



Office of the Vice Chancellor for
Research and Graduate Education
UNIVERSITY OF WISCONSIN-MADISON

July 30, 2018

Dr. Courtney Silverthorn
Deputy Director, Technology Partnerships Office
National Institute of Standards and Technology
100 Bureau Drive MS 2001
Gaithersburg, MD 20899
Submitted via email: roi@nist.gov

Subject: RFI Response: Federal Technology Transfer Authorities and Process
Docket Number: 180220199-819-01

Dear Dr. Silverthorn:

The University of Wisconsin-Madison (UW-Madison) is responding to the Request for Information Regarding Federal Technology Transfer Authorities and Processes. As a member of Association of American Universities, Association of Public & Land Grant Universities, Council on Governmental Relations, Association of American Medical Colleges, and American Council on Education, we support the comments (attached) made by these associations. We are writing to briefly reiterate the importance of selected items.

What are the core Federal technology transfer principles and practices that should be protected, and those which should be adapted or changed?

We wish to register our support for the Bayh-Dole Act and its successful core technology transfer principles. UW-Madison has a unique history with technology transfer and Bayh-Dole. A former Wisconsin faculty member's vision and generosity led to the establishment of one of the first technology transfer offices in the country, the Wisconsin Alumni Research Foundation (WARF). WARF's former emeritus patent counsel, Howard Bremer, was instrumental in setting the stage for work that led to the passage of the 1980 Bayh-Dole Act. WARF's management of patents and the resulting revenue, on behalf of UW-Madison, has enabled the University to further the development of graduate students, fund innovative and groundbreaking research, and generate additional private- and public-sector support for research programs. All of this is made possible through the framework of the Bayh-Dole statute, which we believe must be protected as currently written.

What are the issues that pose systemic challenges to the effective transfer of technology, knowledge, and capabilities resulting from Federal R&D?

Challenges related to the effective transfer of technology resulting from Federal research and development include the following:

Revision to implementing regulations: In §401.14(d)(1), language was removed that required an agency to request title within 60 days after learning of a contractor's failure to disclose or elect title in accordance with §401.14(c). The removal of this language gives rise to the potential for an agency to take title at any time, creating uncertainty for universities and tech transfer offices.

Invention reporting issues: Many agencies use iEdison, an aging system. The University is appreciative that NIST and NIH are working to rebuild the system. Though many agencies require use of iEdison, use of the system is not universal. Agencies may require their own reporting system (e.g., NASA's New Technology Reporting System) or form (Defense's DD Form 882) be used for invention reports. The lack of consistency and an aging iEdison system create burden for those who need to do invention reporting.

Conflict of interest rules: The Public Health Service implemented revised regulations on financial conflict of interest in 2012. The effect on the University was to expand the types of financial interests that individuals must report and to increase the responsibilities around administering such reports. Although the overall reporting burden increased, a study¹ indicated that a commensurate number of increased financial conflicts of interest did not result. The University believes that these types of requirements discourage the development of activities or relationships that may help lead to the commercialization of government-funded ideas. Additionally, individual agencies have implemented their own conflict of interest policies (e.g., EPA) creating a lack of consistency across the federal government.

What is the proposed solution for each issue that poses a systemic challenge to the effective transfer of technology, knowledge, and capabilities resulting from Federal R&D?

Opportunities exist to address issues related to the effective transfer of technology resulting from Federal research and development.

Revision to implementing regulations: We believe that NIST should consider reinstating the 60-day time period for agency action within §401.14(d)(1).

Invention reporting issues: The University recommends a single, streamlined government-wide reporting process and system overseen by one entity that is provided adequate resources to administer the system.

¹ Implementing the Regulations on Financial Conflicts of Interest: Results from the AAMC Conflict of Interest Metrics Project (April 2015), available at <https://www.aamc.org/download/429214/data/april2015implementingtheregulationsonfinancialconflictsofintere.pdf>

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Conflict of interest rules: The University is aware that section 2034(a) of the 21st Century Cures Act tasks the Department of Health and Human Services to review all conflict of interest regulations and policies of funding agencies. The University is hopeful that this review will result in a policy that is uniform across funding agencies, adequately addresses conflicts of interest, protects research integrity and human subjects, and recognizes the value of relationships with industry.

What are other ways to significantly improve the transfer of technology, knowledge, and capabilities resulting from Federal R&D to benefit U.S. innovation and the economy? What changes would these proposed improvements require to Federal technology transfer practices, policies, regulations, and legislation?

The University encourages the Federal government to continue and expand support for programs that help lead to commercialization of government-funded ideas. For example, the I-Corps program provides training, mentoring, and support to promote the growth of promising concepts. Programs such as I-Corps are critical to fostering innovation and translating basic research into economic development.

In conclusion, the University appreciates the opportunity to provide feedback to NIST on how to more effectively support the transition of Federally-funded ideas from the lab to the marketplace. Should you have any questions, please feel free to reach out to me at norman.drinkwater@wisc.edu, (608) 262-1044, or to Kim Moreland at kmoreland@rsp.wisc.edu, (608) 262-3822.

Sincerely,



Norman R. Drinkwater, Ph.D.
Interim Vice Chancellor for Research and Graduate Education
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Kim Moreland
Associate Vice Chancellor for Research Administration, and
Director, Research and Sponsored Programs