

National Aeronautics and Space Admin.

§ 1260.59

withholding of any amount or the subsequent payment thereof shall not be construed as a waiver of any Government rights.

(h) Subcontracts. (1) Unless otherwise authorized or directed by the Grant Officer, the Recipient shall—

(i) Include the clause at NASA FAR Supplement (NFS) 1852.227-70, New Technology, (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with other than a small business firm or nonprofit organization for the performance of experimental, developmental, or research work; and

(ii) Include the clause at FAR 52.227-11 (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work.

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Recipient—

(i) Shall promptly submit a written notice to the Grant Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Grant Officer.

(3) In the case of subcontracts at any tier, the agency, subcontractor, and Recipient agree that the mutual obligations of the parties created by this special condition constitute a contract between the subcontractor and NASA with respect to those matters covered by this grant.

(4) The Recipient shall promptly notify the Grant Officer in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Grant Officer, the Recipient shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

(5) The subcontractor will retain all rights provided for the Recipient in paragraph (h)(1)(i) or (ii) of this special condition, whichever is included in the subcontract, and the Recipient will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(i) Preference for United States industry. Unless provided otherwise, no Recipient that receives title to any subject invention and no assignee of any such Recipient shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention will be manufactured substantially in the

United States. However, in individual cases, the requirement may be waived by the Administrator upon a showing by the Recipient or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

§ 1260.58 Designation of new technology representative and patent representative.

DESIGNATION OF NEW TECHNOLOGY REPRESENTATIVE AND PATENT REPRESENTATIVE

October 2000

(a) For purposes of administration of the special condition of this grant entitled "New Technology," the following named representatives are hereby designated by the Grant Officer to administer such special condition:

Title, Office Code, Address (including zip code)
New Technology
Representative
Patent Representative

(b) Reports of reportable items, and disclosure of subject inventions, interim reports, final reports, utilization reports, and other reports required by the special condition, as well as any correspondence with respect to such matters, should be directed to the New Technology Representative unless transmitted in response to correspondence or request from the Patent Representative. Inquires or requests regarding disposition of rights, election of rights, or related matters should be directed to the Patent Representative. This special condition shall be included in any subcontract hereunder requiring a "New Technology" provision or "Patent Rights—Retention by the Contractor (Short Form)" clause, unless otherwise authorized or directed by the Grant Officer. The respective responsibilities and authorities of the above-named representatives are set forth in 1827.305-370 of the NASA FAR Supplement.

§ 1260.59 Choice of law.

CHOICE OF LAW

October 2000

The rights and obligations of the parties to the grant (or cooperative agreement) shall be ascertainable by recourse to the laws of the United States of America. However, it is understood that the laws of the Recipient's country will generally apply to recipient activities within that country.