



Department of Energy

Washington, DC 20585

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In a 100% privately funded reimbursement situation with a non-federal sponsor, such as Work for Others (WFO) or User facility situations (but not a 100% funds-in CRADA), DOE has concluded that it has the discretion to recognize the technical data generated in the course of the work as proprietary data of the sponsor.

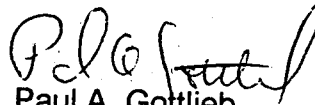
The new Work for Non-Federal Sponsors model sales agreement effectuates the above legal conclusion with the following paragraph:

The Sponsor may designate as Proprietary Information any Generated Information, where such data would embody trade secrets or would comprise commercial or financial information that is privileged or confidential if it were obtained from the Sponsor. Such Proprietary Information will, to the extent permitted by law, be maintained in confidence and disclosed or used by the Contractor (under suitable protective conditions) only for the purpose of carrying out the Contractor's responsibilities under this Agreement. Upon completion of activities under this Agreement, such Proprietary Information will be disposed of as requested by the Sponsor. Before the Contractor releases any data generated under this Agreement, Sponsor will be afforded the opportunity to review that data to ascertain whether it is Proprietary Information and to mark it as such.

This letter authorizes DOE Patent Counsel to approve the use of this clause in any other situation (except for a 100% funds in CRADA) where a sponsor is providing full cost recovery with non-federal funds and neither the laboratory nor DOE desire greater rights in the data. Guidance on circumstances where DOE or the laboratory might desire greater rights can be found in the Work for Non-Federal Sponsors model sales



agreement. An obvious situation where the paragraph might be used is for proprietary users of ER designated user facilities. Please inform this office of circumstances in which this clause is used.

A handwritten signature in black ink, appearing to read "P. A. Gottlieb", written in a cursive style.

Paul A. Gottlieb
Assistant General Counsel for
Technology Transfer and
Intellectual Property

cc: Agnes Dover