consistent with the Government’s rights in technical data pertaining to
the design (10 U.S.C. 7317; 17 U.S.C.
1301(a)(3)).

[60 FR 33471, June 28, 1995, as amended at 72 FR 51189, Sept. 6, 2007; 74 FR 61044, Nov. 23,
2009]

227.7103–2 Acquisition of technical data.

(a) Contracting officers shall work closely with data managers and re-
quirements personnel to assure that data requirements included in solicita-
tions are consistent with the policy ex-
pressed in 227.7103–1.

(b)(1) Data managers or other re-
quirements personnel are responsible for identifying the Government’s min-
imum needs for technical data. Data needs must be established giving con-
sideration to the contractor’s economic interests in data pertaining to items,
components, or processes that have been developed at private expense; the
Government’s costs to acquire, main-
tain, store, retrieve, and protect the data; reprocurement needs; repair,
maintenance and overhaul philosophies; spare and repair part consider-
ations; and whether procurement of the items, components, or processes can be
accomplished on a form, fit, or function basis. When it is anticipated that
the Government will obtain unlimited or government purpose rights in tech-
nical data that will be required for competitive spare or repair parts pro-
curements, such data should be identi-
fied as deliverable data items. Re-
procurement needs may not be a suffi-
cient reason to acquire detailed manu-
facturing or process data when items
or components can be acquired using performance specifications, form, fit
and function data, or when there are a suffi-
cient number of alternate sources
which can reasonably be expected to
provide such items on a performance specification or form, fit, or function
basis.

(2) When reviewing offers received in
response to a solicitation or other re-
quest for data, data managers must
balance the original assessment of the
Government’s data needs with data
prices contained in the offer.

(c) Contracting officers are res-
ponsible for ensuring that, wherever prac-
ticable, solicitations and contracts—
(1) Identify the type and quantity of the
technical data to be delivered under the contract and the format and
media in which the data will be deliv-
ered;

(2) Establish each deliverable data
item as a separate contract line item
(this requirement may be satisfied by
listing each deliverable data item on
an exhibit to the contract);

(3) Identify the prices established for
each deliverable data item under a
fixed-price type contract;

(4) Include delivery schedules and ac-
ceptance criteria for each deliverable
data item; and

(5) Specifically identify the place of
delivery for each deliverable item of
technical data.

227.7103–3 Early identification of tech-
nical data to be furnished to the
Government with restrictions on
use, reproduction or disclosure.

(a) 10 U.S.C. 2320 requires, to the
maximum extent practicable, an iden-
tification prior to delivery of any tech-
nical data to be delivered to the Gov-
ernment with restrictions on use.

(b) Use the provision at 252.227–7017,
Identification and Assertion of Use, Re-
lease, or Disclosure Restrictions, in all
solicitations that include the clause at
252.227–7013, Rights in Technical Data—
Noncommercial Items. The provision
requires offerors to identify any tech-
nical data for which restrictions, other
than copyright, on use, release, or dis-
losure are asserted and to attach the
identification and assertions to the
offer.

(c) Subsequent to contract award, the
clause at 252.227–7013 permits a con-
tractor, under certain conditions, to
make additional assertions of use, re-
lease, or disclosure restrictions. The
prescription for the use of that clause
and its alternate is at 227.7103–6 (a) and
(b).

[60 FR 33471, June 28, 1995, as amended at 78 FR 13544, Feb. 28, 2013]

227.7103–4 License rights.

(a) Grant of license. The Government
obtains rights in technical data, in-
cluding a copyright license, under and