

STATEMENT OF CONSIDERATIONS

REQUEST BY GENERAL ELECTRIC CORPORATE RESEARCH AND DEVELOPMENT FOR AN ADVANCE WAIVER OF DOMESTIC AND FOREIGN INVENTION RIGHTS UNDER DOE COOPERATIVE AGREEMENT NO. DE-FC26-01NT41261 W(A)-02-002, CH-1086

The Petitioner, General Electric Corporate Research and Development (GE-CRD), was awarded this cooperative agreement for the performance of work entitled, "Systems Approach to an Energy Efficient Laundry Process". The purpose of the cooperative agreement is accomplish substantial energy savings in the laundry process by focusing on a total integrated systems approach involving: extraction of more water during spin in the washing machine; improving the drying efficiency of the dryer; and, investigating the possibility of impacting drying time through laundry product chemistry.

The total estimated cost of the cooperative agreement is \$2,599,635 with the DOE share being \$1,819,745 and GE-CRD cost-sharing \$779,890 or about thirty percent (30%). The planned performance period is November 1, 2001 through October 30, 2003.

In its response to questions 4 and 5 of the attached waiver petition, GE-CRD states that it has developed laundry applications for over fifty (50) years, with more than ten years experience in systems and devices for efficient laundry (both washer and dryer applications). Numerous innovations to efficient washer and dryer systems developed by the petitioner are listed as representative patents and publications in Appendix A to the waiver petition. GE-CRD is a leading manufacturer of laundry appliance products, and is aggressively pursuing the development and commercialization of advanced laundry technology for new laundry appliance products. GE-CRD's approach is designed to maximize the near-term and long-term benefits of advanced laundry technology. GE-CRD has a well-documented record of success in introducing advanced technology products in the home appliance industry. GE-CRD's response fully demonstrates its technical competence in the field of laundry appliance products.

In its response to questions 8 and 9 of the attached waiver petition, GE-CRD states that successful development of the technology should place GE-CRD in a unique position to capitalize on its used as a leading world manufacturer of high efficiency clothes washer and dryer laundry appliance products. But, since GE-CRD is already a leading laundry appliance manufacture, the development of the proposed concept does nothing to increase market concentration on that basis. Therefore grant of the waiver will have a positive effect on competition and market concentration.

The subject cooperative agreement will be modified to add the Patent Rights--Waiver clause in conformance with 10 CFR 784.12. This waiver clause will also include a paragraph entitled U.S. Competitiveness, in which GE-CRD agrees to substantial U. S. manufacture of subject inventions (attached hereto). Additionally, GE-CRD agrees not to transfer subject inventions to any other entity unless that other entity agrees to these same requirements. The petitioner has further agreed to modification of the data clause of the subject cooperative agreement (48 C.F.R. 952.227-14) by adding paragraph (k), Alternative VI, concerning contractor licensing of data

Considering the foregoing, it is believed that granting the waiver will provide the Petitioner with the necessary incentive to invest resources in the commercialization of the results of the agreement in a fashion which will make the agreement's benefits available to the public in the shortest practicable time. In addition, it would appear that grant of the above requested waiver would not result in an adverse effect on competition nor result in excessive market concentration. Therefore, in view of the objectives and considerations set forth in 10 CFR 784, all of which have been considered, it is recommended that the requested waiver, as set forth above, be granted.

[REDACTED]
Mark P. Dvorscak
Assistant Chief Counsel
Intellectual Property Law Division

Date: March 18, 2002

Based on the foregoing Statement of Considerations and the representations in the attached waiver petition, it is determined that the United States and the general public will best be served by a waiver of rights of the scope described above, and therefore the waiver is granted. This waiver shall not apply to any modification or extension of this agreement, where through such modification or extension, the purpose, scope, or cost of the agreement is substantially altered.

CONCURRENCE:

[REDACTED]
Bryan Berringer
Office of the Deputy Assistant Secretary
Building Technologies and State
Community Programs
Office of Building Research and Standards

Date: 4/17/02

APPROVAL:

[REDACTED]
Paul A. Gottlieb
Assistant General Counsel
for Technology Transfer and
Intellectual Property

Date: 4-22-02

(t) U. S. COMPETITIVENESS The Contractor agrees that any products embodying any waived invention or produced through the use of any waived invention will be manufactured substantially in the United States unless the Contractor can show to the satisfaction of the DOE that it is not commercially feasible to do so. In the event the DOE agrees to foreign manufacture, there will be a requirement that the Government's support of the technology be recognized in some appropriate manner, e.g., recoupment of the Government's investment, etc. The Contractor agrees that it will not license, assign or otherwise transfer any waived invention to any entity unless that entity agrees to these same requirements. Should the Contractor or other such entity receiving rights in the invention undergo a change in ownership amounting to a controlling interest, then the waiver, assignment, license, or other transfer of rights in the waived invention is suspended until approved in writing by the DOE.