

INTELLECTUAL PROPERTY RIGHTS UNDER GOVERNMENT CONTRACTS

Companies, universities, nonprofit entities, and individuals who perform research and development projects funded in whole or in part with federal, state, or local government funding must be especially vigilant in protecting their intellectual property.

The methods, processes, and techniques developed by these contractors – often called trade secrets or “know-how” – normally are not disclosed to competitors or customers. However, if a contractor has to use proprietary information, software, designs, and products to complete its work on a government project, it may inadvertently release such proprietary information. Without taking appropriate precautions, the contractor may give unintended rights to the government, above and beyond the minimum rights to which the government might otherwise be entitled, such as limited rights, restricted rights, government purpose rights, SBIR rights, and unlimited rights.

We help clients to protect their proprietary information in the context of government-funded projects. Our attorneys are familiar with the complexities of creating, using, and delivering technical data and computer software to government agencies. We assist clients with strategies for planning for and controlling the creation and preservation of the records needed to demonstrate proprietary rights in data, with the development of "subject inventions," and with compliance with regulations governing the ownership of patent rights in subject inventions.

Our lawyers advise clients to protect ownership of, and the rights to use, data and information first developed during performance of a procurement contract, cooperative agreement, cooperative research and development agreement (CRADA), and other sorts of agreements. Our attorneys also represent clients in disputes arising out of the assertion of limited or restricted rights in technical data, including product designs, drawings and diagrams, test data and methodologies, manufacturing processes, and computer software.