

# UNITED STATES PUBLIC HEALTH SERVICE TECHNOLOGY TRANSFER POLICY MANUAL

## Chapter No. 201

### PHS Policy for Reporting Employee Inventions

#### A. PURPOSE

This Manual Chapter sets forth the policy governing the reporting of inventions made by Personnel<sup>1</sup> at the U.S. Public Health Service (PHS), which includes the National Institutes of Health (NIH), the Food and Drug Administration (FDA), and the Centers for Disease Control and Prevention (CDC).

#### B. BACKGROUND

The Employee Invention Report (EIR) is a form used by the PHS to document inventions made by Personnel. PHS Personnel must report and assign to the Government all rights in inventions made during working hours, or 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 which bear a direct relation to or are made in consequence of the official duties of the inventor. In certain circumstances, contractors may be obligated to assign inventions to the Government under the terms of the contract, *e.g.*, a Declaration of Exceptional Circumstances or waiver of title to the Government.

Public disclosure of an invention before a patent application has been filed may jeopardize development of the technology by limiting patent rights. Therefore, it is important to submit an EIR as early as feasible; for example, investigators need not wait until a scientific paper is ready to be sent for publication, or an oral/poster presentation is scheduled.

#### C. POLICY

The policy of the PHS is that any PHS Personnel who makes, or reasonably believes that she/he has made, a new invention shall promptly complete an EIR to report any invention (including improvements of previously reported inventions). This policy applies regardless of whether any component of the PHS has made any decision, preliminary or final, about whether or not to support initial patent prosecution activities for the invention reported in the EIR.

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<sup>1</sup> For purposes of this Chapter, "Personnel" includes all individuals who are required either by law (see, *e.g.*, Executive Order 10096, 45 C.F.R. Part 7, and 37 C.F.R. Part 501), by policy (see, *e.g.*, NIH Policy Manual, Chapter 2300-308-1 – "Guest Researcher/Special Volunteer Programs"), or by the terms of a written agreement (*e.g.*, a contract with an explicit clause) to assign rights to the inventions to the Government.

#### **D. EFFECTIVE DATE**

The policy set forth in this Manual Chapter is effective June 17, 2010, and supersedes in its entirety the policy in PHS Technology Transfer Policy Manual Chapter 201, which was first approved on September 30, 1994.

#### **E. ADDITIONAL INFORMATION**

For additional information on this Manual Chapter, contact the Office of Technology Transfer, NIH, (301) 496-7057 or <http://www.ott.nih.gov/contactus/>.