



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

SECNAVINST 5700.17
ONR 03TSB
27 March 2009

SECNAV INSTRUCTION 5700.17

From: Secretary of the Navy

Subj: DOMESTIC TECHNOLOGY TRANSFER

Ref: (a) DoD Instruction 5535.8 of 14 May 99
(b) Sections 3702, 3703, 3705, 3706, 3710, 3712, 3715 of Title 15, United States Code
(c) Sections 2501, 2506, 2514, 2515, 2358, 2371, 2194, 2195, 5022 of Title 10, United States Code
(d) Executive Order 12999, "Educational Technology: Ensuring Opportunity for All Children in the Next Century," of 17 Apr 96
(e) Sections 200 et seq. of Title 35, United States Code
(f) DoD Directive 5535.3 of 21 May 99
(g) Executive Order 12591, "Facilitating Access to Science and Technology," of 10 Apr 87
(h) SECNAVINST 5430.7P
(i) SECNAVINST 5870.2D
(j) Federal Acquisition Regulation, Subpart 31.205-18(e), "Independent Research and Development and Bid and Proposal Costs," 62 FR 64932, 9 Dec 97; FAC 97-03
(k) SECNAV M-5210.1

Encl: (1) Definitions
(2) Laboratory or Technical Activity Designation Procedure
(3) Office of Research and Technology Applications Representative Designation Procedure

1. Purpose. To implement, establish policy, and assign responsibility for the Department of the Navy (DON) Domestic Technology Transfer (T2) Program, per references (a) through (g).

2. Scope. This instruction is applicable to all commands and activities within the Department of the Navy responsible for the sponsorship, management, administration, and execution of domestic T2 (activities).

3. Definitions. Terms, used in this instruction, are defined in enclosure (1).

4. Policy. It is the continuing responsibility of the Federal Government to ensure the full use of the results of the Nation's Federal investment in research and development; therefore, the Federal Government shall strive, where appropriate, to transfer Federally owned or originated technology to state and local governments and to the private sector. Furthermore, domestic T2 is an integral element of the DON national security mission and, as such, requires each DON laboratory and technical activity, each DON science, engineering and T2 professional, as well as each DON employee providing T2 support, to be responsible for T2 consistent with mission responsibilities. Therefore, it is DON policy to promote domestic T2 throughout the Department of the Navy to ensure improvements to the economic, environmental and social well-being of the United States and its citizens, and to carry out DON T2 per references (a) through (j).

5. Responsibilities. The Chief of Naval Research (CNR) is responsible for all domestic T2 policy and guidance matters within the Department of the Navy.

a. The CNR shall:

(1) Manage the DON Domestic T2 Program and serve as oversight authority for execution of all DON domestic T2 Science and Technology (S&T) matters.

(2) Be delegated the authority to manage the Laboratory/ Technical Activity and Office of Research and Technology Applications (ORTA) representative designation procedures. This authority may be re-delegated to the DON program manager for domestic T2.

(3) Cultivate collaboration between DON S&T communities and industry to promote efforts resulting in the transfer of DON technology to the commercial sector.

(4) Execute an awards program, including cash awards, to recognize domestic T2 accomplishments.

(5) Institute policies under which laboratories and technical activities may be authorized to enter into Cooperative

Research and Development Agreements (CRADAs), Partnership Intermediary Agreements (PIAs), licenses of Navy patents or inventions (referred to herein as Patent License Agreements (PLAs)), assign or waive rights to patents and inventions, and distribute royalties and other payments, per references (a), (h) and (i).

(6) Determine, as required in section 3710(e)(7) (A) through (C) of title 15, United States Code (U.S.C.) (reference (b)), the amount of Navy funding support to the Federal Laboratory Consortium (FLC); collect the determined amount of funds from the Navy research, development, test and evaluation allocation holders; and transfer the funds to the National Institute of Standards and Technology for use by the FLC.

(7) Designate a DON program manager for domestic T2.

b. The DON Program Manager for Domestic T2 (DON T2 PM) shall:

(1) Coordinate, direct, and manage Navy Domestic T2 per established policies, this instruction, and the directions of higher authority.

(2) Provide inputs for reports, as required.

(3) Represent the Department of the Navy in the FLC at interagency meetings with other Federal departments and internally with DON activities.

(4) Encourage participation in and promote the results of DON Domestic T2.

c. Heads of DON Activities shall:

(1) Review the definition of laboratory and/or technical activity (reference (a), paragraph E2.1.3.) and determine whether their activity may be considered a laboratory or technical activity for the purposes of this instruction. This determination shall be made by following the procedure outlined in enclosure (2) of this instruction.

(2) Implement and follow, in accordance with reference (a) and this instruction, the procedures mandated for Department

of Defense (DoD) laboratories and/or technical activities, if it is determined that their DON activity is considered a laboratory or technical activity.

d. All Heads of Designated DON Laboratories and/or Technical Activities are delegated the authority to:

(1) Enter into CRADAs, PIAs, and PLAs in accordance with this instruction, provided that the following requirements are met and maintained:

(a) The head of a DON laboratory and/or technical activity is the commanding officer of, or holds an equivalent position at, such activity. (Hereinafter, the commanding officer and/or the commanding officer equivalent will be referred to as the "commanding officer".)

(b) A laboratory or technical activity designation memorandum has been issued by Office of Naval Research (ONR) (see enclosure (2)).

(c) The laboratory or technical activity has met and maintained all requirements of this instruction, has designated a sufficiently trained ORTA representative by following the procedure outlined in enclosure (3), and has received an approval of their designated ORTA representative from ONR.

(d) A support staff, with adequate training or experience in T2, is provided, as necessary, to assist the designated ORTA representative.

(e) Procedures for operating their T2 program are established prior to entering into a CRADA, PIA, or PLA. These procedures should include provisions for all appropriate pre-disclosure reviews of information and data prior to the release of such data or information including, but not limited to, a legal review, which should include a review for issues that might affect the patentability of a DON invention or might otherwise affect DON intellectual property; a security review; and, when necessary, a public affairs-related review.

(f) A legal review and a legal recommendation is obtained from an assigned (or identified) Navy Office of General Counsel Intellectual Property (OGC IP) attorney prior to

negotiating and prior to entering into a CRADA, PIA, or PLA to ensure that the CRADA, PIA, or PLA conforms to all statutes, regulations, Executive Orders, this instruction, and other binding instructions and policies issued within the Department of Defense and the Department of the Navy.

(g) A security review is obtained prior to negotiating and prior to entering into a CRADA, PIA, or PLA to ensure that the CRADA, PIA, or PLA conforms to all statutes, regulations, Executive Orders, this instruction, and all security regulations and instructions issued within the Department of Defense and the Department of the Navy. The security review shall include, but is not limited to, a review of the responsibilities of managing and controlling the dissemination of the information or data that could, or will, result from the work under the CRADA, PIA or PLA.

(h) Prior to entering into negotiations for a CRADA or PLA with foreign persons or industrial organizations that are directly or indirectly controlled by a foreign company or government, the following requirements must be met:

1. When required, a foreign disclosure determination is completed and approved by the laboratory or technical activity;

2. A consultation memorandum is submitted to, and a confirmation that the consultation memorandum was received is obtained from, the United States trade representative;

3. When required, the Navy International Program Office, and other officials or offices, are contacted and involved as needed; and

4. An export control assessment will be completed and all applicable foreign disclosure and export license requirements and restrictions complied with.

(i) Unless otherwise instructed by the DON T2 PM, a copy, preferably electronic, of each fully executed CRADA, PIA, and PLA, and documentation showing the results of the legal review and recommendation per subparagraph 5d(f), and the security review per subparagraph 5d(g); and, for CRADAs and PLAs that are entered into with foreign persons or industrial

organizations that are directly or indirectly controlled by a foreign company or government, documentation demonstrating that the requirements of subparagraphs 5d(h)1 through 5d(h)4 have been complied with, are forwarded to the DON T2 PM as part of the CRADA, PIA or PLA package.

(j) A copy, preferably electronic, of all other required reports and documents are submitted to ONR as directed by this instruction or the DON T2 PM.

(2) Loan, lease, or give research equipment or educationally useful Federal equipment, consistent with export control laws and regulations, which is excess to the needs of the laboratory and/or technical activity, to an educational institution or nonprofit institution for the conduct of technical and scientific education and research activities. (See section 3710(i) of title 15, U.S.C., of reference (b); section 2194 of title 10, U.S.C., of reference (c); and Executive Order 12999 of reference (d).) This authority may be further delegated.

e. All Heads of Designated DON Laboratories or Technical Activities shall:

(1) Comply with subparagraphs 5d(1)(a) through (j) and 5e(2) of this instruction, and are on notice that noncompliance with this instruction could result in revocation of their laboratory or technical activity designation.

(2) Submit, when requested by the DON T2 PM, documentation showing that it continues to meet the laboratory or technical activity requirements of this instruction. Such documentation shall be provided to the DON T2 PM within 60 days of the date of such request.

(3) Assume the responsibility for all aspects of its CRADAs, PIAs, and PLAs.

f. The Designated and Approved ORTA Representative shall:

(1) Coordinate, direct, and manage Navy Domestic T2 for their laboratory or technical activity per established policies, this instruction, and the directions of higher authority.

(2) Provide annual business plans, training presentation/outlines and reports, statistical data and other information as requested by the DON T2 PM, or otherwise required by statute, regulation, directive, executive order, instruction or DON policy.

(3) Offer at least 2 hours of T2, marketing, or other related, training to personnel of their laboratory or technical activity annually.

(4) Receive at least 8 hours of training in T2 every calendar year; complete the on-line DON ORTA training course every calendar year; and submit a summary of the annual training (listing the number of training hours received and the source(s) of the training) to the DON T2 PM by the end of each calendar year. This summary can be submitted to the DON T2 PM along with the copy of the annual business plan required by reference (a).

(5) Encourage participation in, and promote the results of, DON domestic T2.

(6) Comply with subparagraphs 5f(1) through 5f(5) of this instruction, and is on notice that noncompliance with this instruction could result in revocation of the approval of their ORTA designation.

6. Patent License Payments

a. Preferably, all payments due under a patent license shall be made in U.S. dollars and will be submitted via express mail, Wire Transfer (WT) or Electronic Fund Transfer (EFT).

(1) If the payment is being made using a WT or EFT, the financial or other institution that provides the WT/EFT service will require information to process the transaction which should be included in the license.

(a) The following information must be used to process the transaction: bank name, city, country, routing transit number, account name, and account number.

(b) The following reference information should also be included with the transaction:

WT/EFT Beneficiary Block: Office of Naval Research
Sender Reference: Sender's Name and License
Number
Originator's Name: Licensee's Name

(2) On the day of the transfer, the Licensee should notify ONR and the DON Laboratory or Technical Activity responsible for the license that the Licensee is providing a payment via a WT or an EFT by sending an email to: EFTRoyaltyPayment@navy.mil.

b. Payments made by check or some other form of non-cash paper tender should be made payable to: U.S. Treasury and mailed to:

Deputy Counsel (Intellectual Property)
Office of Naval Research
ONR 00CC/(Room W515, W524A, or 518)
875 North Randolph Street
Arlington, VA 22203-1995

c. Regardless of the method of tender, the tender must be annotated or identified with the license number (or other identifier) and the licensee's name.

7. Action

a. Responsible DON commands, activities, and personnel shall take the necessary steps to implement DON Domestic T2 as outlined in this instruction.

b. The commanding officer of each DON laboratory and/or technical activity, within 60 days of receipt of this instruction and in accordance with the requirements and guidance contained in this instruction, shall request ONR to issue a laboratory and/or technical activity designation memorandum in accordance with enclosure (2). ONR shall provide a response within 60 days of receipt of such request.

c. The commanding officer of each DON laboratory and/or technical activity, within 60 days of receipt of their laboratory and/or technical activity designation memorandum from ONR, shall either receive notice of the approval of its currently designated ORTA representative from ONR or be required to designate and request approval from ONR of an ORTA

representative in accordance with enclosure (3). ONR shall provide a response within 60 days of receipt of such request.

d. The commanding officer of a designated DON laboratory and/or technical activity must notify the DON T2 PM within 60 days of a change of the activity's ORTA representative, and should designate a new ORTA representative in accordance with this instruction.

8. Records Management. Records created as a result of this instruction, regardless of media and format, shall be managed in accordance with reference (k).



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Distribution:

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Definitions

1. The following terms are defined in reference (a):
 - a. CRADA.
 - b. Technical Assistance CRADA.
 - c. Military-Use CRADA.
 - d. Laboratory and/or Technical Activity (including the Marine Corps).
 - e. T2.

2. The following terms and definitions are applicable to the Department of the Navy:
 - a. "Navy Cooperative Research and Development Agreement Handbook" (Handbook)¹: The Handbook is a desktop reference for each Navy ORTA and for use by others who are engaged in Navy T2 processes.

 - b. Navy Standard CRADA (NSCRADA): The NSCRADA is based on applicable law and policy and a NSCRADA template is provided in the Handbook. The Handbook also provides approved alternate language for use in a NSCRADA. A CRADA that includes the use of approved alternate language is still considered a NSCRADA. (See the Handbook.)

 - c. Navy Standard Limited-Purpose CRADA (NSLPC): The NSLPC is a CRADA restricted to the exchange of existing equipment and/or material that the collaborators use for their research, test, evaluation, development or engineering activities. There is no joint work performed under the NSLPC, but there is a

¹ The Handbook is available from the Navy Domestic T2 program manager by submitting a request to: Office of Naval Research, Attn: DON T2 PM, Code 03TSB, 875 North Randolph Street, Arlington, VA 22203-1995; by email to: NavyTechTransfer@onr.navy.mil; or from the ONR Web site: http://www.onr.navy.mil/sci_tech/3t/transition/tech_tran/orta/docs/crada_handbook.doc.

mutual interest in the results. Data and intellectual property are protected. A NSLPC template is provided in the Handbook. (See the Handbook.)

d. Non-Standard CRADA: Any CRADA that deviates from the NSCRADA or the NSLPC is considered non-standard. Some examples of non-standard CRADAs include technical assistance and clinical trials CRADAs, and CRADAs with multiple parties or with foreign persons or industrial organizations that are directly or indirectly controlled by a foreign company or government. While both the standard and non-standard CRADAs require local legal review, each deviation to the NSCRADA or NSLPC will require the preparation of a written explanation of the reasons and justification for the deviation and a written legal review and recommendation from the local, assigned, or identified Navy OGC IP attorney, prior to entering into the CRADA. This explanation, and the legal review and recommendation must be forwarded to the DON T2 PM at the ONR as part of the CRADA package.

e. PIA:

(1) Statutory Authority: section 3715 of title 15, United States Code.

(2) Definition: See "Statutory Authority."

(3) Navy Standard PIA (NSPIA): The NSPIA is based on applicable law and policy, and a NSPIA template is provided in the Handbook.

(4) Non-Standard PIA: Any PIA that deviates from the NSPIA is considered non-standard. While both the standard and non-standard PIAs require local legal review, any deviation to the NSPIA will require: the preparation of a written explanation of the reasons and justification for the deviation; and a written legal review and recommendation from the local, assigned, or identified OGC IP attorney, prior to entering into the PIA. This explanation, and the legal review and recommendation must be forwarded to the DON T2 PM at ONR as part of the PIA package.

f. Navy Standard Patent License Agreement (NSPLA): There is a NSPLA template for both exclusive/partially exclusive and

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non-exclusive PLAs. Each NSPLA is based on applicable law and policy. Any PLA that deviates from the NSPLA is considered non-standard, and, while both the standard and non-standard PLAs require local legal review, any deviation to the NSPLA will require the preparation of a written explanation of the reasons and justification for the deviation and a written legal review and recommendation from the local, assigned, or identified OGC IP attorney, prior to entering into the PLA. Unless otherwise instructed by the DON T2 PM, this explanation, and the legal review and recommendation, must be forwarded to the DON T2 PM at ONR as part of the PLA package.

Laboratory or Technical Activity Designation Procedure

In conjunction with this instruction, and prior to entering into a CRADA, a PIA, or a PLA (or Invention License Agreement), the following procedure is required to be used in order to become designated as a DON laboratory or technical activity.

1. The commanding officer, or equivalent, of a DON activity shall sign and submit a memorandum, on official letterhead, requesting designation as a laboratory or technical activity to the DON T2 PM. This request for designation memorandum must contain responses to the following questions:

a. Do personnel at the activity have a working knowledge of sections 3710, 3710a and 3715 of title 15, U.S.C.; DoD Instruction 5535.8; DoD Directive 5535.3; and SECNAVINST 5700.17 (or, when appropriate, any superseding statute, order, directive or instruction)?

b. Does the activity meet the definition of a laboratory and/or technical activity (see reference (a), paragraph E2.1.3.)?

c. What is the name and physical location of the activity?

d. What is the mission of the activity?

e. Does the activity have sufficient T2, security, and Navy OGC legal staff to advise the commanding officer and support the activity's T2 mission?

(1) Is a Navy OGC IP attorney assigned to your activity? If not, who will be responsible for providing legal reviews and recommendations relating to CRADAs, PIAs, PLAs, and other legal assistance to your activity regarding T2? A copy of the writing or agreement showing that an OGC Office of Counsel will supply T2 legal services to the activity, and identifying the Navy OGC IP attorney(s) that will be assigned to support such services must be provided.

[NOTE: An OGC IP attorney is required to be assigned, or otherwise be available, to provide T2 legal support prior to obtaining laboratory or technical activity designation.]

(2) Are security personnel assigned to your activity?
If not, who will be responsible for providing security reviews relating to CRADAs, PIAs, or PLAs?

2. The request for designation memorandum will be reviewed by the DON T2 PM and forwarded to the Intellectual Property Counsel of the Navy for legal review. A determination whether the activity meets the criteria for designation as a laboratory or technical activity will be made by ONR, and a laboratory or technical activity designation memorandum will be sent by ONR to the requesting activity approving or rejecting the designation request.

3. If the activity receives a laboratory or technical activity designation memorandum approving its request for designation as a laboratory or technical activity, and if the activity's current ORTA has not been designated and approved by ONR, then the commanding officer of such activity shall submit a memorandum to ONR designating an ORTA representative (see enclosure (3), ORTA Representative Designation Procedure).

4. The request for laboratory or technical activity designation memorandum should be on official letterhead, signed by the commanding officer (or commanding officer equivalent) of the laboratory or technical activity, and forwarded to the DON T2 PM at:

Office of Naval Research
Attn: DON T2 PM, Code 03TSB
875 North Randolph Street
Arlington, VA 22203-1995

or

Emailed to: NavyTechTransfer@onr.navy.mil

Office of Research and Technology Applications (ORTA)
Representative Designation Procedure

1. In conjunction with this instruction, and prior to entering into a CRADA, a PIA, or a PLA (or Invention License Agreement), the following procedure is required to be used in order to request approval of the designation of an ORTA representative for a DON activity designated as a laboratory or technical activity.
2. The commanding officer, or commanding officer equivalent, of a DON activity designated as a laboratory or technical activity shall sign and submit a memorandum, on official letterhead, designating an ORTA representative for the activity to the DON T2 PM. This ORTA representative designation memorandum must contain responses to the following questions:
 - a. What is the name and location of the activity?
 - b. What is the name of the person being designated as the ORTA representative?
 - c. Are procedures in place (if not, when will procedures be established) for entering into CRADAs, PIAs, and PLAs?
 - d. Does the ORTA representative, who will be responsible for implementing the procedures, have training or experience in T2?
 - e. Has the ORTA representative completed the on-line DON ORTA training course?
 - f. Has the ORTA representative reviewed the CRADA? ²
Handbook?

² The Handbook is available from the Navy Domestic T2 program manager by submitting a request to: Office of Naval Research, Attn: DON T2 PM, Code 03TSB, 875 North Randolph Street, Arlington, VA 22203-1995; by email to: NavyTechTransfer@onr.navy.mil; or from the ONR Web site: http://www.onr.navy.mil/sci_tech/3t/transition/tech_tran/orta/docs/crada_handbook.doc) prior to ONR approving the designation of an ORTA representative.]

[NOTE: The ORTA representative is required to complete the on-line DON ORTA training course and review the CRADA Handbook.]

g. Has the ORTA representative completed at least 8 hours of T2 training prior to designation?

[NOTE: Each ORTA representative is required to complete 8 hours of T2 training or complete the on-line DON ORTA training course and review the CRADA Handbook prior to obtaining approval of their designation. Thereafter, each ORTA representative is required to complete 8 hours of T2 training every calendar year. This training may include, but is not limited to, the annual Technology Transfer Integrated Planning Team Workshop; the annual FLC National Conference; any Navy ORTA/legal workshop; or any other T2 related training activity.]

h. Does the activity have sufficient T2, security, and Navy OGC legal staff to advise and support the ORTA representative?

(1) Is a Navy OGC IP attorney assigned to your activity? If not, who will be responsible for providing legal reviews and recommendations relating to CRADAs, PIAs, PLAs, and other legal assistance to your activity regarding T2? A copy of the writing or agreement showing that an OGC Office of Counsel will supply T2 legal services to the activity, and identifying the Navy OGC IP attorney(s) that will be assigned to support such services must be provided.

[NOTE: An OGC IP attorney is required to be assigned, or otherwise be available, to provide T2 legal support prior to obtaining laboratory or technical activity designation.]

(2) Are security personnel assigned to your activity? If not, who will be responsible for providing security reviews relating to CRADAs, PIAs, and PLAs?

3. ONR will send a response to the activity approving or rejecting the designation of the ORTA representative.

4. The commanding officer, or equivalent, of a DON activity that has been designated as a DON laboratory or technical activity must notify the DON T2 PM within 60 days of a change of the activity's designated ORTA representative and should

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designate a new ORTA representative in accordance with this instruction.

5. The ORTA representative designation memorandum should be on official letterhead, signed by the commanding officer (or commanding officer equivalent) of the laboratory or technical activity, and forwarded to the DON T2 PM at:

Office of Naval Research
Attn: DON T2 PM, Code 03TSB
875 North Randolph Street
Arlington, VA 22203-1995

Or

Emailed to: NavyTechTransfer@onr.navy.mil