

Executive Order 10096

AFSA-00F
AFSA-00T
AFSA-03
AFSA-15

AFSA-12

13 December 1950
Mr. Douglas, 472/1ew

1. The draft of a proposed AFSA Regulation, Enclosure "A," is forwarded to you office for comment and/or concurrence.
2. Upon receipt of your reply, AFSA-12 intends to send to ASA the draft letter shown in Enclosure "B," requesting concurrence and/or comment with respect to paragraph 4 of the draft AFSA Regulation.



A. C. PETERSON
Colonel, Artillery
Chief, AFSA-12

Encl. 2
Draft Regulation
Draft Letter to ASA

DEC 13 1950

AFSA REGULATION
NO. _____ARMED FORCES SECURITY AGENCY
Washington 25, D. C. December 1950

Executive Order 10096

1. By Executive Order 10096 there has been established a Government Patents Board with the Chairman of that Board authorized to organize and administer a uniform patent policy for the Government of United States. The Office of Research and Development (AFSA-03) is hereby designated the cognizant Office within the Armed Forces Security Agency for initiating such action as may be required under the provisions of Executive Order 10096, and regulations promulgated by the Chairman, Government Patents Board.

2. AFSA-03 will be responsible for performing the following functions:

a. Review all inventions and suggestions referred to AFSA-03 by personnel of the Armed Forces Security Agency and the Suggestions and Awards Committee.

b. Determine whether the results of research, development or other activity within AFSA constitute invention and, if so, whether patent protection will be sought therefor.

c. Subject to considerations of national security, or public health, safety, or welfare, prepare for the Director, AFSA, a report to the Chairman, Government Patents Board, as follows:

(1) Immediately upon filing an application for patent by AFSA, the following information concerning each invention made by a Government employee in and to which the Government has any right, title or interest, including licenses:

(a) Brief description of the invention.

(b) Name of inventor or inventors and his or their employment status.

(c) Serial number, title of invention, and filing date of application.

(2) Immediately upon issuance of the patent, the following information concerning each invention made by a Government employee in and to which the Government has any right, title or interest, including licenses, and on which a patent hereafter issues:

(a) A copy of the patent.

(b) Employment status of inventor or inventors.

Enclosure "A"

AFSA REGULATION NO. _____
Page 2 of 3

(3) Immediately upon determination by AFSA-03, the following information concerning each invention made under circumstances defined in paragraph 1(a) of Executive Order 10096, giving the United States or any Government agency the right to title thereto, and for which AFSA-03 has determined not to cause an application to be filed:

(a) Description of the invention in sufficient detail to permit a satisfactory review.

(b) Name of inventor or inventors and his or their employment status.

(c) Statement of AFSA determination and reasons therefor.

(4) Immediately upon determination by AFSA-03, the following information concerning each invention wherein AFSA proposes to leave title with the employee by reason of the circumstances defined in paragraph 1(b) or 1(d) of Executive Order 10096:

(a) Description of the invention in sufficient detail to permit a satisfactory review.

(b) Name of the inventor or inventors and his or their employment status.

(c) Statement of AFSA determination and reasons therefor.

d. Prepare for the Director, AFSA, a report to the Chairman, Government Patents Board, in cases of dispute or controversy, the following information concerning each invention involving such dispute or controversy:

(1) Description of the invention in sufficient detail to permit satisfactory review.

(2) Name of the inventor or inventors and his or their employment status.

(3) Detailed statement of the nature of such dispute or controversy concerning the ownership of the invention made by such employee or rights therein, together with AFSA decisions, agreements, briefs, arguments, statements and evidence submitted by the employee, and other relevant material.

3. In matters of national security, AFSA-03 will be guided by the provisions of Public Law 513, 81st Congress, 2nd Session.

AFSA REGULATION NO. _____
Page 3 of 3

4. The foregoing procedure applies also to suggestions and inventions referred to AFSA by the Chief, Army Security Agency, except that a report prepared for the Chairman, Government Patents Board will be forwarded through Director, AFSA to the Chief, Army Security Agency, for his action.

5. Pertinent extracts of Executive Order 10096 are attached hereto for the information and guidance of all concerned.

Executive Order 10096

PROVIDING FOR A UNIFORM PATENT POLICY FOR THE GOVERNMENT WITH RESPECT TO INVENTIONS MADE BY GOVERNMENT EMPLOYEES AND FOR THE ADMINISTRATION OF SUCH POLICY

WHEREAS inventive advances in scientific and technological fields frequently result from governmental activities carried on by Government employees; and

WHEREAS the Government of the United States is expending large sums of money annually for the conduct of these activities; and

WHEREAS these advances constitute a vast national resource; and

WHEREAS it is fitting and proper that the inventive product of functions of the Government, carried out by Government employees, should be available to the Government; and

WHEREAS the rights of Government employees in their inventions should be recognized in appropriate instances; and

WHEREAS the carrying out of the policy of this order requires appropriate administrative arrangements;

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes, and as President of the United States and Commander in Chief of the armed forces of the United States, in the interest of the establishment and operation of a uniform patent policy for the Government with respect to inventions made by Government employees, it is hereby ordered as follows:

1. The following basic policy is established for all Government agencies with respect to inventions hereafter made by any Government employee:

(a) The Government shall obtain the entire right, title and interest in and to all inventions made by any Government employee (1) during working hours, or (2) with a contribution by the Government of facilities, equipment, materials, funds, or information, or of time or services of other Government employees on official duty, or (3) which bear a direct relation to or are made in consequence of the official duties of the inventor.

(b) In any case where the contribution of the Government, as measured by any one or more of the criteria set forth in paragraph (a) last above, to the invention is insufficient equitably to justify a requirement of assignment to the Government of the entire right, title and interest to such invention, or in any case where the Government has insufficient interest in an invention to obtain entire right, title and interest therein (although the Government could obtain same under paragraph (a), above), the Government agency concerned, subject to the approval of the Chairman of the Government Patents Board (provided for in paragraph 3 of this order and hereinafter referred to as the Chairman), shall leave title of such invention in the employee, subject, however, to the reservation to the Government of a non-exclusive, irrevocable, royalty-free license in the invention with power to grant licenses for all governmental purposes, such reservation, in the terms thereof, to appear, where practicable, in any patent, domestic or foreign, which may issue on such invention.

(c) In applying the provisions of paragraphs (a) and (b), above, to the facts and circumstances relating to the making of any particular invention, it shall be presumed that an invention made by an employee who is employed or assigned (i) to invent or improve or perfect any art, machine, manufacture, or composition of matter, (ii) to conduct or perform research, development work, or both, (iii) to supervise, direct, coordinate, or review Government financed or conducted research, development work, or both, or (iv) to act in a liaison capacity among governmental or nongovernmental agencies or individuals engaged in such work, or made by an employee included within any other category of employees specified by regulations issued pursuant to section 4 (b) hereof, falls within the provisions of paragraph (a), above, and it shall be presumed that any invention made by any other employee falls within the provisions of paragraph (b), above. Either presumption may be rebutted by the facts or

EXTRACT

or circumstances attendant upon the conditions under which any particular invention is made and, notwithstanding the foregoing, shall not preclude a determination that the invention falls within the provisions of paragraph (d) next below.

(d) In any case wherein the Government neither (1) pursuant to the provisions of paragraph (a) above, obtains entire right, title, and interest in and to an invention nor (2) pursuant to the provisions of paragraph (b) above, reserves a non-exclusive, irrevocable, royalty-free license in the invention with power to grant licenses for all governmental purposes, the Government shall leave the entire right, title, and interest in and to the invention in the Government employee, subject to law.

(e) Actions taken, and rights acquired, under the foregoing provisions of this section, shall be reported to the Chairman in accordance with procedures established by him.

2. Subject to considerations of national security, or public health, safety, or welfare, the following basic policy is established for the collection, and dissemination to the public, of information concerning inventions resulting from Government research and development activities:

(a) When an invention is made under circumstances defined in paragraph 1(a) of this order giving the United States the right to the title thereto, the Government agency concerned shall either prepare and file an application for patent therefor in the United States Patent Office or make a full disclosure of the invention promptly to the Chairman, who may, if he determines the Government interest so requires, cause application for patent to be filed or cause the invention to be fully disclosed by publication thereof: Provided, however, That, consistent with present practice of the Department of Agriculture, no application for patent shall, without the approval of the Secretary of Agriculture, be filed in respect of any variety of plant invented by any employee of that Department.

(b) Under arrangements made and policies adopted by the Chairman, all inventions or rights therein, including licenses, owned or controlled by the United States or any Government agency shall be indexed, and copies, summaries, analyses and abstracts thereof shall be maintained and made available to all Government agencies and to public libraries, universities, trade associations, scientists and scientific groups, industrial and commercial organizations, and all other interested groups of persons.

3. *****

4. *****

5. *****

6. *****

7. As used in this Executive order, the next stated terms, in singular and plural, are defined as follows for the purposes hereof:

(a) "Government agency" includes any executive department and any independent commission, board, office, agency, authority, or other establishment of the Executive Branch of the Government of the United States (including any such independent regulatory commission or board, any such wholly-owned corporation, and the Smithsonian Institution), but excludes the Atomic Energy Commission.

(b) "Government employee" includes any officer or employee, civilian or military, of any Government agency, except such part-time consultants or employees as may be excluded by regulations promulgated pursuant to paragraph 4 (b) hereof.

(c) "Invention" includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the patent laws of the United States.

THE WHITE HOUSE
January 23, 1950

HARRY S. TRUMAN

DRAFT

NOV 18 1959

Subject: Executive Order 10096

To: Chief, Army Security Agency
The Pentagon
Washington 25, D. C.

1. As you are aware Executive Order 10096, 23 January 1950, established a Government Patents Board. The Chairman of the Board has been given rather broad powers to establish and administer a uniform Government patent policy with respect to inventions and patents made by Government employees.

2. The Director, AFSA, has delegated to the Office of Research and Development (AFSA-03) the responsibility of initiating such action as may be required by the Director, AFSA, for compliance with the provisions of Executive Order 10096. AFSA-03 employs a Patent Attorney to process applications for patents filed by AFSA, and for the purpose of advising AFSA personnel on patent matters.

3. In order to be of assistance to ASA in the case of suggestions which must be examined for possibilities of patent protection, and to process for Army Security Agency those inventions which are found to be patentable, the Director, AFSA, invites you to make full use of AFSA facilities in such matters.

4. A copy of the proposed AFSA Regulation is attached for your information. Your comments and/or concurrence with reference to paragraph 4 are requested.

EARL E. STONE
Rear Admiral, U.S. Navy
Director, Armed Forces Security Agency

Encl. 1
Draft AFSA Regulation

Enclosure "B"