

Department of Energy

970.5227-5

(End of clause)

Alternate I (AUG 2002). As prescribed in 48 CFR 970.2770-4(b), add the following definition under paragraph (b) and the following new paragraph (p):

(b)(8) *Privately funded technology transfer* means the prosecuting, maintaining, licensing, and marketing of inventions which are not owned by the Government (and not related to CRADAs) when such activities are conducted entirely without the use of Government funds.

(p) Technology Partnership Ombudsman.

(1) The Contractor agrees to establish a position to be known as "Technology Partnership Ombudsman," to help resolve complaints from outside organizations regarding the policies and actions of the contractor with respect to technology partnerships (including CRADAs), patents owned by the contractor for inventions made at the laboratory, and technology licensing.

(2) The Ombudsman shall be a senior official of the Contractor's laboratory staff, who is not involved in day-to-day technology partnerships, patents or technology licensing, or, if appointed from outside the laboratory or facility, shall function as such senior official.

(3) The duties of the Technology Partnership Ombudsman shall include:

(i) Serving as the focal point for assisting the public and industry in resolving complaints and disputes with the laboratory or facility regarding technology partnerships, patents, and technology licensing;

(ii) Promoting the use of collaborative alternative dispute resolution techniques such as mediation to facilitate the speedy and low cost resolution of complaints and disputes, when appropriate; and

(iii) Submitting a quarterly report, in a format provided by DOE, to the Secretary of Energy, the Administrator for Nuclear Security, the Director of the DOE Office of Dispute Resolution, and the Contracting Officer concerning the number and nature of complaints and disputes raised, along with the Ombudsman's assessment of their resolution, consistent with the protection of confidential and sensitive information.

(q) Nothing in paragraphs (c) Allowable Costs, (e) Fairness of Opportunity, (f) U.S. Industrial Competitiveness, (g) Indemnity—Product Liability, (h) Disposition of Income, and (i) Transfer to Successor Contractor of this clause are intended to apply to the contractor's privately funded technology transfer activities if such privately funded activities are addressed elsewhere in the contract.

Alternate II (DEC 2000). As prescribed in 48 CFR 970.2770-4(c), the contracting officer shall substitute the phrase "weapon production facility" wherever

the word "laboratory" appears in the clause.

[65 FR 81009, Dec. 22, 2000, as amended at 67 FR 48570, July 25, 2002]

970.5227-4 Authorization and consent.

Insert the following clause in solicitations and contracts in accordance with 970.2702-1:

AUTHORIZATION AND CONSENT (AUG 2002)

(a) The Government authorizes and consents to all use and manufacture of any invention described in and covered by a United States patent in the performance of this contract or any subcontract at any tier.

(b) If the Contractor is sued for copyright infringement or anticipates the filing of such a lawsuit, the Contractor may request authorization and consent to copy a copyrighted work from the contracting officer. Programmatic necessity is a major consideration for DOE in determining whether to grant such request.

(c)(1) The Contractor agrees to include, and require inclusion of, the Authorization and Consent clause at 52.227-1, without Alternate 1, but suitably modified to identify the parties, in all subcontracts expected to exceed \$100,000 at any tier for supplies or services, including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services.

(2) The Contractor agrees to include, and require inclusion of, paragraph (a) of this Authorization and Consent clause, suitably modified to identify the parties, in all subcontracts at any tier for research and development activities expected to exceed \$100,000.

(3) Omission of an authorization and consent clause from any subcontract, including those valued less than \$100,000 does not affect this authorization and consent.

(End of clause)

[65 FR 81009, Dec. 22, 2000, as amended at 67 FR 48570, July 25, 2002]

970.5227-5 Notice and assistance regarding patent and copyright infringement.

Insert the following clause in solicitations and contracts in accordance with 970.2702-2:

NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2000)

(a) The Contractor shall report to the Contracting Officer promptly and in reasonable written detail, each notice or claim of patent