

227.7102-4 Contract clauses.

(a)(1) Except as provided in paragraph (b) of this subsection, use the clause at 252.227-7015, Technical Data-Commercial Items, in all solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, when the Contractor will be required to deliver technical data pertaining to commercial items, components, or processes.

(2) Use the clause at 252.227-7015 with its Alternate I in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, for the development or delivery of a vessel design or any useful article embodying a vessel design.

(b) In accordance with the clause prescription at 227.7103-6(a), use the clause at 252.227-7013, Rights in Technical Data-Noncommercial Items, in addition to the clause at 252.227-7015, if the Government will have paid for any portion of the development costs of a commercial item. The clause at 252.227-7013 will govern the technical data pertaining to any portion of a commercial item that was developed in any part at Government expense, and the clause at 252.227-7015 will govern the technical data pertaining to any portion of a commercial item that was developed exclusively at private expense.

(c) Use the clause at 252.227-7037, Validation of Restrictive Markings on Technical Data, in solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items that include the clause at 252.227-7015 or the clause at 252.227-7013.

[76 FR 58147, Sept. 20, 2011, as amended at 78 FR 37988, June 25, 2013]

227.7103 Noncommercial items or processes.**227.7103-1 Policy.**

(a) DoD policy is to acquire only the technical data, and the rights in that data, necessary to satisfy agency needs.

(b) Solicitations and contracts shall—

(1) Specify the technical data to be delivered under a contract and delivery schedules for the data;

(2) Establish or reference procedures for determining the acceptability of technical data;

(3) Establish separate contract line items, to the extent practicable, for the technical data to be delivered under a contract and require offerors and contractors to price separately each deliverable data item; and

(4) Require offerors to identify, to the extent practicable, technical data to be furnished with restrictions on the Government's rights and require contractors to identify technical data to be delivered with such restrictions prior to delivery.

(c) Offerors shall not be required, either as a condition of being responsive to a solicitation or as a condition for award, to sell or otherwise relinquish to the Government any rights in technical data related to items, components or processes developed at private expense except for the data identified at 227.7103-5(a)(2) and (a)(4) through (9).

(d) Offerors and contractors shall not be prohibited or discouraged from furnishing or offering to furnish items, components, or processes developed at private expense solely because the Government's rights to use, modify, release, reproduce, perform, display, or disclose technical data pertaining to those items may be restricted.

(e) As provided in 10 U.S.C. 2305, solicitations for major systems development contracts shall not require offerors to submit proposals that would permit the Government to acquire competitively items identical to items developed at private expense unless a determination is made at a level above the contracting officer that—

(1) The offeror will not be able to satisfy program schedule or delivery requirements; or

(2) The offeror's proposal to meet mobilization requirements does not satisfy mobilization needs.

(f) For acquisitions involving major weapon systems or subsystems of major weapon systems, the acquisition plan shall address acquisition strategies that provide for technical data and the associated license rights in accordance with 207.106(S-70).

(g) The Government's rights in a vessel design, and in any useful article embodying a vessel design, must be