

## Department of Energy

## § 784.8

together with any determinations on the existence of classified or sensitive information in either the invention disclosure, the patent application(s), or reports or other documents disclosing a substantial portion of the invention; and

(9) Identification of any and all proposals, work for other activities, or other arrangements submitted by the requestor, DOE, or a third party, of which requestor is aware, which may involve further funding of the work on the invention at either the contractor facility where the invention arose or another facility owned by the Government.

(f) Patent Counsel will notify the requestor promptly if the waiver request is found not to be a complete request and, in that event, will provide the requestor with a reasonable period, not to exceed 60 days, to correct any such incompleteness. If requestor does not respond within the allotted time period, the waiver request will be considered to be withdrawn. If requestor responds within the allotted time period, but the submittal is still deemed incomplete or insufficient, the waiver request may be denied.

(g) As set forth in paragraph (c) of this section, waiver decisions shall be made within 150 days after the date on which a complete request for waiver of such rights, as specified in this section, has been submitted by the requestor to the DOE Patent Counsel. If the original waiver request does not result in a communication from DOE Patent Counsel indicating that the request is incomplete, the 150-day period for decision commences on the date of receipt of the waiver request. If the original waiver request results in a communication from DOE Patent Counsel indicating that the request is incomplete, the 150-day period for decision commences on the date on which supplementary information is received by Patent Counsel sufficient to make the waiver request complete. For advance waiver requests, if requestor is not notified that the request is incomplete, the 150-day period for decision commences on the date of receipt of the request, or on the date on which negotiation of contract terms is completed, whichever is later.

(h) Failure of DOE to make a patent waiver decision within the prescribed 150-day period shall in no way be construed as a grant of the waiver.

### § 784.7 Class waiver.

This section covers relinquishing of patent title rights by the Government to a class of persons or to a class of inventions. The authorization for class waivers is to be found at 42 U.S.C. 5908(c). Class waivers may be appropriate in situations where all members of a particular class would likely qualify for an advance or identified invention waiver. Normally, class waivers are originated by the Department. However, any person with a direct and substantial interest in a DOE program may request a class waiver by forwarding a written request therefor to the Patent Counsel. While no particular format for requesting a class waiver is prescribed, any request for a class waiver and any resulting determination by the Secretary or designee must address the pertinent objectives and considerations set forth in §§ 784.3(a), 784.4, 784.5, and 784.6.

### § 784.8 Procedures.

(a) All requests for waivers shall be in writing. Each request for a waiver other than a class waiver shall include the information set forth in § 784.9. Such requests may be submitted by existing or prospective contractors in the case of requests for an advance waiver and by contractors, including successor contractors at a facility, or employee-inventors in the case of requests for waiver of identified inventions.

(b) A request for an advance waiver should be submitted to the Contracting Officer (subcontractors may submit through their prime contractors) at any time prior to execution of the contract or subcontract, or within thirty days thereafter, or within such longer period as may be authorized by Patent Counsel for good cause shown in writing. If the purpose, scope, or cost of the contract is substantially altered by modification or extension after the waiver is granted, a new waiver request will be required. When advance waivers are granted, the provisions of the "Patent Rights—Waiver" clause set