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OFFICE OF TECHNOLOGY POLICY

Effective Partnering

A Report to Congress on Federal Technology Partnerships

Preview Copy

See pp. 4+ 12

NO MENTION of Bayh/Dole

FOREWORD

During the last fifteen years, successive Congresses and Presidents have introduced a range of policies and programs that are designed to increase the effectiveness of government mission R&D and enhance U.S. technology-based economic growth. These policies and programs include:

- Licensing of Federal Patents
- Cooperative Research and Development Agreements (CRADAs)
- The Small Business Innovation Research program (SBIR)
- The Advanced Technology Program (ATP)
- The Manufacturing Extension Partnership (MEP)

Taken as a whole, this series of policies and programs illustrates a gradual evolution from the historic model -- in which government is the principal **customer** for federally supported technology -- to inclusion of a newer paradigm appropriate to this era of dynamic commercial markets and global competition. In this new paradigm, government is **partner** with the private sector in developing and deploying new commercial technologies that both fulfill mission objectives and enhance U.S. industry's market strength.

Extensive consultation with the private sector confirms that these partnership policies and programs, in combination with incentives for capital formation and regulatory reforms that reduce risk, are important in stimulating technological innovation and improving U.S. competitiveness.

This report analyzes this historic transition and illustrates best practices of the new paradigm across the range of programs. It also offers recommendations for further improving the effectiveness of present and future public-private partnerships.

Graham R. Mitchell
Assistant Secretary of Commerce
for Technology Policy

- **Government agencies are adopting a new paradigm for technology partnerships.**

  Government agencies are experimenting with and adopting a new model of public-private partnership, in which the private sector is recognized as the government's partner in cost-shared technology development and diffusion programs. The new paradigm is enabling agencies to achieve missions more effectively and is enhancing the impact of federal R&D partnerships on the U.S. economy. Newer direct competitiveness programs (ATP and MEP) and the defense dual-use TRP program, which were designed according to the principles of the new paradigm, are drawing strength and support through their interactions with the private sector. In addition, new paradigm principles of service and improved accountability have improved the operations of the older programs that enhance the efficiency and commercial impact of government mission R&D.

Recommendations

Although individual federal agencies have already made significant progress improving the effectiveness of programs and incorporating many features of the new paradigm, there is an opportunity to learn from the best practices across all agencies. To the extent permitted by agency missions, the agencies should:

- **Make Partnership Opportunities More Accessible and Easier to Identify**

  - o Disseminate information on federal research projects, expertise and intellectual property through both public and private means.
  - o Serve as a catalyst to promote matching of new technologies developed in programs with sources of capital and other support.
  - o Increase public-private exchanges of scientific and technical personnel.
  - o Use participation in and support of industry consortia and other "umbrella" organizations as a means of ensuring broad private sector access to partnership opportunities

- **Ensure Effective Protection of Intellectual Property**

  - o Use panels of industry representatives to help identify the commercial potential of agency research and of new inventions at as early a point as possible.
  - o Use procedural options under the patent laws to secure additional time to collect private sector advice and to ensure that appropriate protection is sought.

- **Be a Better Partner: Improve Speed, Flexibility, and Predictability**

  Make Administration of Partnership Agreements More Responsive to Industry Needs

  - o Use whatever form of funding agreement provides the agency with maximum flexibility to adopt commercial practices in structuring the agreement.
  - o Direct agencies to use, where available, "other transactions" authority or other comparable authority permitting greatest possible flexibility in the terms of collaborative research agreements.
  - o Increase speed with which the agencies fund partnerships, once agreed to.
  - o Where appropriate, use the "exceptional circumstances" authority of the Bayh Dole Act to permit industry to own or control the rights in inventions resulting from federal funding (including those made by subcontractors).

  Make Partnership Agreements Easier to Negotiate

  - o Use state and local economic development organizations, industry associations and other intermediary organizations as partners, providing an "umbrella" under which individual businesses can perform collaborative research.

  Make Partnership Agreements More Predictable

  - o Seek public-private agreement on the basic principles for partnership agreements.
  - o Build on these principles to provide uniform agreement terms, where possible, and to make negotiations faster and outcomes more predictable.
  - o In the case of CRADAs, agree to provide private sector partners the option of an exclusive license to inventions developed by federal agency employees in connection with the partnership.

- **Help Small Businesses Secure Necessary Business and Financial Advice from State Programs and Private Sector Sources**

  - o Work with state and federal agencies to increase the support available to small businesses and others needing to improve their competence in the commercialization of new technologies.

- **Further Increase Private Sector Role in Project Definition and Selection**

  - o Seek private sector views concerning the portions of mission research agenda with greatest commercial potential.
  - o Use this continuing source of guidance as a basis for selecting technology areas in which partnership opportunities will be offered under the partnership programs.

- **Shift to Commercial Financial Management Practices**

  - o Wherever possible, eliminate FAR Part 31 accounting requirements for private sector participants in research partnerships in favor of commercial practices.
  - o Review accounting procedures in all other programs with the objective of minimizing special standards imposed on private sector participants and following commercial practices more closely.

- **Continue Developing Systems of Measuring Program Results**

  - o Work in collaboration with other agencies and with interested private sector parties to identify appropriate measures of effectiveness for those types of research partnerships in which the agency participates.
  - o Ask the National Science and Technology Council or other appropriate organization to lead an interagency effort to coordinate agency measurement systems into a comprehensive measurement system for all federal partnership efforts.