



1. PURPOSE

The purpose of this document is to establish SPAWAR policies and procedures for the processing of contractor invention reports. Patent counsel should be contacted for further direction.

2. POLICY

This policy applies if your contract contains any of the following clauses:

- a. [FAR 52.227-11](#) - Patent Rights-Ownership by the Contractor
- b. [FAR 52.227-13](#) - Patent Rights-Ownership by the Government
- c. [DFARS 252.227-7039](#) - Patents-Reporting of Subject Inventions
- d. [DFARS 252.227-7038](#) - Patent Rights-Ownership by the Contractor (Large Business)

The [DD Form 882, Report of Inventions and Subcontracts](#), is used to inform the Government whether or not a contractor has created any novel, technical developments qualifying as "subject inventions". The Government has specific rights to any such "subject inventions" as per the FAR clause in the contract.

In contracts that include [DFARS 252.227-7039](#), contractors must provide a completed [DD Form 882](#) within three months after physical completion of their contract. They are also required to provide interim reports every 12 months, or for any longer period as specified by the Contracting Officer.

3. RESPONSIBILITIES

3.1 Contracting Officer's Representative (COR)

The COR is responsible for determining if any novel technical developments were conceived or reduced to practice (i.e., fabricated, implemented, etc.) under the contract. After physical completion of the contract, the COR will be requested to review the Contractor's [DD Form 882](#) for accuracy and completeness. The COR shall also indicate concurrence or non-concurrence with [DD Form 882](#) in an [Invention Questionnaire](#) as listed in the [Toolbox](#).

3.2 Contracting Closeout Officer (CCO)

The CCO is responsible for assuring that the contractor has provided a [DD Form 882](#) within three months after physical completion of the contract. The CCO should send a reminder e-mail to the contractor with a cc to the ACO. Below is suggested wording:

"Contract Nxxxxx-xx-x-xxxx between SPAWAR and (contractor's name) includes a patent rights clause. The clause requires the contractor to submit a [DD Form 882](#) to the Contracting Officer within three months of physical completion. To-date, none has been received. Please submit your [DD Form 882](#) to the undersigned."

The [Policy Branch](#) is responsible for tracking contractor compliance with the invention reporting requirements of the contract (see [flowchart](#) in the [Toolbox](#)) and electronically archiving documents. The CCO may approve a patent release (for closeout purposes only) for a "Negative" [DD Form 882](#) under either of the following conditions:

- The COR has confirmed in writing that the government believes no inventions or technical developments were conceived or reduced to practice under the contract.
- No responsible technical person can be identified because the contract is too old.
- Under either of these conditions, the CCO may provide a patent release in accordance with the release letter contained within this instruction.



3.3 Cognizant Office of Patent Counsel

Office of Patent Counsel at SSC Pacific is responsible for reviewing any positive Forms [DD Form 882](#) pertaining to SPAWAR HQ and SSC Pacific contracts and is responsible for assuring that all necessary documentation has been received prior to providing a release to contract - closeout.

Office of Patent Counsel at SSC Atlantic is responsible for reviewing any positive Forms [DD Form 882](#) pertaining to SSC Atlantic contracts and is responsible for assuring that all necessary documentation has been received prior to providing a release to contract-closeout.

4. PROCEDURE

4.1 Common Procedures for both “Negative” and “Positive” Invention Reports

- a) Upon physical completion of the contract, and if the contract includes any of the FAR or DFAR patent clauses referenced, the contractor will submit a [DD Form 882](#) to the CCO or CCO’s designated support contractor, who will track physical completion and prepare a letter for CCO’s signature requesting the report from the contractor.
- b) When a completed [DD Form 882](#) is received, it will be sent with the Invention Questionnaire to the COR for review. The COR will complete the [Invention Questionnaire](#) to substantiate or dispute the information on the [DD Form 882](#) provided by the contractor. This questionnaire is to be completed, signed and returned within 35 calendar days to the CCO for signature.
- c) If the COR disputes the findings, the [DD Form 882](#) will be returned to the contractor for resubmission or an explanation why no modification to the [DD Form 882](#) is required.
- d) If the [DD Form 882](#) information was received from the ACO, the information regarding the COR’s comments will be returned to the ACO with instructions for the contractor to resubmit or provide an explanation why no modification to the [DD Form 882](#) is required. The Contractor may return the resubmission either to the ACO or to the CCO or designated CCO support contractor.

All information on Negative or Positive Invention documentation will be tracked and logged into a Contractor Invention Tracking Database maintained by the respective SPAWAR facility responsible for awarding the contract.

4.2 Negative Invention Reports (See Flowchart “Path A”)

Follow the Common Procedures outlined above. If no technical developments or inventions are disclosed by the contractor, and the COR agrees there are none, the submission is considered to be a [Negative Invention Report](#). When the CCO signs the release letter it is sent to the ACO at the appropriate DCMA office (see [Toolbox](#) for Invention Report Release letter to DCMA Office).

4.3 Positive Invention Reports (See Flowchart “Path B”)

- a) If an invention has been disclosed by the contractor, and the COR agrees with these findings, the submission is considered to be a [Positive Invention Report](#) follow the common procedure outlined above. Once the disclosure has been verified by the COR within the 35 calendar day time period, the CCO (or designated support contractor) will track subsequent information, e.g. Invention Disclosures, Patent Applications, Statement of Government Interests and Confirmatory Instruments. These documents are due in accordance with the time periods specified by the FAR and DFARS.
- b) Once all supporting documentation on the invention or technical discovery has been received, the information will be sent to the SPAWAR Office of Patent



Counsel having cognizance over the contract. That office reviews, signs, and processes the information for final closure to the process.

5. APPROVALS

5.1 Cognizant Office of Patent Counsel

When a positive [DD Form 882](#) is received from the contractor and all required, signed documents (i.e. Invention Disclosure, Patent Application, Statement of Government Interest, and Confirmatory Instrument) are submitted, the Cognizant SPAWAR Office of Patent Counsel will approve the submitted package and provide the CCO and/or ACO with a letter that the contractor may use for contract closeout. Office of Patent Counsel SSC Pacific will provide approval for SPAWAR HQ and SSC Pacific contracts. Office of Patent Counsel SSC Atlantic will provide the approvals for SSC Atlantic contracts.

As stated in para [3.2](#) above, the CCO may approve for release any "Negative" [DD Form 882](#) submissions once the COR has indicated agreement with the negative submission. On very old contracts where no technical representative is available who has any knowledge of the contract, the CCO may approve for release (for closeout purposes only) the contractor's negative submission.

6. TOOLBOX

1. [Invention Questionnaire](#)
2. [Invention Report Closeout Flow Chart](#)
3. Invention Report Release letter to DCMA Office:
 - a. [Positive Invention Report](#)
 - b. [Negative Invention Report](#)
4. [Positive Deficiency Letter](#)

7. CHANGE HISTORY

Updated material is highlighted by *purple text* and an Alert/New  icon.

Date	Description of Changes
April 2016	Updated format, reorganized content, and updated links.
June 2009	Last version created in old format; no change notes available.