Department of Defense
DIRECTIVE

NUMBER 5535.3
May 21, 1999

DDR&E

SUBJECT: DoD Domestic Technology Transfer (T2) Program

References: (a) DoD Directive 5535.3, "Licensing of Government-Owned Inventions by the Department of Defense," November 2, 1973 (hereby canceled)
(b) Secretary of Defense Memorandum, "DoD Domestic Technology Transfer/Dual Use Technology Development," June 2, 1995 (hereby canceled)
(c) DoD 3200.12-R-4, "Domestic Technology Transfer Program Regulation," December 1988, (hereby canceled)
(d) Sections 3702, 3703, 3705, 3706, 3710, 3712, 3715 of title 15, United States Code
(e) through (k), see enclosure 1

1. REISSUANCE AND PURPOSE

This Directive:

1.1. Reissues reference (a) and supersedes references (b) and (c).

1.2. Implements, establishes policy, and assigns responsibility for DoD domestic T2 activities under reference (d), as they apply to the Department of Defense, and under 10 U.S.C. (reference (e)), as they apply to the T2 activities of the Department of Defense.

2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

3. DEFINITIONS

The following terms, used in this Directive, are defined in DoD Instruction 5535.8 (reference (f)):

3.1. Cooperative Research and Development Agreement (CRADA).

3.2. Laboratory (as broadly defined in 15 U.S.C. 3710a(d)(2)(A), reference (d), for this Directive).

3.3. Nonprofit institution (Sections 3703 and 3710(i) of reference (d) and E.O. 12999 (reference (g)) for this Directive).

3.3. Technical assistance.

3.4. T2.

4. POLICY

It is DoD policy that:

4.1. Consistent with national security objectives under 10 U.S.C. 2501 (reference (e)), domestic T2 activities are integral elements of DoD pursuit of the DoD national security mission and concurrently improve the economic, environmental, and social wellbeing of U.S. citizens (Section 3702 of reference (d)). Concurrently, T2 supports a strong industrial base that the Department of Defense may utilize to supply DoD needs. Those activities must have a high-priority role in all DoD acquisition programs and are recognized as a key activity of the DoD laboratories and all other DoD activities (such as test, logistics, and product centers and depots and arsenals) that may make use of or contribute to domestic T2.

4.2. Domestic T2 programs, including spin-off, dual-use, and spin-on activities, make the best possible use of national scientific and technical capabilities to enhance the effectiveness of DoD forces and systems.

4.3. It is further DoD policy to:

4.3.1. Promote domestic T2 through a variety of activities, such as CRADAs, cooperative agreements, other transactions, education partnerships, State and local government partnerships, exchange of personnel, presentation of technical papers, and other ongoing DoD activities.

4.3.2. Promote domestic T2 through U.S. and foreign patenting, patent licensing, and protecting other intellectual property rights. DoD inventions applicable for licensing shall be publicized to accelerate transfer of technology to the domestic economy. T2 is of the greatest benefit when the patented invention is commercialized (35 U.S.C. 200 and 207, reference (h)).

4.3.3. Allow non-Federal entities to use independent research and development funding as a part of their contributions to domestic T2 activities, including CRADAs, cooperative arrangements, and other transactions (Subpart 31.205-18(e) of the FAR, reference (i)).

4.3.4. Include domestic T2 as a duty and responsibility in position descriptions for applicable scientific, engineering, management, and executive positions.

4.3.5. Allow CRADAs between a DoD Component and DoD contractors, in accordance with DoD conflict of interest rules (DoD Directive 5500.7, reference (j)) and export control laws and regulations.

4.3.6. Ensure that domestic transfers of technology are accomplished without actual or apparent personal or organizational conflicts of interest or violations of ethics standards.

4.3.7. Allow conduct of T2 activity with foreign persons, industrial organizations, or government R&D activities, in accordance with export control laws, regulations, and policies and laws, regulations and policies governing foreign military sales (FMS). Consideration should be given to whether or not the government of such persons or industrial organization allows similar relationships and whether such activities benefit the U.S. industrial base and are consistent with the U.S. export control and FMS frameworks (E.O. 12591, reference (k)).

4.3.8. Encourage domestic T2 by giving preference to U.S. small business firms, consortia involving U.S. small business firms, and firms located in the United States.

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Acquisition and Technology shall ensure that the Director, Defense Research and Engineering, shall:

5.1.1. Implement 10 U.S.C. 2515 (reference (e)) to monitor all DoD R&D activities; identify DoD R&D activities using technologies and technology advancements that have potential non-DoD commercial application; serve as a clearinghouse for, coordinate, and otherwise help the transfer of technology to the U.S. private sector; assist private firms to resolve policy issues involved with the transfer of technology from the Department of Defense; and consult and coordinate with other Federal Departments on matters involving T2.

5.1.2. Serve as oversight authority for execution of all domestic T2 science and technology (S&T) matters and coordination with, as applicable, other DoD officials for matters under their oversight. As part of that oversight, the Director, Defense Research and Engineering, (DDR&E) shall define core domestic T2 S&T mechanisms and provide policy guidance for DoD Component investments in such mechanisms.

5.1.3. Develop policy for DoD Component participation in, and support of, Federal S&T domestic T2 programs.

5.1.4. Develop guidance for implementation of domestic T2 policy, to include coordination with other DoD officials for matters under their cognizance.

5.1.5. Coordinate input from the DoD Components and prepare reports to the Congress, as required by 15 U.S.C. (reference (d)) and reference (e), the Office of Management and Budget, and others, as may be imposed by higher authority.

5.1.6. Ensure that the DoD Components establish T2 awards programs and make applicable T2 awards.

5.1.7. Ensure that the Administrator, Defense Technical Information Center (DTIC), maintains and provides development support for T2 databases useful to the Office of the DDR&E (ODDR&E) and the DoD Components.

5.2. The Secretaries of the Military Departments and the Heads of the other DoD Components, including the Directors of the Defense Agencies, under the OSD Principal Staff Assistants, shall:

5.2.1. Ensure that domestic T2 is a high priority in their organizations. That includes establishing processes to promote T2 and developing plans for improving T2 for matters under their oversight, to include specific objectives and milestones.

5.2.2. Provide inputs for reports, as required by the ODDR&E, including T2 transaction and program investment data to the DTIC.

5.2.3. Develop personnel policies for R&D executives, managers, laboratory directors, scientists, and engineers that make domestic T2 a critical factor for consideration in promotions, a critical element in performance appraisals, and a duty and responsibility in position descriptions where applicable. Those policies also shall ensure that members of the Office of Research and Technology Applications (ORTA) staff are included in the overall laboratory and/or Agency and/or DoD Field Activity management development programs.

5.2.4. Execute a T2 education and training program for scientists and engineers and other personnel who may be involved in domestic T2.

5.2.5. Establish an awards program, including cash awards, to recognize domestic T2 accomplishments.

5.2.6. Institute policies for protecting inventions and other intellectual property arising from federally supported R&D. That includes policies for patenting inventions, licensing the patented inventions, and maintaining the patents with commercial potential. Costs and expenses to acquire and maintain those patents shall be funded by the DoD Components. That shall not preclude collaborating parties from paying costs and expenses associated with protecting intellectual property rights.

5.2.7. Institute policies under which laboratories may be authorized to license, assign, or waive rights to intellectual property and distribute royalties and other payments, in accordance with DoD Instruction 5535.8 (reference (f)).

5.2.8. Implement marketing and outreach programs.

5.2.9. Provide support of mission-related domestic T2 activities with mission program element funds and ensure that domestic T2 programs have adequate staff and resources, giving particular attention to payment of salaries and travel expenses of scientific, engineering, legal, and ORTA personnel involved in T2. That includes costs and expenses associated with initiation and/or negotiation of CRADAs and other agreements.

5.2.10. Ensure implementation of all T2 functions, as required in 15 U.S.C. 3710(c) (reference (d)), by the ORTA or other domestic T2 focal points.

5.2.11. Allow use of partnership intermediaries to obtain domestic T2 support. Approval authority may be redelegated to the heads of the DoD laboratories.

5.2.12. Ensure that the directors and/or the commanders of laboratories make domestic T2 a high-priority element of their S&T programs by plan, budget, and execution.

5.2.13. Ensure that laboratories and other activities prepare applications assessments for selected R&D projects that may have commercial applications.

5.2.14. Encourage laboratories to provide technical assistance services, including help by technical volunteers, to State and local governments, school systems, and other organizations, where applicable.

5.3. The Heads of the DoD Components (other than the Secretaries of the Military Departments), including the Directors of the Defense Agencies, under the OSD Principal Staff Assistants, are delegated the authority of the Secretary of Defense to:

5.3.1. 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 to an educational institution or nonprofit institution for the conduct of technical and scientific education and research activities (Section 3710(i) of reference (d), and E.O. 12999 and 10 U.S.C. 2194, references (g) and (e)). That authority may be further delegated.

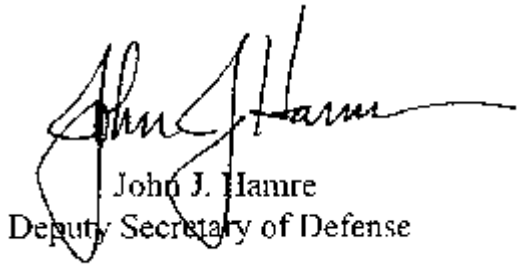
5.3.2. Enter into CRADAs with entities other than foreign governmental entities (Section 3710a of reference (d)). That authority may be further delegated.

6. INFORMATION REQUIREMENTS

The Secretaries of the Military Departments and the Heads of the other DoD Components shall provide inputs for reports, as required by the ODDR&E in subparagraph 5.2.2., above, including T2 transaction and program investment data to the DTIC under Reports Control Symbol DDA&T(A)2020.

7. EFFECTIVE DATE

This Directive is effective immediately.



John J. Hamre
Deputy Secretary of Defense

Enclosures - 1
E1. References, continued

E1. ENCLOSURE 1
REFERENCES

(e) Sections 2501, 2506, 2514-2516, 2358, 2371, 2194, 2195 of title 10, United States Code
(f) DoD Instruction 5535.8, "DoD Technology Transfer Program Procedures," May 14, 1999
(g) Executive Order 12999, "Educational Technology: Ensuring Opportunity for All Children in the Next Century," April 17, 1996
(h) Sections 200 and 207-209 of title 35, United States Code
(i) Federal Acquisition Regulation, Subpart 31.205-18(e), "Independent Research and Development and Bid and Proposal Costs," current edition
(j) DoD Directive 5500.7, "Standards of Conduct," August 30, 1993
(k) Executive Order 12591, "Facilitating Access to Science and Technology," April 10, 1987