Dear Under Secretary/Director Copan:

Thank you for allowing me to participate in the “Unleashing American Innovation” event last week. I enjoyed the panels, each of the speakers, and the opportunity to interact with other attendees.

In addition to generally supporting efforts to continue improving converting results of federally funded research into impactful innovations, I offer a few observations below for your consideration. Although I am the general counsel of the Kauffman Foundation, I submit these observations in a personal capacity as someone who has engaged in the tech transfer space and not on behalf of the Foundation.

First, a great deal of the time spent in discussions last Thursday morning focused on patents and patentable innovations. While certainly important, as you know, a tremendous amount of innovation does not and will not fall into that realm. I presume that non-patent innovations will also be the subject of appropriate attention and encouragement.

Second, in my experience, a significant contributor to impeding efforts to advance university innovation occurs in how many universities approach risk and decision-making about risk. Too often, the practical approach is to allow any element of risk to subvert efforts to translate innovations, frequently meaning that lawyers with tunnel vision override mission-based decisions without substantive balancing or evaluation.

I am not convinced that resolution of those concerns is federal legal mandates. However, clearer indications of federal purposes and priorities in grant agreements might be persuasive, especially if it is made known that future grant considerations will incorporate evaluation of prior translation support and efforts. Communications to university leaders – who too frequently lack essential understandings of technology transfer -- about the need for their interventions in addressing risk and decision making might be useful.

My third point helps reinforce the second. That is that federal policy focuses on “commercialization and utilization” of the results of federally funded research. While revenue is certainly important, it is not the whole of federal policy even though the focus on outputs such revenues, startups, licenses, patents, and disclosures suggests a transactional emphasis to the exclusion of concern about impact. While still encouraging collecting information about the preceding list, it would also be important to have information about the numbers of products, uses, consumers, and other quantifiable insights by which conclusions might be drawn about the “utilization” and actual impact of federally funded innovations.

I submit these observations not with an eye towards criticism but with a commitment to being better. Paraphrasing something I’ve stated previously: “better than it was is no excuse for not being as good as it can be.”[[1]](composescreen://" \l "_ftn1)I would welcome the chance to engage further on these and related topics if you thought it made sense.

Sincerely,

John E. Tyler III

[[1]](composescreen://" \l "_ftnref1)  Tyler, John E., Redeploying Bayh-Dole: Beyond Merely Doing Good to Optimizing the Potential in Results of Taxpayer-Funded Research, Journal of Technology Transfer, vol. 38, pp. 911-929 (2013).