board within the next few weeks.

I look forward to working with you on this matter which I hope will open major new opportunities for research and collaboration.

Robert E. Windom, M.D.

Appendix A
Attachments I & II

Robert E. Windom, M.D.

Appendix A
Attachments I & II

APPENDIX A

[redacted]

APPENDIX A

CONDITIONS AND PROCEDURES TO BE FOLLOWED BY THE HEADS OF AGENCIES, CENTERS AND INSTITUTES IN EXERCISING THEIR DELEGATIONS

1. Under cooperative research and development agreements entered into pursuant to the Federal Technology Transfer Act of 1986 (FTTA), delegatees may accept, retain and use funds, personnel, services and property from collaborating parties, and in exchange may provide personnel, services and property, but not funds to the collaborative effort. (See 15 U.S.C. 3710a(b)(1)).

2. The delegatees may also, in advance, grant licenses or assignments to collaborating parties for any invention made by a Federal employee under such agreements; and also in advance, may waive Federal Government ownership to any inventions made by employees of the collaborating organizations under such agreements. However, licenses must be retained for governmental use. (See 15 U.S.C. 3710a(b)(2) and (3)).

3. Where appropriate, delegatees should permit employees and former employees of laboratories to participate in the commercialization of inventions they made while in the service of the United States. (See 15 U.S.C. 3710a(b)(4)).

4. Section 2 of the FTTA (15 U.S.C. 3710a(c)) permits Federal agencies to develop procedures for negotiating such agreements but directs that negotiations of cooperative agreements not be delayed pending their development and issuance. Since the Secretary asked that these procedures be developed, ASH will undertake this responsibility in consultation with the PHS Technology Management Advisory Board.

5. In order to comply with Section 2 of the FTTA (15 U.S.C. 3710a(c)(3)(A)), any potential conflict of interest arising during negotiation of a cooperative agreement should be immediately reported by centers and institutes to their respective PHS agency for purposes of assessing the adequacy of agency guidelines on conflict of interest.

6. Under Section 2 of the FTTA (15 U.S.C. 3710a(c)(4)(A)), when negotiating such agreements delegatees should give special consideration to small business firms and consortia involving small businesses, and should follow the requirements of Section 15 U.S.C. 3710a(c)(4)(B) pertaining to preference for business units located in the United States.

7. In accordance with Section 2 of the FTTA (15 U.S.C. 3710a(c)(5)(A)), any cooperative or license agreement entered into by a center or institute under 35 U.S.C. 3710a(a)(1) and (2) should include a clause providing the head of their respective PHS agency a 30-day period to disapprove or require the modification of the agreement. In any case in which the head of an agency disapproves or requires the modification of a cooperative or license agreement, the

center or institute under 35 U.S.C. 3710a(a)(1) and (2) should include a clause providing the head of their respective PHS agency a 30-day period to disapprove or require the modification of the agreement. In any case in which the head of an agency disapproves or requires the modification of a cooperative or license agreement, the

head of the agency shall transmit a written explanation of such disapproval or modification to the head of the center or institute in accordance with 15 U.S. C. 3710a(c)(5)(B).

8. The heads of the PHS agencies shall receive all royalty or other income produced under cooperative and license agreements negotiated under 15 U.S.C. 3710a(a)(1) and (2) for distribution to their respective centers and institutes. After paying at least 15 percent of the royalties or other income received to the inventor in accordance with Section 7 of the FTTA (15 U.S.C. 3710c(a)(1)(A)(i)), the majority share of royalties and income shall be returned and utilized by the center or institute where the invention occurred in accordance with 15 U.S.C. 3710c(a)(1)(B). Agencies may establish larger inventor percentages as deemed appropriate. Any remaining amount shall be used at the agency or agency's other centers and institutes to carry out the essential purposes of the Act in accordance with 15 U.S.C. 3710c(a)(1)(B). Funds accepted under paragraph 1. above are not subject to this provision.

9. Notwithstanding paragraph 8. above, any agreement intended to cover services of other agencies, persons, or organizations for invention management and licensing services as permitted by 15 U.S.C. 3710c(a)(1)(B)(i) and 15 U.S.C. 3710c(a)(4) shall be sent to the Assistant Secretary for Health for review and approval prior to their execution and implementation. However, as intended by 15 U.S.C. 3710c(a)(1)(B)(i), invention identification and evaluation and the filing of patent application are the responsibility of the delegatees or other persons designated by the delegatees without further review or approval. Such invention identification and evaluation and the filing of patent applications may be undertaken through the use of distributed royalties or other income, as part of a cooperative or license agreement or from other available resources.

10. Delegatees who have the right of ownership to an invention to which it does not intend to file a patent application or otherwise promote commercialization shall allow the inventor to retain title in accordance with Section 8 of the FTTA (15 U.S.C. 3710d).

ATTACHMENT I

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

JUN 23 1987

MEMORANDUM TO: Assistant Secretary for Health

SUBJECT: Delegation of Authority: Stevenson-Wydler Technology Innovation Act of 1980 as amended by the Federal Technology Transfer Act of 1986

I hereby delegate to the Assistant Secretary for Health all of the authorities under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as amended by the Federal Technology Transfer Act of 1986, P.L. 99-502, with respect to activities carried on within the Public Health Service, excluding the authority to promulgate regulations and to submit reports to the Congress. This authority is subject to redelegation in accordance with Executive Order No. 12591 of April 10, 1987.

This delegation is effective upon the date of signature.

Otis R. Bowen, M.D.
Secretary

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON D.C. 20201

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MEMORANDUM FOR ROBERT E. WINDOM, M.D.
ASSISTANT SECRETARY FOR HEALTH

SUBJECT: Implementation of the Federal Technology Transfer Act of 1986

I wholeheartedly support the President's aim of vigorously implementing the Technology Transfer Act of 1986. This Act promotes the use of new knowledge from the research laboratory to develop new products with potential application in the private as well as the public sector. It offers new incentives to government scientists and industry to participate in this process.

I am directing the Public Health Service to begin vigorous implementation of the new law within existing resources, to include entering into collaborative research arrangements with the private sector, arranging for the marketing of technological innovations made by PHS scientists, and representing HHS on Commerce's interagency committee.

Accordingly, I am delegating you the authority to carry out the major provisions of the Act. Since the Act offers significant new opportunities, in your implementation planning please consider:

- the structure and procedures necessary to manage effective implementation and operation of the Act, particularly certain common procedures and data systems, conduits for interaction with the private sector, and relationships with other Federal Agencies, including use of their services for invention management, where appropriate;

- the degree of decentralization and roles of my office, OASH and PHS agencies;

- recommendations concerning royalty sharing and a cash awards program;

- how to ensure the continued fulfillment of the Department's research mission, and at the same time, effectively promote the transfer of new knowledge from Federal to the private and non-Federal public sectors; and

- how to assess progress in transferring technology and the impact of the Act on HHS activities, including reporting requirements and the appropriate structure for review.

- recommendations concerning royalty sharing and a cash awards program;

- how to ensure the continued fulfillment of the Department's research mission, and at the same time, effectively promote the transfer of new knowledge from Federal to the private and non-Federal public sectors; and

- how to assess progress in transferring technology and the impact of the Act on HHS activities, including reporting requirements and the appropriate structure for review.

In your implementation of the Act, you should plan to use existing HHS mechanisms for information exchange, gradually building more systematic ones, as appropriate.

While the Technology Transfer Act applies principally to laboratories within the Public Health Service, I look to the PHS to develop procedures that we could apply HHS-wide, as appropriate. I would like you, after consultation with your agency heads and others as appropriate, to send me your detailed implementation plan within three months, including how you will address the issues discussed above, and any other issues for my consideration. In addition, please keep me advised on a periodic basis of progress in implementing the Act within the PHS.

Under your leadership, I know that PHS scientists will respond enthusiastically to the purpose as well as the opportunity created by this important legislation.

Otis R. Bowen, M.D.
Secretary

cc:
OPDIV Heads
STAFFDIV Heads

ATTACHMENT II

H.R. 3773

Ninety-ninth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday, the twenty-first day of January, one thousand nine hundred and eighty-six

THE WHITE HOUSE OCT - 8 1986

An Act

To amend the Stevenson-Wydler Technology Innovation Act of 1980 to promote technology transfer by authorizing Government-operated laboratories to enter into cooperative research agreements and by establishing a Federal Laboratory Consortium for Technology Transfer within the National Bureau of Standards, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Technology Transfer Act of 1986".

SEC. 2. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

The Stevenson-Wydler Technology Innovation Act of 1980 is amended by redesignating sections 12 through 15 as sections 16 through 19, and by inserting immediately after section 11 the following:

"SEC. 12. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

"(a) GENERAL AUTHORITY.—Each Federal agency may permit the director of any of its Government-operated Federal laboratories—

"(1) to enter into cooperative research and development agreements on behalf of such agency (subject to subsection (c) of this section) with other Federal agencies; units of State or local government; industrial organizations (including corporations, partnerships, and limited partnerships, and industrial development organizations); public and private foundations; nonprofit organizations (including universities); or other persons (including licensees of inventions owned by the Federal agency); and

"(2) to negotiate licensing agreements under section 207 of title 35, United States Code, or under other authorities for Government-owned inventions made at the laboratory and other inventions of Federal employees that may be voluntarily assigned to the Government.

"(b) ENUMERATED AUTHORITY.—Under agreements entered into pursuant to subsection (a)(1), a Government-operated Federal laboratory may (subject to subsection (c) of this section)—

"(1) accept, retain, and use funds, personnel, services, and property from collaborating parties and provide personnel, services, and property to collaborating parties;

"(2) grant or agree to grant in advance, to a collaborating party, patent licenses or assignments, or options thereto, in any invention made in whole or in part by a Federal employee under the agreement, retaining a nonexclusive, nontransferrable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government and such other rights as the Federal laboratory deems appropriate; and

pursuant to subsection (a)(1), a Government-operated Federal laboratory may (subject to subsection (c) of this section)—

"(1) accept, retain, and use funds, personnel, services, and property from collaborating parties and provide personnel, services, and property to collaborating parties;

"(2) grant or agree to grant in advance, to a collaborating party, patent licenses or assignments, or options thereto, in any invention made in whole or in part by a Federal employee under the agreement, retaining a nonexclusive, nontransferrable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government and such other rights as the Federal laboratory deems appropriate; and

"(3) waive, subject to reservation by the Government of a nonexclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government, in advance, in whole or in part, any right of ownership which the Federal Government may have to any subject invention made under the agreement by a collaborating party or employee of a collaborating party; and

"(4) to the extent consistent with any applicable agency requirements and standards of conduct, permit employees or former employees of the laboratory to participate in efforts to commercialize inventions they made while in the service of the United States.

"(c) CONTRACT CONSIDERATIONS.—(1) A Federal agency may issue regulations on suitable procedures for implementing the provisions of this section; however, implementation of this section shall not be delayed until issuance of such regulations.

"(2) The agency in permitting a Federal laboratory to enter into agreements under this section shall be guided by the purposes of this Act.

"(3)(A) Any agency using the authority given it under subsection (a) shall review employee standards of conduct for resolving potential conflicts of interest to make sure they adequately establish guidelines for situations likely to arise through the use of this authority, including but not limited to cases where present or former employees or their partners negotiate licenses or assignments of titles to inventions or negotiate cooperative research and development agreements with Federal agencies (including the agency with which the employee involved is or was formerly employed).

"(B) If, in implementing subparagraph (A), an agency is unable to resolve potential conflicts of interest within its current statutory framework, it shall propose necessary statutory changes to be forwarded to its authorizing committees in Congress.

"(4) The laboratory director in deciding what cooperative research and development agreements to enter into shall—

"(A) give special consideration to small business firms, and consortia involving small business firms; and

"(B) give preference to business units located in the United States which agree that products embodying inventions made under the cooperative research and development agreement or produced through the use of such inventions will be manufactured substantially in the United States and, in the case of any industrial organization or other person subject to the control of a foreign company or government, as appropriate, take into consideration whether or not such foreign government permits United States agencies, organizations, or other persons to enter into cooperative research and development agreements and licensing agreements.

"(5)(A) If the head of the agency or his designee desires an opportunity to disapprove or require the modification of any such agreement, the agreement shall provide a 30-day period within which such action must be taken beginning on the date the agreement is presented to him or her by the head of the laboratory concerned.

"(B) In any case in which the head of an agency or his designee disapproves or requires the modification of an agreement presented under this section, the head of the agency or such designee shall

United States agencies, organizations, or other persons to enter into cooperative research and development agreements and licensing agreements.

"(5)(A) If the head of the agency or his designee desires an opportunity to disapprove or require the modification of any such agreement, the agreement shall provide a 30-day period within which such action must be taken beginning on the date the agreement is presented to him or her by the head of the laboratory concerned.

"(B) In any case in which the head of an agency or his designee disapproves or requires the modification of an agreement presented under this section, the head of the agency or such designee shall

transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.

"(6) Each agency shall maintain a record of all agreements entered into under this section.

"(d) DEFINITION.—As used in this section—

"(1) the term 'cooperative research and development agreement' means any agreement between one or more Federal laboratories and one or more non-Federal parties under which the Government, through its laboratories, provides personnel, services, facilities, equipment, or other resources with or without reimbursement (but not funds to non-Federal parties) and the non-Federal parties provide funds, personnel, services, facilities, equipment, or other resources toward the conduct of specified research or development efforts which are consistent with the missions of the laboratory; except that such term does not include a procurement contract or cooperative agreement as those terms are used in sections 6303, 6304, and 6305 of title 31, United States Code; and

"(2) the term 'laboratory' means a facility or group of facilities owned, leased, or otherwise used by a Federal agency, a substantial purpose of which is the performance of research, development, or engineering by employees of the Federal Government.

"(e) DETERMINATION OF LABORATORY MISSIONS.—For purposes of this section, an agency shall make separate determinations of the mission or missions of each of its laboratories.

"(f) RELATIONSHIP TO OTHER LAWS.—Nothing in this section is intended to limit or diminish existing authorities of any agency.".

SEC. 3. ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM FOR TECHNOLOGY TRANSFER.

Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM FOR TECHNOLOGY TRANSFER.—(1) There is hereby established the Federal Laboratory Consortium for Technology Transfer (hereinafter referred to as the 'Consortium') which, in cooperation with Federal Laboratories and the private sector, shall—

"(A) develop and (with the consent of the Federal laboratory concerned) administer techniques, training courses, and materials concerning technology transfer to increase the awareness of Federal laboratory employees regarding the commercial potential of laboratory technology and innovations;

"(B) furnish advice and assistance requested by Federal agencies and laboratories for use in their technology transfer programs (including the planning of seminars for small business and other industry);

"(C) provide a clearinghouse for requests, received at the laboratory level, for technical assistance from States and units of local governments, businesses, industrial development organizations, not-for-profit organizations including universities, Federal agencies and laboratories, and other persons, and—

"(i) to the extent that such requests can be responded to with published information available to the National Tech-

"(B) furnish advice and assistance requested by Federal agencies and laboratories for use in their technology transfer programs (including the planning of seminars for small business and other industry);

"(C) provide a clearinghouse for requests, received at the laboratory level, for technical assistance from States and units of local governments, businesses, industrial development organizations, not-for-profit organizations including universities, Federal agencies and laboratories, and other persons, and—

"(i) to the extent that such requests can be responded to with published information available to the National Tech-

nical Information Service, refer such requests to that Service, and

"(ii) otherwise refer these requests to the appropriate Federal laboratories and agencies;

"(D) facilitate communication and coordination between Offices of Research and Technology Applications of Federal laboratories;

"(E) utilize (with the consent of the agency involved) the expertise and services of the National Science Foundation, the Department of Commerce, the National Aeronautics and Space Administration, and other Federal agencies, as necessary;

"(F) with the consent of any Federal laboratory, facilitate the use by such laboratory of appropriate technology transfer mechanisms such as personnel exchanges and computer-based systems;

"(G) with the consent of any Federal laboratory, assist such laboratory to establish programs using technical volunteers to provide technical assistance to communities related to such laboratory;

"(H) facilitate communication and cooperation between Offices of Research and Technology Applications of Federal laboratories and regional, State, and local technology transfer organizations;

"(I) when requested, assist colleges or universities, businesses, nonprofit organizations, State or local governments, or regional organizations to establish programs to stimulate research and to encourage technology transfer in such areas as technology program development, curriculum design, long-term research planning, personnel needs projections, and productivity assessments; and

"(J) seek advice in each Federal laboratory consortium region from representatives of State and local governments, large and small business, universities, and other appropriate persons on the effectiveness of the program (and any such advice shall be provided at no expense to the Government).

"(2) The membership of the Consortium shall consist of the Federal laboratories described in clause (1) of subsection (b) and such other laboratories as may choose to join the Consortium. The representatives to the Consortium shall include a senior staff member of each Federal laboratory which is a member of the Consortium and a representative appointed from each Federal agency with one or more member laboratories.

"(3) The representatives to the Consortium shall elect a Chairman of the Consortium.

"(4) The Director of the National Bureau of Standards shall provide the Consortium, on a reimbursable basis, with administrative services, such as office space, personnel, and support services of the Bureau, as requested by the Consortium and approved by such Director.

"(5) Each Federal laboratory or agency shall transfer technology directly to users or representatives of users, and shall not transfer technology directly to the Consortium. Each Federal laboratory shall conduct and transfer technology only in accordance with the practices and policies of the Federal agency which owns, leases, or otherwise uses such Federal laboratory.

"(6) Not later than one year after the date of the enactment of this subsection, and every year thereafter, the Chairman of the Consor-

provide the Consortium, on a reimbursable basis, with administrative services, such as office space, personnel, and support services of the Bureau, as requested by the Consortium and approved by such Director.

"(5) Each Federal laboratory or agency shall transfer technology directly to users or representatives of users, and shall not transfer technology directly to the Consortium. Each Federal laboratory shall conduct and transfer technology only in accordance with the practices and policies of the Federal agency which owns, leases, or otherwise uses such Federal laboratory.

"(6) Not later than one year after the date of the enactment of this subsection, and every year thereafter, the Chairman of the Consor-

tium shall submit a report to the President, to the appropriate authorization and appropriation committees of both Houses of the Congress, and to each agency with respect to which a transfer of funding is made (for the fiscal year or years involved) under paragraph (7), concerning the activities of the Consortium and the expenditures made by it under this subsection during the year for which the report is made.

"(7)(A) Subject to subparagraph (B), an amount equal to 0.005 percent of that portion of the research and development budget of each Federal agency that is to be utilized by the laboratories of such agency for a fiscal year referred to in subparagraph (B)(ii) shall be transferred by such agency to the National Bureau of Standards at the beginning of the fiscal year involved. Amounts so transferred shall be provided by the Bureau to the Consortium for the purpose of carrying out activities of the Consortium under this subsection.

"(B) A transfer shall be made by any Federal agency under subparagraph (A), for any fiscal year, only if—

"(i) the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000; and

"(ii) such transfer is made with respect to the fiscal year 1987, 1988, 1989, 1990, or 1991.

"(C) The heads of Federal agencies and their designees, and the directors of Federal laboratories, may provide such additional support for operations of the Consortium as they deem appropriate.

"(8)(A) The Consortium shall use 5 percent of the funds provided in paragraph (7)(A) to establish demonstration projects in technology transfer. To carry out such projects, the Consortium may arrange for grants or awards to, or enter into agreements with, nonprofit State, local, or private organizations or entities whose primary purposes are to facilitate cooperative research between the Federal laboratories and organizations not associated with the Federal laboratories, to transfer technology from the Federal laboratories, and to advance State and local economic activity.

"(B) The demonstration projects established under subparagraph (A) shall serve as model programs. Such projects shall be designed to develop programs and mechanisms for technology transfer from the Federal laboratories which may be utilized by the States and which will enhance Federal, State, and local programs for the transfer of technology.

"(C) Application for such grants, awards, or agreements shall be in such form and contain such information as the Consortium or its designee shall specify.

"(D) Any person who receives or utilizes any proceeds of a grant or award made, or agreement entered into, under this paragraph shall keep such records as the Consortium or its designee shall determine are necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition of such proceeds and the total cost of the project in connection with which such proceeds were used.".

SEC. 4. UTILIZATION OF FEDERAL TECHNOLOGY.

(a) RESPONSIBILITY FOR TECHNOLOGY TRANSFER.—Section 11(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(a)) is amended—

(1) by inserting "(1)" after "POLICY.—"; and

(2) by adding at the end thereof the following new paragraphs

are necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition of such proceeds and the total cost of the project in connection with which such proceeds were used.".

SEC. 4. UTILIZATION OF FEDERAL TECHNOLOGY.

(a) RESPONSIBILITY FOR TECHNOLOGY TRANSFER.—Section 11(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(a)) is amended—

(1) by inserting "(1)" after "POLICY.—"; and

(2) by adding at the end thereof the following new paragraphs

(2) Technology transfer, consistent with mission responsibilities, is a responsibility of each laboratory science and engineering professional.

"(3) Each laboratory director shall ensure that efforts to transfer technology are considered positively in laboratory job descriptions, employee promotion policies, and evaluation of the job performance of scientists and engineers in the laboratory.".

(b) RESEARCH AND TECHNOLOGY APPLICATIONS OFFICES.—(1) Section 11(b) of such Act (15 U.S.C. 3710(b)) is amended—

(A) by striking out "a total annual budget exceeding $20,000,000 shall provide at least one professional individual full-time" and inserting in lieu thereof "200 or more full-time equivalent scientific, engineering, and related technical positions shall provide one or more full-time equivalent positions";

(B) by inserting immediately before the next to last sentence the following new sentence: "Furthermore, individuals filling positions in an Office of Research and Technology Applications shall be included in the overall laboratory/agency management development program so as to ensure that highly competent technical managers are full participants in the technology transfer process.";

(C) by striking out "requirements set forth in (1) and/or (2) of this subsection" in the next to last sentence and inserting in lieu thereof "requirement set forth in clause (2) of the preceding sentence"; and

(D) by striking out "either requirement (1) or (2)" in the last sentence and inserting in lieu thereof "such requirement".

(2) Section 11(c) of such Act (15 U.S.C. 3710(c)) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) to prepare application assessments for selected research and development projects in which that laboratory is engaged and which in the opinion of the laboratory may have potential commercial applications;";

(B) by striking out "the Center for the Utilization of Federal Technology" in paragraph (3) and inserting in lieu thereof "the National Technical Information Service, the Federal Laboratory Consortium for Technology Transfer,", and by striking out "and" after the semicolon;

(C) by striking out "in response to requests from State and local government officials." in paragraph (4) and inserting in lieu thereof "to State and local government officials; and"; and

(D) by inserting immediately after paragraph (4) the following new paragraph:

"(5) to participate, where feasible, in regional, State, and local programs designed to facilitate or stimulate the transfer of technology for the benefit of the region, State, or local jurisdiction in which the Federal laboratory is located."

(c) DISSEMINATION OF TECHNICAL INFORMATION.—Section 11(d) of such Act (15 U.S.C. 3710(d)) is amended—

(1) by striking out "(d)" and all that follows down through "shall—" and inserting in lieu thereof the following:

(d) DISSEMINATION OF TECHNICAL INFORMATION.—The National Technical Information Service shall—";

(2) by striking out paragraph (2);

(3) by striking out "existing" in paragraph (3), and redesignating such paragraph as paragraph (2);

(c) DISSEMINATION OF TECHNICAL INFORMATION.—Section 11(d) of such Act (15 U.S.C. 3710(d)) is amended—

(1) by striking out "(d)" and all that follows down through "shall—" and inserting in lieu thereof the following:

(d) DISSEMINATION OF TECHNICAL INFORMATION.—The National Technical Information Service shall—";

(2) by striking out paragraph (2);

(3) by striking out "existing" in paragraph (3), and redesignating such paragraph as paragraph (2);

(4) by striking out paragraph (4) and inserting in lieu thereof the following:

"(3) receive requests for technical assistance from State and local governments, respond to such requests with published information available to the Service, and refer such requests to the Federal Laboratory Consortium for Technology Transfer to the extent that such requests require a response involving more than the published information available to the Service;";

(5) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(6) by striking out "(c)(4)" in paragraph (4) as so redesignated and inserting in lieu thereof "(c)(3)".

(d) AGENCY REPORTING.—Section 11(f) of such Act (15 U.S.C. 3710(e)) (as redesignated by section 3(1) of this Act) is amended—

(1) by striking out "prepare biennially a report summarizing the activities" in the first sentence and inserting in lieu thereof "report annually to the Congress, as part of the agency's annual budget submission, on the activities"; and

(2) by striking out the second sentence.

SEC. 5. FUNCTIONS OF THE SECRETARY OF COMMERCE.

Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new subsection:

"(g) FUNCTIONS OF THE SECRETARY.—(1) The Secretary, in consultation with other Federal agencies, may—

"(A) make available to interested agencies the expertise of the Department of Commerce regarding the commercial potential of inventions and methods and options for commercialization which are available to the Federal laboratories, including research and development limited partnerships;

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

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

"(2) Two years after the date of the enactment of this subsection and every two years thereafter, the Secretary shall submit a summary report to the President and the Congress on the use by the agencies and the Secretary of the authorities specified in this Act. Other Federal agencies shall cooperate in the report's preparation.

"(3) Not later than one year after the date of the enactment of the Federal Technology Transfer Act of 1986, the Secretary shall submit to the President and the Congress a report regarding—

"(A) any copyright provisions or other types of barriers which tend to restrict or limit the transfer of federally funded computer software to the private sector and to State and local governments, and agencies of such State and local governments; and

"(B) the feasibility and cost of compiling and maintaining a current and comprehensive inventory of all federally funded training software.".

"(A) any copyright provisions or other types of barriers which tend to restrict or limit the transfer of federally funded computer software to the private sector and to State and local governments, and agencies of such State and local governments; and

"(B) the feasibility and cost of compiling and maintaining a current and comprehensive inventory of all federally funded training software.".

SEC. 6. REWARDS FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL OR FEDERAL AGENCIES.

The Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by inserting after section 12 the following new section:

"SEC. 12. REWARDS FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL OF FEDERAL AGENCIES.

"The head of each Federal agency that is making expenditures at a rate of more than $50,000,000 per fiscal year for research and development in its Government-operated laboratories shall use the appropriate statutory authority to develop and implement a cash awards program to reward its scientific, engineering, and technical personnel for—

"(1) inventions, innovations, or other outstanding scientific or technological contributions of value to the United States due to commercial application or due to contributions to missions of the Federal agency or the Federal government, or

"(2) exemplary activities that promote the domestic transfer of science and technology development within the Federal Government and result in utilization of such science and technology by American industry or business, universities, State or local governments, or other non-Federal parties.".

SEC. 7. DISTRIBUTION OF ROYALTIES RECEIVED BY FEDERAL AGENCIES.

The Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by inserting after section 13 the following new section:

"SEC. 14. DISTRIBUTION OF ROYALTIES RECEIVED BY FEDERAL AGENCIES.

"(a) IN GENERAL.—(1) Except as provided in paragraphs (2) and (4), any royalties or other income received by a Federal agency from the licensing or assignment of inventions under agreements entered into under section 12, and inventions of Government-operated Federal laboratories licensed under section 207 of title 35, United States Code, or under any other provision of law, shall be retained by the agency whose laboratory produced the invention and shall be disposed of as follows:

"(A)(i) The head of the agency or his designee shall pay at least 15 percent of the royalties or other income the agency receives on account of any invention to the inventor (or co-inventors) if the inventor (or each such co-inventor) was an employee of the agency at the time the invention was made. This clause shall take effect on the date of the enactment of this section unless the agency publishes a notice in the Federal Register within 90 days of such date indicating its election to file a Notice of Proposed Rulemaking pursuant to clause (ii).

"(ii) An agency may promulgate, in accordance with section 553 of title 5, United States Code, regulations providing for an alternative program for sharing royalties with inventors who were employed by the agency at the time the invention was made and whose names appear on licensed inventions. Such regulations must—

"(I) guarantee a fixed minimum payment to each such inventor, each year that the agency receives royalties from that inventor's invention;

notice in the Federal Register within 90 days of such date indicating its election to file a Notice of Proposed Rulemaking pursuant to clause (ii).

"(ii) An agency may promulgate, in accordance with section 553 of title 5, United States Code, regulations providing for an alternative program for sharing royalties with inventors who were employed by the agency at the time the invention was made and whose names appear on licensed inventions. Such regulations must—

"(I) guarantee a fixed minimum payment to each such inventor, each year that the agency receives royalties from that inventor's invention;

"(II) provide a percentage royalty share to each such inventor, each year that the agency receives royalties from that inventor's invention in excess of a threshold amount;

"(III) provide that total payments to all such inventors shall exceed 15 percent of total agency royalties in any given fiscal year; and

"(IV) provide appropriate incentives from royalties for those laboratory employees who contribute substantially to the technical development of a licensed invention between the time of the filing of the patent application and the licensing of the invention.

"(iii) An agency that has published its intention to promulgate regulations under clause (ii) may elect not to pay inventors under clause (i) until the expiration of two years after the date of the enactment of this Act or until the date of the promulgation of such regulations, whichever is earlier. If an agency makes such an election and after two years the regulations have not been promulgated, the agency shall make payments (in accordance with clause (i)) of at least 15 percent of the royalties involved, retroactive to the date of the enactment of this Act. If promulgation of the regulations occurs within two years after the date of the enactment of this Act, payments shall be made in accordance with such regulations, retroactive to the date of the enactment of this Act. The agency shall retain its royalties until the inventor's portion is paid under either clause (i) or (ii). Such royalties shall not be transferred to the agency's Government-operated laboratories under subparagraph (B) and shall not revert to the Treasury pursuant to paragraph (2) as a result of any delay caused by rulemaking under this subparagraph.

"(B) The balance of the royalties or other income shall be transferred by the agency to its Government-operated laboratories, with the majority share of the royalties or other income from any invention going to the laboratory where the invention occurred; and the funds so transferred to any such laboratory may be used or obligated by that laboratory during the fiscal year in which they are received or during the succeeding fiscal year—

"(i) for payment of expenses incidental to the administration and licensing of inventions by that laboratory or by the agency with respect to inventions which occurred at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for invention management and licensing services;

"(ii) to reward scientific, engineering, and technical employees of that laboratory;

"(iii) to further scientific exchange among the Government-operated laboratories of the agency; or

"(iv) for education and training of employees consistent with the research and development mission and objectives of the agency, and for other activities that increase the licensing potential for transfer of the technology of the Government-operated laboratories of the agency.

Any of such funds not so used or obligated by the end of the fiscal year succeeding the fiscal year in which they are received shall be paid into the Treasury of the United States.

"(2) If, after payments to inventors under paragraph (1), the royalties received by an agency in any fiscal year exceed 5 percent of the budget of the Government-operated laboratories of the agency for that year, 75 percent of such excess shall be paid to the Treasury

operated laboratories of the agency.
Any of such funds not so used or obligated by the end of the fiscal year succeeding the fiscal year in which they are received shall be paid into the Treasury of the United States.
"(2) If, after payments to inventors under paragraph (1), the royalties received by an agency in any fiscal year exceed 5 percent of the budget of the Government-operated laboratories of the agency for that year, 75 percent of such excess shall be paid to the Treasury

of the United States and the remaining 25 percent may be used or obligated for the purposes described in clauses (i) through (iv) of paragraph (1)(B) during that fiscal year or the succeeding fiscal year. Any funds not so used or obligated shall be paid into the Treasury of the United States.

"(3) Any payment made to an employee under this section shall be in addition to the regular pay of the employee and to any other awards made to the employee, and shall not affect the entitlement of the employee to any regular pay, annuity, or award to which he is otherwise entitled or for which he is otherwise eligible or limit the amount thereof. Any payment made to an inventor as such shall continue after the inventor leaves the laboratory or agency. Payments made under this section shall not exceed $100,000 per year to any one person, unless the President approves a larger award (with the excess over $100,000 being treated as a Presidential award under section 4504 of title 5, United States Code).

"(4) A Federal agency receiving royalties or other income as a result of invention management services performed for another Federal agency or laboratory under section 207 of title 35, United States Code, shall retain such royalties or income to the extent required to offset the payment of royalties to inventors under clause (i) of paragraph (1)(A), costs and expenses incurred under clause (i) of paragraph (1)(B), and the cost of foreign patenting and maintenance for such invention performed at the request of the other agency or laboratory. All royalties and other income remaining after payment of the royalties, costs, and expenses described in the preceding sentence shall be transferred to the agency for which the services were performed, for distribution in accordance with clauses (i) through (iv) of paragraph (1)(B).

"(b) CERTAIN ASSIGNMENTS.—If the invention involved was one assigned to the Federal agency—

"(1) by a contractor, grantee, or participant in a cooperative agreement with the agency, or

"(2) by an employee of the agency who was not working in the laboratory at the time the inventon was made,

the agency unit that was involved in such assignment shall be considered to be a laboratory for purposes of this section.

"(c) REPORTS.—(1) In making their annual budget submissions Federal agencies shall submit, to the appropriate authorization and appropriation committees of both Houses of the Congress, summaries of the amount of royalties or other income received and expenditures made (including inventor awards) under this section.

"(2) The Comptroller General, five years after the date of the enactment of this section, shall review the effectiveness of the various royalty-sharing programs established under this section and report to the appropriate committees of the House of Representatives and the Senate, in a timely manner, his findings, conclusions, and recommendations for improvements in such programs.".

SEC. 8. EMPLOYEE ACTIVITIES.

The Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by inserting after section 14 the following new section:

"SEC. 15. EMPLOYEE ACTIVITIES.

"(a) IN GENERAL.—If a Federal agency which has the right of ownership to an invention under this Act does not intend to file for

SEC. 8. EMPLOYEE ACTIVITIES.

The Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by inserting after section 14 the following new section:

"SEC. 15. EMPLOYEE ACTIVITIES.

"(a) IN GENERAL.—If a Federal agency which has the right of ownership to an invention under this Act does not intend to file for

a patent application or otherwise to promote commercialization of such invention, the agency shall allow the inventor, if the inventor is a Government employee or former employee who made the invention during the course of employment with the Government, to retain title to the invention (subject to reservation by the Government of a nonexclusive, nontransferrable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government). In addition, the agency may condition the inventor's right to title on the timely filing of a patent application in cases when the Government determines that it has or may have a need to practice the invention.

"(b) DEFINITION.—For purposes of this section, Federal employees include 'special Government employees' as defined in section 202 of title 18, United States Code.

"(c) RELATIONSHIP TO OTHER LAWS.—Nothing in this section is intended to limit or diminish existing authorities of any agency.".

SEC. 9. MISCELLANEOUS AND CONFORMING AMENDMENTS.

(a) REPEAL OF NATIONAL INDUSTRIAL TECHNOLOGY BOARD.—Section 10 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3709) is repealed.

(b) CHANGES IN TERMINOLOGY OR ADMINISTRATIVE STRUCTURE.—(1) Section 3(2) of the Stevenson-Wydler Technology Innovation Act of 1980 is amended by striking out "centers for industrial technology" and inserting in lieu thereof "cooperative research centers".

(2) Section 4 of such Act is amended—

(A) by striking out "Industrial Technology" in paragraph (1) and inserting in lieu thereof "Productivity, Technology, and Innovation";

(B) by striking out "'Director' means the Director of the Office of Industrial Technology" in paragraph (3) and inserting in lieu thereof "'Assistant Secretary' means the Assistant Secretary for Productivity, Technology, and Innovation";

(C) by striking out "Centers for Industrial Technology" in paragraph (4) and inserting in lieu thereof "Cooperative Research Centers";

(D) by striking out paragraph (6), and redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively; and

(E) by striking out "owned and funded" in paragraph (6) as so redesignated and inserting in lieu thereof "owned, leased, or otherwise used by a Federal agency and funded".

(3) Section 5(a) of such Act is amended by striking out "Industrial Technology" and inserting in lieu thereof "Productivity, Technology, and Innovation".

(4) Section 5(b) of such Act is amended by striking out "DIRECTOR" and inserting in lieu thereof "ASSISTANT SECRETARY", and by striking out "a Director of the Office" and all that follows and inserting in lieu thereof "an Assistant Secretary for Productivity, Technology, and Innovation.".

(5) Section 5(c) of such Act is amended—

(A) by striking out "the Director" each place it appears and inserting in lieu thereof "the Assistant Secretary";

(B) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively; and

(C) by inserting immediately after paragraph (6) the following new paragraphs:

ing out "a Director of the Office" and all that follows and inserting in lieu thereof "an Assistant Secretary for Productivity, Technology, and Innovation.".

(5) Section 5(c) of such Act is amended—

(A) by striking out "the Director" each place it appears and inserting in lieu thereof "the Assistant Secretary";

(B) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively; and

(C) by inserting immediately after paragraph (6) the following new paragraphs:

"(7) encourage and assist the creation of centers and other joint initiatives by State of local governments, regional organizations, private businesses, institutions of higher education, nonprofit organizations, or Federal laboratories to encourage technology transfer, to stimulate innovation, and to promote an appropriate climate for investment in technology-related industries;

"(8) propose and encourage cooperative research involving appropriate Federal entities, State or local governments, regional organizations, colleges or universities, nonprofit organizations, or private industry to promote the common use of resources, to improve training programs and curricula, to stimulate interest in high technology careers, and to encourage the effective dissemination of technology skills within the wider community;".

(6) The heading of section 6 of such Act is amended to read as follows:

"SEC. 6. COOPERATIVE RESEARCH CENTERS."

(7) Section 6(a) of such Act is amended by striking out "Centers for Industrial Technology" and inserting in lieu thereof "Cooperative Research Centers".

(8) Section 6(b)(1) of such Act is amended by striking out "basic and applied".

(9) Section 6(e) of such Act is amended to read as follows:

"(e) RESEARCH AND DEVELOPMENT UTILIZATION.—In the promotion of technology from research and development efforts by Centers under this section, chapter 18 of title 35, United States Code, shall apply to the extent not inconsistent with this section.".

(10) Section 6(f) of such Act is repealed.

(11) The heading of section 8 of such Act is amended by striking out "CENTERS FOR INDUSTRIAL TECHNOLOGY" and inserting in lieu thereof "COOPERATIVE RESEARCH CENTERS".

(12) Section 8(a) of such Act is amended by striking out "Centers for Industrial Technology" and inserting in lieu thereof "Cooperative Research Centers".

(13) Section 19 of such Act (as redesignated by section 2 of this Act) is amended by striking out "pursuant to this Act" and inserting in lieu thereof "pursuant to the provisions of this Act (other than sections 12, 13, and 14)".

(c) RELATED CONFORMING AMENDMENT.—Section 210 of title 35, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The provisions of the Stevenson-Wydler Technology Innovation Act of 1980, as amended by the Federal Technology Transfer Act of 1986, shall take precedence over the provisions of this chapter to the extent that they permit or require a disposition of rights in subject inventions which is inconsistent with this chapter.".

(d) ADDITIONAL DEFINITIONS.—Section 4 of such Act (as amended by subsection (b)(2) of this section) is further amended by adding at the end thereof the following new paragraphs:

"(8) 'Federal agency' means any executive agency as defined in section 105 of title 5, United States Code, and the military departments as defined in section 102 of such title.

"(9) 'Invention' means any invention or discovery which is or may be patentable or otherwise protected under title 35, United States Code, or any novel variety of plant which is or may be

to the extent that they permit or require a disposition of rights in subject inventions which is inconsistent with this chapter.".

(d) ADDITIONAL DEFINITIONS.—Section 4 of such Act (as amended by subsection (b)(2) of this section) is further amended by adding at the end thereof the following new paragraphs:

"(8) 'Federal agency' means any executive agency as defined in section 105 of title 5, United States Code, and the military departments as defined in section 102 of such title.

"(9) 'Invention' means any invention or discovery which is or may be patentable or otherwise protected under title 35, United States Code, or any novel variety of plant which is or may be

protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

"(10) 'Made' when used in conjunction with any invention means the conception or first actual reduction to practice of such invention.

"(11) 'Small business firm' means a small business concern as defined in section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration.

"(12) 'Training technology' means computer software and related materials which are developed by a Federal agency to train employees of such agency, including but not limited to software for computer-based instructional systems and for interactive video disc systems.".

(e) REDESIGNATION OF SECTIONS TO REFLECT CHANGES MADE BY PRECEDING PROVISIONS.—(1) Such Act (as amended by the preceding provisions of this Act) is further amended by redesignating sections 11 through 19 as sections 10 through 18, respectively.

(2)(A) Section 5(d) of such Act is amended by inserting "(as then in effect)" after "sections 5, 6, 8, 11, 12, and 13 of this Act".

(B) Section 8(a) of such Act is amended by striking out the last sentence.

(C) Section 9(d) of such Act is amended by striking out "or 18" and inserting in lieu thereof "10, 14, or 16".

(3) Section 13(a)(1) of such Act (as redesignated by paragraph (1) of this subsection) is amended by striking out "section 12" in the matter preceding subparagraph (A) and inserting in lieu thereof "section 11".

(4) Section 18 of such Act (as redesignated by paragraph (1) of this subsection) is amended by striking out "sections 12, 13, and 14" and inserting in lieu thereof "sections 11, 12, and 13".

(f) CLARIFICATION OF FINDINGS AND PURPOSES.—(1) The second sentence of section 2(10) of such Act (15 U.S.C. 3701(10)) is amended by inserting ", which include inventions, computer software, and training technologies," immediately after "developments".

(2) Section 3(3) of such Act (15 U.S.C. 3702(3)) is amended by inserting ", including inventions, software, and training technologies," immediately after "developments".

Thomas P. O'Neill

Speaker of the House of Representatives

Strom Thurmond

Vice President of the United States and President of the Senate pro Tempore

Strom Thurmond

Vice President of the United States and President of the Senate pro Tempore

Note 1

1. State action

A state may restrict operation of indefinite price escalation clauses in gas purchase agreements if it chooses to do so notwithstanding a finding that such a clause was not contrary to federal public policy under this chapter. Superior Oil Co. v. Western Slope Gas Co., D.C.Colo.1982, 549 F.Supp. 463, affirmed 758 F.2d 500.

Natural Gas Policy Act of 1978 does not empower Public Utility Commission to mandate use of surcharge to fund residential conservation programs; funds created from surcharge are to be used to reduce rates of eligible customers. Process Gas Consumers Group v. Pennsylvania Public Utility Com'n, Pa.1986, 511 A.2d 1315.

Regulation of intrastate prices for natural gas by legislatively created Public Service Commission, rather than by legislature itself, was regulation by the "state" for purposes of section of the Natural Gas Policy Act authorizing state regulation for first sale of natural gas produced in that state. Pennzoil Co. v. Public Service Com'n, W.Va.1985, 327 S.E.2d 444, certiorari denied 106 S.Ct. 74.

Federal jurisdiction and regulation, both expressed and implicit, did not govern wellhead sales of deregulated natural gas, so as to supersede State Oil and Gas Board rule requiring pipeline companies to ratably take gas from wells producing from a common pool, where comparison of such rule with federal law revealed no point of actual conflict, and where there was nothing in federal law as modified by this chapter which left in place a scheme of federal regulations so pervasive as to make reasonable an inference that Congress left no room for the states to supplement it. Transcontinental Gas Pipeline Corp. v. State Oil and Gas Bd. of Mississippi, Miss.1984, 457 So.2d 1298, probable jurisdiction noted 105 S.Ct. 1840, 85 L.Ed.2d 140.

2. Indian reservation

New Mexico Natural Gas Pricing Act NMSA 1978, § 62-7-1 et seq., was applicable to gas produced on Indian reservation and sold to non-Indians on the reservation. Jicarilla Apache Tribe v. Supron Energy Corp., C.A.N.M.1984, 728 F.2d 1555, on rehearing 782 F.2d 855, modified 793 F.2d 1171.

3. State public policy

Favored nations provision in long-term contract for purchase of intrastate gas was not contrary to public policy of Colorado. Superior Oil Co. v. Western Slope Gas Co., C.A.10 (Colo.) 1985, 758 F.2d 500.

CHAPTER 62—CONDOMINIUM AND COOPERATIVE CONVERSION PROTECTION AND ABUSE RELIEF

§ 3601. Congressional findings and purpose

Notes of Decisions

Application of chapter 1
Construction ½

½. Construction

Cooperative conversion plan and amendment adequately described existence and relevant provisions of Federal Condominium and Cooperative Abuse Relief Act and gave tenants additional 30 days within which to exercise exclusive rights to purchase and, thus, satisfied informational purpose of statute [McKinney's General Business Law § 352-e, subd. 1(b)] which requires cooperative conversion plans to disclose material information to purchasers. 2 Fifth Ave. Tenants Ass'n v. May-Carlton Associates, 1986, 500 N.Y.S.2d 664, 119 A.D.2d 436.

Condominium and Cooperative Abuse Relief Act [Housing and Community Development Act of 1980, § 602 et seq., as amended, 15 U.S.C.A. § 3601 et seq.], is remedial statute, which should be interpreted broadly to give it effectiveness. 233 East 86th Street Corp. v. Park East Apartments, Inc., 1986, 499 N.Y.S.2d 853, 131 Misc.2d 242.

1. Application of chapter

Condominium and Cooperative Abuse Relief Act [15 U.S.C.A. § 3601 et seq.] was applicable to conversion of apartment building from rental to cooperative status, even though conversion did not involve eviction and no aged or disabled tenants were deprived of shelter. West 14th Street Commercial Corp. v. 5 West 14th Street Owners Corp., S.D.N.Y.1986, 625 F.Supp. 934.

§ 3605. Notice of conversion and opportunity to purchase; responsibility of State and local governments

Notes of Decisions

1. Disclosure

Cooperative conversion plan and amendment adequately disclosed existence of Federal Condominium and Cooperative Relief Act of 1980 and its provisions and gave tenants additional 30 days within which to exercise exclusive rights to purchase and, thus, satisfied informational purpose of statute [McKinney's General Business Law § 352-e, subd. 1(b)] which requires cooperative conversion plans to disclose material information to purchasers. Phoenix Tenants Ass'n v. 6465 Realty Co., 1986, 500 N.Y.S.2d 657, 119 A.D.2d 427.

§ 3607. Termination of self-dealing contracts

Notes of Decisions

Constitutionality ½
Contracts within section 1
Injunction 2

½. Constitutionality

Termination provisions of Condominium and Cooperative Abuse Relief Act [Housing and Community Development Act of 1980, §§ 602, 608, 608(b, c), as amended, 15 U.S.C.A. §§ 3601, 3607, 3607(b, c)], providing that supermajority of tenants may terminate long-term lease between sponsor and cooperative corporation obtained by self-dealing, was reasonably related to legitimate congressional goal, so that sponsor, who challenged constitutionality of act in suit for injunctive relief, failed to establish likelihood of success on merits. 233 East 86th Street Corp. v. Park East Apartments, Inc., 1986, 499 N.Y.S.2d 853, 131 Misc.2d 242.

1. Contracts within section

Contracts between cooperative association which owned apartment building and three corporations created by original owner and developer of building for purpose of effectuating conversion of building from rental to cooperative status were not "self-dealing contracts" within meaning of section of Condominium and Cooperative Abuse Relief Act; contracts were not in any realistic sense between developer and cooperative association as such or its unit owners; moreover, even assuming contracts were deemed to be "between" developer and cooperative association, developer never held a "majority of the votes" in association or exercised "special developer control" as required for applicability of statute. West 14th Street Commercial Corp. v. 5 West 14th Street Owners Corp., S.D.N.Y.1986, 625 F.Supp. 934.

2. Injunction

Sponsor failed to demonstrate favorable balance of equities, for purposes of its suit to enjoin tenants from terminating lease under Condominium and Cooperative Abuse Relief Act [Housing and Community Development Act of 1980, § 602 et seq., as amended, 15 U.S.C.A. § 3601 et seq.], where sponsor had previously obtained lease of up to 95 years for unusually low rental figure from cooperative corporation it controlled. 233 East 86th Street Corp. v. Park East Apartments, Inc., 1986, 499 N.Y.S.2d 853, 131 Misc.2d 242.

§ 3608. Judicial determinations respecting unconscionable leases

Notes of Decisions

1. Due process

This chapter does not deprive party to a condominium recreational facilities lease of contractual rights without due process of law, even when applied to provide judicial review of leases entered into before this chapter was passed, as the remedies of this chapter are directed solely to unconscionable lease provisions, so that there is no interference with any valid contract rights, and this chapter provides ample opportunity to show that lease is not unconscionable. Bay Colony Condominium Owners Ass'n v. Origer, D.C.Ill. 1984, 585 F.Supp. 30.

CHAPTER 63—TECHNOLOGY INNOVATION

Sec.
3704. Commerce and technological innovation.
(a) In general.
(b) Assistant Secretary.
(c), (d) [See main volume for text].
3705. Cooperative Research Centers.
(a) Establishment.
(b) Activities.
(c), (d) [See main volume for text].
(e) Research and development utilization.
(f) Repealed.
3707. National Science Foundation Cooperative Research Centers.
3710. Utilization of Federal technology.
(a) to (c) [See main volume for text.]
(d) Dissemination of technical information.
(e) Establishment of Federal Laboratory Consortium for Technology Transfer.
(f) Agency reporting.
(g) Functions of Secretary.

Sec.
3710a. Cooperative research and development agreements.
(a) General authority.
(b) Enumerated authority.
(c) Contract considerations.
(d) Definitions.
(e) Determination of laboratory missions.
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3710b. Rewards for scientific, engineering, and technical personnel of Federal agencies.
3710c. Distribution of royalties received by Federal agencies.
(a) In general.
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3710d. Employee activities.
(a) In general.
(b) Definition.
(c) Relationship to other laws.