SESSION GUIDE
SEASON 2023, EPISODE SIXTEEN
FAR PART 27:
INTELLECTUAL PROPERTY

I. Introduction

We've talked a lot about how contractors can sell supplies and services to the Government. That is, after all, the point of government contracting! But a lot of you have probably wondered how contractors are supposed to protect their intellectual property when dealing with the Government. Does contracting with the Government mean that companies must "hand over" all the intellectual property rights for the things they build or develop for the Government? Fortunately, it usually does not.

As you probably expect by now, the Government's methods of handling intellectual property in the things it purchases are significantly different from a buyer in the commercial sector. This is largely because the Government is a sovereign entity, and as such, it has significantly more control over intellectual property rights than any private corporation would. **Part 27** breaks this body of law down into three main categories: patents, copyrights, and data rights. There is significant overlap between the three categories, and **Part 27** mostly discusses them in light of that overlap. However, some specific requirements and guidance are only applicable to certain categories.

II. Patents, Data, and Copyrights

FAR Part 27 applies to all executive agencies. An agency cannot bypass federal intellectual property law simply because the agency doesn't like the law. Agencies can, however, adopt alternative policies and procedures to deal with intellectual property if those alternatives will better meet specific requirements of "laws, executive orders, treaties, or international agreements." **27.101**. Additionally, agencies must include any alternative policies they adopt in their published regulations. And, in fact, the Defense FAR Supplement (the DFARS) contains a data rights section that replaces much of **FAR Part 27**, for DoD. This is one of the rare instances where an agency supplement supplants, rather than supplements, the FAR. The details of the DFARS data rights provisions are beyond the scope of this material, but fortunately they follow themes that are similar to those in the FAR. For you overachievers out there (and we know who you are!), compare the terms set forth at **FAR 27** and **DFARS 227** and see what we mean.

FAR 27.102 sets forth some basic policies. It will come as no surprise that the Government encourages "maximum practical commercial use" of any inventions created under Government contracts. **27.102(a)**. Making such inventions available to the public will reduce future costs for the Government. If a contractor is providing *commercial items* to the Government, it should indemnify the Government against any liability of infringement of U.S. patents. **27.102(c)**. In other words, should the contractor

infringe on somebody else's patent when providing commercial items to the Government, the Government will not be held monetarily responsible for that infringement.

However, it is worth noting that the Government can award a contract even if the contractor might infringe on somebody else's patent. The Government can "authorize and consent" to the use of certain inventions in performance of contracts, even if those inventions are patented by someone other than the contractor. **27.102(b)**. This situation is different from that addressed by **27.102(c)** as the terms of **27.102(c)** are specific to commercial items, whereas the terms of **27.102(b)** applies broadly to both commercial and noncommercial contracts.

Note also that the Government does recognize rights in data which were developed at "private expense," and limits its demands for such data to only rights that are absolutely essential to the Government's need. **27.102(d)**. The Government also generally requires contractors to obtain permission from copyright holders before delivering any copyrighted materials to the Government. Naturally, this requirement only applies if the copyright holder is not the contractor! **27.102(e).**

In the following sections, we will explore the allocation of rights to data developed under federal government contracts. First, we will discuss the overlap between patents and copyrights; second, we will discuss patents on their own; third, we will discuss the overlap between copyrights and data rights, with a primary focus on data rights and how to preserve them; and finally, we will briefly discuss the application of foreign license and technical assistance agreements to federal contracts.

Exercise 1 – Who's on First

How are each of the following terms defined? Note that not all these terms are defined in the FAR. You'll have to check other sources too.

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Copyright:

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Data (as defined in the FAR):

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A. Basic Patent and Copyright Issues

Subpart 27.2 covers the rules that apply to both patents and copyrights. It details the policies and procedures that govern patent and copyright infringement liability, royalties, security requirements for patent applications that contain classified information, and the treatment of patented technology under trade agreements. This Subpart of the FAR primarily talks about patents; however, we should remember that a lot of the rules that apply to patents also apply to copyrights, particularly with respect to royalties.

In the previous section, we mentioned the difference between **27.102(c)** and **27.102(d)**. **27.201** clarifies this difference for us. Under a federal statute (**28 U.S.C. 1498**), infringement claims against the Government, or against a contractor using a patented invention or copyrighted material *with the authorization or consent of the Government*, may be filed *only* against the Government, and may seek royalties but *not* injunctive relief. This means that a patent or copyright holder may not prevent the Government, or its contractors, from pursuing their mission. Their *only* remedy is a suit for monetary damages against the Government in the Court of Federal Claims. This Court will not issue any injunctions, nor allow any direct claims against a contractor which is allegedly infringing on a patent or copyright, as long as the contractor did so with the "authorization or consent" of the Government. **27.201-1(a)**.

Obtaining specific "authorization or consent" prior to performing under a federal government contract protects the contractor from (i) being sued (although it may ultimately have to indemnify the Government if a successful suit for royalties is brought), and/or from being stopped from further performance as a result of a court ordered injunction.

How does a contractor obtain "authorization and consent?" There is a specific contract clause, found at **52.227-1**, and appropriately titled "Authorization and Consent." This clause gives the contractor specific approval from the Government to use or manufacture inventions that would normally be covered by a patent. Such approval only extends to any work related to the contract that contains this clause. It does not give contractors carte blanche to trample over somebody else's patents.

If the Government does insert the authorization and consent clause into a contract, it must also insert a notice and assistance clause, found at **52.227-2**. This clause requires the contractor to notify the Government if a patent dispute arises during the performance of the contract; it also requires the contractor to assist the Government in defending against such a dispute. **27.201-2(b)**. The Government may also insert a clause regarding patent indemnity. We can find guidance regarding these clauses in **27.201-2(c) through (g)**.

Question 1 – **FAR 52.227-3** requires that contractors indemnify the Government for costs associated with patent infringement. In what type of contracts is this clause included, and at what time does the Government require indemnification from the contractor? [Hint: check out **27.201-2(c) and 52.227-3**]

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Sometimes two (or more) companies will have royalty or license agreements with each other. If those agreements might affect a Government contract, the Government certainly wants to know about it! It would be an unpleasant surprise indeed for the CO to accept the lowest offer and then find out that copious royalty payments will be imposed on top of that offer. Thus, **27.202-1** requires offerors to furnish royalty information to the Government. As in every other cost-related government contracting situation, the doctrine of "reasonableness" applies here. The CO should not automatically accept any royalties as reasonable. Instead, he must take whatever action is appropriate to avoid excessive or improper royalties. **27.202-1(a)**. He also must forward any royalty information to his agency's office that governs patent matters before making any contract award. **27.202-1(b) through (d)**.

If, after all this, the Government determines that the royalty fee will apply, it has to notify all offerors of this fact. **27.202-2(a)**. Offerors must then tell the Government whether they are the owner of that patent or a licensee under the patent. This is an important step, because it allows the Government to evaluate price more easily. If the offeror is the patent owner, the Government can try to negotiate the royalty fee down. If the offeror is not the patent owner, but is instead a licensee, the Government can try to negotiate a price reduction if the licensee offeror has a lower royalty rate than a non-licensee. **27.202-2(b)**.

Sometimes a CO might find that some royalties that will be paid or have already been paid under a contract or subcontract are not actually consistent with Government rights or are excessive or improper. **27.202-3(a)**. If a CO believes this is the case, she should forward the issue to the cognizant U.S. Patent Office. COs should be certain to act quickly in these situations to protect the Government. **27.202-3(b)**. The CO can demand a refund if she finds that the Government has paid improper royalties to a contractor, or she can negotiate for a reduction of royalties. **27.202-3(c)**. We find guidance for the relevant contract clauses in **27.202-4** and **27.202-5**.

Question 2 – If the Government must pay a royalty on a patent, and the CO believes that the patent will be applicable to a potential contract, what information must the Government furnish to any prospective offerors? [Hint: check out **27.202-2(a)**]

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As we all know, the Government takes classified material very seriously. And as you might expect, sometimes contractors create inventions that require a classified patent. **27.203** lays out the policies and procedures for COs in dealing with classified patents and patent applications. This is not the only change in how patents can be treated, though. As we discussed in the previous chapter, the U.S. has many different trade agreements that sometimes affect Government contracting. **27.204** tells us how to deal with those trade agreements when they have a direct impact on patented technology. **27.204-1** specifically addresses NAFTA, and **27.204-2** addresses GATT.

Question 3 – NAFTA generally requires users of technology to make a reasonable effort to obtain authorization prior to use the patented technology. In what circumstances may this requirement be waived?

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B. Specific Patent Rights Issues in Government Contracts

Subpart 27.3 governs how the rights in patents function under Government contracts. There are slightly different issues that need to be addressed based on whether the Government is contracting with, for example, a nonprofit or small business. Additionally, the rules change drastically when a patent is a direct result of performance of work under a Government contract. For example, if a patent comes about in these circumstances, the Government has *at minimum* a nonexclusive, nontransferable, irrevocable, paid-up license to use the patented invention anywhere in the world. **27.302(c)**.

Why do we specifically single out nonprofits and small businesses? It's because the FAR specifically singles out these entities in **27.302(h)**. Sometimes the Government contracts with nonprofits. This can be for a variety of reasons, but in any event, the nonprofit is required to use "reasonable efforts" to attract small business licensees. The clause at **52.227-11** further addresses this issue; we can also see where all the different clauses apply in **27.303**, and how to administer those clauses in **27.305**. Nonprofits and small businesses also have slightly greater protections against the use of the exceptions in **27.303(e)**. These exceptions allow the Government to acquire title to a patent. Since nonprofits and small businesses often do not have as many resources as other entities, **27.304-1(a) and (b)** provide an additional layer of review to any patent-related action that involves nonprofits and small businesses.

Question 4 – Where can we find an exhaustive list and explanation of rights to inventions made by nonprofits and small businesses under Government contracts? [Hint: check out **27.304-1**]

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As a general rule, contractors may elect to retain the title to any invention they create during performance of a Government contract. **27.302(b)(1)**. Additionally, if the Government has the right to acquire the title, the contractor can usually request greater rights. **27.302(b)(3)**; **27.304(c)**. When does the Government have the right to receive title? Normally, this happens when the contractor is not located in the U.S. or if there is a statute or agency regulation requiring such assignment, among other things. **27.302(b)(2)**. Other instances where the Government may receive title are set forth in **27.302(d)**.

The Government also has something called "march-in rights." March-in rights are pretty much what they sound like; they give the Government the right to "march in" to a contractor and require a specific usage of a patent. **27.302(f)**. Of course, these rights only apply in some very specific circumstances. It would not be good for public policy if the Government were allowed to march in and take rights for any old reason! In general, the only time the Government can use such rights is when a contractor has improperly withheld a license to use its invention. March-in rights are also a last resort. The Government should only exercise march-in rights when the contractor has had a reasonable time to present facts and show why the Government should not exercise those rights. The Government must also provide an opportunity for the contractor to dispute or appeal the Government's proposed use of the patented invention. **27.302(f)(2)**. Patents are a type of property, after all; under the Fourth Amendment the Government cannot take property without due process.

Question 5 –What are the contractor's "minimum rights" to an invention developed under a FAR covered contract? [Hint: check out **27.302(i)**]

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C. Data Rights and Copyrights

Subpart 27.4 details the ways the Government should deal with data rights. Data rights overlap a lot with copyrights, which is why copyrights get tacked on here too. As you likely remember from the first exercise in this chapter, data is essentially just recorded information. Since copyrights also apply to recorded materials, it's reasonable that the FAR would address both issues in one Subpart. Agencies acquire data from contractors during performance of a huge number of contracts—pretty much

anything that doesn't relate directly to contract administration is considered data! There are many reasons why agencies require data, which we find in **27.402**.

Government rights to data are defined by different types of licenses. Generally, the license type depends on who paid for development of the data, the so-called "Follow the Funding" rule. There are three main types of data for which the Government may acquire rights, defined by their license terms: unlimited rights data (**27.404-1**), limited rights data (**27.404-2**), and restricted computer software (**27.404-2**). Additionally, there are two other data rights categories: DoD-specific Government purpose rights (**DFARS 227.7103-4**) and commercial rights (**27.405-3**). We will not discuss Government purpose rights here, since they are discussed only in the DFARS. However, we mention them here for the sake of completeness.

It is worth noting that a contract should generally contain only one data rights clause, to avoid confusion. If more than one clause becomes necessary, a CO can insert more than one, but must distinguish which clause applies to which portion of the contract. **27.409(a)**. The rest of **27.409** gives valuable guidance on which clauses will apply to which situations. We will also briefly discuss some of the clauses in the sections below.

> *Question 6* – What should a contractor do if, shortly after delivery, it realizes that it has failed to properly include restrictive markings on data provided to the Government under a federal Government contract? [Hint: check out **27.404-5**]
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So how do copyrights come into play? A lot of data will end up either copyrighted on its own or, more frequently, as a part of a larger copyrighted work. If that data was produced in performance of a Government contract, then the contractor must make a written request for permission to assert its copyright in the data. **27.404-3(a)(2)**. However, contractors are presumed to already have copyrights in such data for the purposes of publishing in a scientific journal or something comparable. **27.404-3(a)(1)**. Alternate IV of the clause at **52.227-14** governs these issues. If the contractor created the copyrighted work before performing the contract, then it retains all rights to the work, and must grant the Government a license to use the work or obtain permission from the CO to work out another solution. **27.404-3(b)**. Alternate III of **52.227-14** governs this situation.

Sometimes the Government requires special works that do not fall under the usual rules for patents, data, or copyrights. **27.405-1(a)**. Perhaps the GSA needs to make a training video, or the DOJ wants a report on the efficacy of a certain initiative. These special works are often not for wide distribution. The

FAR provides a little more flexibility with the clauses inserted into these contracts. The clause at **52.227-17** is specifically formulated for the demands of these situations.

We mentioned commercial data rights a few paragraphs ago. How do those work? Usually, the Government's rights to commercial software data will be subject to the contractor's standard license terms; but only to the extent they don't conflict with federal laws or regulations. **27.405-3(a)**.

> *Question 7* – Suppose a commercial software vendor's standard commercial license agreement is inconsistent with **27.405-3(a)**. What should the CO do? Is there a contract clause that is useful in this situation?
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What if the Government wants to acquire data that already exists, like a book or movie? We've got a clause for that! If the Government wants to acquire an existing work with no modification, it can use the clause at **52.227-18**. Note that modification includes *any* change to the original work, including editing and even translation. **27.405-2**. If the Government needs to edit, translate, or otherwise modify the work it wishes to acquire, it must use the clause at **52.227-17**. For acquisition of basic printed items or of online database services, neither of these clauses are necessary, per **27.405-4**.

If you would like a more in-depth discussion of data acquisition, **27.406** is the place for you! It discusses the general principles of data acquisition and delivery, as well as other requirements in special situations. Since we have already touched on most of these topics in this chapter, we will not go into a detailed discussion of this subsection here. However, if you feel you need more information on the subject, if you just really like reading the FAR, or if you suffer from insomnia, **27.406** is a great place to go.

Up to this point, we've mostly been talking about contract clauses in contracts and how data rights work in the contracts themselves. But what about data rights in proposals? Does submission of data in a proposal mean that the Government has unlimited rights to the data in that proposal? Not necessarily. It depends if the contractor has remembered to include the "magic words" identified at **FAR 52.215-1(e)**.

Question 8 – What data rights does **FAR 52.215-1(e)** grant to the Government upon receipt of information delivered in response to a solicitation issued under a **FAR Part 15** procurement?

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What happens if data is created from a "cosponsored research and development activity?" First, we need to define what a cosponsored research and development activity is. The FAR indicates that it means the contractor has had to make a substantial contribution (be it funds or resources) to the research and development activity. It wouldn't really make sense for the Government to have unlimited rights in that data if the contractor paid for a big chunk of its creation. Thus, **27.408** tells us how to divvy up the rights between the Government and the contractor. If the contributions the Government and contractor have made are easily segregable, then the rights are also easily segregable. **27.408(b)**. If the contributions of the parties are so mixed as to be difficult or impossible to segregate, then we look to **27.408(a)**.

Question 9 – What minimum data rights must be provided to the Government in a cosponsored research and development activity when the parties' costs are not readily segregable?

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Discussion Questions

1. Who generally obtains title to (or ownership of) inventions or technical data created under a federal Government contract? Explain your answer. [Hint: check out **27.302**]

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2. Under what circumstances should **FAR 52.227-1** *Authorization and Consent* be flowed down to subcontractors?

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3. If not revised or changed during contract negotiations, what six things may the Government do with computer software offered with "restricted rights" data under a federal government contract that includes contract clause **FAR 52.227-14**?

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4. *Question* – What is *Form, fit, and function data*? Name a real-life item, and then describe what might qualify as *form, fit, and function data* for that item?

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5. Under what circumstance should a contracting consider including **FAR 52.227-17** in a federal government solicitation?

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6. When a commercial contractor wishes to use a vendor's standard commercial lease, license or purchase agreement, who's responsible for ensuring that lease, license, or purchase agreement is consistent with paragraph (a) or **FAR 27.405-3**?

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7. True or False? The Government is not permitted to share "limited rights" data with anyone outside of the Government? Explain your answer and identify the FAR clause(s) that supports your answer.

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8. What specific section found in **FAR Part 12** should a contracting officer use for guidance, if she intends to procure commercial software under a contract other than a GSA Multiple Award Schedule contract?

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9. **FAR Part 27** contains strict guidance/instructions regarding how contractors must specifically mark deliverable to ensure that their rights to data are protected? What happens to the contractor's rights, if it forgets to mark at the time the data is delivered? [See **FAR 27.404-5(b)**]

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10. **FAR Question: FAR 27** speaks about Intellectual Property rights. In the 1996 movie *Independence Day* the heroes upload a virus to an alien spaceship in order to make that spaceship vulnerable. This action was done on behalf of the US government. Assuming a civilian agency had contracted and paid for the development of this software, what type of "use rights" might the Government have in this software? What "use rights" would the contractor who developed the software have in the software it delivered to the Government (presuming it was properly marked in accordance with **FAR 52.227-14** requirements)?

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Answer Key

Exercise 1 –

Patent: Patent is defined as an official document conferring a right or a privilege or a writing securing for a term of years the right to exclude others from making, using, or selling an invention.

Copyright: Copyright is defined as the exclusive legal right to reproduce, publish, sell, or distribute the matter and form of something.

Data: Data means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

Answer 1 – Insert the clause at **52.227-3, Patent Indemnity**, in solicitations and contracts that may result in the delivery of commercial products or the provision of commercial services unless-

(i) part 12 procedures are used;

(ii) The simplified acquisition procedures of part 13 are used;

(iii) Both complete performance and delivery are outside the United States; or

(iv) The contracting officer determines after consultation with legal counsel that omission of the clause would be consistent with commercial practice.

This indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense.

Answer 2 – 1) Notice of the license; (2) The number of the patent; and(3) The royalty rate cited in the license.

Answer 3 – **FAR 27.204-1**, NAFTA provides that this requirement for authorization may be waived in situations of national emergency or other circumstances of extreme urgency, or for public noncommercial use.

Answer 4 – Per **FAR 27.304-1(b)(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.

Answer 5 – When the Government acquires title to a subject invention, the contractor is normally granted a revocable, nonexclusive, paid-up license to that subject invention throughout the world. The contractor's license extends to any of its domestic subsidiaries and affiliates within the corporate structure of which the contractor is a part and includes the right to grant sublicenses to the extent the contractor was legally obligated to do so at the time of contract award.

Answer 6 – Within 6 months (or a longer period approved by the CO for good cause shown), the contractor should request permission of the CO to have the omitted limited rights or restricted rights notices placed on qualifying date at the contractor's expense. The contractor should identify the data for which a notice is to be added, demonstrate that the omission of the proposed notice was inadvertent, establish that use of the proposed notice is authorized, and acknowledge that the Government has no liability with respect to any disclosure or use of any such data prior to the addition of the notice or resulting from the omission of the notice.

Answer 7 – The clause at **52.227-19, Commercial Computer Software License**, may be used when there is any confusion as to whether the Government's needs are satisfied or whether a customary commercial license is consistent with Federal law. Additional or lesser rights may be negotiated using the guidance concerning restricted rights as set forth in **27.404-2(d)**, or the clause at **52.227-19**. If greater rights than the minimum rights identified in the clause at **52.227-19** are needed, or lesser rights are to be acquired, they shall be negotiated and set forth in the contract. This includes any additions to, or limitations on, the rights set forth in paragraph (b) of the clause at **52.227-19** when used. Examples of greater rights may be those necessary for networking purposes or use of the software from remote terminals communicating with a host computer where the software is located.

Answer 8 – **FAR 52.215-1(e)** restricts the Government's right to duplicate, use or disclose whole or in part data included in the proposal except for the purpose of evaluating the proposal.

Answer 9 – Lesser rights shall, at a minimum, assure use of the data for agreed-to Governmental purposes (including reprocurement rights as appropriate), and address any disclosure limitations or restrictions to be imposed on the data. Also, consideration may be given to requiring the contractor to directly license others if needed to carry out the objectives of the contract. Since the purpose of the cosponsored research and development, the legitimate proprietary interests of the contractor, the needs of the Government, and the respective contributions of both parties may vary, no specific clauses are prescribed, but a clause providing less than unlimited rights in the Government for data developed and delivered under the contract (such as license rights) may be tailored to the circumstances consistent with the foregoing and the policy set forth in **FAR 27.402**.

Discussion Questions Answer Key

1. The contractor generally obtains title to inventions or technical data due to 35 U.S.C. 202 and the Presidential Memorandum and Executive Order 12591, which allow the contractor to elect to retain title to any subject invention.

2. **FAR 52.227-1** should be inserted when both complete performance and delivery are inside the U.S. and when not using simplified acquisition procedures.

3. The Government may use or copy the software for use with the computer(s) for which it was acquired, use or copy the software for use with a back computer if any computer for which it was acquired is inoperative, reproduce the software for safekeeping or backup purposes, modify, adapt with other computer software provided that the modified, adapted, or combined portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restricted rights, disclose to and reproduce the software for use by support service Contractors or their subcontractors, and use or copy for use with a replacement computer.

4. It is data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, and data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements. A motor in an assembly, for example, must have connect correctly to the other parts of the assembly, must have the right fit/shape/size in order to go inside the assembly, and also must perform according to certain requirements (power).

5. This should be inserted in solicitations and contracts primarily for the production or compilation of data (other than limited rights data or restricted computer software) for the Government's internal use, or when there is a specific need to limit distribution and use of the data or to obtain indemnity for liabilities that may arise out of the content, performance, or disclosure of the data.

6. The contracting officer shall ensure that the agreement is consistent with paragraph (a) of this subsection.

7. False: The limited rights obtained by the Government are set forth in the Limited Rights Notice contained in paragraph (g)(3) of Alternate II. Agencies shall not, without permission of the contractor, use limited rights data for purposes of manufacture or disclose the data outside the Government except as set forth in the Notice. The Notice can include exceptions in which the Government may disclose these data outside the Government provided that the Government makes such disclosure subject to prohibition against further use and disclosure, **FAR 52.227-14, 27.404-2(c)**.

8. **FAR 12.212**

9. Data delivered under a contract containing the clause without a limited rights notice or restricted rights notice, and without a copyright notice, will be presumed to have been delivered with unlimited rights, and the Government assumes no liability for the disclosure, use, or reproduction of the data. However, to the extent the data has not been disclosed without restriction outside the Government, the contractor may, within 6 months (or a longer period approved by the contracting officer for good cause shown), request permission of the contracting officer to have the omitted limited rights or restricted rights notices, as applicable, placed on qualifying data at the contractor's expense.

10. **FAR 27.405-3** would apply. The Government could have rights to use, duplicate or disclose the software according to **FAR 52.227-19**. Generally, the contractor who developed the software would not be required to provide technical information related to its software and would not be required to relinquish to the Government rights to use, modify, reproduce, release, perform, display or disclose commercial computer software or its documentation except as mutually agreed to by the parties.

APPENDIX

All of the following materials are linked and can be found via the Links Document or online.

DISA FAQ Data Rights, Patents, and Copyrights

Defense Information Systems Agency commonly asked questions and answers concerning Data Rights, Patents, and Copyrights. This document includes useful links including additional materials and resources.

Intellectual Property- Navigating Through Commercial Waters

Presentation reviewing the issues and solutions when negotiating intellectual property with commercial companies from October 2001. The presentation is meant to act as a guide, not a complete treatise, on various and nuanced issues in IP.

Protecting Your Technology (version 2014)

Article by Louis Victorino from Sheppard Mullin concerning Intellectual Property Under Federal Government Contracts - - A Primer. The article reviews rights in patents, rights in trade secrets and copyrights, and rights and obligations under special government agreements,

Raytheon Co. v. United States

In June, 2022, the COFC published a decision that considers what constitutes “technical data” in a government contract. The government argued that a list of vendors that Raytheon purchased parts for the Patriot missile system was technical data that belonged to the government. The Court decided that Raytheon’s vendor lists were not technical data.

FUN WITH THE FAR
Episode 16
FAR Part 27
Summary Outline

I. Introduction

II. FAR PART 27

A. General Observations

B. Patents and Inventions

C. Copyrights

D. Data Rights /Licenses to Use Data

1. Unlimited Rights
2. Limited Rights
3. Restricted Computer Software Rights
4. Government Purpose Rights
5. Rights under Commercial Contracts/EULAs

E. Special Data Rights

1. Special Works
2. Existing Works
3. Proposal Information

III. Closing Remarks