



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240



GLP.DAG.131865

August 1, 1978

J. Ralph Shay
Assistant Dean of Research
Oregon State University
Corvallis, Oregon 97331

Dear Dr. Shay:

Your letter of July 20, 1978, to Donald Fraser, former Assistant Solicitor for Patents, has been received and considered.

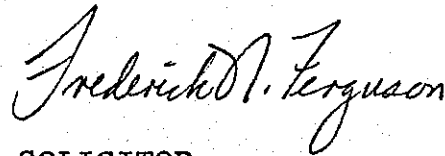
As you have stated, the regulations providing for "Institutional Patent Agreements" went into effect on July 18, 1978. However, we have been advised by the General Services Administration (GSA) that the regulations are permissive and not compulsory, and to the extent that they may be in conflict with the Organic Acts previously referred to by Mr. Fraser, they cannot be adopted universally by the Department of the Interior. In addition to constraints of some of the Organic Acts which govern the Department's various functions, the decision of whether or not to adopt the IPA regulations is a matter of policy to which the Department has not, as yet, addressed itself because of the furor generated when GSA first promulgated the regulations and because as stated by Lester A Fittig, Administrator of the Office of Federal Procurement Policy (OFPP) of the Office of Management and Budget (OMB), the regulations are an interim measure pending review of overall Government patent policy by the Committee on Intellectual Property and Information (CIPI) of the Federal Coordinating Council for Science, Engineering, and Technology (FCCSET). CIPI is expected to complete its recommendations in December 1978. In addition, OFPP also is endeavoring to look into and possibly promulgate legislation and regulations dealing with the whole area of Government intellectual property policy and procurement.

In his letter of May 12, 1976, Mr. Fraser made reference to proposed legislation, but was unable to provide you with any specific identification. I believe the proposed legislation which he anticipated is a bill introduced in the House by Representative Thornton in the 1st. Session, 95th Congress, as H.R. 6249 on April 6, 1977 (now H.R. 8596) which has been referred to the House Committee on the Judiciary and Science and Technology. This bill would uniformly vest title in contractors for R&D for fixed periods of time subject to "march in" rights whereby the Government could take title for nonuse.

Technology (OWRT) which will permit of waivers of title in inventions to both commercial contractors and institutions. These regulations are made possible because the Organic Act for OWRT has now been amended to permit OWRT to follow the Energy Research and Development Administration (ERDA) type of waiver policy. The OWRT regulations should be published shortly in the Federal Register for comment though, as yet, there is no date certain for such publication. Under the proposed regulations, waivers of title to inventions will be considered on a contract-by-contract basis.

Please feel free to contact this office at any time with respect to Departmental policy. My office is continually monitoring all sources of information which may warrant a shift in its policy with respect to invention rights and it is sincerely hopeful that a uniform policy will involve from the many current studies and investigations being made into Government policies as they now stand.

Sincerely yours,

A handwritten signature in cursive script that reads "Frederick D. Ferguson". The signature is written in dark ink and is positioned above the typed name.

DEPUTY SOLICITOR