Technical Data and Computer Software Assertions – Proposal Submission Reference Sheet

This is a general reference covering the most commonly identified issues. See DFARS Subparts 227.71 and 227.72 and the clauses at DFARS 252.227 for complete requirements.

Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Technical Data or Computer Software.

The Contractor asserts for itself, or the persons identified below, that the Government's right to use, release, or disclose the following technical data or computer software should be restricted:

Technical Data or Computer Software to be Furnished with Restrictions	Basis for Assertion	Asserted Rights Category	Name of Person Asserting Restrictions

Corporation, individual, or other person, as appropriate

"Technical data" means recorded information of a scientific or technical nature. Example—drawings, designs, schematics, instructions, etc.

Technical data is not:
- Contract financial or management information
- Hardware [the assertion should identify the hardware the tech data is related to, but simply listing the hardware item by itself is insufficient]

Identify the data or software with specificity:
- Document name, number, date
- Software name, version number/build, date
- When the list is extensive, attaching an Excel spreadsheet may be appropriate

The assertions list only applies to technical data, computer software, and computer software documentation **to be delivered**. Items that will not be delivered under the contract should not be included on the list.

Developed Exclusively at Private Expense
- Basis for Limited, Restricted, or Specially Negotiated License Rights

Developed with Mixed Funding or
Developed Partially at Private Expense
- Basis for Government Purpose Rights

Developed under a SIBR Contract
- Basis for SIBR Data Rights

"Developed at Private Expense" is ambiguous—was it exclusively or partially at private expense?

If development was not accomplished at private expense, or for computer software documentation, enter the specific basis for asserting restrictions.

For tech data, "developed" generally means that an item, component, or process exists and is workable.

For software, "developed" generally means it has been demonstrated to perform its intended purpose.

Government Purpose Rights – Developed with mixed funding
Limited Rights – Tech data only
Restricted Rights – Software only
Specially Negotiated License Rights – Requires negotiation to ensure acceptable terms/conditions; May not be more restrictive than Limited or Restricted Rights; Include the license with proposal submission
SIBR Data Rights – Tech data and software developed under SIBR contracts

Regardless of funding source/SIBR contract status, the Government receives **Unlimited Rights** in:
- OMIT Data – Necessary for Operation, Maintenance, Installation, or Training purposes (other than detailed manufacturing or process data)
- Form, Fit, and Function Data – e.g. SWAP or Interface Control Documents
- Tech data or software previously delivered to the Gov't without restrictions
- Deliverable computer software documentation

(partial list—see DFARS 252.227-7013, -7014, -7015, -7018)

Note – Items that will be delivered with unlimited rights don't need to be included in the assertions list, but it's not objectionable if included for clarity.