FEDERAL TECHNOLOGY TRANSFER ACT

OF

1986

PL 99-502

SIGNED INTO LAW
20 OCT 1986

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

PRINCIPAL POINTS

* AMENDS THE STEVENSON-WYDLER ACT OF 1980 (PL 96-480)
* STRENGTHENS POLICY MAKING TECHNOLOGY TRANSFER PART OF LAB MISSION
* LAB WITH MORE THAN 200 S&E PERSONNEL MUST HAVE A FULL TIME ORTA
* EACH AGENCY MUST REPORT ANNUALLY WITH BUDGET SUBMISSION
* ESTABLISHES THE FEDERAL LABORATORY CONSORTIUM
* PROVIDES AUTHORITY FOR GOVERNMENT LABS TO ENTER INTO COOPERATIVE R&D AGREEMENTS
* PROVIDES 15% OF ROYALTIES TO INVENTORS AND THE MAJORITY OF THE BALANCE TO LABS

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

SECTION TOPICS

SECTION 1 - SHORT TITLE

SECTION 2 - COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS

SECTION 3 - ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM

SECTION 4 - UTILIZATION OF FEDERAL TECHNOLOGY

SECTION 5 - FUNCTIONS OF THE SECRETARY OF COMMERCE

SECTION 6 - REWARDS FOR TECHNICAL PERSONNEL OF FEDERAL AGENCIES

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SECTION 8 - EMPLOYEE ACTIVITIES

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FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

COOPERATIVE R&D AGREEMENTS

THE DIRECTOR OF EACH FEDERAL LABORATORY MAY BE PERMITTED TO:

1) ENTER INTO COOPERATIVE R&D AGREEMENTS
2) NEGOTIATE LICENSING AGREEMENTS

AGREEMENTS MAY BE MADE WITH:

* OTHER FEDERAL AGENCIES
* UNITS OF STATE AND LOCAL GOVERNMENT
* INDUSTRIAL ORGANIZATIONS
* PUBLIC AND PRIVATE FOUNDATIONS
* NON-PROFITS (INCLUDING UNIVERSITIES)
* OTHER PERSONS

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

COOPERATIVE R&D AGREEMENTS

* ACCEPT FUNDS, PERSONNEL, SERVICES, AND PROPERTY FROM COLLABORATING PARTIES
* SUPPLY ANY OF THESE, EXCEPT FUNDS, TO COLLABORATING PARTIES
* GRANT (OR AGREE TO GRANT IN ADVANCE) PATENT LICENSES, ASSIGNMENTS OR OPTIONS FOR INVENTIONS OF LAB EMPLOYEES
* WAIVE RIGHT OF OWNERSHIP, EXCEPT FOR LICENSE, TO INVENTIONS MADE BY COLLABORATORS

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

COOPERATIVE R&D AGREEMENTS

1) GIVE SPECIAL CONSIDERATION TO SMALL BUSINESSES AND CONSORTIA OF SMALL BUSINESSES

2) GIVE PREFERENCE TO BUSINESS UNIT LOCATED IN U.S. AND AGREEING TO MANUFACTURE IN U.S.

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

COOPERATIVE R&D AGREEMENTS

* AGENCY MAY ISSUE REGULATIONS ON PROCEDURES BUT IMPLEMENTATION SHALL NOT BE DELAYED
* AGENCY MUST REVIEW STANDARDS OF CONDUCT AND PROVIDE GUIDELINES FOR LIKELY SITUATIONS
* AGENCY HEAD MUST DISAPPROVE OR REQUIRE MODIFICATION OF ANY AGREEMENT WITHIN 30 DAYS
* AGENCY MUST MAINTAIN A RECORD OF ALL AGREEMENTS

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM

* THE LAW PROVIDES A CHARTER FOR THE FLC

* MEMBERSHIP CONSISTS OF FEDERAL LABORATORIES WITH 200 OR MORE FULL-TIME EQUIVALENT SCIENTIFIC, ENGINEERING AND RELATED TECHNICAL POSITIONS AND OTHERS WHICH WISH TO JOIN

* REPRESENTATIVES TO THE CONSORTIUM SHALL BE A SENIOR STAFF MEMBER FROM EACH MEMBER LABORATORY AND FROM EACH FEDERAL AGENCY WITH MEMBER LABORATORIES

* THE DIRECTOR OF NBS SHALL PROVIDE ADMINISTRATIVE SUPPORT SERVICES TO THE FLC

* FEDERAL AGENCIES SHALL SEND FUNDS EQUAL TO .005% OF THEIR INTERNAL R&D BUDGET TO NBS FOR SUPPORT OF FLC IF THIS AMOUNT IS $\geq$ \$10K

* HEADS OF FEDERAL AGENCIES AND DIRECTORS OF LABORATORIES MAY PROVIDE ADDITIONAL FUNDS AS THEY DEEM APPROPRIATE

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM

THE FEDERAL LABORATORY CONSORTIUM FOR TECHNOLOGY TRANSFER SHALL, IN COOPERATION WITH LABORATORIES, AGENCIES, AND CLIENT GROUPS:

1) DEVELOP TRAINING COURSES AND OTHER METHODS TO INCREASE THE AWARENESS OF LAB EMPLOYEES OF COMMERCIAL POTENTIAL OF THEIR TECHNOLOGY

2) FURNISH ADVICE AND ASSISTANCE TO AGENCIES AND LABORATORIES ON TECHNOLOGY TRANSFER

3) PROVIDE A CLEARINGHOUSE TO REFER REQUESTS FOR ASSISTANCE TO THE APPROPRIATE LABORATORY OR LABORATORIES

4) FACILITATE COMMUNICATION AND COORDINATION BETWEEN ORTA'S

5) ASSIST LABORATORIES TO USE APPROPRIATE TRANSFER MECHANISMS AND ESTABLISH TECHNICAL VOLUNTEER PROGRAMS

6) FACILITATE COOPERATION BETWEEN ORTA'S AND REGIONAL, STATE AND LOCAL TECHNOLOGY TRANSFER ORGANIZATIONS

7) ASSIST UNIVERSITIES, BUSINESSES, NON PROFITS, STATE AND LOCAL GOVERNMENTS, AND REGIONAL ORGANIZATIONS IN ESTABLISHING PROGRAMS TO ENCOURAGE TRANSFER

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM

* THE FLC SHALL SEEK ADVICE ON PROGRAM EFFECTIVENESS IN EACH FLC REGION FROM REPRESENTATIVES OF ITS CONSTITUENCIES

* THE CHAIRMAN OF THE CONSORTIUM SHALL SUBMIT AN ANNUAL REPORT TO THE PRESIDENT, SPECIFIED CONGRESSIONAL COMMITTEES, AND EACH FUNDING AGENCY

* THE CONSORTIUM SHALL ARRANGE FOR 5% OF ITS FUNDS TO BE GRANTED OR AWARDED TO ESTABLISH DEMONSTRATION PROJECTS IN TECHNOLOGY TRANSFER

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

UTILIZATION OF FEDERAL TECHNOLOGY

EXPANDS THE FOLLOWING POLICY STATEMENT OF STEVENSON-WYDLER:

1) THE FEDERAL GOVERNMENT WILL STRIVE TO TRANSFER ITS TECHNOLOGY

BY ADDING:

2) TECHNOLOGY TRANSFER IS A RESPONSIBILITY OF EACH LABORATORY SCIENCE AND ENGINEERING PROFESSIONAL

3) EACH LAB DIRECTOR SHALL ENSURE TRANSFER EFFORTS ARE CONSIDERED POSITIVELY IN LAB JOB DESCRIPTIONS, PROMOTION POLICIES, AND S&E JOB PERFORMANCE EVALUATION

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

UTILIZATION OF FEDERAL TECHNOLOGY

THE REVISED FUNCTIONS OF THE ORTA'S ARE:

1) PREPARE APPLICATIONS ASSESSMENTS FOR SELECTED R&D PROJECTS BELIEVED TO HAVE COMMERCIAL APPLICATIONS

2) PROVIDE AND DISSEMINATE INFORMATION ON FEDERALLY OWNED OR ORIGINATED TECHNOLOGY

3) COOPERATE WITH AND ASSIST THE NATIONAL TECHNICAL INFORMATION SERVICE, THE FEDERAL LABORATORY CONSORTIUM, AND OTHER ORGANIZATIONS LINKING LABS WITH POTENTIAL USERS

4) PROVIDE TECHNICAL ASSISTANCE TO STATE AND LOCAL GOVERNMENT OFFICIALS

5) PARTICIPATE IN REGIONAL, STATE AND LOCAL PROGRAMS DESIGNED TO FACILITATE AND STIMULATE TECHNOLOGY TRANSFER

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

UTILIZATION OF FEDERAL TECHNOLOGY

CHANGES SECTION 11(B) OF STEVENSON-WYDLER TO REQUIRE:

1) LABORATORIES HAVING 200 OR MORE FULL-TIME EQUIVALENT SCIENTIFIC, ENGINEERING AND RELATED TECHNICAL POSITIONS SHALL PROVIDE ONE OR MORE FULL-TIME EQUIVALENT POSITIONS FOR THE ORTA

2) INDIVIDUALS IN ORTA POSITIONS SHALL BE INCLUDED IN THE MANAGEMENT DEVELOPMENT PROGRAM

* IT IS UNEQUIVOCALLY CONGRESSIONAL INTENT TO HAVE TECHNOLOGY TRANSFER AS THE PRIMARY JOB OF AT LEAST ONE FULL-TIME PROFESSIONAL

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

UTILIZATION OF FEDERAL TECHNOLOGY

* AMENDS SECTION 11(D) TO ELIMINATE THE DESIGNATION OF THE CENTER FOR THE UTILIZATION OF FEDERAL TECHNOLOGY

* CLARIFIES THAT THE NATIONAL TECHNICAL INFORMATION SERVICE SHOULD RESPOND TO REQUESTS FOR PUBLISHED TECHNICAL INFORMATION AND REFER REQUESTS FOR ASSISTANCE TO THE FLC

* CHANGES AGENCY REPORTING TO REQUIRE REPORT ANNUALLY TO THE CONGRESS AS PART OF THE AGENCY'S ANNUAL BUDGET SUBMISSION

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

FUNCTIONS OF THE SECRETARY OF COMMERCE

* MAKE AVAILABLE TO AGENCIES DOC EXPERTISE IN INVENTION COMMERCIALIZATION
* DEVELOP AND DISSEMINATE MODEL COOPERATIVE R&D AGREEMENTS
* REPORT EVERY 2 YEARS TO THE PRESIDENT AND CONGRESS ON THE USE OF AUTHORITIES IN THIS ACT
* REPORT WITHIN A YEAR TO THE PRESIDENT AND CONGRESS ON COPYRIGHT PROVISIONS AND ANY OTHER BARRIERS TO TRANSFER OF GOVERNMENT SOFTWARE

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

REWARDS FOR TECHNICAL PERSONNEL

FEDERAL AGENCIES WITH INTERNAL R&D BUDGETS GREATER THAN $50M SHALL IMPLEMENT A CASH AWARDS PROGRAM FOR TECHNICAL PERSONNEL FOR:

1) INVENTIONS, INNOVATIONS OR OUTSTANDING TECHNICAL CONTRIBUTIONS OF VALUE FROM COMMERCIAL APPLICATION OR CONTRIBUTION TO MISSION

2) EXEMPLARY ACTIVITIES THAT PROMOTE DOMESTIC TECHNOLOGY TRANSFER

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

DISTRIBUTION OF ROYALTIES BY AGENCIES

ROYALTIES FROM LICENSING AND ASSIGNMENT OF INVENTIONS SHALL BE RETAINED BY THE AGENCY AND DISPOSED OF AS FOLLOWS:

1) 15% TO THE INVENTOR OR CO-INVENTORS UP TO $100K FOR EACH PERSON (MAY BE EXCEEDED WITH PRESIDENTIAL APPROVAL)

2) BALANCE OF INCOME GOES TO AGENCY LABORATORIES UP TO 5% OF BUDGET BEYOND WHICH ONLY 25% IS RETAINED

3) MAJORITY OF INCOME FOR LABORATORIES GOES TO THOSE WHERE INVENTIONS OCCURRED

4) FUNDS IN EXCESS OF LIMITS OR UNUSED BY THE END OF THE YEAR SUCCEEDING THE YEAR RECEIVED GOES TO THE TREASURY

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

DISTRIBUTION OF ROYALTIES BY AGENCIES

FUNDS TO LABS MAY BE USED IN FISCAL YEAR RECEIVED OR THE FOLLOWING YEAR FOR:

1) EXPENSES FOR LICENSING BY LAB, AGENCY OR OTHER ORGANIZATIONS

2) REWARDS FOR SCIENTIFIC, ENGINEERING OR TECHNICAL PERSONNEL

3) INCREASED SCIENTIFIC EXCHANGE AMONG AGENCY LABORATORIES

4) EDUCATION AND TRAINING OF EMPLOYEES TO INCREASE MISSION AND TRANSFER PRODUCTIVITY

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

DISTRIBUTION OF ROYALTIES BY AGENCIES

* AN AGENCY, HAVING GIVEN NOTICE WITHIN 90 DAYS MAY HOLD FUNDS FOR PAYMENT OF INVENTORS, BUT MUST IMPLEMENT AN ALTERNATIVE PROGRAM WITHIN 2 YEARS FOR SHARING ROYALTIES WITH INVENTORS EMPLOYED BY THE AGENCY WHEN THE INVENTION WAS MADE AND WHO ARE NAMED ON LICENSED INVENTIONS

* PAYMENT TO INVENTORS IS RETROACTIVE TO DATE OF ENACTMENT OF THIS SECTION

* A REPORT OF INCOME AND EXPENDITURES MADE UNDER THIS SECTION SHALL BE MADE WITH ANNUAL AGENCY BUDGET SUBMISSIONS

FEDERAL TECHNOLOGY TRANSFER ACT OF 1986

DISTRIBUTION OF ROYALTIES BY AGENCIES

AGENCIES MAY PROVIDE AN ALTERNATIVE PROGRAM FOR SHARING ROYALTIES WITH INVENTORS PROVIDED THAT:

1) PROGRAM PROVIDES A FIXED MINIMUM PAYMENT FOR EACH INVENTOR FOR EACH YEAR INCOME IS RECEIVED

2) PROGRAM PROVIDES A PERCENTAGE TO EACH INVENTOR EACH YEAR ROYALTIES EXCEED A THRESHOLD AMOUNT

3) TOTAL PAYMENTS TO ALL SUCH INVENTORS EXCEED 15% OF TOTAL AGENCY ROYALTIES EACH FISCAL YEAR

4) PROGRAM PROVIDES INCENTIVES TO EMPLOYEES WHO CONTRIBUTE TO FURTHER DEVELOPMENT OF INVENTIONS FOR LICENSING

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EMPLOYEE ACTIVITIES AND MISCELLANEOUS AMENDMENTS

* AN AGENCY WITH RIGHT OF OWNERSHIP SHALL ALLOW THE INVENTOR TO RETAIN TITLE IF IT DOES NOT INTEND TO FILE FOR A PATENT