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To Whom It May Concern:

On behalf of the Association of University Technology Managers (AUTM), I am pleased to submit second response to the Office of Science and Technology Policy Request for Information: Building a 21st Century Bioeconomy. This is in addition to the response we sent on December 6, 2011.

AUTM is a nonprofit organization with an international membership of more than 3,000 technology managers and business executives. These members come from more than 300 universities, research institutions, teaching hospitals, government organizations and businesses.

We believe that academic technology transfer can help harness biological research innovations to meet national challenges in health, food, energy, and the environment while creating high-wage, high-skill jobs. To do so, we must ensure technologies are afforded the smartest, most efficient path to development, allow for easier access of technology commercialization resources by federal employees and free up capital for development of technologies. Therefore, we are pleased to offer the following policy suggestions

Just Say 'No' to Free Agency

We are concerned about a recommendation in the recent report from President Obama's Council on Jobs and Competitiveness. The suggestion to allow research that is funded with federal dollars to be presented to any university technology transfer office, not just the one where the research has taken place (sometimes referred to as Free Agency) would actually slow the process of commercialization. The Free Agency concept would add a new layer of bureaucracy to the technology transfer process, including the need for agreements between the inventor's institution and the licensing agent which would add considerable time to the technology transfer process BEFORE marketing and licensing could even be started, as well as potentially reducing the inventor's share of royalties through management fees assessed by the licensing agent. The concept also assumes technology transfer offices would want to commercialize another institution's technologies, when in fact MIT, Stanford University and WARF (three of the largest and oldest technology transfer offices) have all publicly stated, "It would be inappropriate for us to handle inventions from inventors outside our own institutions, and we have no interest in doing so." The administration is right to recognize in the RFI that "It is a challenge to commercialize advances in the life sciences because of the risk..." The Free Agency approach to commercialization will create more risk in the eyes of companies which would normally invest in the technologies because untangling title and ownership would be more complicated and fraught with potential legal burdens

The National Research Council of the National Academies has looked this issue, and their finding is: "A persuasive case has not been made for converting to an inventor ownership

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or “free agency” system in which inventors are able to dispose their inventions without university administration approval. If evidence is developed suggesting that either would be more effective than the current system, other significant practical consequences and policy considerations would have to be considered, such as the potential for conflicts of interest and adverse effects on public accountability.”¹

It is imperative the Administration opposes any proposed policy or legislation that would enact a Free Agency model.

Easy Access to Technology Commercialization Resources

AUTM already has a networking and education infrastructure in place to help government agencies that generate intellectual property, such as the NIH, NSF, Department of Defense, Department of Energy, NASA and the federal labs; however, regulations make it difficult for those working in these agencies and labs to join AUTM and other professional societies. This forces those who are employed by the federal government to make the tough decision to pay for memberships out of their own pocket. Preventing these agency employees from joining AUTM, or any professional society, blocks their ability to participate in online and in-person education events at the more affordable member rates. While employees of government agencies can certainly attend conferences, they can only do so by paying the higher nonmember rate, which means they must stretch already limited travel and education budgets. They also miss the opportunity to take advantage of free member benefits such as immediate online networking and sample policies and procedures in our *Technology Transfer Practice Manual*. In addition, AUTM is launching its Global Technology Portal (GTP) at the end of 2011, and this portal allows AUTM members to list technologies available for licensing for free. Because government agencies are not allowed to join professional organizations such as AUTM, government agencies can't maximize their ability to promote technologies they have available for licensing via the GTP, which means fewer technologies will be commercialized and fewer companies and jobs will be created. AUTM already has the programs, infrastructure and community in place. Now the Administration needs to reverse the rule that does not allow for it to pay employees' membership dues to professional societies.

In addition, the Office of Government Ethics (OGE) has recently proposed a rule change that would impact government employees' attendance at trade associations meetings. In short, the proposed rule would prohibit executive branch employees (including those working for agencies) from accepting *complimentary* registrations to meetings held by 501(c)6 associations. AUTM opposes this rule change, as we feel prohibiting free attendance at trade association meetings is counterproductive to providing the education and networking opportunities vital to commercialization.

Free up Capital Through Targeted Tax Credits

The success of a startup company or small business often hinges on access to small amounts of capital. Making the Research and Experimentation Tax Credit permanent for these businesses will be a welcome relief as will the increased financial support in the Small Business Jobs Act, which the President signed into law last year.

Federal tax credits should be provided to industry to encourage businesses and venture partners to leverage university technologies and startup venture opportunities.

¹ Managing University Intellectual Property in the Public Interest, Committee on Science, Technology, and Law Policy and Global Affairs, National Research Council of the National Academies, p. 73

Clearly, the members of AUTM share the administration's interest in innovation. We share the priority of accelerating commercialization of university technologies, creating a stronger bioeconomy and are willing partners in seeking out new methods and improving upon standard practices. Thank you for the opportunity to respond to this Request for Information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robin Rasor". The signature is fluid and cursive, with a large initial "R" and a trailing flourish.

Robin Rasor, CLP, RTTP
President