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Memorandum on Government Patent Policy

February 18, 1983

Memorandum to the Heads of Executive

Departments and Agencies

Subject: Government Patent Policy

To the extent permitted by law, agency policy with respect to the disposition of any invention made in the performance of a federally-funded research and development contract, grant or cooperative agreement award shall be the same or substantially the same as applied to small business firms and nonprofit organizations under Chapter 38 of Title 35 of the United States Code.

In awards not subject to Chapter 38 of Title 35 of the United States Code, any of the rights of the Government or obligations of the performer described in 35 U.S.C. 202 - 204 may be waived or omitted if the agency determines (1) that the interests of the United States and the general public will be better served thereby as, for example, where this is necessary to obtain a uniquely or highly qualified performer; or (2) that the award involves co-sponsored, cost sharing, or joint venture research and development, and the performer, cosponsor or joint venturer is making substantial contribution of funds, facilities or equipment to the work performed under the award.

In addition, agencies should protect the confidentiality of invention disclosure, patent applications and utilization reports required in performance or in consequence of awards to the extent permitted by 35 U.S.C. 205 or other applicable laws.