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The State Giveth and the State Taketh Away: Patent Rights Under the Bayh-Dole Act

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A small business owner is considering applying for a government contract to produce a new type of solar panel. She has been working on solar cell technology for years and has patents on her previous designs. She could really use the funding, but has misgivings: Will the government get the patent to the new design, or even the previous designs? Such matters are controlled by the Bayh-Dole Act of 1980 (—Bayh-Dole‖). According to conventional wisdom, Bayh-Dole represents a major shift in patent rights to federally-funded inventions from the government to the contractor. However, the rights Bayh-Dole gives contractors are limited and easily overridden. Conventional wisdom on Bayh-Dole ignores the numerous restrictions potentially placed on funding recipients, up to and including loss of the patent. This Note will discuss these limitations and how to best proceed with caution when entering into a government contract.

Related People



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