7. INTELLECTUAL PROPERTY STRATEGY

This section is an overview of the steps to develop or update a program IP Strategy. Detailed guidance is forthcoming. The IP Strategy Brochure is a four page document from 2014 with some general information for reference.

7.1 IP STRATEGY (WHAT…?)

An IP Strategy is the program's approach to acquiring and managing the data and data rights [the government's rights to use the data] necessary to produce cost-effective solutions for the warfighter. The IP Strategy development or update process involves information gathering and analyses to understand the current data and data rights status and define appropriate paths forward to achieve the technical and business objectives of the program.

7.2 WHO…?

Developing or updating an IP Strategy is not a task for one person. The entire Integrated Product Team (IPT) needs to provide information on the current and needed data and data rights applicable to their specialty area. The program office is responsible for the performance of a detailed and thorough IP analysis, development of a detailed well thought out IP strategy, executing the IP Strategy, and then updating it as needed or at subsequent significant decision points. .

7.3 WHY…?

Too often in the past, DoD programs failed to secure the necessary data deliverables and associated license rights to enable downstream competition. As such, many DoD products now rely on a single vendor for production of systems, spare/repair parts, and/or sustainment activities, at significant cost.

UNDER CONSTRUCTION: Insert reference to DoD Instruction (IP Policy) language

Developing or updating an IP Strategy will provide a comprehensive view of the program from a data and data rights perspective. Analyses by the program and IPT members will identify the existing data, license rights status, and future life cycle needs. Programs will also create the solicitation content necessary to acquire data that supports the production and product support plans. Furthermore, a properly constructed IP Strategy will help a program to identify, incorporate, and respect both private and government developed solutions. An IP Strategy also provides a roadmap for the stakeholders to identify: 1) technology needed (commercial v. noncommercial); 2) licensing rights needed in short and long-term; 3) develop a plan to negotiate with vendor to acquire; 4) factor in costs and other contracting considerations.

7.4 WHEN...?

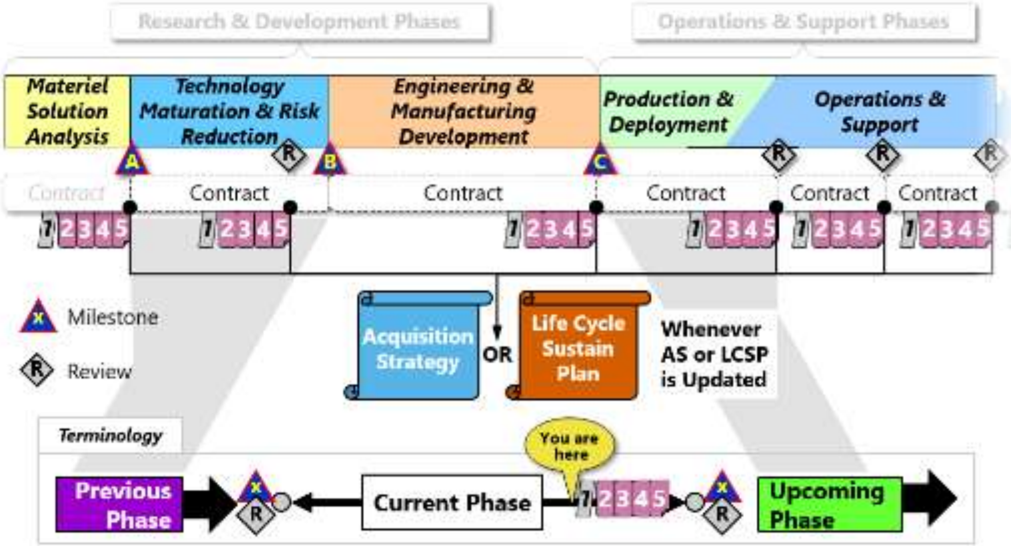
An IP Strategy is developed or updated in conjunction with every Acquisition Strategy (AS) or LCSP/LCSP-equivalent review throughout the life cycle.

UNDER CONSTRUCTION: Insert reference to IP Policy language

Figure 16 shows how often the IP strategy development or update process should occur in a Major Capability Acquisition activity. In this pathway, new programs should develop an IP Strategy and document an IP Strategy Summary for Milestone A. Programs without an existing IP Strategy can develop one at any stage in the life cycle following the prescribed steps. Programs with an existing IP Strategy should update it and document the IP Strategy Summary whenever the AS or LCSP-equivalent is updated.

The figure also describes some terms used throughout the Guide and supplements. The Guide refers to the Materiel Solution Analysis, Technology Maturation & Risk Reduction, and Engineering & Manufacturing Development phases as the “Research & Development" (R&D) phases. The Production & Deployment and Operations & Support phases are collectively called the “Operations & Support" (O&S) phases. The IP Strategy development or update process prepares the program for the "upcoming" phase. The "current" phase is what has been taking place with the current contract. The “previous” phase is what took place before the award of the current contract.

Figure 16: Major Capability Acquisition IP Strategy Development or Update Context



7.5 HOW…? (5 STEP PROCESS)

The development or update process involves IPT members performing a variety of tasks related to Data and Data Rights. The process described is applicable to both a new start and an existing DoD program. Figure 17 shows the five steps in the IP Strategy development or update process. Table 3 summarizes the tasks and outputs for each step. The blue headings link to detailed guidance for that step.

Figure 17: IP Strategy Development or Update Steps

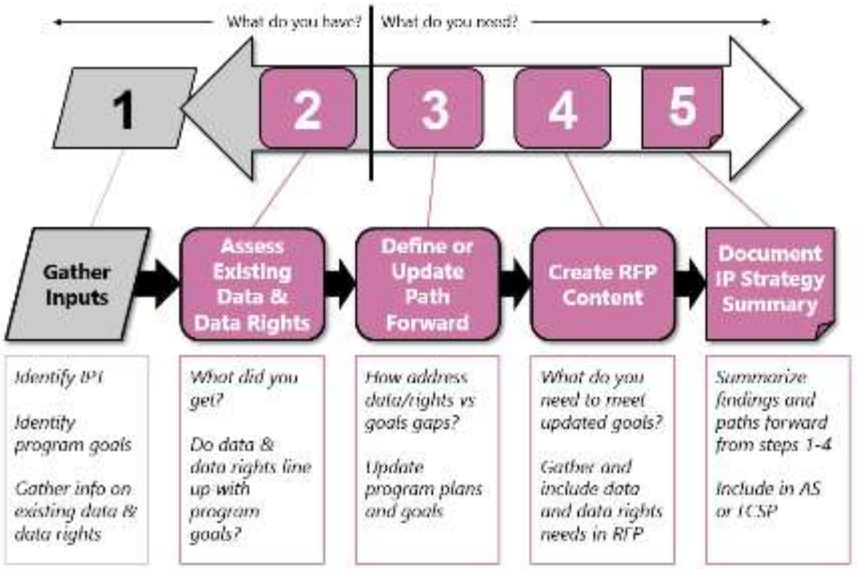
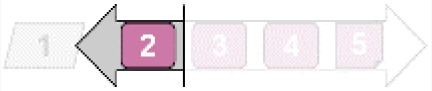

What do you have?
What do you need?
1
2
3
4
5
Gather Inputs
Assess Existing Data & Data Rights
Define or Update Path Forward
Create RFP Content
Document IP Strategy Summary
Identify IPT
Identify program goals
Gather info on existing data & data rights
What did you get?
Do data & data rights line up with program goals?
How address data/rights vs goals gaps?
Update program plans and goals
What do you need to meet updated goals?
Gather and include data and data rights needs in RFP
Summarize findings and paths forward from steps 1-4
Include in AS or ICSP

Table 3: IP Strategy Development or Update Overall Steps

1. Gather Inputs
✓ Identify IPT members ✓ Understand current phase program strategies and plans ✓ Identify production & product support sourcing method# plans ✓ Compile information about existing data and data rights
Outputs
▪ IPT member list ▪ Start of phase production and product support sourcing method# plans ▪ Information about existing data and data rights
Method: How the government will acquire an item or service.

2. Perform an IP Analysis including but not limited to the Assessment Existing Data & Data Rights



- ✓ Review current phase costs versus benefits analyses for additional license rights
- ✓ Assess existing production and product support data (reused, quality, etc.)
- ✓ Assess high and low program risk areas.
- ✓ Assess program support plan short and long term.
- ✓ Determine data item sourcing methods# permitted by markings
- ✓ Associate data items with product structure elements
- ✓ Determine element sourcing method# status
- ✓ Identify element sourcing method# gaps (plans vs current status)

# Method: How the government will acquire an item or service.

Outputs

- Data status assessment results
- Structure element production and product support sourcing method# gaps

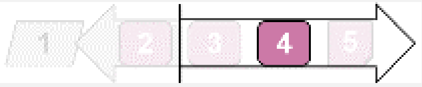
3. Define or Update Path Forward

- ✓ Define plans to address sourcing method gaps
- ✓ Synchronize program plans and strategies
- ✓ Update and align program strategies and plans, ensure alignment
- ✓ Create IP Strategy status table and supporting information

Outputs

- Plans to address method gaps
- Updated and synchronized program strategies and plans
- Updated product structure with sourcing method plans
- IP Strategy status table and supporting information

4. Create Solicitation Content

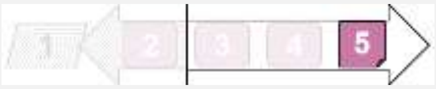


✓ Assemble information for upcoming solicitation
✓ Request IPT member data needs
✓ Define Solicitation data needs
✓ Define Solicitation data rights needs
✓ Include data and data rights related content in the solicitation (CDRLs, attachments, clauses, options, and contract line items)

Outputs

- IPT member data and data rights needs
- Data and data rights related content for solicitation

5. Create IP Strategy Summary



✓ Assemble and edit summary findings from previous steps
✓ Create IP Strategy Summary
✓ Include Summary in the Acquisition Strategy or with the LCSP/LCSP equivalent

Output

- IP Strategy Summary

8. PRODUCTION AND PRODUCT SUPPORT DATA NEEDS

8.1 INTRODUCTION

Data generated during R&D phase is needed for production and/or product support during the O&S phases. This section discusses typical data needs for production and product support activities of hardware and software systems.

It is also important to acquire the appropriate data and data rights during the R&D phases so the government can effectively use the data during the O&S phases. Any production or product support work by third parties or government entities requires the appropriate data rights to use the data.

The activities and data sets needed for hardware and software system production and product support are quite different. This guide defines production and product support activities as shown in Table 4.

Table 4: Production and Product Support Data Requirements

Activity	Data Description	Data Examples
Production (System) & Software Support	Data needed for manufacture of complete systems or data needed to maintain complete software program	system design models and drawings, software source code
Production (Spares)	Data needed for manufacture of specific components or parts	component or part product design models and drawings,
Product Support Analysis & Provisioning	Logistics Product Data	logistics product data
Operation, Maintenance, and Training	Data need to perform training, operation, and maintenance of the system	operator manuals, maintenance manuals, training materials

a. Production

Production is acquiring all or portions of the system for deployment to the field or fleet. The IP Strategy development or update process focuses on Full-Rate Production (FRP) hereafter called "production." FRP takes place after a successful Low-Rate Initial Production (LRIP) and is generally the first opportunity to utilize competition to procure complete systems down to spare parts

b. Product Support

Product support is performing or contracting for Integrated Product Support (IPS) of systems in the field or fleet. IPS consists of 12 elements: Product Support Management, Design Interface, Sustaining Engineering, Supply Support, Maintenance Planning and Management, Packaging, Handling, Storage, and Transportation, Technical Data/Technical Manuals, Support Equipment, Training & Training Support, Manpower & Personnel, Facilities & Infrastructure, Computer Resources.

8.2 HARDWARE SYSTEM PRODUCTION AND PRODUCT SUPPORT DATA

Hardware system production generally requires a Technical Data Package (TDP). MIL-STD-31000 defines a TDP as "...the required design configuration or performance requirements, and procedures required to ensure the adequacy of item performance." This includes all the information a competent party would need to reproduce an instance of the product structure element. The information must also include descriptions or references to the key interface standards.

Most of the IPS elements have specific data requirements. However, this Guide focuses on Product Support Analysis (PSA) because acquisition of the associated data and rights are often overlooked during the R&D phases. MIL-HDBK-502 states, "The data resulting from the PSA process is tailored to a specific format to enhance usability by engineering and product support activities. A subset of this data is called Logistics Product Data (LPD) and is defined by industry standard GEIA-STD-0007." **For hardware system product support data, this Guide focuses on the acquisition and status of the LPD.**

Table 5 lists some typical tasks associated with a hardware system during the R&D and O&S phases and the needed data.

Table 5: Hardware System Tasks and Needed Data

Phase	Task	Needed Data - Hardware System
R&D	Design	Existing platform info, previously developed item TDPs, interface info
R&D	Product Supportability Analyses	LPD (estimated maintenance replacement rates, level of repair analyses)

Phase	Task	Needed Data - Hardware System
R&D	Provisioning	Supportability analysis data, TDP
R&D	Upgrade Design	TDP (existing design and configuration information)
O&S	Configuration Management	TDP (design and configuration information)
O&S	System Production	TDP (design and configuration information)
O&S	Spare Part Production	Spare Part TDP (design and configuration information)
O&S	Performance-Based Logistics	Logistics Product Data (hours operation, spare or repair parts usage)
O&S	Support / Maintenance	Technical manuals (maintenance, assembly, disassembly instructions)
O&S	Modification Work Orders	TDP, item configuration information, modification information.

8.3 SOFTWARE SYSTEM PRODUCTION AND PRODUCT SUPPORT DATA

For the purposes of this Guide, software system product support includes all the IPS elements. The data needs for software system production involve duplication of the object code for distribution and use. The data needs for software system product support requires the source code, interface information and a means to duplicate the original software development environment including libraries, documentation, and tools.

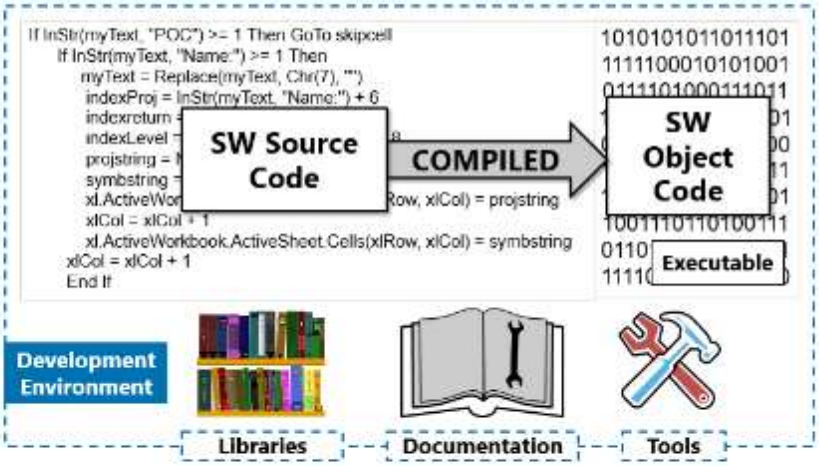
Table 6: Software System Tasks and Needed Data

Phase	**Task**	Needed Data - Software System
R&D	Design	Previously developed source code. interface control document (ICD), software requirements specification (SRS)

Phase	**Task**	Needed Data - Software System
R&D	Product Supportability Analyses	n/a Software configuration management data, SRS
R&D	Provisioning	n/a
R&D	Upgrade Design	source code Updated ICD and SRS, software design document (SDD)
O&S	Configuration Management	Software configuration management data, source code
O&S	System Production	object code
O&S	Spare Part Production	n/a
O&S	Performance-Based Logistics	n/a
O&S	Support / Maintenance	Software documentation, operating manuals, source code, object code
O&S	Modification Work Orders	ICD, SRS, SDD, source code, object code, software configuration management data

Data for software system production and product support involves two types of code. Object code or executable code is what users install, run, and use. Source code is the set of instructions created and edited by programmers. These instructions are "compiled" into object code. Other variations of CS, including embedded software, firmware, plugins, scripts, etc. are beyond the scope of this guide. Figure 18 depicts the relationships between object and source code and typical contents of a software development environment.

Figure 18: Software Code Formats and Development Environment



```
If InStr(myText, "POC") >= 1 Then GoTo skipcell
    If InStr(myText, "Name:") >= 1 Then
        myText = Replace(myText, Chr(7), "")
        indexProj = InStr(myText, "Name:") + 6
        indexreturn =
        indexLevel =
        projstring =
        symbstring =
        xl.ActiveWor                          Row, xlCol) = projstring
        xlCol = xlCol + 1
        xl.ActiveWorkbook.ActiveSheet.Cells(xlRow, xlCol) = symbstring
    xlCol = xlCol + 1
    End If
```

Source code and object code graphic based on material from Landgraf, L, Owren-Wiest, N, June, 2017, When Data Rights Go Wrong: What to Do and Best Practices to Survive a Data Rights Challenge [pdf slides]. Retrieved from https://m.acc.com/chapters/ncr/upload/Data-Rights-Slides.pdf

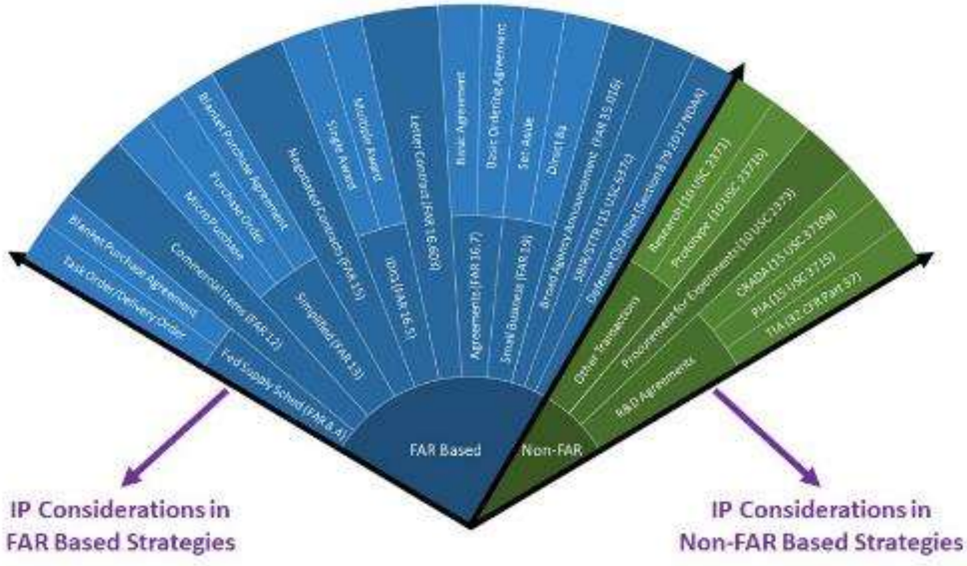
9. CONTRACTING

9.1 INTRODUCTION

A key contracting decision is the type of contract instrument that is appropriate. These may be FAR or non-FAR based instruments as depicted in *Figure 19*. The contracting strategy depends on such factors as the services or products being acquired, funding, acquisition phase, and traditional or non-traditional status of the contractor. Although FAR/DFARS-based contracts can be written creatively and flexibly, data rights and licenses are often cited as a primary reason for writing a non-FAR based instrument such as an "other transaction" as it is more accessible to industry partners who don't usually do business with the government. Non-FAR based instruments are required to follow only the applicable statute rather than more rigorous regulations. For more information on Non-FAR contracting solutions, consult the OSD OT Guide Intellectual Property (IP) Considerations here.

The process of soliciting, negotiating, and awarding both FAR and non-FAR based instruments has some similarities, but the process below for including IP considerations features FAR/DFARS-based contracts because the FAR process is significantly more structured than the statutory processes. Various guides are available for fine-tuning the non-FAR based contracting instruments.

Figure 19: Contracting Cone (FAR and Non-FAR Based Strategies)


FAR Based
Non-FAR
Blanket Purchase Agreement
Task Order/Delivery Order
Commercial Items (FAR 12)
Blanket Purchase Agreement
Purchase Order
Micro Purchase
Fed Supply Sched (FAR 8.4)
Simplified (FAR 13)
Negotiated Contracts (FAR 15)
Single Award
Multiple Award
IDCs (FAR 16.5)
Letter Contract (FAR 16.603)
Agreements (FAR 16.7)
Basic Agreement
Basic Ordering Agreement
Small Business (FAR 19)
Set-Aside
Direct 8a
Broad Agency Announcement (FAR 35.016)
SBIR/STTR (15 USC 637c)
Defense CSO Pilot (Section 879 2017 NDAA)
Other Transaction
Research (10 USC 2371)
Prototype (10 USC 2371b)
Procurement for Experiments (10 USC 2373)
R&D Agreements
CRADA (15 USC 3710a)
PIA (15 USC 3715)
TIA (32 CFR Part 37)
IP Considerations in FAR Based Strategies
IP Considerations in Non-FAR Based Strategies

9.2 NON-FAR BASED CONTRACTING INSTRUMENTS (OTHER TRANSACTIONS (OT), ETC)

Non-FAR-based contract instruments are used in DoD acquisition and, with the emphasis on Adaptive Acquisition Framework, are increasing in use. To ensure the government gets the data and rights it needs to affordably obtain and sustain needed capability while at the same time incentivizing industry and academia to share game-changing technology with the government, tailored IP strategies should be applied to non-FAR-based instruments, particularly when follow-on production and sustainment requirements are likely. Follow-ons may or may not be FAR/DFARS-based contracts.

Non-FAR based instruments should consider future FAR/DFARS-based and non-FAR-based contracts as early as possible so that the IP strategy can be tailored to the acquisition throughout the life-span of the acquisition, whether it becomes a Program of Record or not.

Examples of commonly used non-FAR-based instruments (as identified in Figure 19 above) include:

- Commercial Test Agreements (CTAs)
- Cooperative Agreements (CAs)
- Cooperative Research and Development Agreements (CRADAs)
- Education Partnership Agreements (EPAs)
- Grants
- Other Transaction (OT) Agreements (OTAs) for Research, Prototype, and Production (see OSD (A&S) OT Guide **https://aaf.dau.edu/ot-guide/IP/** for IP considerations)
- Partnership Intermediary Agreement (PIA)
- Patent License Agreements (PLAs)
- Procurement for Experimental Purposes (10 U.S.C. § 2373)
- Technology Investment Agreements (TIAs)
- Small Business Innovation Research (SBIR)*
- Small Business Technology Transfer (STTR)*

**SBIRs* and *STTRs* refer to the set-aside program for small businesses. These terms are not synonyms for non-FAR-based instruments; however, the resulting agreement may be a FAR/DFARS-based contract, purchase order, other transaction agreement, or some other arrangement as appropriate.

9.3 EARLY COMMUNICATIONS WITH INDUSTRY

Early activities in the acquisition process, even before program initiation, foster an environment of open communication with industry, academia, DoD laboratories, and innovation centers such as consortia, accelerators, innovation hubs, PIAs, and EPAs. These early discussions regarding research and development, requirements generation, acquisition, sustainment, and contracting activities provide opportunities to identify and resolve potential external risks regarding the IP strategy. The government may share IP with external partners and conversely, external partners may share their IP, data, and data rights with the government based on the requirements of the specific program.

10. SOLICITATIONS

10.1 INTRODUCTION TO SOLICITATIONS

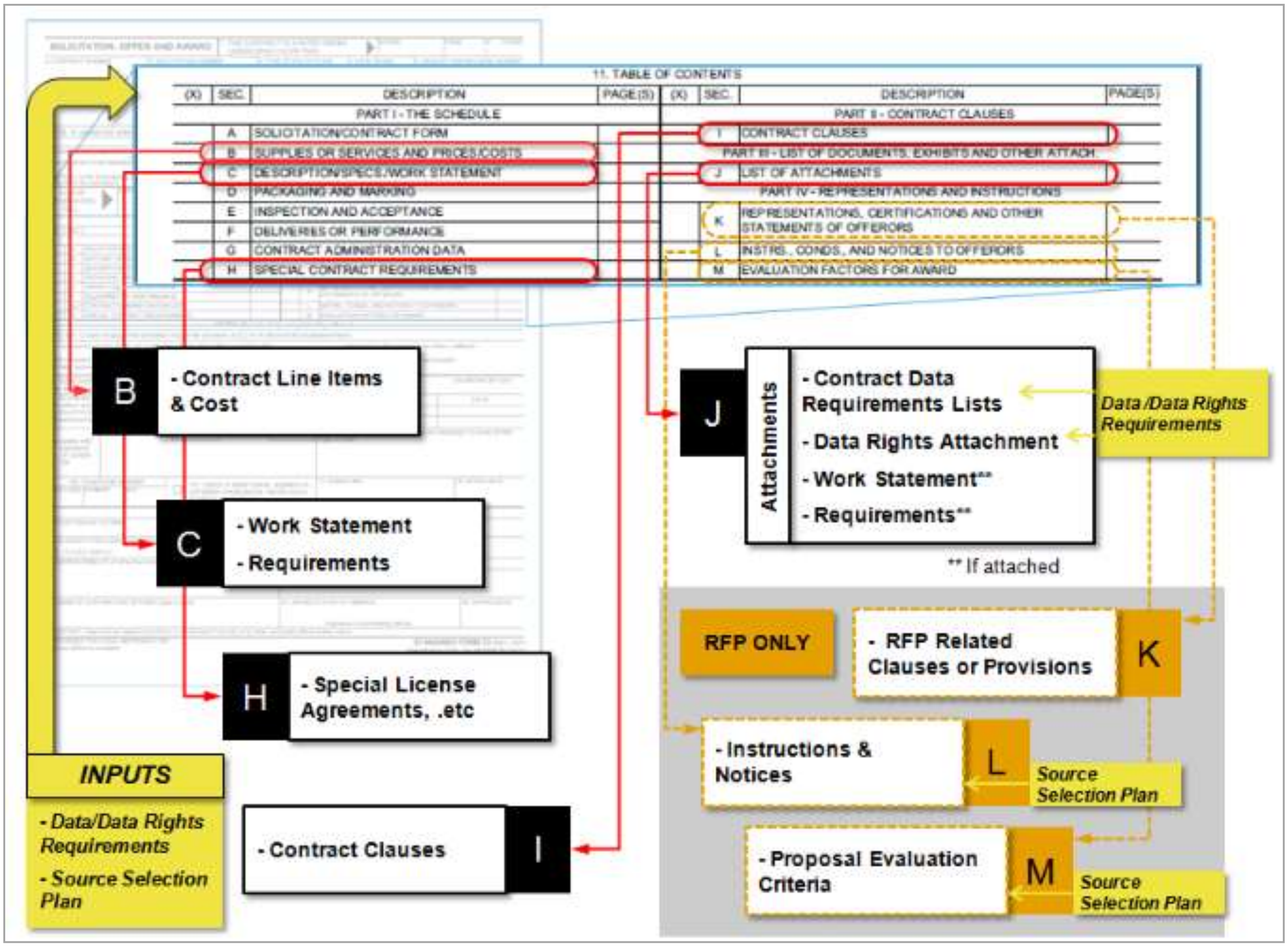
Solicitations cover both FAR and non-FAR contracting activities. FAR contracting activities use Request for Proposal (RFPs). Whereas, non-FAR activities may use a variety of forms of solicitation (RFPs, Request for White Papers, Broad Area Announcements, Commercial Solution Openings, etc.)

This section specifically discusses the data related content needed to create a Request for Proposal (RFP) that supports a contract prepared in accordance with the Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS). The government must follow certain steps and use specific contract language to get all the TD and CS it needs and the data rights to which it is legally entitled.

RFPs for "negotiated contracts" under FAR Part 15 follow the Uniform Contract Format (UCF) specified by FAR 15.204-1 FAR 15.204-1 and Standard Form 33 Solicitation, Offer, and Award. Commercial contracts using FAR Part 12 and simplified acquisitions using FAR Part 13 do not have to use the UCF.

The UCF specifies the distinct sections of a contract and the sequence in which they must be arranged. Figure 20 shows the data and data rights related UCF sections and inputs. Significant to this Guide are the data requirements, data rights requirements, and source selection plan. Sections of the UCF itself have data and data rights related content requirements that are needed to ensure the best outcome for the government. Guidance related to the inputs and UCF content is discussed in the following sections.

Figure 20: Data & Data Rights Related UCF Sections and Inputs


11. TABLE OF CONTENTS
(X) SEC. DESCRIPTION PAGE(S)
PART I - THE SCHEDULE
A SOLICITATION/CONTRACT FORM
B SUPPLIES OR SERVICES AND PRICES/COSTS
C DESCRIPTION/SPECS./WORK STATEMENT
D PACKAGING AND MARKING
E INSPECTION AND ACCEPTANCE
F DELIVERIES OR PERFORMANCE
G CONTRACT ADMINISTRATION DATA
H SPECIAL CONTRACT REQUIREMENTS
PART II - CONTRACT CLAUSES
I CONTRACT CLAUSES
PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.
J LIST OF ATTACHMENTS
PART IV - REPRESENTATIONS AND INSTRUCTIONS
K REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS
L INSTRS., CONDS., AND NOTICES TO OFFERORS
M EVALUATION FACTORS FOR AWARD
B
- Contract Line Items & Cost
C
- Work Statement
- Requirements
H
- Special License Agreements, .etc
INPUTS
- Data/Data Rights Requirements
- Source Selection Plan
- Contract Clauses
I
J
Attachments
- Contract Data Requirements Lists
- Data Rights Attachment
- Work Statement**
- Requirements**
Data /Data Rights Requirements
** If attached
RFP ONLY
- RFP Related Clauses or Provisions
K
- Instructions & Notices
L
Source Selection Plan
- Proposal Evaluation Criteria
M
Source Selection Plan

10.2 DATA ORDERING DETERMINATION

The data needs identified for the specific RFP are traditionally evaluated by the Program Manager (PM) or designee who has the authority to decide what data will be acquired. PMs often elect not to acquire certain data because of budget or other programmatic concerns. These decisions are certainly within their prerogative but should be made with a full understanding of the potential impacts to the product development, manufacture, support, or all of these. The appropriate subject matter experts should be able to provide this information, such as in Section 6.1. If the decision is made **not to acquire** some data or data rights, the relevant program strategies should be reviewed and updated accordingly.

Before deciding NOT to acquire data, discuss the impacts to product development, manufacture, and competitive or organic life-cycle sustainment with the appropriate subject matter experts.

10.3 DATA AND DATA RIGHTS REQUIREMENTS

UNDER CONSTRUCTION: See forthcoming IP Strategy Guide for detailed guidance on determining data and data rights requirements

Once the decision is made to pursue a contractual effort, the data requirements specific to that effort must be identified and reviewed by the Program Manager. Once approved for inclusion in the solicitation, the Contract Data Requirements Lists (CDRLs) need to be created.

Once the data requirements for the contract have been documented in the RFP Contract Data Requirements Lists (CDRLs), it is necessary to map the program data rights needs for each CDRL. and/or contained in the synchronized program strategies. Department of Defense (DoD) competition requirements are usually satisfied when the government has Unlimited or Government Purpose rights to the data. However, Specifically Negotiated License Rights may also be sufficient depending on the agreed to license terms

10.4 WORK STATEMENT (RFP - SECTION C)

Section C wording establishes and defines the contractor work requirements. A proper Statement of Work (SOW) is critical to requiring a contractor to perform tasks with government funding that will result in the generation of required data deliverables. CDRLs describe the content, format, etc. of the data deliverables but do not require generation of the data itself. Having clear SOW requirements also makes it difficult for a contractor to develop needed and identified technologies as purportedly being outside the government contract scope and then claim it as developed exclusively at private expense. If the government intends for certain development to be accomplished at government expense, the SOW should clearly reflect that.

Detailed guidance on the preparation of a statement of work is outside the scope of this guide. Program teams are urged to use MIL-HDBK-245, "Department Of Defense Handbook for Preparation of Statement of Work (SOW)" to prepare a SOW.

10.5 SPECIAL CONTRACT REQUIREMENTS (RFP - SECTION H)

Section H contains contractual requirements that are not included in other parts of the RFP/contract or when standard FAR or DFARS clauses do not adequately cover the government's needs.

A Specifically Negotiated License agreement is an example of a special contract requirement which could be included in Section H or as a specific attachment to Section J. All of these agreements must comply with current statutory and regulatory guidance and be approved by government legal counsel. Higher headquarters approval may also be required.

10.6 CONTRACT CLAUSES (RFP - SECTION I)

Section I is for clauses that will apply to the contract. The government's rights in data are **dependent** on the clauses included in **each** contract. The use of some clauses is mandated by the FAR while others are dependent on the type of acquisition being undertaken, and many data related clauses are NOT mandated by the FAR or DFARS. Therefore, it is necessary for the integrated product team, government contracting professionals, and legal advisors, to specify what additional FAR/DFARS clauses should be part of a specific solicitation.

Program teams should seek legal counsel when determining what clauses to include in a RFP and the subsequent contract. Frequently cited DFARS clauses and provisions relating to data and data rights are shown in Table 7. DFARS provision 252.227-7017 is particularly important because it is the only DFARS specified method to require offerors to identify data right assertions. The government should include references or copies of every DFARS clause applicable to the RFP. CDRLs define the requirements for data delivery (type, quantity, format, etc.), but do not address the rights to use the data. Among other things, contract clauses define these rights and how the government can use, disclose, or reproduce data delivered under the contract.

UNDER CONSTRUCTION: See IP Strategy Guide for a complete list of recommended clauses

Table 7: Frequently Cited DFARS Clauses and Provisions Related to Data & Data Rights

Clause	Clause or Provision Title	Clause	Clause or Provision Title
252.227-7013	Rights in Technical Data--Noncommercial Items	**252.227-7018**	Rights in Noncommercial Technical Data and Computer Software--Small Business Innovation Research (SBIR)
252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation	**252.227-7019**	Validation of Asserted Restrictions--Computer Software
252.227-7015	Technical Data–Commercial Items	**252.227-7037**	Validation of Restrictive Markings on Technical Data

Clause	Clause or Provision Title	Clause	Clause or Provision Title
252.227-7017	Identification and Assertion of Use, Release, or Disclosure Restrictions (Provision in Solicitation Section K)		

10.7 CONTRACT DATA REQUIREMENTS LISTS (RFP - SECTION J)

Section J is for attachments to the RFP. One of the important attachments from a data deliverable perspective are Contract Data Requirements Lists (CDRLs). The SOW details the tasks to be performed by the contractor. These tasks often result in the generation of data that the government needs. All TD and CS should be ordered using CDRLs. A CDRL (DD Form 1423) defines the data requirement as well as the frequency, method, and medium of the data to be delivered under the contract.

There are approximately 1500 DIDs approved for repetitive use in DoD contractual acquisitions. These DIDs are freely accessible through the Defense Logistics Agency Acquisition Streamlining and Standardization Information System (ASSIST) Document Database.

UNDER CONSTRUCTION: See DoDM 5010.12 for guidance on the preparation of CDRLs.

10.8 DATA RIGHTS ATTACHMENT (RFP - SECTION J)

An additional attachment recommended for RFPs is a Data Rights Attachment (DR Attachment). This attachment identifies all of the contract CDRLs and their data rights level in a single document. See the IP Strategy Guide for guidance on the use of a DR Attachment.

UNDER CONSTRUCTION: See forthcoming IP Strategy Guide for details about the DR Attachment. In the interim, consider leveraging the Army Data & Data Rights Guide or the USAF Space and Missile Systems Center JA Data Rights Handbook.

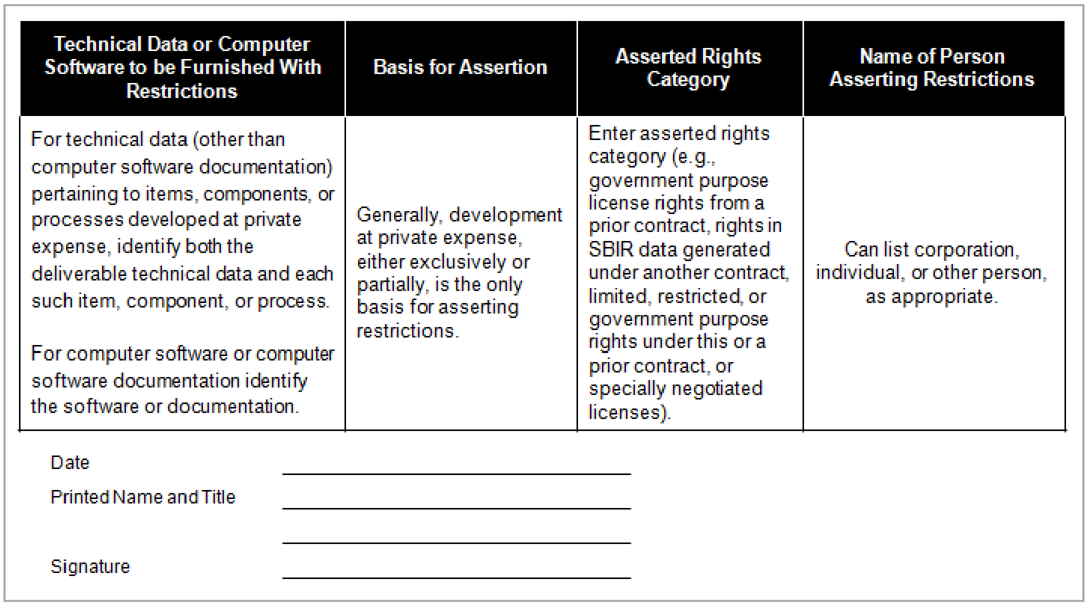
10.9 DATA RIGHTS ASSERTION PROVISION (RFP - SECTION K)

Section K is where provisions or requirements related to the RFP itself are listed. This information pertains primarily to the solicitation, and most of the content is not included in the resulting contract. It is frequently **not** in an offeror's best interest to communicate what proprietary design content they intend to use to meet the contract requirements. However, the program team needs to clearly understand all data rights restrictions to avoid costly data use limitations, sole source items, or time-consuming negotiations later in the program. Therefore, programs must require offerors to identify data rights assertions as part of the proposals in response to a development effort RFP.

"Identification and Assertion of Use, Release, or Disclosure Restrictions" should be included in Section K of all RFPs because the required information is critical to understanding and evaluating proposed restrictions on the government's ability to use or disclose delivered TD or CS.

The table format prescribed in 252.227-7017 is shown in Figure 21 below:

Figure 21: DFARS Provision 252.227-7017 Assertion Table Format



Technical Data or Computer Software to be Furnished With Restrictions	Basis for Assertion	Asserted Rights Category	Name of Person Asserting Restrictions
For technical data (other than computer software documentation) pertaining to items, components, or processes developed at private expense, identify both the deliverable technical data and each such item, component, or process. For computer software or computer software documentation identify the software or documentation.	Generally, development at private expense, either exclusively or partially, is the only basis for asserting restrictions.	Enter asserted rights category (e.g., government purpose license rights from a prior contract, rights in SBIR data generated under another contract, limited, restricted, or government purpose rights under this or a prior contract, or specially negotiated licenses).	Can list corporation, individual, or other person, as appropriate.

Date ________________________

Printed Name and Title ________________________

____

Signature ________________________

10.10 INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS (RFP - SECTION L)

Section L of the RFP includes content from the source selection plan, including instructions for offerors regarding how to format, separate, and submit proposals for evaluation. The information in Section L primarily pertains to the solicitation and most of the content is not included in the resulting contract.

11. SOURCE SELECTION

11.1 SOURCE SELECTION PROCESS

A typical source selection process for FAR/DFARS-based contracts involves government and offeror activities separated into Pre-Solicitation and the Evaluation processes. The Pre-Solicitation activities include preparation of an acquisition strategy or plan, development of the source selection plan, preparing and issuing the RFP. The Program Manager and IPT are responsible for providing all the relevant information to the contracting organization, which facilitates the issuance and evaluation of proposals. It is also critical to have participation by government legal counsel in the RFP and SSP when dealing with data and data rights issues.

Section M of the RFP includes content from the Source Selection Plan, including proposal evaluation factors, sub factors, and their relative importance.

The DoD Source Selection Procedures state, “Source selection is accomplished by a team that is tailored to the unique acquisition. Composition of the team generally consists of the Source Selection Authority (SSA), Procuring Contracting Officer (PCO) (if different from the SSA), Source Selection Advisory Council (SSAC), Source Selection Evaluation Board (SSEB), Advisors, Cost or Pricing Experts, Legal Counsel, Small Business Specialists, and other subject-matter experts.”

11.2 DATA RIGHTS ASSERTIONS REVIEW

Programs should review all offeror data rights assertions for validity and/or justifiability. This can involve a formal or informal "challenge" process.

The formal data rights assertion challenge processes are defined in DFARS clauses 252.227-7019 (Validation of Asserted Restrictions--Computer Software) and 252.227-7037 (Validation of Restrictive Markings on Technical Data). Each clause prescribes a multitude of stringent steps both the government and contractor must follow before the contracting officer determines whether the assertion is justified or unjustified.

Language from DFARS 252.227-7013(e)(4), 252.227-7014(e)(4), and 252.227-7018(e)(4) permit such a request without invoking the formal challenge process. The language states, “When requested by the Contracting Officer, the contractor shall provide sufficient information to enable the Contracting Officer to evaluate the contractor's assertions.” The program team can then use the requested information to determine whether to invoke the formal challenge process or elect not to challenge the assertion.

The election not to challenge an assertion is not an indication the government accepts the assertion. DFARS 252.227-7019 and 252.227-7037 state “A decision by the government, or a determination by the Contracting Officer, to not challenge the restrictive marking or asserted restriction shall not constitute "validation." This determination is basically a decision not to challenge an assertion and may be a viable option depending on the program circumstances at the time.

Throughout the assertion review process, government representatives must honor the applied rights markings until the process is complete.

11.3 SOURCE SELECTION AND DATA RIGHTS

The evaluation of data rights as competitive source selection criteria by the government has been the subject of debate within the DoD and industry due to the uneven and somewhat conflicting guidance provided in the DFARS. Nevertheless, some DoD components have successfully addressed data rights as an evaluation factor during competitive source selections.

Language in DFARS sections 227.7102 (Commercial items...), 227.7103 (Noncommercial items...), 227.7202 (Commercial computer software...), and 227.7203 (Noncommercial computer software...) specify what the government can and cannot do regarding data rights in DoD solicitations. Table 8 summarizes these limitations.

Table 8: DFARS Data Rights Evaluation Limitations

DFARS Data Rights Evaluation Limitations	Commercial Items (Technical Data)	Noncommercial Items (Technical Data)	Commercial Computer Software	Noncommercial Computer Software
DFARS Section	227.7102	227.7103	227.7202	227.7203
Cannot Require Additional Rights from Offerors	Applicable	Applicable *	Applicable #	Applicable *
Can Require Unlimited Rights Data	NOT Applicable	Applicable	NOT Applicable	Applicable
Can Evaluate Impact of Data Rights	Applicable ?	Applicable	Applicable ?	Applicable

** = Limited exception for Major Systems*
# = Government CAN refuse to purchase commercial computer software if the licensing terms "...are inconsistent with federal procurement law or do not otherwise satisfy user needs."
? = No specific DFARS guidance

Bottom Line: Generally, DoD activities cannot require additional data rights from offerors, BUT can evaluate the impact of offered rights for Technical Data and Computer Software.

UNDER CONSTRUCTION: Guidance on data rights as source selection criteria is a future topic

11.4 COMMERCIAL LICENSE REVIEW & APPROVAL

Copies of all license agreements associated with commercial TD should be included with the DR Attachment. The specific content and terms of these licenses should be carefully reviewed by government legal counsel during the proposal evaluation phase to ensure the terms are legally acceptable. There is the potential that some of the commercial license terms may contradict federal law and therefore be unacceptable. There is also the potential the terms may simply not align with program technical requirements (e.g., site license versus individual licenses). Any issues found with the commercial licensees should be reported to the Procuring Contracting Officer for follow-up with the offeror.

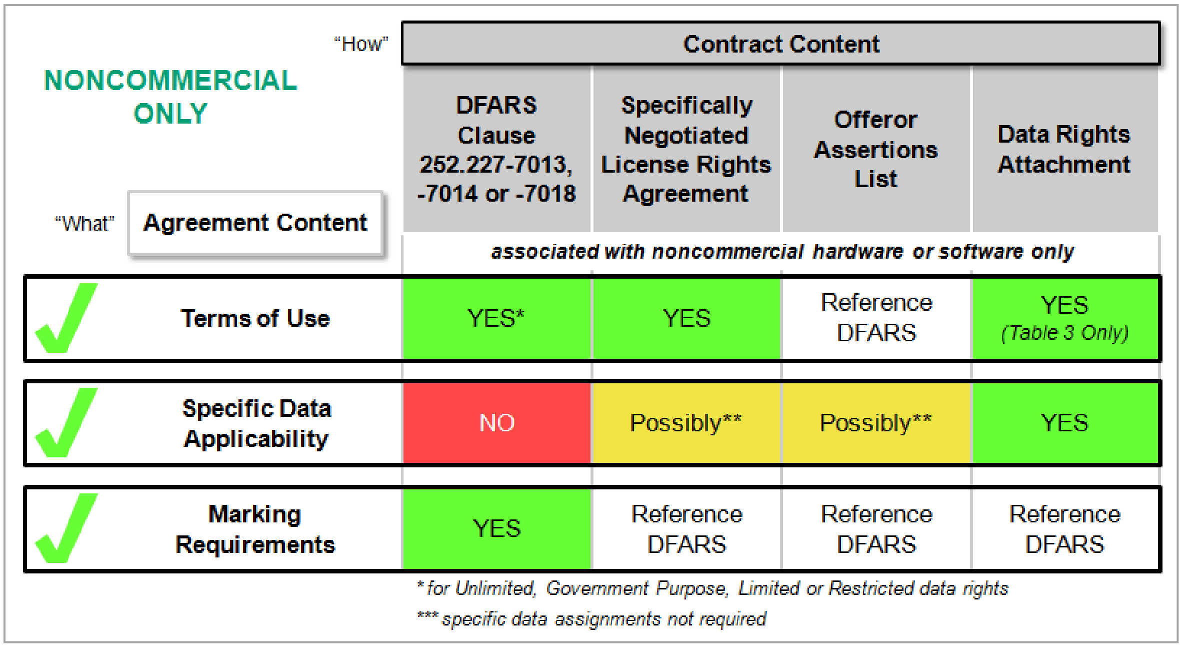
Once the issues are resolved to the satisfaction of both parties, the commercial licenses must be made attachments to the contract prior to award.

11.5 DATA & DATA RIGHTS LICENSE AGREEMENT DOCUMENTATION

The content of license agreements should address what specific data is covered by the license, the terms of use for that data, and any marking requirements. License agreements for commercial CS usually include all of this information.

However, information from a range of sources is usually needed to fully define a license agreement for data associated with a noncommercial product. Figure 22 depicts how these information sources can be combined to meet the content requirements for a license agreement associated with a noncommercial product.

Figure 22: Data and Data Rights License Agreement Documentation



NONCOMMERCIAL ONLY	"How" Contract Content			
"What" Agreement Content	DFARS Clause 252.227-7013, -7014 or -7018	Specifically Negotiated License Rights Agreement	Offeror Assertions List	Data Rights Attachment
	associated with noncommercial hardware or software only			
✓ Terms of Use	YES*	YES	Reference DFARS	YES *(Table 3 Only)*
✓ Specific Data Applicability	NO	Possibly**	Possibly**	YES
✓ Marking Requirements	YES	Reference DFARS	Reference DFARS	Reference DFARS

** for Unlimited, Government Purpose, Limited or Restricted data rights*

**** specific data assignments not required*

The data rights assertion list required by DFARS provision 252.227-7017 should identify any data to be delivered to the government with less than Unlimited Rights. An offeror assertion list may or may not specify what CDRLs are affected but the DR Attachment is the recommended method to fully document what data deliverables are associated with what data rights.

If the terms of use defined in the DFARS are modified by mutual agreement between the government and contractor, the revised terms must be documented in a Specifically Negotiated License Rights agreement. Contract Administration information is not addressed by any DFARS clause and the terms of use for this data should be documented in a Specifically Negotiated License Rights agreement.

11.6 LICENSE AGREEMENT RESOLUTION

Assertions of restrictions in noncommercial TD and CS are not necessarily determinative of final license agreements but may be subjected to pre-award or post-award challenge procedures. However, the DFARS discourages delay of competitive source selections by pre-award challenges "unless resolution of the assertion is essential for successful completion of the procurement." This creates a dilemma since agreeing to licenses prior to resolution of any questions regarding the propriety of asserted restrictions and only resolving questions after a contract is awarded may both be disadvantageous to the government.

Legal counsel should be consulted for a consideration of whether specific license agreements made pre-award and related to questionable assertions can be subject to later challenge. In addition, when time constraints do not permit resolution of all restriction concerns, priority should be given to CDRLs identified as key. The content of license agreements should address what specific data is covered by the license, the terms of use for that data, and any marking requirements. License agreements for commercial CS usually include all this information. Accepted license agreements should be included as attachments in a contract.

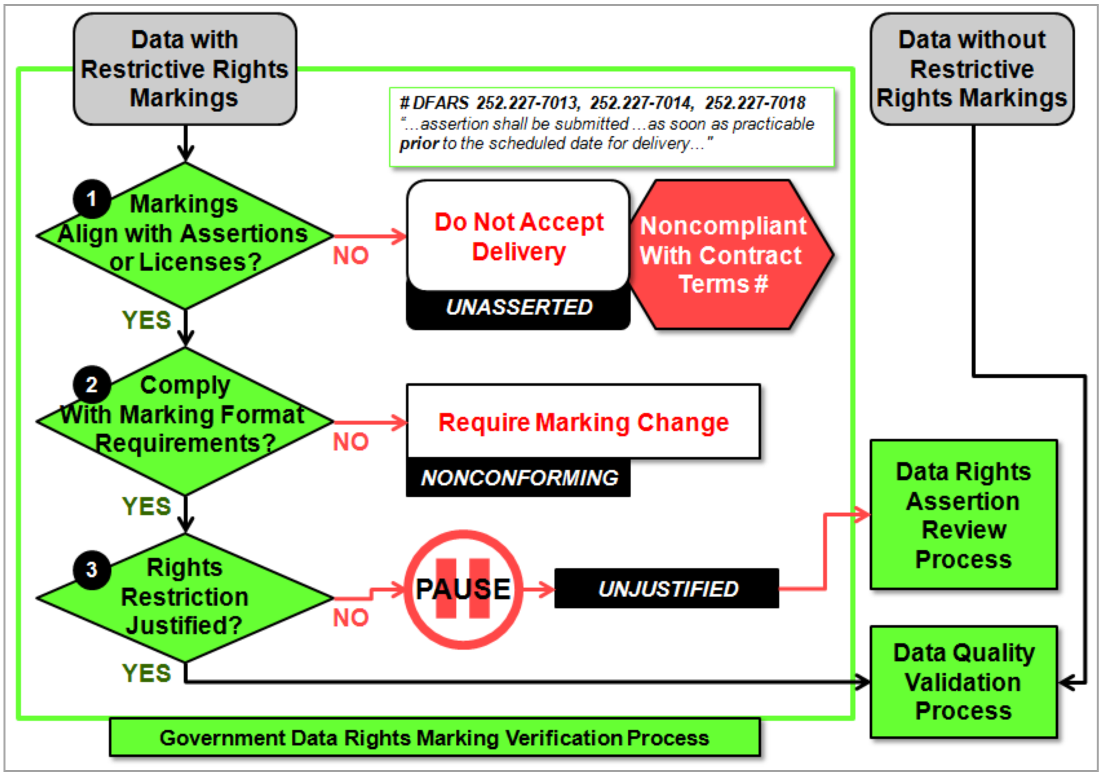
12. DATA MARKING VERIFICATION

UNDER CONSTRUCTION: See DoDM 5010.12 for additional guidance on data delivery

12.1 INTRODUCTION / THE PROCESS

Any data delivered to the government with restrictive markings should have those markings verified before acceptance. The process shown in Figure 23 is derived from the applicable content of DFARS clauses 252.227-7013, 252.227-7014, and 252.227-7018. The time and resources spent to perform inspection and acceptance of data items are small compared to the potential disagreements and costs avoided.

Figure 23: Data Rights Marking Verification Process


Data with Restrictive Rights Markings
Data without Restrictive Rights Markings
# DFARS 252.227-7013, 252.227-7014, 252.227-7018
"…assertion shall be submitted …as soon as practicable **prior** to the scheduled date for delivery…"
1 Markings Align with Assertions or Licenses?
NO
Do Not Accept Delivery
UNASSERTED
Noncompliant With Contract Terms #
YES
2 Comply With Marking Format Requirements?
NO
Require Marking Change
NONCONFORMING
YES
3 Rights Restriction Justified?
NO
PAUSE
UNJUSTIFIED
Data Rights Assertion Review Process
YES
Data Quality Validation Process
Government Data Rights Marking Verification Process

Noncommercial data delivered **without** any restrictive data rights markings is treated as having Unlimited Rights and the rights marking verification process is not needed.

The three verification steps are (1) assertion alignment, (2) markings format conformance, and (3) rights restriction justifiability. Each of these steps is discussed in the following sections. Although this verification process is focused on TD associated with a noncommercial item, noncommercial CS, and SBIR data, the assertion alignment step is also applicable to commercial data.

12.2 ASSERTION ALIGNMENT

The first step is to check that the data rights markings align with the contractor data rights assertions. Any data delivered with a data rights marking that does not align with a previously asserted data right is noncompliant with the terms of DFARS clauses 252.227-7013, 252.227-7014, or 252.227-7018 which require an "...assertion shall be submitted ...as soon as practicable prior to the scheduled date for delivery..."

Consequently, the data delivery cannot be the first time an additional data rights restriction is disclosed to the government. Any data delivered with restrictive markings and without a corresponding data rights assertion should not be accepted.

12.3 FORMAT CONFORMANCE VERIFICATION

The second step is to check the data rights markings for conformity with the marking formats defined in the applicable DFARS clause included in the contract.

Markings for TD associated with a noncommercial item or noncommercial CS must conform to the formats required by DFARS clauses 252.227-7013, -7014, or -7018. This issue generally involves a contractor using terms like "All Rights Reserved," "XYZ Proprietary, "or "XYZ Company Confidential" to mark this type of data rather than the exact wording specified in these clauses. The Contracting Officer has the authority to order these nonconforming markings be removed and corrected. Contractors typically have 60 days to make the corrections and resubmit the data.

Note the DFARS does not specify any marking requirements for Technical Data associated with a commercial item. If this type of data is received without any restrictive markings, the government is relieved of any liability for releases of such data.

Also, note that the DFARS does not address marking requirements for commercial computer software. These markings must be specified in the associated license.

12.4 RIGHTS RESTRICTION JUSTIFICATION

The third verification step focuses on the justification of the data rights assertion on which the restrictive rights marking was based. This step is primarily applicable to Technical Data associated with a noncommercial item, noncommercial computer software, and SBIR data.

The contractor data rights assertions or DR Attachment included in the awarded contract is not an indication that the government has accepted the assertion. These assertions may be subjected to post-award challenge procedures.

If the validity of the assertion is questioned, the associated data should not be accepted until a data rights assertion review has been completed. Note government representatives must honor the applied rights markings until the assertion review process is complete.

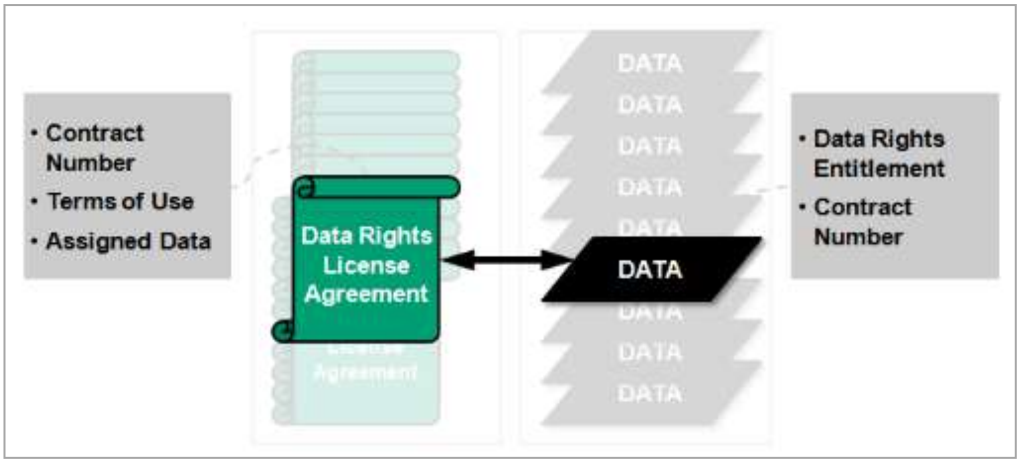
13. DATA MANAGEMENT

13.1 DATA RIGHTS LICENSE AGREEMENT STORAGE & USE

It is important to keep track of all data and data rights license agreements throughout the life cycle of a program and beyond. The data rights markings and license agreements are the main sources of information describing rights restrictions and how they affect the distribution and use of the data.

The license agreement terms of use should be understood and available to anyone that may be sharing or releasing data to support development, manufacturing, and product support efforts. Data rights are normally granted to the government as a whole rather than a specific organization or program. As such, other government organizations may wish to use the technical data or computer software acquired by another program and will need to understand the terms of use. To facilitate this information sharing and reuse, data repositories should be configured to link license agreements and the subject data as shown in Figure 24

Figure 24: Data and Data Rights License Agreement Linkage

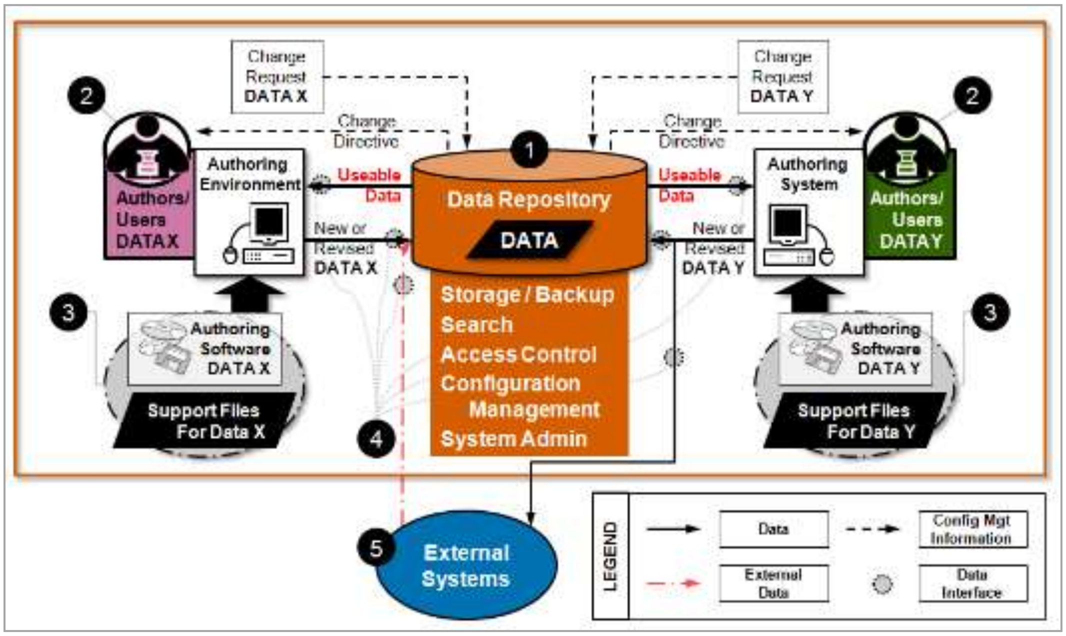


There are significant financial impacts to the government as a whole and possible jail time for government employees if data is distributed to unauthorized parties in violation of data or data rights license agreements. Awareness of these terms of use will avoid misunderstandings regarding what information can be shared outside of the government and items can be competitively procured.

13.2 DATA MANAGEMENT SYSTEM COMPONENTS & FUNCTIONS

Effective data management and use are best described in the context of a typical data management system. This system exists to support the creation, revision, storage, and sharing, and protection of the data it stores. A range of components and processes are needed to accomplish this task as shown in Figure 25. These include the data repository system itself (Item 1), data authors and users (Item 2), data authoring environments (Item 3), data interfaces (Item 4), and external data systems (Item 5). Each of these components are discussed in the following sections.

Figure 25: Data Management System Components and Functions



13.3 DATA REPOSITORY

The data repository provides storage for a variety of data items. It should support data searching, configuration management, access or modification control, and restoration.

a. Storage, Backup, & Restoration

The data repository system must be capable of storing, backing up, and recovering all the data items it stores. The system should be able to restore any data items lost due to accidental deletion, file corruption, or disaster.

b. Search Function

The data repository should support user or system searches to locate specific data items and elements assigned to them. Inclusion of the proper metadata element values should be verified before an item is accepted into the repository. These metadata values will greatly enhance a user's ability to find that data item.

13.4 CONFIGURATION MANAGEMENT

Configuration Management (CM) is a process for establishing and maintaining consistency of a product's attributes with its requirements, design, and operational information throughout its life. A single set of “master” Product Configuration Documentation should be established as the authoritative source for all subsequent copies of that data to be used. CM ensures that modifications to the product and its associated documentation are reviewed and approved before any change is made to the defined master data.

CM processes ensure that baselines are defined, only approved changes are made to the product data, and the physical product configurations are updated accordingly. When a proposed change to a configuration item is approved, there are usually corresponding modifications required to the data and documentation associated with the configuration-managed item.

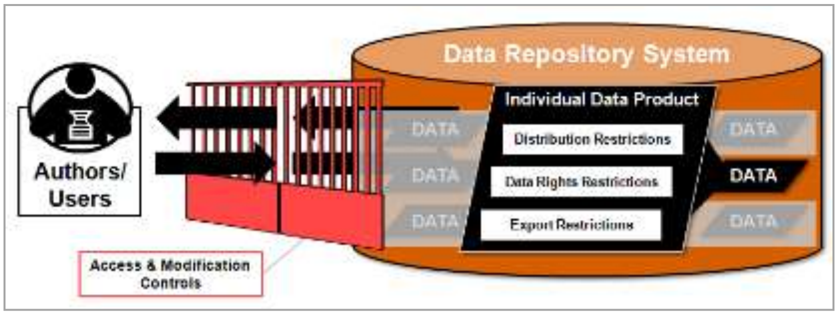
Once the data is changed, traditional CM processes would require the Configuration Approval Authority confirm that all the changes were done correctly. The Approval Authority then ”releases” the new versions of the data into the data management system, with new identifiers (usually a revision level or date marking), to differentiate it from any prior versions. An audit trail must be kept describing each change to the product configuration or configuration describing data, the data to be changed, the approver of the change, when the change was made to the associated data, and when the change was incorporated into physical configurations of the item.

The data repository must prevent unauthorized modification to the master set of Product Configuration Documentation and be capable of identifying who users are, control what data they have access to, and control what functions they are allowed to perform with that data. While many people may have permissions to view and copy from the master set of product data, only a very limited number of users should have the ability to modify the master data. Any data modifications should be done in accordance with the program's CM procedures.

13.5 ACCESS CONTROLS

Data users must know of any restrictions regarding access to or distribution of each data product and the data management system must be configured accordingly. Distribution Statements, Data Rights Markings, and Export Control information are all methods to ensure proper access control and must be known about each data product as shown in Figure 26. This information should be included in the data product content and defined as metadata element values.

Figure 26: Users and Access/Modification Control



As discussed in this section, unauthorized release or disclosure to a third party of any data with access restrictions can have a significant financial impact to the government. It can also result in criminal penalties for government employees involved per 18 U.S.C. § 1832. Theft of trade secrets and 18 U.S.C. § 1905. Disclosure of confidential information generally. Proper marking of the data combined with data management system capabilities and user education can avoid these situations.

To ensure full compliance with data access restrictions, yet allow maximum data sharing and use, the data management system should have detailed business rules and user roles requirements established to control access to specific data. This is a complex task and the system should, as a minimum, determine proper access to individual data objects for each user based on the combination of distribution statement and data rights marking.

Government personnel can usually access and use Limited and Restricted Rights data for purposes other than manufacture. Contractor access to Limited and Restricted Rights data will require that the recipient's contract include DFARS 252.227-7025 or a non-disclosure agreement (NDA) between the user requesting the data and the data originator. An NDA binds the user from disclosing the restricted data without authorization from the data originator or owner.

DFARS 227.7103-7 Use and Non-Disclosure Agreement provides a standard form for a non-disclosure agreement. Inclusion of DFARS clause 252.227-7025 in a contract can also serve as a government NDA that a contractor agrees to with acceptance of the contract.

A distinction must be made between a generic support contractor and the special case of a Covered Government Support Contractor (CGSC) relative to the need for an NDA. Contractors directly furnish an end item or service to accomplish a government program or effort. CGSCs work directly with the government to support the management and oversight of a program or effort. CGSCs can generally have data access permissions similar to DoD and government employees without the need for an additional NDA **provided** the support contract contains DFARS clause 252.227-7025 **and** the contractor meets all the requirements to be a covered government support contractor.

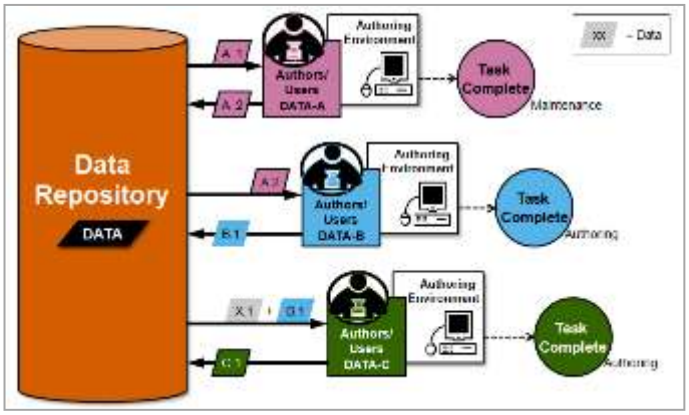
13.6 REPOSITORY SYSTEM ADMINISTRATION

Any data repository system will require administration of the entire system including infrastructure and hardware updates, user accounts, backups, and repository software updates.

a. Data Repository Author/User Interactions

Data users typically retrieve information from the data repository to accomplish a task. That task can involve either revision of existing data (data maintenance) or authoring new data. Figure 27 depicts a scenario where one user has the task to update data product A.1 to create data product A.2. Other users may require the A.2 data to accomplish their task, which leads to more derivative data (B.1). This scenario is repeated throughout a program while users maintain and create data to support the effort

Figure 27: Data Repository Author/User Interactions



b. Data Authoring Environments

Data Authoring Environments are the tools and supporting data needed to create or modify a specific set of data stored in the repository system. Data authors using these environments will need to interact with the data repository system in order to retrieve and modify or submit new data.

c. Data Interfaces

The ease with which data can be shared or exchanged can significantly affect program success. A typical acquisition program data management system performs data interactions where data products are transferred from one system to another. These interactions require exchange protocol definitions and metadata requirements. Data system interface requirements are specific to the systems involved and beyond the scope of this guide. Program teams should contact the repository system administrator to understand the repository data exchange protocols.

d. External Systems

It is likely the data management system will need to supply data to and receive data from other systems. These interactions can be highly efficient but care must be taken to prevent unauthorized access to data or user information. In general, external systems should comply with all of the user access requirements before any transactions are begun.

14. GLOSSARY

Unless otherwise noted, these terms and their definitions are for the purpose of this document. IP Strategy Guide Supplement 1 includes additional glossary terms. Terms without a named source are creations specific to this guide.

Acquisition Strategy (AS)	A business and technical management approach designed to achieve program objectives within the resource constraints imposed. It is the framework for planning, directing, contracting for, and managing a program. It provides a master schedule for research, development, test, production, fielding, modification, post-production management, and other activities essential for program success. Source: DAU Glossary
Additional Rights	Rights that are less restrictive than the standards rights defined by DFARS. Usually acquired from the data owner in exchange for consideration/compensation. Source: IP Strategy Guide
Computer Software (CS)	Information consisting of "…computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer databases or computer software documentation." Sources: DFARS 227.72, 252.227-7013, -7014, -7015, and -7018
Computer Software Configuration Item	Under some software development standards, an aggregation of software designated for Configuration Management (CM) and treated as a single entity in the CM process. Also referred to as a Software Item (SI) or Software Configuration Item (SCI). Source: DAU Glossary
Configuration Item (CI)	An aggregation of hardware, firmware, computer software, or any of their discrete portions, which satisfies an end-use function and is designated by the government for separate Configuration Management (CM). Cis may vary widely in complexity, size, and type, from an aircraft, electronic or ship system, to a test meter or round of ammunition. Any item required for Logistics Support (LS) and designated for separate procurement is a CI. Source: DAU Glossary
Contract Data Requirements List (CDRL)	A list of authorized data requirements for a specific procurement that forms a part of the contract. It is comprised of either a single CDRL form or a series of individual CDRL forms containing data requirements and delivery information.

Covered Government Support Contractor	A contractor under a contract, the primary purpose of which is to furnish independent and impartial advice or technical assistance directly to the government in support of the government's management and oversight of a program or effort (rather than to directly furnish an end item or service to accomplish a program or effort), provided that the contractor— (i) Is not affiliated with the prime contractor or a first-tier subcontractor on the program or effort, or with any direct competitor of such prime contractor or any such first-tier subcontractor in furnishing end items or services of the type developed or produced on the program or effort; and (ii) Receives access to technical data or computer software for performance of a government contract that contains the clause at 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends. Source: DFARS 252.227-7013
Data	Recorded information, regardless of form or the media on which it may be recorded. The term includes Technical Data and Computer Software. The term does not include information incidental to contract administration, such as financial, administrative, cost, or pricing, or management information. Source: FAR 52.227-14
Data (License) Rights / Terms of Use	Description of the rights and obligations of the government and contractor regarding the use, reproduction, and disclosure of data. Government terms of use for standard rights (UR, GPR, LR, RR, SBIR rights) are defined in the DFARS.
Data Deliverable	Data meeting all the requirements of a specific CDRL presented to the government for acceptance.
Data Item	see Data
Data Rights Attachment (DR Attachment)	An RFP and contract attachment providing more detail than the DFARS assertions clause (252.227-7017). It contains tables that list all of the CDRLs, the government desired rights, and offeror agreed to rights. It becomes an attachment in the signed contract after awardee fills in their responses.
DoD Organic Industrial Base (DOIB)	A military service or defense agency capable of doing the same work as a contractor. Source: "Fiscal Year 2017 Annual Industrial Capabilities Report to Congress," March 2018, Office of the Under Secretary of Defense for Acquisition and Sustainment, Office of the Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy.

Element	Complete, integrated set of subsystems capable of accomplishing an operational role or function, such as navigation. It is the Configuration Item (CI) delivered by a single contractor. Source: DAU Glossary
Full and Open Competition (FOC)	All responsible sources are eligible to compete. The standard for competition in contracting. Required by the Competition in Contracting Act (CICA) (1984). Source: DAU Glossary
Full-Rate Production (FRP)	The second part of the Production and Deployment (P&D) Phase as defined and established by DoD Instruction (DoDI) 5000.02 after Low Rate Initial Production (LRIP) and following a successful Full-Rate Production Decision Review (FRPDR). The system is produced at rate production and deployed to the field or fleet. Source: DAU Glossary
Gap	Situation where permitted uses of acquired data do not align with the planned production or product support sourcing methods. Source: IP Strategy Guide
Government Purpose Rights (GPR)	Data rights enabling the government to release data for further competitions on another government contract, but cannot release the data for any commercial purposes. Sources: DFARS 252.227-7013 and -7014
Integrated Product Team	A team composed of representatives from appropriate functional disciplines working together to build successful programs, identify and resolve issues, and make sound and timely recommendations to facilitate decision-making.
Intellectual Property (IP)	Creations of the mind - creative works or ideas embodied in a form that can be shared or can enable others to recreate, emulate, or manufacture them. There are four ways to protect intellectual property - patents, trademarks, copyrights, or trade secrets. Source: United States Patent and Trademark Office Glossary
Key Interface	Interfaces important to achieving a program's business and/or technical objectives. Key interface examples include any that affect interoperability, maintainability, upgradeability, life cycle supportability, and/or life cycle cost. Source: IP Strategy Guide
License Rights	Same as data rights. Some DoD guidance uses license rights rather than data rights.
Life Cycle Sustainment Plan (LCSP)	Describes the approach and resources necessary to develop and integrate sustainment requirements into the system's design, development, testing, deployment, and sustainment phases. Source: ACQuipedia Article

Logistics Product Data (LPD)	That portion of Product Support Analysis documentation consisting of detailed data pertaining to the identification of Product Support resource requirements of a product. See GEIA-STD-0007 for LPD data element definitions. Source: MIL-HDBK-502A
Low-Rate Initial Production (LRIP)	The first part of the Production and Deployment (P&D) Phase. LRIP is intended to result in completion of manufacturing development in order to ensure adequate and efficient manufacturing capability and to produce the minimum quantity necessary to provide production or production-representative articles for Initial Operational Test and Evaluation (IOT&E); establish an initial production base for the system; and permit an orderly increase in the production rate for the system, sufficient to lead to Full-Rate Production (FRP) upon successful completion of operational (and live-fire, where applicable) testing. Source: DAU Glossary
Major Capability Acquisition	To acquire and modernize military unique programs. These acquisitions typically follow a structured analysis, design, develop, integrate, test, evaluate, and produce approach. Acquisition processes, reviews, and documentation will be tailored based on the program size, complexity, risk, urgency, and other factors. Software intensive components may be acquired via the software acquisition pathway, with the outputs and dependencies integrated with the overall major capability pathway.
Major System Interface	‘‘(A) means a shared boundary between a major system platform and a major system component, between major system components, or between major system platforms, defined by various physical, logical, and functional characteristics, such as electrical, mechanical, fluidic, optical, radio frequency, data, networking, or software elements; and (B) is characterized clearly in terms of form, function, and the content that flows across the interface in order to enable technological innovation, incremental improvements, integration, and interoperability." Source: 10 U.S.C. § 2446.
Markings (Data)	Information describing restrictions on data use or distribution. Includes distribution statements, and markings for data rights, copyright, security classification, and export control.
Needed Rights	Data rights required by the program to enable its production and product support strategies.
Object code	Computer instructions and data definitions in a form that is output by an assembler or compiler. Typically machine language. The code used to install and run the software.

open system	"A system that implements specifications maintained by an open, public consensus process for interfaces, services, and support formats, to enable properly engineered components to be utilized across a wide range of systems with minimal change, to interoperate with other components on local and remote systems, and to interact with users in a manner that facilitates portability." Source: DAU Glossary
Organic Support	The capability of a military Service or a defense agency to sustain logistics operations through U.S. government organizational structures. Source: DAU Glossary
Other than FOC	Opposite of FOC. Situations where sources of supply are limited to a single entity.
Product Structure	Hierarchical decomposition of a product into distinct elements, also known as the bill of materials, system configuration, or indentured parts list. Source: IP Strategy Guide
Integrated Product Support	The package of support functions required to deploy and maintain the readiness and operational capability of major weapon systems, subsystems, and components, including all functions related to weapon systems readiness. Comprised of 12 elements: Product Support Management, Design Interface, Sustaining Engineering, Supply Support, Maintenance Planning and Management, Packaging, Handling, Storage, and Transportation, Technical Data/Technical Manuals, Support Equipment, Training & Training Support, Manpower & Personnel, Facilities & Infrastructure, Computer Resources. Sources: DAU Glossary and IPS Elements Guidebook
Product Support Analysis	The analysis required to create the package of support functions required to field and maintain the readiness and operational capability of major weapon systems, subsystems, and components, including all functions related to weapon system readiness. Source: MIL-HDBK-502A
Product Support (Analysis) Sourcing Method	How the government will provide Integrated Product Support (IPS) or PSA for product structure element. Sourcing method is either FOC or O-FOC sourcing. Source: IP Strategy Guide
Production	The process of converting raw materials by fabrication into required material. It includes the functions of production—scheduling, inspection, Quality Control (QC), and related processes. Source: DAU Glossary
Production Sourcing Method	How the government plans to acquire product structure element and subcomponents for field use. Sourcing method is either FOC or O-FOC. Source: IP Strategy Guide

Program Strategies	Summary term for the program production and product support strategies, as defined in the AS and LCSP/equivalent. Source: IP Strategy Guide
Proprietary Data	A broad contractor term used to describe data belonging to the contractor. Data is associated with privately funded technology.
Small Business Innovation Research Rights (SBIR rights)	Rights in data from Small Business Innovation Research (SBIR) contract. Generally equivalent to Limited or Restricted Rights. Government may not release data for manufacturing without contractor approval or previous agreement, except for emergency repair. Source: DFARS 252.227-7018
Software	Information consisting of "…computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer databases or computer software documentation." Sources: DFARS 227.72, 252.227-7013, -7014, -7015, and -7018
Software maintenance	The process of modifying a software system after delivery to correct faults, improve performance or adapt it to a changed environment (IEEE12207)
Sole source acquisition	A contract for the purchase of supplies or services that is entered into or proposed to be entered into by an agency after soliciting and negotiating with only one source. Source: DAU Glossary
Solicitation Information Table	Table with product structure elements, their production, and product support strategies, and the need for data rights to support FOC use of the data. Source: IP Strategy Guide
Source code	Human-readable computer instructions and data definitions expressed in a form suitable for input to an assembler, compiler, or other translator. Source: DAU Glossary
spare/repair part (spares)	Spare Parts - Repairable components or assemblies used for maintenance replacement purposes in major end items of equipment. Spares - A term used to denote both spare and repair parts Repair Parts - Consumable bits and pieces; that is, individual parts or non-repairable assemblies required for the repair of spare parts or major end items. Source: DAU Glossary
Spare/Repair Parts Data	A subset of data from the TDP used to procure spare or repair parts for product support.

Special License Rights	General term for rights terms of use other than the DFARS standard rights. A special license rights agreement must describe all of the terms of use, restrictions, etc. SNLR is a type of Special License Rights. Commercial licenses are another.
Specifically Negotiated License Rights (SNLR)	Rights when a standard license rights arrangement (commercial or DFARS) is modified by mutual agreement of the contractor and the government. The exact terms of the new agreement are spelled out in a unique Specifically Negotiated License Rights agreement. Sources: DFARS 252.227-7013, -7014, -7015, -7018.
Standard Data/License Rights	The default license rights acquired by the government as set forth by DFARS clauses included in the contract and applicable statutes and regulations.
Sustainment	Translates force provider capability and performance requirements into tailored product support to achieve specified and evolving life cycle product support availability, reliability, and affordability parameters. This includes maintenance planning, logistics design requirements, reliability and maintainability, system safety, maintenance engineering, support and test equipment, training and training devices, manpower and skills, facilities, transportation, supply support, parts packaging, initial provisioning, cataloging, item management, and in-service feedback.
Technical Data (TD)	Information that is “…recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information." Sources: DFARS 227.71, 252.227-7013, -7014, -7015, and -7018
Technical Data Package (TDP)	A technical description of an item adequate for supporting an acquisition strategy, production, and engineering and logistics support. The description defines the required design configuration or performance requirements, and procedures required to ensure the adequacy of item performance. TDP elements include: a. Conceptual design drawings/models. b. Developmental design drawings/models and associated lists. c. Production drawings/models and associated lists. d. Commercial drawings/models and associated lists. e. Special Inspection Equipment drawings/models and associated lists. f. Special Tooling drawings/models and associated lists. g. Specifications. h. Software documentation. i. Special Packaging Instruction (SPI) documents, drawings/models, and associated lists. j. Quality assurance provisions (QAP) Source: MIL-STD-31000A

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Unlimited Rights (UR)	The rights to use, modify, reproduce, perform, display, release, or disclose data in any manner, and for any purpose whatsoever, and to have or authorize others to do so. Sources: DFARS 252.227-7013, -7014, -7018