(1) That the rule cannot legally be considered in accordance with this Order, together with a brief explanation of the legal reasons barring such consideration; or

(2) That the rule is not a major rule, in which case the agency shall submit to the Director a copy of the proposed rule.

(g) The Director, subject to the direction of the Task Force, is authorized, to the extent permitted by law, to:

(1) Require consideration, in accordance with this Order, of any proposed major rule that the agency has published or issued as of the date of this Order; and

(2) Designate a proposed rule that an agency has published or issued as of the date of this Order, as a major rule in accordance with Section 1(b) of this Order.

(h) The Director shall be deemed to have determined that an agency's report to the Director under subsections (b), (d), or (f) of this Section is consistent with the purposes of this Order, unless the Director advises the agency to the contrary:

(1) Within 15 days of its report, in the case of any report under subsections (b) or (d); or

(2) Within 30 days of its report, in the case of any report under subsection (f).

(i) This Section does not supersede the President's Memorandum of January 29, 1981, entitled "Postponement of Pending Regulations", which shall remain in effect until March 30, 1981.

(j) In complying with this Section, agencies shall comply with all applicable provisions of the Administrative Procedure Act, and with any other procedural requirements made applicable to the agencies by other statutes.

Sec. 8. Exemptions.

(a) The procedures prescribed by this Order shall not apply to:

(1) Any regulation that responds to an emergency situation, provided that, any such regulation shall be reported to the Director as soon as is practicable, the agency shall publish in the Federal Register a statement of the reasons why it is impracticable for the agency to follow the procedures of this Order with respect to such a rule, and the agency shall prepare and transmit as soon as is practicable a Regulatory Impact Analysis of any such major rule; and

(2) Any regulation for which consideration or reconsideration under the terms of this Order would conflict with

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(1) Any regulation that responds to an emergency situation, provided that, any such regulation shall be reported to the Director as soon as is practicable, the agency shall publish in the Federal Register a statement of the reasons why it is impracticable for the agency to follow the procedures of this Order with respect to such a rule, and the agency shall prepare and transmit as soon as is practicable a Regulatory Impact Analysis of any such major rule; and

(2) Any regulation for which consideration or reconsideration under the terms of this Order would conflict with deadlines imposed by statute or by judicial order, provided that, any such regulation shall be reported to the Director together with a brief explanation of the conflict, the

PETE V. DOMENICI
NEW MEXICO

COMMITTEES:
BUDGET
APPROPRIATIONS
ENERGY AND NATURAL RESOURCES
AGING

United States Senate

WASHINGTON, DC 20510

November 13, 1989

Re: Technology Transfer at the DOE Laboratories

Dear Friend of Technology Transfer:

I thought you might find the enclosed information regarding technology transfer and the Department of Energy National Laboratories to be of interest. This week the United States Congress is expected to give final approval to legislation that will greatly enhance prospects for improving technology transfer from the Department of Energy National Laboratories. The goal is to convert the economic potential of our laboratories into real commercialization opportunities. This is one way the U.S. can better meet the competitiveness challenge.

This new law entitled "The National Competitiveness Technology Transfer Act of 1989," is a revision of S. 1480 in the last Congress and S. 550 in this Congress. It will open up the DOE Laboratories and make them "user friendly."

It will streamline the rules underwhich industry can interact with the DOE National Laboratories. These new rules will encourage cooperative research and development with industry, help decentralize management of laboratory-developed technology, and enable laboratories to protect commercially valuable innovations so they can be effectively developed by American industry.

This legislation is included as Section 3131 et seq. of this year's Department of Defense Authorization bill. If you have questions or need additional information about this legislation, please contact Andy Bush or Denise Ramonas of my staff, (202) 224-6621.

Sincerely,

Pete V. Domenici
U.S. Senator

Pete V. Domenici
U.S. Senator

STATEMENT OF SENATOR PETE V. DOMENICI
TECH TRANSFER FINAL PASSAGE

One section of the Defense Authorization bill that I am particularly pleased about is the National Competitiveness Technology Transfer Act. Federally funded research can contribute significantly to our economic well being if properly managed. And the contribution can be significant.

Technology based sectors generated approximately one-half of the U.S. gross national product in 1988, twice what is was a generation ago.

Experts have predicted that we will have more scientific discoveries in the next thirty years than there have been so far in all of recorded history. It is hard to believe that in 1843, Henry L. Ellsworth, the Superintendent of Patents wanted to resign and do away with the patent office. He believed that everything that possibly could be invented had already been invented, and there was no further need for the Patent Office or a Superintendent of Patents.

We have come a long way since then.

The U.S. invests substantially on science. The United States spends more for research and development --$117 billion according to the Budget--than the next four Western industrialized countries combined. The amount of money that the federal government spends has increased from $29 billion in 1980 to $63 billion in 1989.

The largest single scientific organization in the Free World, with more scientists on the payroll than any other organization is the U.S. Department of Energy. It has more than 23,000 scientists and engineers.

Any discussion of competitiveness must include a vital role for this tremendous resource. That role is technology transfer.

"Technology transfer" means making technology developed in the laboratory useful in industry so that the knowledge can contribute to our economy. Tech Transfer means new businesses and new products. It means keeping new jobs in America instead of moving them overseas.

In the past, the term usually meant publishing the research results in journals which would sit on the shelf in the library. In time, the technology would make its way to industry and eventually find application. For three decades after the Second World War, this haphazard system worked well enough in helping U.S. industries keep up with technological advances. It worked primarily because we had no significant

businesses and new products. It means keeping new jobs in America instead of moving them overseas.

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competitors. The world would wait until we were ready to commercialize. Even if firms took many years to apply new technology coming out of the labs, we would still dominate the market.

But that was then and now is now.

Now, delay is fatal to capturing part of the market. Increasingly, foreign firms are ahead of U.S. firms in applying the latest technology to manufacturing.

As we enter the 1990s, technology transfer needs to include an active approach to commercialization of lab-generated technology. This can take the form of extra effort by the labs to acquaint industry with research it is doing. It must mean getting industry and the laboratories to collaborate early in the research process. It must mean that scientists must have an eye toward commercialization. It must mean incentives to the inventors. It must mean exclusive licensing rights in exchange for industry's further development and commercialization of a technology into a useful product. Spin-outs,and collaboration are important to technology transfer.

Numerous reports by scientific groups, the Energy Research Advisory Board, GAO, and others made recommendations on how to make the technology transfer system at the Department of Energy work better.

Hearings were held. The first hearing was a joint hearing of the Senate Energy Committee and the House Science and Tech Committee held in Albuquerque in 1986.

I introduced S. 1480 on July 10, 1987. The bill was cosponsored by Senators Bingaman, Wilson, and Murkowski. Marilyn Lloyd introduced a similar bill in the House. Hearings were held on September 15, 1987, May 11, 1988 and passed the Senate during the last days of the 100th Congress. Unfortunately, the House and the Senate could not agree on the final language.

The Bill was reintroduced in the 101st Congress on March 9, 1989 as S. 550. It was reported out of the Energy Committee on August 4, 1989. I offered a version of the bill as an amendment to the FY1990 DOD Authorization bill. This language would accomplish many of the same things S. 550 and S. 1480 would have accomplished.

Under the legislation industry will only have to learn one set of procedures for working with federal laboratories.

These procedures will better enable the laboratories to transfer rights to innovations and information created as a result of cooperative research and development agreements.

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WHAT THE LEGISLATION ACTUALLY DOES:

- o Amends the Stevenson-Wydler, and Federal Technology Transfer Acts to grant government-owned, contractor-operated (GOCO) federal laboratories (like Sandia National Laboratories and Los Alamos National Laboratories) the same opportunities to enter into cooperative research and development agreements with universities and private industry that GOGO laboratories have had for almost a decade.

- o To negotiate licensing agreements with these entities for inventions made at the laboratories;

- o Laboratory directors would be allowed to exchange personnel, services, and equipment with their research partners that are universities and industry;

- o Grant and waive rights to laboratory inventions and intellectual property;

- o Allow current and former employees to participate in commercial development, to the extent there is no conflict of interest.

- o Establish new time deadlines within which agencies must act on proposed agreements. These deadlines will expedite the approval process and are very important if we are to capture the full commercial potential of inventions developed in these agreements.

- o Allows information and innovations brought into, and created through, cooperative agreements to be protected from disclosure.

- o Provides a technology transfer mission for the nuclear weapons laboratories.

THEN WAS THEN, NOW IS NOW

When I first started working on this legislation, some described doing business with the Department of Energy as slow, tedious, uncertain and unrewarding.

Some had the view that the weapons laboratories were still secretive, walled-off enclaves and should remain that way.

The prevailing view outside DOE was that Technology transfer wasn't working at the Department. It was taking an average of 18 months to process a routine patent waiver. In some instances the delay was as long as 52 months. One reason cited by GAO was that technology transfer was given a

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very low priority among the work that the patent lawyers were assigned.

A company wanting to do cooperative research with one of the National Laboratories had to negotiate at least nine different agreements--more than 4 inches worth of documents.

DOE felt that it was exempt from the Executive Order under which the President called for all federal agencies to make technology transfer a top priority.

But that was then, and now is now, and now is better. With this new law, the future can be even better.

Admiral Watkins strongly advocates a change in the mission of the laboratories to include technology transfer.

DOE is several years into its pilot programs on superconductivity.

Defense Programs experts at DOE have outlined an impressive program for additional pilot programs in areas like electron beam research; specialty metals; machine tools; laser welding; plasma destruction of toxic substances and combustion synthesis.

And industry is getting more interested. An $11 million agreement dealing with superconductivity was finalized on October 30,1989, between Los Alamos, Dupont and Hewlett Packard. It will involve 25 or more researchers sharing equipment and facilities at all three institutions.

POTENTIAL FOR THE NEW LAW:

It is difficult to predict the potential for this new law, but I would expect a surge of technology transfer activity similar to what we experienced when Congress enacted Stevenson-Wydler and the Federal Technology Transfer Act in 1986.

Cooperative research between industry and laboratories increased 74 percent since the enactment of Stevenson-Wydler and the Federal Technology Transfer Act. Several reports have cited this law for improving the number of reported inventions from covered scientists by forty percent.

Today's legislation will put Sandia and Los Alamos under this Technology Transfer umbrella. In terms of potential, the sky is the limit.

We can expect to see more Centers of Excellence established among businesses, universities and the labs. These centers would be directed toward new commercial enterprises.

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In my own state of New Mexico, the potential is very real.

New Mexico ranks fourth nationally in both federal and university technology sectors for research and development, while the state's private technology sector lags behind, ranking 21st.

Technology transfer will utilize more of the successful research we have at our labs and universities in the private sector.

Total technology-based economic impact on the state accounts for $10.5 billion out of the total $38.1 billion New Mexico economy. High tech is important already, but we are just beginning to tap the potential.

The Federal technology sector in New Mexico is responsible directly and indirectly for 83,000 jobs.

University Technology Sector contributes another 12,000 jobs.

Private technology sector contributes 25,000 jobs.
We are tapping into the nation's and the labs true potential.

If the Department of Energy correctly implements this program, we should be able to have a 10/10 plan-- increase these statistics by ten fold in ten years.

The challenge is timely. There is tremendous anxiety about the future and our place in it. A thousand conversations begin with the latest trade deficit statistic, with the latest Pacific Rim accomplishment in superconductors, advanced semiconductors, high definition TV, supercomputers or other critical technologies. It leads many to a dire prognoses for the next century.

Japan is ahead in developing many of the building blocks of the 21st Century. The Japanese have not only filed more than 2,000 superconductor patents worldwide, but have already started to develop motors and generators using the superconductors. U.S. projects are still in the planning stage.

Such facts could lead us a national toxic thought syndrome where we engage in self-defeating behavior and our companies simply give up. To the contrary, the U.S. can be a very strong competitor in these high tech areas.

But we have to do better with what we have and that means making the National Laboratories "user friendly." We

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But we have to do better with what we have and that means making the National Laboratories "user friendly." We

need to use the laboratories to their optimum. We can no longer enjoy the luxury of keeping these scientists isolated. We need to maximize their potential by making technology transfer work. This bill will help accomplish that goal.

I want to thank all who have worked with me over the past several years to develop this legislation and work it through the Congress. Marilyn Lloyd was the champion of this issue in the House and has worked very hard. Without her determination this legislation would not be possible.

Lastly, let me commend Secretary of Energy Watkins, and the many people on his staff who have worked on this legislation.

Thank you Mr. President.

§ 186. Penalty

Whoever, during the period or periods of time an invention has been ordered to be kept secret and the grant of a patent thereon withheld pursuant to section 181 of this title, shall, with knowledge of such order and without due authorization, willfully publish or disclose or authorize or cause to be published or disclosed the invention, or material information with respect thereto, or whoever, in violation of the provisions of section 184 of this title, shall file or cause or authorize to be filed in any foreign country an application for patent or for the registration of a utility model, industrial design, or model in respect of any invention made in the United States, shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than two years, or both.

§ 187. Nonapplicability to certain persons

The prohibitions and penalties of this chapter shall not apply to any officer or agent of the United States acting within the scope of his authority, nor to any person acting upon his written instructions or permission.

§ 188. Rules and regulations, delegation of power

The Atomic Energy Commission, the Secretary of a defense department, the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States, and the Secretary of Commerce, may separately issue rules and regulations to enable the respective department or agency to carry out the provisions of this chapter, and may delegate any power conferred by this chapter.

CHAPTER [18] 38 — PATENT RIGHTS IN INVENTIONS MADE WITH FEDERAL ASSISTANCE

SEC.

§ 200. Policy and objective

It is the policy and objective of the Congress to use the patent system to promote the utilization of inventions arising from federally supported research or development; to encourage maximum participation of small business firms in federally supported research and development efforts; to promote collaboration between commercial concerns and nonprofit organizations, including universities; to ensure that inventions made by nonprofit organizations and small business firms are used in a manner to promote free competition and enterprise; to promote the commercialization and public availability of inventions made in the United States by United States industry and labor; to ensure that the Government obtains sufficient rights in federally supported inventions to meet the needs of the Government and protect the public against nonuse or unreasonable use of inventions; and to minimize the costs of administering policies in this area. (Added December 12, 1980, Public Law 96-517, sec. 6(a), 94 Stat. 3019.)

§ 201. Definitions

As used in this chapter —

(a) The term "Federal agency" means any executive agency as defined in section 105 of title 5, United States Code, and the military departments as defined by section 102 of title 5, United States Code.

(b) The term "funding agreement" means any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government. Such term includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as herein defined.

(c) The term "contractor" means any person, small business firm, or nonprofit organization that is a party to a funding agreement.

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(d) The term "invention" means any invention or discovery which is or may be patentable or otherwise protectable under this title 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.). (Amended November 8, 1984. Public Law 98-620, sec. 501(1), 98 Stat. 3364.)

(e) The term "subject invention" means any invention of the contractor conceived or first actually reduced to practice in the performance of work under a funding agreement: *Provided*, That in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act (7 U.S.C. 2401(d)) must also occur during the period of contract performance. (Amended November 8, 1984, Public Law 98-620, sec. 501(2), 98 Stat. 3364.)

(f) The term "practical application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

(g) The term "made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

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

(i) The term "nonprofit organization" means universities and other institutions of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a State nonprofit organization statute. (Added December 12, 1980, Public Law 96-517, sec. 6(a), 94 Stat. 3019.)

§ 202. Disposition of rights

(a) Each nonprofit organization or small business firm may, within a reasonable time after disclosure as required by paragraph (c)(1) of

this section, elect to retain title to any subject invention: *Provided, however,* That a funding agreement may provide otherwise (i) when the contractor is not located in the United States or does not have a place of business located in the United States or is subject to the control of a foreign government, (ii) in exceptional circumstances when it is determined by the agency that restriction or elimination of the right to retain title to any subject invention will better promote the policy and objectives of this chapter, (iii) when it is determined by a Government authority which is authorized by statute or Executive order to conduct foreign intelligence or counter-intelligence activities that the restriction or elimination of the right to retain title to any subject invention is necessary to protect the security of such activities, or (iv) when the funding agreement includes the operation of a Government-owned, contractor-operated facility of the Department of Energy primarily dedicated to that Department's naval nuclear propulsion or weapons related programs and all funding agreement limitations under this subparagraph on the contractor's right to elect title to a subject invention are limited to inventions occurring under the above two programs of the Department of Energy. The rights of the nonprofit organization or small business firm shall be subject to the provisions of paragraph (c) of this section and the other provisions of this chapter. (Amended Novmber 8, 1984, Public Law 98-620, sec. 501(3), 98 Stat. 3364.)

(b)(1) The rights of the Government under subsection (a) shall not be exercised by a Federal agency unless it first determines that at least one of the conditions identified in clauses (i) through (iii) of subsection (a) exists. Except in the case of subsection (a)(iii), the agency shall file with the Secretary of Commerce, within thirty days after the award of the applicable funding agreement, a copy of such determination. In the case of a determination under subsection (a)(ii), the statement shall include an analysis justifying the determination. In the case of determinations applicable to funding agreements with small business firms, copies shall also be sent to the Chief Counsel for Advocacy of the Small Business Administration. If the Secretary of Commerce believes that any individual determination or pattern of determinations is contrary to the policies and objectives of this chapter or otherwise not in conformance with this chapter, the Secretary shall so advise the head of the agency concerned and the Administrator of the Office of Federal Procurement Policy, and recommend corrective actions.

(2) Whenever the Administrator of the Office of Federal Procurement Policy has determined that one or more Federal agencies are utilizing the authority of clause (i) or (ii) of subsection (a) of this section in a manner that is contrary to the policies and objectives of this chapter the Administrator is authorized to issue regulations describing classes of situations in which agencies may not exercise the authorities of those clauses. Amended November 8, 1984, Public Law 98-620, sec. 501(4), 98 Stat. 3365.)

(3) At least once each year, the Comptroller General shall transmit a report to the Committees on the Judiciary of the Senate and House of Representatives on the manner in which this chapter is being implemented by the agencies and on such other aspects of Government patent policies and practices with respect to federally funded inventions as the Comptroller General believes appropriate.

(4) If the contractor believes that a determination is contrary to the policies and objectives of this chapter or constitutes an abuse of discretion by the agency, the determination shall be subject to the last paragraph of section 203(2). (Added November 8, 1984, Public Law 98-620, sec. 501(4A), 98 Stat. 3365.)

(c) Each funding agreement with a small business firm or nonprofit organization shall contain appropriate provisions to effectuate the following:

(1) That the contractor disclose each subject invention to the Federal agency within a reasonable time after it becomes known to contractor personnel responsible for the administration of patent matters, and that the Federal Government may receive title to any subject invention not disclosed to it within such time.

(2) That the contractor make a written election within two years after disclosure to the Federal agency (or such additional time as may be approved by the Federal agency) whether the contractor will retain title to a subject invention: *Provided,* That in any case where publication, on sale, or public use, has initiated the one year statutory period in which valid patent protection can still be obtained in the United States, the period for election may be shortened by the Federal agency to a date that is not more than sixty days prior to the end of the statutory period: *And provided further,* That the Federal Government may receive title to any subject invention in which the contractor does not elect to retain rights or fails to elect rights within such times.

(3) That a contractor electing rights in a subject invention agrees

to file a patent application prior to any statutory bar date that may occur under this title due to publication, on sale, or public use, and shall thereafter file corresponding patent applications in other countries in which it wishes to retain title within reasonable times, and that the Federal Government may receive title to any subject inventions in the United States or other countries in which the contractor has not filed patent applications on the subject invention within such times.

(4) With respect to any invention in which the contractor elects rights, the Federal agency shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world: *Provided,* That the funding agreement may provide for such additional rights; including the right to assign or have assigned foreign patent rights in the subject invention, as are determined by the agency as necessary for meeting the obligations of the United States under any treaty, international agreement, arrangement of cooperation, memorandum of understanding, or similar arrangement, including military agreements relating to weapons development and production. (Amended November 8, 1984, Public Law 98-620, sec. 501(5), 98 Stat. 3365.)

(5) The right of the Federal agency to require periodic reporting on the utilization or efforts at obtaining utilization that are being made by the contractor or his licensees or assignees: *Provided,* That any such information, as well as any information on utilization or efforts at obtaining utilization obtained as part of a proceeding under section 203 of this chapter shall be treated by the Federal agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of title 5 of the United States Code. (Amended November 8, 1984, Public Law 98-620, sec. 501(6), 98 Stat. 3365.)

(6) An obligation on the part of the contractor, in the event a United States patent application is filed by or on its behalf or by any assignee of the contractor, to include within the specification of such application and any patent issuing thereon, a statement specifying that the invention was made with Government support and that the Government has certain rights in the invention.

(7) In the case of a nonprofit organization, (A) a prohibition upon the assignment of rights to a subject invention in the United

States without the approval of the Federal agency, except where such assignment is made to an organization which has as one of its primary functions the management of inventions (provided that such assignee shall be subject to the same provisions as the contractor); (B) a requirement that the contractor share royalties with the inventor; (C) except with respect to a funding agreement for the operation of a Government-owned-contractor-operated facility, a requirement that the balance of any royalties or income earned by the contractor with respect to subject inventions, after payment of expenses, (including payments to inventors) incidental to the administration of subject inventions, be utilized for the support of scientific research, or education; (D) a requirement that, except where it proves infeasible after a reasonable inquiry, in the licensing of subject inventions shall be given to small business firms; and (E) with respect to a funding agreement for the operation of a Government-owned-contractor-operator facility, requirements (i) that after payment of patenting costs, licensing costs, payments to inventors, and other expenses incidental to the administration of subject inventions, 100 percent of the balance of any royalties or income earned and retained by the contractor during any fiscal year, up to an amount equal to five percent of the annual budget of the facility, shall be used by the contractor for scientific research, development, and education consistent with the research and development mission and objectives of the facility, including activities that increase the licensing potential of other inventions of the facility provided that if said balance exceeds five percent of the annual budget of the facility, that 75 percent of such excess shall be paid to the Treasury of the United States and the remaining 25 percent shall be used for the same purposes as described above in this clause (D); and (ii) that, to the extent it provides the most effective technology transfer, the licensing of subject inventions shall be administered by contractor employees on location at the facility. (Amended November 8, 1984, Public Law 98-620, sec. 501(7), (8), 98 Stat. 3366.)

(8) The requirements of sections 203 and 204 of this chapter.

(d) If a contractor does not elect to retain title to a subject invention in cases subject to this section, the Federal agency may consider and after consultation with the contractor grant requests for retention of rights by the inventor subject to the provisions of this Act and regulations promulgated hereunder.

(e) In any case when a Federal employee is a coinventor of any invention made under a funding agreement with a nonprofit organization or small business firm, the Federal agency employing such coinventor is authorized to transfer or assign whatever rights it may acquire in the subject invention from its employee to the contractor subject to the conditions set forth in this chapter.

(f)(1) No funding agreement with a small business firm or nonprofit organization shall contain a provision allowing a Federal agency to require the licensing to third parties of inventions owned by the contractor that are not subject inventions unless such provision has been approved by the head of the agency and a written justification has been signed by the head of the agency. Any such provision shall clearly state whether the licensing may be required in connection with the practice of a subject invention, a specifically identified work object, or both. The head of the agency may not delegate the authority to approve provisions or sign justifications required by this paragraph.

(2) A Federal agency shall not require the licensing of third parties under any such provision unless the head of the agency determines that the use of the invention by others is necessary for the practice of a subject invention or for the use of a work object of the funding agreement and that such action is necessary to achieve the practical application of the subject invention or work object. Any such determination shall be on the record after an opportunity for an agency hearing. Any action commenced for judicial review of such determination shall be brought within sixty days after notification of such determination. (Added December 12, 1980, Public Law 96-517, sec. 6(a), 94 Stat. 3020.)

§ 203. March-in rights

(1) With respect to any subject invention in which a small business firm or nonprofit organization has acquired title under this chapter, the Federal agency under whose funding agreement the subject invention was made shall have the right, in accordance with such procedures as are provided in regulations promulgated hereunder to require the contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such request, to

grant such a license itself, if the Federal agency determines that such —

(a) action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(b) action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or their licensees;

(c) action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensees; or

(d) action is necessary because the agreement required by section 204 has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of its agreement obtained pursuant to section 204.

(2) A determination pursuant to this section or section 202(b)(4) shall not be subject to the Contract Disputes Act (41 U.S.C. §601 et seq.). An administrative appeals procedure shall be established by regulations promulgated in accordance with section 206. Additionally, any contractor, inventor, assignee, or exclusive licensee adversely affected by a determination under this section may, at any time within sixty days after the determination is issued, file a petition in the United States Claims Court, which shall have jurisdiction to determine the appeal on the record and to affirm, reverse, remand or modify, as appropriate, the determination of the Federal agency. In cases described in paragraphs (a) and (c), the agency's determination shall be held in abeyance pending the exhaustion of appeals or petitions filed under the preceding sentence. (Added December 12, 1980, Public Law 96-517, sec. 6(a), 94 Stat. 3022; amended November 8, 1984, Public Law 98-620, sec. 501(9), 98 Stat. 3367.)

§ 204. Preference for United States industry

Notwithstanding any other provision of this chapter, no small business firm or nonprofit organization which receives title to any subject invention and no assignee of any such small business firm or nonprofit organization shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or

produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal agency under whose funding agreement the invention was made upon a showing by the small business firm, nonprofit organization, or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible. (Added December 12, 1980, Public Law 96-517, sec. 6(a), 94 Stat. 3023.)

§ 205. Confidentiality

Federal agencies are authorized to withhold from disclosure to the public information disclosing any invention in which the Federal Government owns or may own a right, title, or interest (including a nonexclusive license) for a reasonable time in order for a patent application to be filed. Furthermore, Federal agencies shall not be required to release copies of any document which is part of an application for patent filed with the United States Patent and Trademark Office or with any foreign patent office. (Added December 12, 1980, Public Law 96-517, sec. 6(a), 94 Stat. 3023.)

§ 206. Uniform clauses and regulations

The Secretary of Commerce may issue regulations which may be made applicable to Federal agencies implementing the provisions of sections 202 through 204 of this chapter and shall establish standard funding agreement provisions required under this chapter. The regulations and the standard funding agreement shall be subject to public comment before their issuance. (Amended November 8, 1984, Public Law 98-620, sec. 501(10), 98 Stat. 3367.)

§ 207. Domestic and foreign protection of federally owned inventions

(a) Each Federal agency is authorized to —

(1) apply for, obtain, and maintain patents or other forms of protection in the United States and in foreign countries on inventions in which the Federal Government owns a right, title, or interest;

(2) grant nonexclusive, exclusive, or partially exclusive licenses under federally owned patent applications, patents, or other forms of protection obtained, royalty-free or for royalties or other consideration, and on such terms and conditions, including the grant to the licensee of the right of enforcement pursuant to the provisions of chapter 29 of this title as determined appropriate in the public interest;

(3) undertake all other suitable and necessary steps to protect and administer rights to federally owned inventions on behalf of the Federal Government either directly or through contract; and

(4) transfer custody and administration, in whole or in part, to another Federal agency, of the right, title, or interest in any federally owned invention.

(b) For the purpose of assuring the effective management of Government-owned inventions, the Secertary of Commerce [is] authorized to —

(1) assist Federal agency efforts to promote the licensing and utilization of Government-owned inventions;

(2) assist Federal agencies in seeking protection and maintaining inventions in foreign countries, including the payment of fees and costs connected therewith; and

(3) consult with and advise Federal agencies as to areas of science and technology research and development with potential for commercial utilization. (Added December 12, 1980, Public Law 96-517, sec. 6(a), 94 Stat. 3023, Amended November 8, 1984, Public Law 98-620, sec. 501(11), 98 Stat. 3367.)

§ 208. Regulations governing Federal licensing

The Secretary of Commerce is authorized to promulgate regulations specifying the terms and conditions upon which any federally owned invention, other than inventions owned by the Tennessee Valley Authority, may be licensed on a nonexclusive, partially exclusive, or exclusive basis. (Added December 12, 1980, Public Law 96-517, sec. 6(a), 94 Stat. 3024; Amended November 8, 1984, Public Law 98-620, sec. 501(12), 98 Stat. 3367.)

§ 209. Restrictions on licensing of federally owned inventions

(a) No Federal agency shall grant any license under a patent or patent application on a federally owned invention unless the person

requesting the license has supplied the agency with a plan for development and/or marketing of the invention, except that any such plan may be treated by the Federal agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of title 5 of the United States Code.

(b) A Federal agency shall normally grant the right to use or sell any federally owned invention in the United States only to a licensee that agrees that any products embodying the invention or produced through the use of the invention will be manufactured substantially in the United States.

(c)(1) Each Federal agency may grant exclusive or partially exclusive licenses in any invention covered by a federally owned domestic patent or patent application only if, after public notice and opportunity for filing written objections, it is determined that—

(A) the interests of the Federal Government and the public will best be served by the proposed license, in view of the applicant's intentions, plans, and ability to bring the invention to practical application or otherwise promote the invention's utilization by the public;

(B) the desired practical application has not been achieved, or is not likely expeditiously to be achieved, under any nonexclusive license which has been granted, or which may be granted, on the invention;

(C) exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth the investment of risk capital and expenditures to bring the invention to practical application or otherwise promote the invention's utilization by the public; and

(D) the proposed terms and scope of exclusivity are not greater than reasonably necessary to provide the incentive for bringing the invention to practical application or otherwise promote the invention's utilization by the public.

(2) A Federal agency shall not grant such exclusive or partially exclusive license under paragraph (1) of this subsection if it determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the country in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with the antitrust laws.

(3) First preference in the exclusive or partially exclusive licensing of federally owned inventions shall go to small business firms submitting plans that are determined by the agency to be within the capabilities of the firms and equally likely, if executed, to bring the invention to practical application as any plans submitted by applicants that are not small business firms.

(d) After consideration of whether the interests of the Federal Government or United States industry in foreign commerce will be enhanced, any Federal agency may grant exclusive or partially exclusive licenses in any invention covered by a foreign patent application or patent, after public notice and opportunity for filing written objections, except that a Federal agency shall not grant such exclusive or partially exclusive license if it determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the United States in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with antitrust laws.

(e) The Federal agency shall maintain a record of determinations to grant exclusive or partially exclusive licenses.

(f) Any grant of a license shall contain such terms and conditions as the Federal agency determines appropriate for the protection of the interests of the Federal Government and the public, including provisions for the following:

(1) periodic reporting on the utilization or efforts at obtaining utilization that are being made by the licensee with particular reference to the plan submitted: *Provided,* That any such information may be treated by the Federal agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of title 5 of the United States Code;

(2) the right of the Federal agency to terminate such license in whole or in part if it determines that the licensee is not executing the plan submitted with its request for a license and the licensee cannot otherwise demonstrate to the satisfaction of the Federal agency that it has taken or can be expected to take within a reasonable time, effective steps to achieve practical application of the invention;

(3) the right of the Federal agency to terminate such license in whole or in part if the licensee is in breach of an agreement obtained pursuant to paragraph (b) of this section; and

(4) the right of the Federal agency to terminate the license in whole or in part if the agency determines that such action is necessary to meet requirements for public use specified by Federal regulations issued after the date of the license and such requirements are not reasonably satisfied by the licensee. (Added December 12, 1980 Public Law 96-517, sec. 6(a), 94 Stat. 3024.)

§ 210. Precedence of chapter

(a) This chapter shall take precedence over any other Act which would require a disposition of rights in subject inventions of small business firms or nonprofit organizations contractors in a manner that is inconsistent with this chapter, including but not necessarily limited to the following:

(1) section 10(a) of the Act of June 29, 1935, as added by title I of the Act of August 14, 1946 (7 U.S.C. 427i(a); 60 Stat. 1085);

(2) section 205(a) of the Act of August 14, 1946 (7 U.S.C. 1624(a); 60 Stat. 1090);

(3) section 501(c) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951(c); 83 Stat. 742);

(4) section 106(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1395(c); 80 Stat. 721);

(5) section 12 of the National Science Foundation Act of 1950 (42 U.S.C. 1871(a); 82 Stat. 360);

(6) section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182; 68 Stat. 943);

(7) section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457);

(8) section 6 of the Coal Research Development Act of 1960 (30 U.S.C. 666; 74 Stat. 337);

(9) section 4 of the Helium Act Amendments of 1960 (50 U.S.C. 167b; 74 Stat. 920);

(10) section 32 of the Arms Control and Disarmament Act of 1961 (22 U.S.C. 2572; 75 Stat. 634);

(11) subsection (e) of section 302 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 302(e); 79 Stat. 5);

(12) section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901; 88 Stat. 1878);

(13) section 5(d) of the Consumer Product Safety Act (15 U.S.C. 2054(d); 86 Stat. 1211);

(14) section 3 of the Act of April 5, 1944 (30 U.S.C. 323; 58 Stat. 191);

(15) section 8001(c)(3) of the Solid Waste Disposal Act (42 U.S.C. 6981(c); 90 Stat. 2829);

(16) section 219 of the Foreign Assistance Act of 1961 (22 U.S.C. 2179; 83 Stat. 806);

(17) section 427(b) of the Federal Mine Health and Safety Act of 1977 (30 U.S.C. 937(b); 86 Stat. 155);

(18) section 306(d) of the Surface Mining and Reclamation Act of 1977 (30 U.S.C. 1226(d); 91 Stat. 455);

(19) section 21(d) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2218(d); 88 Stat. 1548);

(20) section 6(b) of the Solar Photovoltaic Energy Research Development and Demonstration Act of 1978 (42 U.S.C. 5585(b); 92 Stat. 2516);

(21) section 12 of the Native Latex Commercialization and Economic Development Act of 1978 (7 U.S.C. 178(j); 92 Stat. 2533); and

(22) section 408 of the Water Resources and Development Act of 1978 (42 U.S.C. 7879; 92 Stat. 1360).

The Act creating this chapter shall be construed to take precedence over any future Act unless that Act specifically cites this Act and provides that it shall take precedence over this Act.

(b) Nothing in this chapter is intended to alter the effect of the laws cited in paragraph (a) of this section or any other laws with respect to the disposition of rights in inventions made in the performance of funding agreements with persons other than nonprofit organizations or small business firms.

(c) Nothing in this chapter is intended to limit the authority of agencies to agree to the disposition of rights in inventions made in the performance of work under funding agreements with persons other than nonprofit organizations or small business firms in accordance with the Statement of Government Patent Policy issued on February 18, 1983, agency regulations, or other applicable regulations or to otherwise limit the authority of agencies to allow such persons to retain ownership of inventions, except that all funding agreements, including those with other than small business firms and nonprofit organizations, shall include the requirements established in paragraph 202(c)(4) and section 203 of this title. Any disposition of rights in inventions made in accordance with the Statement or implementing

regulations, including any disposition occurring before enactment of this section, are hereby authorized. (Amended November 8, 1984, Public Law 98-620, sec. 501(13), 98 Stat. 3367.)

(d) Nothing in this chapter shall be construed to require the disclosure of intelligence sources or methods or to otherwise affect the authority granted to the Director of Central Intelligence by statute or Executive order for the protection of intelligence sources or methods. (Added December 12, 1980, Public Law 96-517, sec. 6(a), 94 Stat. 3026.)

§ 211. Relationship to antitrust laws

Nothing in this chapter shall be deemed to convey to any person immunity from civil or criminal liability, or to create any defenses to actions, under any antitrust law. (Added December 12, 1980, Public Law 96-517, sec. 6(a), 94 Stat. 3027.)

§ 212. Disposition of rights in educational awards

No scholarship, fellowship, training grant, or other funding agreement made by a Federal agency primarily to an awardee for educational purposes will contain any provision giving the Federal agency any rights to inventions made by the awardee. (Added November 8, 1984, Public Law 98-620, sec. 501(14), 98 Stat. 3368.)

PART III — PATENTS AND PROTECTION OF PATENT RIGHTS

Chapter 25 — Amendment And Correction Of Patents

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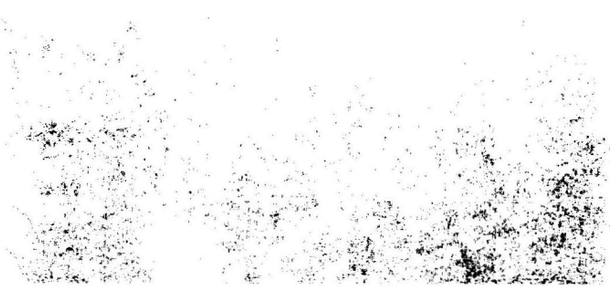
" Continue to
do business
as they have
past "



" Continue to
do business
as they have
past "

News Release

Pete V. Domenici
United States Senator

FOR IMMEDIATE RELEASE
NOVEMBER 3, 1989

CONTACT: CHRISTOPHER GALLEGOS
(202) 224-6621

DOMENICI ANNOUNCES AGREEMENT ON TECHNOLOGY TRANSFER LEGISLATION

Initiative will improve collaboration and exchange of knowledge between national labs, industry & universities

WASHINGTON -- Senator Pete Domenici, R-N.M., today praised an agreement reached on "tech transfer" legislation that will provide a vital link among industry, universities, and the nation's national laboratories -- including Sandia National Laboratories and Los Alamos National Laboratory.

The bill, to be known as the National Competitiveness Technology Transfer Act of 1989, is included as an amendment to the Department of Defense (DoD) Authorization Bill, which House and Senate conferees approved Thursday.

"This legislation, which I authored, has taken 3 years to get through Congress. I am very proud of this act and solemnly believe our nation and New Mexico will benefit from the growth it will cultivate," Domenici said.

The bill represents Domenici's third attempt at gaining passage of the bill. Domenici praised Senator Jeff Bingaman, D-N.M., and Representative Maralyn Lloyd, D-Tenn., for their efforts that culminated in passage of the bill.

In 1987, Domenici introduced the tech transfer measure for the first time. A year later, a Domenici-sponsored tech transfer bill was approved by the Senate, but died in the House of Representatives. On March 13, 1989, the Senator introduced Senate Bill 550, the Department of Energy National Labs Cooperative Research and Technology Competitiveness Act. This bill was eventually incorporated into the DoD Authorization Bill.

"This bill will widen the outlook of our national labs, which until now have been justifiably focused on our national defense. Now we are opening up an entire new realm for discovery and application of those discoveries for improving our condition," Domenici said.

"We can also expect to see more Centers of Excellence established among businesses, universities, and the labs. These centers would be directed toward new commercial enterprises," he said.

Technology transfer means making technology developed in the laboratory useful in industry; basically, putting knowledge to practical use.

"Tech transfer means new businesses and new products. It means new jobs. It means keeping the jobs in the United States instead of moving them overseas," Domenici said.

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Technology transfer means making technology developed in the laboratory useful in industry; basically, putting knowledge to practical use.

"Tech transfer means new businesses and new products. It means new jobs. It means keeping the jobs in the United States instead of moving them overseas," Domenici said.

"To me, tech transfer needs to be an active approach to commercialization of lab-generated technology. This can take the form of extra effort by the labs to acquaint industry with research it is

Specifically, tech transfer provisions will create the following initiatives:

-- Allow the labs to enter into cooperative research and development agreements;

-- Allow the labs to negotiate licensing agreements for inventions;

-- Allow lab directors to exchange personnel, services and equipment, primarily with industry and universities.

-- Allow lab directors to waive rights to lab inventions and intellectual property;

-- Allow current and former lab employees to participate in commercial development to the extent there is no conflict of interest;

-- Establish new time deadlines in which agencies must act on proposed agreements. This will expedite the approval process, thus making the labs more "user friendly;"

-- Allow information and innovations brought into, and created through, cooperative agreements to be protected from disclosure.

-- Provide a tech transfer mission for the nuclear weapons labs.

Domenici explained that this legislation will generate tech transfer at the DOE labs by changing the way technology is managed within department. Changes prompted by the law will enable technologies to be managed more efficiently by the labs that created them by encouraging cooperative research with outside parties -- especially industry. In addition, it will permit industry to have commercial protections for technologies. This should serve as an incentive for industry to embrace new initiatives.

New Mexico, home to both Los Alamos and Sandia national laboratories, could gain handsomely from the bill, Domenici said.

He pointed out that New Mexico ranks fourth nationally in both federal and university technology sectors for research and development, while the state's private technology sector research and development lags behind, ranked 21st nationally.

"I believe tech transfer will pass more of the successful research we have at our labs and universities to the private sector," Domenici said.

Total technology based economic activity in New Mexico accounts for $10.5 billion of the state's $38.1 billion economy. The state's technologies sector is responsible for 120,000 jobs.

"We are tapping into our true potential," Domenici said. "If the DOE correctly implements this plan, we could see a '10/10' increase -- a ten fold increase in economic activity generated by the labs in the next 10 years."

FORM SEC-295 (11-69)

TRANSMITTAL 286

United States of America DEPARTMENT OF COMMERCE	DEPARTMENT ADMINISTRATIVE ORDER 202-452	
DEPARTMENT ADMINISTRATIVE ORDER SERIES	DATE OF ISSUANCE June 3, 1977	EFFECTIVE DATE June 3, 1977

SUBJECT

INCENTIVE AWARDS FOR FEDERAL INVENTORS

SECTION 1. PURPOSE.

The purpose of this order is to set forth the policies and procedures for the granting of incentive awards to Federal inventors.

SECTION 2. GENERAL PROVISIONS.

Pursuant to the provisions of this order, incentive awards shall be granted to Federal inventors in order to: (1) compensate equitably and recognize Federal inventors, and (2) encourage Federal inventors to disclose commercially promising inventions and facilitate the transfer and utilization of related technology for public use.

SECTION 3. PRIMARY RESPONSIBILITY.

Pursuant to its authority under Department Organization Order 30-7A, as amended, the National Technical Information Service (NTIS) shall have the primary operational responsibility for the granting of incentive awards to Federal inventors under this order.

SECTION 4. ELIGIBILITY.

.01 All civil service employees, as defined under 5 U.S.C. 2105, employees of the government of the District of Columbia, and members of the commissioned corps of the National Oceanic and Atmospheric Administration (NOAA) and the United States Public Health Service (PHS) (hereinafter "civil service employees") shall be eligible to receive awards pursuant to this order after their employing agency or Department has entered into an appropriate cooperative agreement with NTIS. Among other things, such cooperative agreements shall contain provisions that transfer custody of inventions owned by the United States to the Department of Commerce in order to permit NTIS to license those inventions.

.02 Pursuant to Executive Order 11438, 3 CFR 755 (1966-70 Comp.), 10 U.S.C. 1124 (1970), a recommendation may be made to the Department of Defense, or to the Department of Transportation in the case of a member of the Coast Guard when it is not operating as a service in the Navy, that a cash award under this order be made to a member of the armed forces, as defined under 5 U.S.C. 2101(2).

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of Defense, or to the Department of Transportation in the case of a member of the Coast Guard when it is not operating as a service in the Navy, that a cash award under this order be made to a member of the armed forces, as defined under 5 U.S.C. 2101(2).

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Chairman of the Civil Service Commission for approval of the award. Pursuant to 5 U.S.C. 4504, in those instances where, based upon the exceptional value and benefit of the inventor's contribution, a cumulative award for a single invention in excess of $25,000 is warranted, the Director, NTIS, shall prepare a recommendation from the Secretary of Commerce to the Chairman of the Civil Service Commission, and to the Director of the Office of Management and Budget, that a Presidential award be made. Upon endorsement by both the Chairman of the Civil Service Commission and the Director of the Office of Management and Budget, the President may grant a cumulative award in excess of $25,000, and honorary recognition may be granted as deemed appropriate.

d. All recommendations for awards prepared for the Secretary by the Director, NTIS in accordance with subparagraph 7.01c., above, shall be reviewed by the Department's Incentive Awards Board before they are submitted to the Secretary for consideration.

.02 Awards for members of the armed forces:

a. Upon the execution of a royalty-bearing license agreement by NTIS covering an invention made by a member of the armed forces, the Director, NTIS shall, pursuant to Executive Order 11438, recommend to the Department of Defense, or to the Department of Transportation in the case of a member of the Coast Guard when that agency is not operating as a service in the Navy, that a cash award be granted. The amount of the award recommended shall be determined through the interagency coordination process described in paragraph 8.01 below. For each year during which a royalty-bearing license agreement is effective, it shall be suggested that at a minimum an award of $300 be paid. Where an award in excess of $300 is contemplated, the total annual suggested award shall not exceed fifteen percent (15%) of the annual gross revenues received by NTIS under the license agreement covering the invention.

b. Any cash award granted to a member of the armed forces shall be made in accordance with the provisions of Executive Order 11438.

.03 The Director, NTIS, shall establish procedures for the orderly and efficient granting of incentive awards under this order. Such procedures shall include provisions for the preparation and maintenance of accurate records of all awards made under the provisions of this order. Records shall be prepared and maintained with respect to each invention which becomes the subject of an award under this order. These records shall help to ensure that limitations on the dollar amounts of awards are not exceeded, and that appropriate approvals for certain awards are obtained as required.

SECTION 8. GRANTING AWARDS.

.01 Interagency coordination of awards:

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SECTION 8. GRANTING AWARDS.

.01 Interagency coordination of awards:

d. When an invention is attributable to more than one inventor, the award shall be divided among the joint inventors pursuant to subparagraph 8.02 of this order.

SECTION 9. FUNDING OF AWARD PAYMENTS.

The NTIS patent program is currently funded primarily from appropriated funds. In seeking to increase the transfer of Government technology through the licensing of patents covering Government-owned inventions, NTIS is striving to develop a self-sustaining program in which fees and royalty income will offset program costs. Award payment under this order, as one of the costs of the patent program operation, will only be made from available royalty income derived from the licenses.

Director, National Technical
Information Service

Approved:

Assistant Secretary for Administration

Office of Primary Interest
National Technical Information Service

Index Changes:

Add:

Federal Inventors, Incentive Awards for	202-452
Incentive Awards for Federal Inventors	202-452
Inventors, Incentive Awards for Federal	202-452

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Inventors, Incentive Awards for Federal 202-452

USCOMM-DC - 58486

FORM SEC-285 (11-69) TRANSMITTAL

United States of America DEPARTMENT OF COMMERCE	DEPARTMENT ADMINISTRATIVE ORDER 202-452 Amendment 1	
DEPARTMENT ADMINISTRATIVE ORDER SERIES	DATE OF ISSUANCE May 5, 1981	EFFECTIVE DATE May 4, 1981

SUBJECT INCENTIVE AWARDS FOR FEDERAL INVENTORS

Department Administrative Order 202-452 of June 3, 1977 is hereby amended as shown below. The purpose of this amendment is to authorize the Director, NTIS to approve and pay awards not exceeding $10,000 (paragraph 5.03); and change references to the Civil Service Commission throughout the Order as appropriate.

1. SECTION 5. AUTHORITY. In pen and ink, change the title "Civil Service Commission" appearing in paragraph 5.01 to "Office of Personnel Management;" and change the "$5,000" appearing in the third line of paragraph .03 to "$10,000."

2. SECTION 6. RELATIONSHIP TO EXISTING AWARDS PROGRAMS. In pen and ink, change the title "Civil Service Commission" to "Office of Personnel Management."

3. SECTION 7. DESCRIPTION OF THE AWARD. In pen and ink, in subparagraph .01c., change the title "Chairman of the Civil Service Commission" to "Director of the Office of Personnel Management."

Director, National Technical Information Service

Approved:

Acting Assistant Secretary for Administration

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USCOMM-DC 4271-P69

FORM SEC-285 (11-69)

TRANSMITTAL 57

United States of America DEPARTMENT OF COMMERCE	DEPARTMENT ADMINISTRATIVE ORDER 202-735A Amendment 1	
DEPARTMENT ADMINISTRATIVE ORDER SERIES	DATE OF ISSUANCE October 6, 1970	EFFECTIVE DATE October 6, 1970

SUBJECT

EMPLOYEE RESPONSIBILITIES AND CONDUCT

Department Administrative Order 202-735A, dated November 5, 1969, is hereby amended as follows:

1. Section 2 is amended in its entirety, to change policy with regard to outside employment, including the private practice of law, by inserting revised pages as indicated below.

2. Manual-holder should delete, by pen and ink, subparagraph 2.04c., which appears at the top of page 3.

3. Manual-holder should change, by pen and ink, "Part 300" in line 3 of subparagraph 3.02b. (page 3) to read "Part 100."

Assistant Secretary for Administration

Pages Changed

Remove Pages	Dated	Insert Pages	Dated
1 and 2	(undated)	1, 2 and 2a	10/6/70

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Pages Changed

Remove Pages	Dated	Insert Pages	Dated
1 and 2	(undated)	1, 2 and 2a	10/6/70

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