

## 27.406-2 Additional data requirements.

(a) In some *contracting* situations, such as experimental, developmental, research, or demonstration contracts, it *may* not be feasible to ascertain all the *data* requirements at contract award. The clause at [52.227-16](#), Additional *Data* Requirements, *may* be used to enable the subsequent ordering by the *contracting officer* of additional *data* first produced or specifically used in the performance of these contracts as the actual requirements become known. The clause *shall* normally be used in *solicitations* and contracts involving experimental, developmental, research or demonstration work (other than basic or applied research to be performed under a contract solely by a university or college when the contract amount will be \$500,000 or less) unless all the requirements for *data* are believed to be known at the time of *contracting* and specified in the contract. If the contract is for basic or applied research to be performed by a university or college, and the *contracting officer* believes the contract effort will in the future exceed \$500,000, even though the initial award does not, the *contracting officer may* include the clause in the initial award.

(b) *Data may* be ordered under the clause at [52.227-16](#) at any time during contract performance or within a period of 3 years after acceptance of all items to be delivered under the contract. The contractor is to be compensated for converting the *data* into the prescribed form, for reproduction, and for delivery. In order to minimize storage costs for the retention of *data*, the *contracting officer may* relieve the contractor of the retention requirements for specified *data* items at any time during the retention period required by the clause. The *contracting officer may* permit the contractor to identify and specify in the contract *data* not to be ordered for delivery under the clause if the *data* is not necessary to meet the Government's requirements for *data*. Also, the *contracting officer may* alter the clause by deleting the term "or specifically used" in paragraph (a) of the clause if delivery of the *data* is not necessary to meet the Government's requirements for *data*. Any *data* ordered under this clause will be subject to the clause at [52.227-14](#), Rights in *Data*-General, (or other equivalent clause setting forth the respective rights of the Government and the contractor) in the contract. *Data* authorized to be withheld under such clause will not be required to be delivered under the clause at [52.227-16](#), except as provided in *Alternate II* or *Alternate III*, if included (see [27.404-2\(c\)](#) and (d)).

(c) Absent an established program for dissemination of *computer software*, agencies *should* not order additional *computer software* under the clause at [52.227-16](#), for the sole purpose of disseminating or marketing the software to the public. In ordering software for internal purposes, the *contracting officer shall* consider, consistent with the Government's needs, not ordering particular source codes, algorithms, processes, formulas, or flow charts of the software if the contractor shows that this aids its efforts to disseminate or market the software.

**Parent topic:** [27.406 Acquisition of data.](#)