

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 1427—PATENTS, DATA, AND COPYRIGHTS

Subpart 1427.2—Patents and Copyrights

Sec.

1427.201 Patent and copyright infringement liability.

1427.201-2 Contract clauses.

1427.202 Royalties.

1427.202-3 Adjustment of royalties.

Subpart 1427.3—Patent Rights Under Government Contracts

1427.303 Contract clauses.

1427.304 Procedures.

1427.304-1 General.

1427.304-4 Appeals.

1427.306 Licensing background patent rights to third parties.

AUTHORITY: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c); and 5 U.S.C. 301.

SOURCE: 75 FR 19829, Apr. 15, 2010, unless otherwise noted.

Subpart 1427.2—Patents and Copyrights

1427.201 Patent and copyright infringement liability.

1427.201-2 Contract clauses.

Approval to exempt specific United States patents from the patent indemnity clause shall be obtained from the CCO with legal review and concurrence.

1427.202 Royalties.

1427.202-3 Adjustment of royalties.

The CO shall report to the Assistant Solicitor for Acquisitions and Intellectual Property the results of any action taken in compliance with FAR 27.202-3.

Subpart 1427.3—Patent Rights Under Government Contracts.

1427.303 Contract clauses.

(a) The HCA is authorized to make the determination to sublicense foreign governments or international organizations, as prescribed in FAR 27.303(b)(3).

(b) If one of the exceptions in FAR 27.303(e)(1) is used, then insert clause 1452.227-70, Appeals of Use of Excep-

tions. The exception in FAR 27.303(e)(1)(ii) to use alternative provisions restricting or eliminating a contractor's right to retain title to any subject invention shall be made by the HCA, after consultation with the Assistant Solicitor for Acquisitions and Intellectual Property.

(c) Within 30 days after contract award the CO shall forward copies of determinations to use exceptions under FAR 27.303(e)(1) shall be forwarded to the Assistant Solicitor for Acquisitions and Intellectual Property for submission to the Secretary of Commerce and, if required, to the Chief Counsel for Advocacy of the Small Business Administration. The determinations shall include all supporting documentation.

1427.304 Procedures.

1427.304-1 General.

(a)(1) *Exceptions.* The Associate Solicitor for the General Law Division shall issue a decision on the appeal of a small business concern or nonprofit organization of the use of exceptions under FAR 27.303(e)(1).

(2) If the Associate Solicitor for the General Law Division determines that the appeal notice raises a genuine dispute over the material facts, a fact-finding hearing shall be conducted by OHA. The hearing shall be conducted at a location convenient to the parties concerned as determined by the Director, OHA, and on a date and time stated. The contractor may be represented by counsel or any duly authorized representative. Witnesses may be called by either party. The proceedings shall be conducted expeditiously and in such a manner that each party will have a full opportunity to present all information considered pertinent to the determination. A transcribed record of the proceedings shall be made and shall be made available at cost to the contractor upon request, unless the requirement for the transcribed record is waived by mutual agreement of the contractor and OHA.

(3) OHA shall prepare written findings of fact and transmit them to the