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SUMMARY POINTS ON UNIVERSITY USE OF ROYALTY INCOME

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At NIH's request, COGR asked a number of member universities, representing a significant share of total HHS/NIH support to universities and colleges for science and engineering, for information and data on their use of royalty returns from inventions. Responses were received from 23 of the top 25 HHS-funded institutions (according to FY99 data). The responses were compared with the data included in the annual licensing survey done by the Association of University Technology Managers, Inc. (AUTM) for verification purposes. The responses confirmed the Bayh-Dole Act has been effective in encouraging universities to commercialize technology developed with federal support and to reinvest the royalty returns in the research and education enterprise. However, relatively few universities are deriving substantial revenues from royalties.

The results were reported in a letter to NIH dated June 5, 2001, which is available in the "members only" section of the COGR website. More detailed information is contained in the letter, but the major points are summarized below.

- Pursuant to the Bayh-Dole Act, royalties received by universities from federally-funded inventions are required to be reinvested for research and education purposes, after payment of a share to the inventor and payment of incidental legal expenses associated with patenting and licensing of the invention.
- Universities employ a distribution formula for sharing of royalty revenues. The formula varies among institutions, and often is based on a "sliding scale" depending on the level of income received (i.e. the percentage share for the inventor may be adjusted up or down as income from a particular invention increases). Most typically the inventor's share is in the 30-35% range of net income received.
- Most university distribution formulas provide for distribution of a percentage share to the inventor's department and/or research laboratory, and a percentage share to the university. Often the university ultimately returns a substantial part of its share to the inventor's school, department or laboratory. Public institutions may redistribute a portion of their share to other campuses included in the state university system for research and education purposes. A share also often is allocated for administration of the university's technology management function.
- University use of royalty income is complex and diverse. Most frequently royalty income is used for research and educational expense of graduate students, start-up research costs for new or junior faculty, seed money for innovative new projects or initiatives (often provided through an intramural research competition), computer

equipment and laboratory facilities renovation. No university appears to systematically track “end uses” of the royalty share allocated to departments, nor is there any requirement that universities track and report these uses.

- Universities have used royalty income for a variety of innovative programs or initiatives. Examples include a summer program for female undergraduate students interested in science careers, a technical assistance program which provides high technology urban planning and architectural visualization services to inner city communities based on the agricultural extension service model, and a new laboratory building to support the demands of 21st century medical research.
- For most universities royalty income does not represent a significant source of revenue when compared with their federal funding or sponsored research expenditures. Overall the aggregate university share of royalty revenues is in the range of 3% of total federal funding and of total research expenditures.
- Some universities do better than others in terms of royalty income received. Most universities do not derive substantial revenue from royalties by almost any standard of comparison. Many universities operate their technology transfer programs at a loss.
- For those universities that derive substantial income from royalties, that success often tends to be associated with one particular invention. There is considerable annual fluctuation in income received, and one-time occurrences (e.g. settlement of a legal dispute over rights to an invention) can result in very large perturbations in income amounts.
- Universities do not routinely report royalty income specifically from drug-related inventions. Universities track and report sponsorship of inventions in accordance with federal requirements, but they are not required to separately identify and report royalty income by individual federal sponsor. For some institutions a substantial portion of royalties may be related to NIH support in biomedical areas; for others the royalties may be more related to inventions in other fields of science or engineering e.g. information technology.
- Inventions typically represent the culmination of research conducted over many years, often with the support of multiple sponsors. The primary mission of universities is knowledge, rather than product, creation. For these reasons, it is inherently problematic to attempt to relate specific federal agency investments in university research to returns resulting from that investment in the form of royalties paid on inventions developed many years later.
- The incentives provided by the Bayh-Dole Act are working in the manner intended. Universities are commercializing technology developed with federal support and reinvesting the royalty returns in the research and education enterprise. However, relatively few universities derive substantial revenues from royalties, and universities as a whole are not reaping “windfall profits.”

June 29, 2001