227.7103-15 Subcontractor rights in technical data.

(a) 10 U.S.C. 3771 provides subcontractors at all tiers the same protection for their rights in data as is provided to prime contractors. The clauses at 252.227-7013, Rights in Technical Data—Other Than Commercial Products and Commercial Services, and 252.227-7037, Validation of Asserted Restrictions on Technical Data, implement the statutory requirements.

(b) 10 U.S.C. 3782 permits a subcontractor to transact directly with the Government matters relating to the validation of its asserted restrictions on the Government's rights to use or disclose technical data. The clause at 252.227-7037 obtains a contractor's agreement that the direct transaction of validation or challenge matters with subcontractors at any tier does not establish or imply privity of contract. When a subcontractor or supplier exercises its right to transact validation matters directly with the Government, contracting officers shall deal directly with such persons, as provided at 227.7103-13 (c)(3).

(c) Require prime contractors whose contracts include the following clauses to include those clauses, without modification except for appropriate identification of the parties, in contracts with subcontractors or suppliers, at all tiers, who will be furnishing technical data for other than commercial products or commercial services in response to a Government requirement:

(1) 252.227-7013, Rights in Technical Data—Other Than Commercial Products and Commercial Services.

(2) 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

(3) 252.227-7028, Technical Data or Computer Software Previously Delivered to the Government.

(4) 252.227-7037, Validation of Asserted Restrictions on Technical Data.

(d) Do not require contractors to have their subcontractors or suppliers at any tier relinquish rights in technical data to the contractor, a higher tier subcontractor, or to the Government, as a condition for award of any contract, subcontract, purchase order, or similar instrument except for the rights obtained by the Government under the Rights in Technical Data–Other Than Commercial Products and Commercial Services clause contained in the contractor's contract with the Government.

Parent topic: 227.7103 Other than commercial products, commercial services, or commercial processes.