227.7104-2 Rights in SBIR or STTR data.

(a) Under the clause at 252.227-7018, Rights in Other Than Commercial Technical Data and Computer Software–Small Business Innovation Research Program and Small Business Technology Transfer Program, the Government obtains the following standard license rights:

(1) Unlimited rights in the technical data and computer software listed in paragraph (c)(1) of the clause.

(2) SBIR/STTR data rights in all other technical data and computer software developed or generated under the phase I, II, or III SBIR/STTR contract or subcontract and marked with the SBIR/STTR data rights marking. SBIR/STTR data rights provide the Government limited rights in such technical data and restricted rights in such computer software during the SBIR/STTR data protection period commencing on the date of contract award and ending 20 years after that date unless, after award, the agency and the contractor negotiate for some other protection period for the SBIR/STTR data. Upon expiration of the SBIR/STTR data protection period, the Government has government purpose rights in the SBIR/STTR data. These government purpose rights do not expire. See 252.227-7018 for the definition of the SBIR/STTR data protection period and PGI 227.7104-2 for additional guidance on the SBIR/STTR data protection period.

(b) During the SBIR/STTR data protection period, the Government may not release or disclose technical data or computer software that is subject to SBIR/STTR data rights to any person except as authorized for limited rights technical data or restricted rights computer software, respectively.

(c) The Government and contractor or subcontractor may negotiate special license rights only after contract award. The Government shall not make contract award conditional on the contractor or subcontractor negotiating or consenting to negotiate special license rights. Negotiation of special license rights is authorized only after contract award by mutual agreement of the parties.

(d) The Small Business Administration’s SBIR and STTR Program Policy Directive (effective May 3, 2023) provides for special consideration regarding the handling (e.g., disclosure, reverse engineering) of prototypes generated under SBIR and STTR awards, to avoid effects that may appear to be inconsistent with the SBIR and STTR program objectives and to allow the SBIR/STTR awardee to retain rights in SBIR/STTR data during the SBIR/STTR data protection period.

(e) The clause at 252.227-7018 governs the Government’s license rights in SBIR/STTR data. However, the following clauses or guidance governs the Government’s license rights in any data that are not SBIR/STTR data:

(1) For technical data pertaining to other than commercial products or commercial services or to any portion of a commercial product or commercial service that was developed in any part at Government expense, the clause at 252.227-7013, Rights in Technical Data—Other Than Commercial Products and Commercial Services, governs such technical datain accordance with 227.7102-4(b).

(2) For technical data pertaining to any portion of a commercial product or commercial service that was developed exclusively at private expense, the clause at 252.227-7015, Technical Data—Commercial Products and Commercial Services, governs such technical data, in accordance with 227.7102-4(b).

(3) For other than commercial computer software or computer software documentation, the clause

at 252.227-7014, Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation, governs such software and computer software documentation, in accordance with 227.7203-6(a)(1).

(4) For commercial computer software and computer software documentation, the license customarily provided to the public governs such software and documentation, in accordance with 227.7202-3.

Parent topic: 227.7104 Contracts under the Small Business Innovation Research Program and Small Business Technology Transfer Program.