

27.304-1 General.

(a) *Status as small business concern or nonprofit organization.* If an agency has reason to question the size or nonprofit status of the prospective contractor, the agency *may* require the prospective contractor to furnish evidence of its nonprofit status or *may* file a size protest in accordance with FAR [19.302](#).

(b) Exceptions.

(1) Before using any of the exceptions under [27.303\(e\)\(1\)](#) in a contract with a small business concern or a *nonprofit organization* and before using the exception of [27.303\(e\)\(1\)\(ii\)](#) for any contractor, the agency *shall* follow the applicable procedures at 37 CFR 401.

(2) A small business concern or *nonprofit organization* is entitled to an administrative review of the use of the exceptions at [27.303\(e\)\(1\)\(i\)](#) through (e)(1)(iv) in accordance with agency procedures and 37 CFR part 401.

(c) *Greater rights determinations.* Whenever the contract contains the clause at [52.227-13](#), Patent Rights-Ownership by the Government, or a patent rights clause modified pursuant to [27.303\(e\)\(2\)](#), the contractor (or an employee-inventor of the contractor after consultation with the contractor) *may* request greater rights to an identified invention within the period specified in the clause. The *contracting officer may* grant requests for greater rights if the *contracting officer* determines that the interests of the *United States* and the general public will be better served. In making these determinations, the *contracting officer shall* consider at least the following objectives (see 37 CFR 401.3(b) and 401.15):

(1) Promoting the utilization of inventions arising from federally supported research and development.

(2) Ensuring that inventions are used in a manner to promote *full and open competition* and free enterprise without unduly encumbering future research and discovery.

(3) Promoting public availability of inventions *made* in the *United States* by *United States* industry and labor.

(4) Ensuring that the Government obtains sufficient rights in federally supported inventions to meet the needs of the Government and protect the public against nonuse or unreasonable use of inventions.

(d) *Retention of rights by inventor.* If the contractor elects not to retain title to a *subject invention*, the agency *may* consider and, after consultation with the contractor, grant requests for retention of rights by the inventor. Retention of rights by the inventor will be subject to the conditions in paragraphs (d) (except paragraph (d)(1)(i)), (e)(4), (f), (g), and (h) of the clause at [52.227-11](#), Patent Rights-Ownership by the Contractor.

(e) *Government assignment to contractor of rights in Government employees' inventions.* When a Government employee is a co-inventor of an invention *made* under a contract with a small business concern or *nonprofit organization*, the agency employing the co-inventor *may* license or assign whatever rights it *may* acquire in the *subject invention* from its employee to the contractor, subject at least to the conditions of [35 U.S. C. 202-204](#).

(f) *Revocation or modification of contractor's minimum rights.* Before revoking or modifying the contractor's license in accordance with 27.302(i)(2), the *contracting officer shall* furnish the contractor a written notice of intention to revoke or modify the license. The agency *shall* allow the contractor at least 30 days (or another time as *may* be authorized for good cause by the *contracting officer*) after the notice to show cause why the license *should* not be revoked or modified. The contractor has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and agency licensing regulations, any decisions concerning the revocation or modification.

(g) *Exercise of march-in rights.* When exercising march-in rights, agencies *shall* follow the procedures set forth in 37 CFR 401.6.

(h) *Licenses and assignments under contracts with nonprofit organizations.* If the contractor is a *nonprofit organization*, paragraph (i) of the clause at 52.227-11 provides that certain contractor actions require agency approval.

Parent topic: 27.304 Procedures.