

Department of the Interior Departmental Manual

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Series: Legal

Part 454: Copyright

Chapter 2: Rights in Government Funded Copyrightable Materials

Originating Office: Office of the Solicitor

454 DM 2

2.1 Purpose and Scope. This chapter prescribes policies and procedures pertaining to the disposition of rights in copyrightable materials produced by employees of the Department, or derived from work funded by the Government. As employed below “contract” and “contractor” include “grant” and “grantee”, respectively.

2.2 Non-Copyrightability of Government Publications. By reason of the Copyright Act, 17 U.S.C., section 8, “An copyright shall subsist..... in any publication of the United States Government, or any reprint, in whole or in part thereof.” The Printing Law, 44 U.S.C., section 58, states that “No publication from such stereotype of electrolyte plates and no other government publication shall be copyrighted.” A publication commissioned or prepared at the cost and direction of the Government is ordinarily a government publication.

A. A published work prepared by an employee of the Department as part of his official duties is a government publication.

B. Where the principal subject matter of a contract is the translation or the preparation for publication of articles, books, or other copyrightable material, and by the terms of that contract all right, title and interest to the work produced is to be secured for the Government; the work, when published, is a government publication.

C. All copyrightable material first produced or composed pursuant to the work specified by a contract for research and development becomes the property of the Government and the contractor is normally not authorized to secure a copyright thereon.

D. A research and development contract authorized by a statute providing that all resulting information, uses, products, patents or other developments be available to the public (Saline Water Conversion Act of 1971, P.L. 92-60; Coal Research Act, 74 Stat. 337, 30 U.S.C. 666; and others), cannot grant the right to obtain a copyright on any work produced or composed pursuant to that contract. Under such contracts educational institutions and individuals in the field of education normally are granted the right to publish works arising out of the contract provided that the Government secures a royalty-free; nonexclusive and irrevocable license to publish, reproduce and use, and dispose of in any manner and for any purpose without limitation, and to authorize or ratify publication, reproduction or use by others, all copyrightable material

first produced or composed under the contract by the contractor, its employees, or any individual or concern specifically employed or assigned to originate and prepare such material.

2.3 Contractor Work Copyrighted. Where not precluded by statute, a contract may authorize a contractor to secure a copyright on material first produced or composed pursuant to the contract upon a finding that by reason of special circumstances equity requires that this be done, or it is in the best interests of the public to do so. The public interest will be best served in some situations by limiting the term of any copyright the contractor may secure to a partial term set forth in the contract. However, in any case where a contractor may secure a copyright the contract shall also provide the Government with a royalty-free, nonexclusive and irrevocable license thereunder of the scope set out in 454 DM 2.2D.

2.4 Cooperative Arrangements. On occasion the Department may wish to give limited assistance to an individual author, or organization in producing a copyrightable work by contributing thereto government materials, such as photographs, narrative reports, data, and the like, and possibly the services of employees of the Department, or government funds. Any agreement in such a situation should provide the Government with a measure of compensation which may be in the form of a specified number of copies of the completed work or other suitable remuneration. Recognition of the Government's contribution should also be secured by statements at appropriate places in the work identifying the Department as the source of materials used, or assistance given.

2.5 Consultation with Solicitor. If a contract or agreement is believed to come within the purview of 454 DM 2.3 or 2.4, the Solicitor's Office must be consulted for a suitable copyright clause.

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