

# TECHNOLOGY TRANSFER PROGRAM

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## I. Purpose

This Directive establishes the policies for the Technology Transfer Program administered by the Science and Technology Directorate (S&T) on behalf of the Department of Homeland Security (DHS).

## II. Scope

This Directive applies throughout DHS.

## III. Authorities

- A. Title 6 United States Code (U.S.C.) 182(6), "Responsibilities and Authorities of the Under Secretary for Science and Technology."
- B. Title 15 U.S.C. Chapter 63, "Technology Innovation" (15 U.S.C. § 3701 et seq.).
- C. Title 35 U.S.C. Chapter 18, "Patent Rights in Inventions Made With Federal Assistance" (35 U.S.C. § 200 et seq.).
- D. Executive Order 12591, "Facilitating Access to Science and Technology," April 10, 1987, as amended.
- E. DHS Delegation 10001, "Delegation to the Under Secretary for Science and Technology," April 28, 2014.
- F. DHS Delegation 10002, "Delegation to the Under Secretary for Science and Technology to Facilitate Technology Transfer," October 24, 2005

## IV. Definitions

- A. **Technology Transfer:** Technology transfer is the process by which existing knowledge, facilities, or capabilities developed under federal research and development (R&D) funding are utilized to fulfill public and private needs.
- B. **Cooperative Research and Development Agreement (CRADA):** An agreement between one or more federal laboratories and one or more non-federal parties under which the Government, through its laboratories, may provide personnel, services, facilities, equipment, intellectual property, or other resources, excluding funds, with or without reimbursement, and the non-federal parties may provide funds, personnel, services, facilities, equipment, intellectual property, or other resources toward the conduct of specified research or development efforts that are consistent with the missions of the laboratory. CRADAs are not to be considered financial agreements (e.g., procurement contracts, grants, cooperative agreements) as required in 31 U.S.C. §§ 6303, 6304, and 6305.
- C. **Laboratory:** A DHS organization that has, as one of its missions, the performance of research, development, or engineering. *This definition is not confined to those DHS organizations that are formally designated as “laboratories.” The intent of this definition is to encompass the wide range of organizations that sponsor and manage research, development, and engineering programs in accordance with 15 U.S.C. § 3710a (d)(2)(A).*
- D. **Licensing Agreement:** A license is a contract between a licensor (e.g., the holder of a patent) and a licensee (e.g., an industry partner) given with or without consideration, that grants the licensee rights to use intellectual property owned by the licensor or intellectual property to which the licensor has sufficient rights to effectuate the license. A licensing agreement promotes the goal of utilizing and commercializing inventions that rise from agency-supported research and development.
- E. **Commercialization:** The process of developing markets and producing and delivering products and/or services to address the needs of those targeted markets.
- F. **Partnership Intermediary Agreement (PIA):** A partnership intermediary is an agency or affiliate of a state or local government that assists, counsels, advises, evaluates, or otherwise cooperates with small business

firms or educational institutions that need or can productively use technology-related assistance from a federal laboratory. Partnership intermediaries perform services for DHS that increases the likelihood of success in the conduct of collaborative activities with small business firms and institutions of higher education. PIAs are agreements between DHS and a partnership intermediary which allow the partnership intermediary to:

1. Identify new technologies in the private sector that can be utilized by DHS.
2. Facilitate joint projects between DHS and private companies, as well as between agencies and academic institutions, in order to accelerate delivery of technological capabilities to the nation.
3. Help existing companies identify DHS technologies that can be licensed and commercialized.

## V. Responsibilities

- A. The **Under Secretary for Science and Technology** exercises the authorities provided in Delegation 10001 and Delegation 10002.
- B. The **Office of the General Counsel**, Technology Programs, reviews and approves all technology transfer agreements, including CRADAs and licenses, prior to signing. The attorneys in the Office of General Counsel serve as the Legal Advisor to the Invention Disclosure Board, review all invention disclosures, and manage the patent prosecution process.
- C. **Directors of DHS Laboratories** are responsible for accomplishing active technology transfer from their respective organizations, including the provision of technical assistance to state and local governments, and cooperating in technology development with private and public sector organizations. Laboratory directors also have the responsibility to include goals for, and objectives of, technology transfer in the performance standards of their senior technical managers and assure that technology transfer efforts are considered positively in job descriptions, promotion policies, and job performance evaluations of their scientists and engineers.
- D. The **Technology Transfer Program**, housed within the Science and Technology Directorate, develops policy and provides oversight for

technology transfer activities across DHS. The Program also maintains responsibility for establishing technology transfer mechanisms, including CRADAs and licenses, by providing technical assistance throughout DHS and conducting assessments of technology. The Technology Transfer Program serves as the Office of Research and Technology Application (ORTA) that is mandated by 15 U.S.C. § 3710(b) to oversee the technology transfer activities of a federal agency.

## **VI. Policy and Requirements**

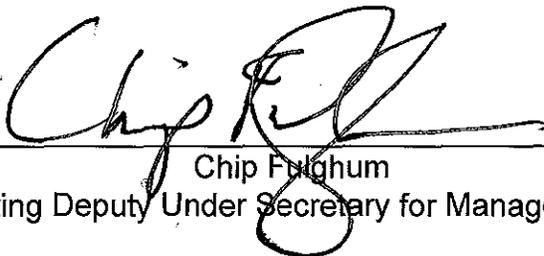
- A. Consistent with 15 U.S.C. § 3710, technology transfer activities are integral to the mission of DHS and accelerate the delivery of technology to the homeland security enterprise. Technology transfer has a high-priority role in DHS acquisition programs and is recognized as a key activity for DHS laboratories that may make use of or contribute to the generation of technology.
- B. DHS promotes technology transfer through various mechanisms to include CRADAs and licensing agreements for intellectual property.
- C. DHS promotes technology transfer through the use of partnership intermediaries in accordance with 15 U.S.C. § 3715.
- D. DHS laboratories may accept, retain, and use funds, personnel, services, and property from a collaborating non-federal entity pursuant to and in accordance with 15 U.S.C. § 3710a(b)(3) and other technology transfer authorities.
- E. In accordance with 6 U.S.C. § 189(d), DHS Delegation 10001, and DHS Delegation 10002, DHS may enter into CRADAs or licensing agreements in connection with its utilization of a Department of Energy National Laboratory. All such agreements are notified and reported to DHS any intellectual property developed.
- F. Any invention made under a technology transfer agreement, whether made solely by the partner or solely by a DHS employee, or jointly, are disclosed to the DHS Assistant General Counsel for Intellectual Property.
- G. Any DHS invention, if appropriate, may be licensed to a non-federal partner for commercialization of the technology. The terms of any license pertaining to a DHS-originating invention are negotiated by the

Technology Transfer Program with the support of the Office of General Counsel.

- H. DHS can obtain royalties through the licensing of inventions. Inventor(s) of a DHS invention receives the first \$2,000, and thereafter at least 15% of all royalties received through the licensing of the invention on an annual basis. Payments made cannot exceed more than \$150,000 per year to any one person. The Technology Transfer Program retains 10% of royalties, and the remaining percentage goes directly to the Laboratory from which the invention was generated.
- I. In accordance with 15 U.S.C. § 3710(b), DHS can issue rewards for inventions that are of value to the United States due to their commercial applications or their contribution to the DHS mission.
- J. The DHS Technology Transfer Program provides an amount no greater than .008 percent of the DHS Research and Development budget to the National Institute of Standard and Tests (NIST) as required by 15 U.S.C. § 3710 for the activities of the Federal Laboratory Consortium.
- K. The DHS Technology Transfer Program submits DHS input to *The Annual Report for Technology Transfer to the Congress and President*. This report is compiled by NIST as required by 15 U.S.C. § 3710.

## VII. Questions

Any questions or concerns about this Directive should be addressed to the DHS Technology Transfer Program Manager.



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Chip Fulghum  
Acting Deputy Under Secretary for Management

MAR 10 2015

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