

## Set #6

### Questions/Responses for ICESat-2 Flight Laser Procurement RFP NNG10338284R

**QUESTION:** If the data fall under the Special Works clause, does the contractor give up all rights to assert Limited Rights?

**RESPONSE:** Data that falls under the Special Works clause is deemed to be with unlimited rights to the Government. The clause specifies the Allocation of Rights.1) The Government shall have—

(i) Unlimited rights in all data delivered under this contract, and in all data first produced in the performance of this contract, except as provided in paragraph (c) of this clause. The contractor must have prior written approval from the Contracting Officer before asserting any claim to copyright.

**QUESTION:** The indemnity provision of the Special Works clause makes a contractor primarily liable for any misuse of trade secrets, etc., including that caused by data delivered by the contractor but created by a subcontractor – correct?

**RESPONSE:** Yes, the contractor-provided indemnification covers all data that is delivered under the Special Works clause, regardless of who created the data.

**QUESTION:** The meaning/definition of “exceptional circumstances” seems open to interpretation. Could the government please clarify and limit what would qualify as such?

**RESPONSE:** Exceptional circumstances are only those where the government has a demonstrable need to have data delivered with unlimited rights.