970.2703-1 Purposes of patent rights clauses.

(a) DOE sites and facilities are managed and operated on behalf of the Department of Energy by a contractor, pursuant to management and operating contracts that are generally awarded for a five (5) year term, with the possibility for renewal. Special provisions relating to patent rights are appropriately incorporated into an M&O contract because of the unique circumstances and responsibilities of managing and operating a Government-owned facility, as compared to other federally funded research and development contracts.

(b) Contracting officers must consult with DOE patent counsel assisting the contracting activity or the Assistant General Counsel for Technology Transfer and Intellectual Property for assistance in selecting for use in the solicitation, negotiating, or approving appropriate patent rights clauses for a M&O contract. It may be appropriate to include more than one patent rights clause in a solicitation if the successful contractor could, for instance, be either an educational or a large business. If a large business may be selected for performance of a contract that will include a technology transfer clause, the solicitation must include the clause at 970.5227-12 to reflect the waiver that will likely be granted. If the solicitation includes more than one patent clause, it must include an explanation of the circumstances under which the appropriate clause will be used. The final award must contain only one patent rights clause.

Parent topic: Subpart 970.27—Patents, Data, and Copyrights