

Technology Partnership Ombudsman - Roles, Responsibilities, Authorities and Accountabilities

Prepared by the Technology Partnership Ombudsman

The purpose of this document is to provide guidance for the performance of the Technology Partnership Ombudsman function at the national laboratories and facilities within the Department of Energy, and to implement the requirements of the Technology Transfer Commercialization Act of 2000. Each national laboratory is required, and other facilities may be required, to appoint a technology partnership Ombudsman, often referred to as Technology Transfer Ombudsman, or TTO. The TTO provides a programmatic focal point for helping to resolve complaints and disputes in the area of technology partnerships, patents, and technology licensing at the laboratory or facility. For additional information, see Appendix A, which summarizes the Act. A Technology Transfer Coordinator, appointed by the Secretary of Energy, will oversee the activities of each TTO pursuant to the Energy Policy Act of 2005 (EPACT 2005). For additional information, see Appendix B.

Roles

While serving in the role as TTO, an individual may, in addition, perform a variety of other functions at their national laboratory or facility. However, as a TTO they fulfill the following roles:

1. The TTO's primary role is to hear and help resolve complaints by individuals or outside organizations (the public and industry) regarding the policies and actions of the national laboratory or facility with respect to technology partnerships, patents, and technology licensing. For the purpose of these interactions, the person making the inquiry is referred to as a "visitor."
2. The goal of the TTO is to facilitate the early resolution at the lowest possible level, by promoting the use of collaborative alternative dispute resolution techniques, when appropriate.
3. The TTO functions as a senior official, and may be appointed from inside or outside the laboratory or facility.
4. To qualify for appointment and preserve independence, the TTO must not be involved in day-to-day technology partnerships, patents, or technology licensing.

5. The essential characteristics of the TTO are independence, impartiality, confidentiality, and informality as defined by the International Ombudsman Association (IOA). For additional information about these characteristics, see the links contained in Appendix C.
6. The TTO submits quarterly reports, in a format provided by the Department of Energy, concerning the number and nature of complaints and disputes raised, along with the Ombudsman's assessment of their resolution, consistent with the protection of confidential and sensitive information. This reporting requirement is fulfilled by submitting reports to the Office of Conflict Prevention and Resolution. A national laboratory or facility may have additional internal reporting requirements.

Responsibilities

The following list of responsibilities and best practices are derived, in part, from the International Ombudsman Association (IOA) practice and support the implementation of the Technology Commercialization Act of 2000.

1. To the maximum extent possible, the TTO will practice to the Code of Ethics and Standards of Practice published by the IOA. (See Appendix C). Variations in TTO practice will be communicated to Ombudsman visitors, where appropriate.
2. The existence and mode of access to the TTO function will be publicized on the laboratory/facility web pages and in other appropriate publications.
3. Visitors shall have access to the TTO services via telephone, writing, email, or in person. Such communications with the TTO will be protected as confidential and sensitive information.
4. The TTO will assess the nature of the question or concern, and wherever possible, offer the Ombudsman visitor appropriate contact information to meet the Ombudsman visitor's needs.
5. As a designated neutral, the TTO offers an opportunity for Ombudsman visitors to confidentially discuss concerns with an uninvolved third party, to obtain perspective on those concerns, and explore options for resolving those concerns.
6. The TTO may identify options and offer Ombudsman visitors assistance in dispute resolution using a variety of techniques including but not limited to:

- a. Informal discussions
 - b. Facilitated discussions
 - c. Mediation
7. Where specific organizational structures, requirements of a collateral duty Ombudsman, or other contractual agreements preclude following one or more of the referenced IOA Code of Ethics or Standards of Practice, these variations in TTO practice will be explicitly stated and communicated to Ombudsman visitors.
 8. The TTO will endeavor to learn, maintain, refresh and update the knowledge and skill set required to be a proficient Ombudsman practitioner. This may include but is not limited to training in conflict resolution, negotiation, mediation, listening skills, decision making skills, organizational dynamics, intellectual property, technology licensing, and the basic tenants of Ombudsman practice, (independence, neutrality, confidentiality and informality).
 9. Where appropriate, the TTO may consult outside counsel to protect the confidentiality of the Ombudsman's work product or discussions. These costs may be allowable based on a Department of Energy review.

Authority

1. The TTO shall have direct access to all managers and other personnel with respect to technology partnerships, patents, and technology licensing.
2. Although the TTO does not have the authority to make changes to laboratory or facility policy, he or she may recommend changes in policies, procedures, and processes.

Accountability

1. The TTO is accountable to their respective laboratory/facility Director through a defined local management structure, for implementation of the TTO program.
2. The TTO is accountable to the NNSA and DOE through the Office of Conflict Prevention and Resolution for fulfilling reporting requirements, and for promoting the use of

collaborative alternative dispute resolution techniques to resolve complaints and disputes with the national laboratory or facility regarding technology partnerships, patents, and technology licensing.

3. Pursuant to the Energy Policy Act of 2005, TTO activities will be overseen by the Technology Transfer Coordinator.

Appendix A

Technology Transfer Commercialization Act of 2000

The Technology Transfer Commercialization Act of 2000 (Public Law 106-404 dated November 1, 2000) establishes the framework for establishing a technology transfer Ombudsman at the national laboratories and facilities of the Department of Energy (DOE). The following is a summary of the key provisions of this Act.

1. Each national laboratory is required, and other facilities may be required, to appoint a technology partnership Ombudsman, often referred to as a Technology Transfer Ombudsman (TTO). The TTO shall be a senior official of the national laboratory or facility, and to qualify for appointment, must not be involved in day-to-day technology partnerships, patents, and technology licensing. If appointed from outside the laboratory or facility, the TTO shall function as a senior official.
2. The TTO is authorized to hear and help resolve complaints from outside organizations regarding the policies and actions of each such laboratory or facility with respect to technology partnerships (including cooperative research and development agreements), patents, and technology licensing.
3. Under the Act, each TTO shall perform the following duties:
 - a. Serve as the focal point for assisting the public and industry in resolving complaints and disputes with the national laboratory or facility regarding technology partnerships, patents, and technology licensing;
 - b. Promote the use of collaborative alternative dispute resolution techniques such as mediation to facilitate the speedy and low-cost resolution of complaints and disputes, when appropriate;
 - c. Report quarterly on the number and nature of complaints and disputes raised, along with the Ombudsman's assessment of their resolution, consistent with the protection of confidential and sensitive information to:
 - i. The Secretary;
 - ii. The Administrator for Nuclear Security
 - iii. The Director of the Office of Conflict Prevention and Resolution
 - iv. The employees of the Department responsible for administration of the contract for the operation of each national laboratory or facility that is the subject of the report, for consideration in the administration and review of the contract.

Appendix B

Energy Policy Act of 2005

The Energy Policy Act of 2005 (EPACT 2005) – Title X - Department of Energy Management (Public Law 109-58 dated August 5, 2005) established the position of Technology Transfer Coordinator. The following is a summary of the Technology Transfer Coordinator's duties as referenced in Sec. 1001, Improved Technology Transfer of Energy Technologies, including the reference to the technology transfer partnership Ombudsman.

Under EPAct, the Coordinator shall oversee the following:

- a. the activities of the Technology Transfer Working Group;
- b. the expenditure of funds allocated for technology transfer within the Department;
- c. the activities of each technology transfer partnership Ombudsman appointed under section 11 of the Technology Transfer Commercialization Act of 2000 (42 U.S.C 7261c); and,
- d. the efforts to engage private sector entities, including venture capital companies.

Appendix C

TTO Standards of Practice and Code of Ethics

The International Ombudsman Association Code of Ethics and Standards of Practices are currently available at the following IOA links:

<http://www.ombudsassociation.org/about-us/code-ethics>

<http://www.ombudsassociation.org/about-us/mission-vision-and-values/ia-best-practices-standards-practice>