

# memorandum

DATE: July 20, 2001

REPLY TO

ATTN: LPD:TPB:RED

SUBJECT: Federally Funded Work for Others (WFO) Non-Federal Sponsor (NFS) Agreements

TO: Daniel Glenn, AAO  
Elizabeth Sellers, KCAO  
Richard Mah, MS C334, LANL  
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This memorandum provides additional guidance to AL's March 8, 2001, memorandum titled "Federally Funded Work for Others Non-Federal Sponsor Agreements." The March memorandum explained that when there is federal funding for a WFO NFS agreement, rights to inventions reside with DOE or the DOE contractor, depending upon the patent rights provision included in the Management and Operating contract.

In these cases, Appendix B (Patent Rights) is to be omitted and marked "Reserved," and one of the following articles is to be included in the general terms and conditions portion of the WFO NFS agreement:

1. "PATENT RIGHTS. The rights to any intellectual property developed under this Agreement will be governed by the intellectual property provisions of the Contractor's Management and Operating contract with DOE."
2. "PATENT RIGHTS. The rights in intellectual property of the Sponsor's employees will be governed by the intellectual property provisions of the Sponsor's agreement with the Federal Government, to the extent the Sponsor is performing work under and specified in this Agreement, and the rights in intellectual property of the Contractor's employees will be governed by the provisions of Contractor's Management and Operating contract with DOE." \*

The appropriate data rights article should be included in Appendix C.

\*This article should be used when the statement of work specifies that the Sponsor is performing specific work under the agreement.

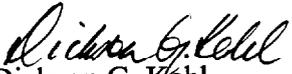
Addressees

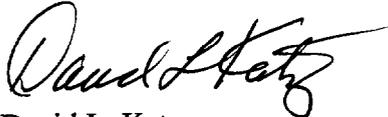
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In addition, the Product Liability article may be changed to recognize that the work is being performed under an agreement with the Federal Government by inserting "for commercial purposes" (in the fifth line) in the following article:

"PRODUCT LIABILITY INDEMNITY. The Sponsor hereby agrees to indemnify and hold harmless the Contractor and the Government, their officers, agents, and employees from any and all liability, claims or damages, including attorney fees and cost whatsoever, for injury to or death of persons, or damage to or destruction of property, as a result of or arising out the making, use, or selling of a product, process, or service for commercial purposes which was derived from the work performed under this Agreement by or on behalf of the Sponsor, its assignees or licensees; provided, however, that neither the Government nor the Contractor shall be considered assignees or licensees of the Sponsor as a result of reserved Government and Contractor rights."

Please call Technology Partnerships Branch personnel (505-845-5342) if you have any questions or require additional information on the above explanation.

  
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cc:

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