

the procedures for the exercise of march-in rights shall be as set forth in the NASA Patent Waiver Regulations, 14 CFR Section 1245, Subpart 1.

(h) *Licenses and assignments under contracts with nonprofit organizations.* The Headquarters Associate General Counsel (Intellectual Property) (Code GP) is the approval authority for assignments. Contractor requests should be made to the Patent Representative designated in the clause at 1852.227-72 and forwarded, with recommendation, to Code GP for approval.

**1827.304-2 Contracts placed by or for other Government agencies. (NASA supplements paragraph (a))**

(a)(3) When a contract is placed for another agency and the agency does not request the use of a specific patent rights clause, the contracting officer, upon consultation with the installation intellectual property counsel, may use the clause at FAR 52.227-11, Patent Rights—Retention by the Contractor (Short Form) as modified by 1852.227-11 (see 1827.303-70(a)) or 1852.227-70, New Technology (see 1827.303-70(b)).

**1827.304-3 Contracts for construction work or architect-engineer services. (NASA supplements paragraph (a))**

(a) For construction or architect-engineer services contracts with other than a small business or nonprofit organization, see 1827.303-70(b).

**1827.304-4 Subcontracts. (NASA supplements paragraph (a))**

(a)(i) Unless the contracting officer otherwise authorizes or directs, contractors awarding subcontracts and subcontractors awarding lower-tier subcontracts shall select and include one of the following clauses, suitably modified to identify the parties, in the indicated subcontracts:

(A) The clause at 1852.227-70, New Technology, in any subcontract with other than a small business firm or a nonprofit organization if a purpose of the subcontract is the performance of experimental, developmental, research, design, or engineering work of any of the types described in 1827.303-70(b) (1)–(6).

(B) The clause at FAR 52.227-11, Patent Rights—Retention by the Con-

tractor (Short Form), modified by 1852.227-11 (see 1827.303-70(a)), in any subcontract with a small business firm or a nonprofit organization if a purpose of the subcontract is the performance of experimental, developmental, or research work.

(ii) Whenever a prime contractor or a subcontractor considers it inappropriate to include one of the clauses discussed in paragraph (a) of this section in a particular subcontract, or a subcontractor refuses to accept the clause, the matter shall be resolved by the contracting officer in consultation with the intellectual property counsel.

**1827.304-5 Appeals.**

FAR 27.304-5 shall apply unless otherwise provided in the NASA Patent Waiver Regulations, 14 CFR Section 1245, Subpart 1.

**1827.305 Administration of the patent rights clauses.**

**1827.305-4 Conveyance of invention rights acquired by the Government. (NASA supplements paragraph (a))**

(a) When the Government acquires the entire right to, title to, and interest in an invention under the clause at 1852.227-70, New Technology, a determination of title is to be made in accordance with Section 305(a) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(a)), and reflected in appropriate instruments executed by NASA and forwarded to the contractor.

**Subpart 1827.4—Rights in Data and Copyrights**

**1827.404 Basic rights in data clause. (NASA supplements paragraphs (d), (e), (f), (g), (h), and (i))**

(g) *Release, publication, and use of data.* (3)(A) NASA's intent is to ensure the most expeditious dissemination of computer software developed by it or its contractor. Accordingly, when the clause at FAR 52.227-14, Rights in Data-General, is modified by 1852.227-14 (see 1827.409(a)), the contractor may not assert claim to copyright, publish, or release to others computer software first produced in the performance of a

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contract without the contracting officer's prior written permission.

[62 FR 36715, July 9, 1997, as amended at 68 FR 45169, Aug. 1, 2003; 69 FR 35270, June 24, 2004]

### **1827.409 Solicitation provisions and contract clauses. (NASA supplements paragraph (a), (b), (c), (d), (e), (i), and (k))**

(a) The contracting officer shall add subparagraph (3) set forth in 1852.277-14 to paragraph (d) of the clause at FAR 52.227-14, Rights in Data—General, except in solicitations and contracts for basic or applied research with universities or colleges.

(i) The contract officer shall modify the clause at FAR 52.227-17, Rights in Data—Special Works by adding paragraph (f) as set forth in 1852.227-17.

(k)(i) The contracting officer shall add paragraph (e) as set forth in 1852.227-19(a) to the clause at FAR 52.227-19, Commercial Computer Software—Restricted Rights, when it is contemplated that updates, correction notices, consultation information, and other similar items of information relating to commercial computer software delivered under a purchase order or contract are available and their receipt can be facilitated by signing a vendor supplied agreement, registration forms, or cards and returning them directly to the vendor.

(ii) The contracting officer shall add paragraph (f) as set forth at 1852.227-19(b) to the clause at FAR 52.227-19, Commercial Computer Software—Restricted Rights, when portions of a contractor's standard commercial license or lease agreement consistent with the clause, Federal laws, standard industry practices, and the FAR are to be incorporated into the purchase order or contract.

(iii) See 1827.409-70.

[62 FR 36715, July 9, 1997, as amended at 69 FR 35270, June 24, 2004]

### **1827.409-70 NASA contract clause.**

The contracting officer shall use the clause at 1852.227-86, Commercial Computer Software—Licensing, in lieu of FAR 52.227-19, Commercial Computer Software—Restricted Rights, when it is considered appropriate for the acquisi-

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tion of existing computer software in accordance with FAR 27.405(b)(2).

## **PART 1828—BONDS AND INSURANCE**

### **Subpart 1828.1—Bonds**

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1828.101 Bid guarantees.

1828.101-70 NASA solicitation provision.

1828.103 Performance and payment bonds and alternative payment protections for other than construction contracts.

1828.103-70 Subcontractors performing construction work under nonconstruction contracts.

1828.103-71 Solicitation requirements and contract clauses.

### **Subpart 1828.3—Insurance**

1828.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.

1828.311-1 Contract clause.

1828.311-2 Agency solicitation provisions and contract clauses.

1828.311-270 NASA solicitation provisions and contract clauses.

1828.370 Fixed-price contract clauses.

1828.371 Clauses for cross-waivers of liability for Space Shuttle services, Expendable Launch Vehicle (ELV) launches, and Space Station activities.

1828.372 Clause for minimum insurance coverage.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 61 FR 55765, Oct. 29, 1996, unless otherwise noted.

### **Subpart 1828.1—Bonds**

#### **1828.101 Bid guarantees.**

#### **1828.101-70 NASA solicitation provision.**

The contracting officer shall insert the provision at 1852.228-73, Bid Bond, in construction solicitations where offers are expected to exceed \$100,000 and a performance bond or a performance and payment bond is required (see FAR 28.102 and 28.103). The contracting officer may increase the amount of the bid bond to protect the Government from loss, as long as the amount does not exceed \$3 million.