Subpart 927.2—Patents

Source: 60 FR 11815, Mar. 2, 1995, unless otherwise noted.

Parent topic: PART 927—PATENTS, DATA, AND COPYRIGHTS

927.201 Authorization and consent.

927.201-1 General.

For the purposes of this subpart, “research and development (R&D)” includes “research, development, and demonstration.” In certain contracting situations, such as those involving research, development, or demonstration projects, consideration should be given to the impact of third party-owned patents covering technology that may be incorporated in the project if the patents may ultimately affect widespread commercial use of the project results. In such situations, Patent Counsel shall be consulted to determine what modifications, if any, are to be made to the utilization of the Patent and Copyright Infringement Liability and Patent Indemnity provisions or clauses or what other action might be deemed appropriate.

927.202 Royalties.

The clause at 952.227-9, Refund of Royalties, obligates the contractor to inform DOE of the payment of royalties pertaining to the use of intellectual property, either patent or data related, in the performance of the contract. This information may result in identification of instances in which the Government already has a license for itself or others acting in its behalf or the right to sublicense others. Also, there may be pending antitrust actions or challenges to the validity of a patent or the proprietary nature of the data, or the contractor may be able to gain unrestricted access to the same data through other sources. In such situations the contractor may avoid the payment of a royalty in its entirety or may be charged a reduced royalty.

927.202-5 Solicitation provisions and contract clause.

The contracting officer shall insert the clause at 952.227-9, Refund of Royalties, in solicitations and contracts for experimental, research, developmental, or demonstration work or other solicitations and contracts in which the contracting officer believes royalties will have to be paid by the contractor or a subcontractor of any tier.

927.203 Security requirements for patent applications containing classified subject matter.

927.203-1 General.

Unauthorized disclosure of classified subject matter, whether in a patent application or resulting from the issuance of a patent, may be a violation of the Atomic Energy Act of 1954, as amended, other laws relating to espionage and national security, and provisions of the proposed contract pertaining to disclosure of information.