



Submittal Procedures for Those Seeking Software Copyrights

According to our prime contract, BNL OTT must request permission to assert copyright before commercially licensing any computer program compiled here at the lab. According to U.S. law and the DOE regulations embodied in our prime contract, four writings are necessary to complete the process. All the information to be provided by the author (you) is profiled in the five (linked) sections below.

- I. Permission to Assert from the Area Office**
- II. Programmatic Letter of Support**
- III. Submission to OSTI/ESTSC**
- IV. Submission to U.S. Copyright Office**
- V. Links to ESTSC and Copyright Documents**

I. In order for OTT to seek permission, we must send a form letter to Chicago addressing the following questions posed in Article 103, subparagraph (e) (1) (I) (A) of our prime contract:

(1) (state) the identity of the data (including any computer program) for which the Contractor requests permission to assert copyright, as well as an abstract which is descriptive of the data and is suitable for dissemination purposes,

(2) the program under which it was funded,

(3) whether the data is subject to an international treaty or agreement,

(4) whether the data is subject to export control,

(5) a statement that the Contractor plans to commercialize the data within five (5) years of obtaining permission to assert copyright, and

[6] For data that is developed using other funding sources in addition to DOE funding, the permission to assert copyright in accordance with this clause must also be obtained by the Contractor from all other funding sources prior to the Contractor's request to Patent Counsel. The request shall include the Contractor's certification or other documentation acceptable to Patent Counsel demonstrating such permission has been obtained.

Hence, you must provide BNL OTT with a description of your program that answers these questions, to the best of your ability. Feel free to request clarification.

II. Accompanying this letter must be a form showing support for our request from the leader (or other responsible person) attached to the DOE program that funded the research which spawned the software. We need specific information – name, title, address, fax, etc. – for submission to Chicago. If the software was written without programmatic assistance, Chicago Operations and/or BNL OTT will assist you in targeting a program leader who can provide corroborative support in this regard.

III. Energy Science and Technology Software Center Software (ESTSC) Submittal Forms. (links below) In general, The Federal Government reserves the right to freely practice any invention arising from government funding. DOE regulations require that all software developed and/or modified during work supported by DOE, be filed with ESTSC at OSTI/Oak Ridge - for possible use by other government entities in an effort to reduce duplication of effort. Software should be submitted to ESTSC if it meets the following broad criteria:

- if the software is known or expected to have broad usefulness within or outside the DOE community;

- if a stable, documented version of the software exists (i.e., it is not developmental software);
- if significant organizational resources have been invested in the creation and modification of the software.

Software that meets the above criteria need not be submitted if it is operational systems software or if it is funded under Work for Others and the agreement with the sponsor precludes submittal to the ESTSC. Further, software that deals with radiation transport and safety should be sent to ORNL's Radiation Shielding Information Center, a recognized Specialized Information Analysis Center for software.

DOE regulations and our prime contract require that the following submissions be made to ESTSC:

- An abstract describing the software – “suitable for publication.”
- Two catalogue submittal forms describing the software; one for the program and one describing the type of media on which an executable copy of the program is being submitted.
- An operator’s manual consisting of . . . **“at least the minimum support documentation needed by a technically competent user to understand and use the software.”**

Submittal forms and the required expanded abstract are explained in ESTSC Attachments IIC and IID. (The submittal forms themselves are somewhat easier to read on the web - the url’s are printed in the upper right corner.)

BNL OTT will make the final submission using the information, provided by you, as per the ESTSC materials.

IV. Finally, the U.S. Copyright Office requires that a print-out of the first 25 and last 25 pages of the program source code accompany the copyright application – unless the

entire printed code is less than fifty pages, in which case, all 50 pages should be submitted. There are slightly different requirements for the re-submittal of revised programs; for programs in which specific lines of code are considered to be trade secrets; and for programs that are deemed to have copyrightable screen displays – see Circular 61 and Form TX instructions or OTT for clarification.

The copyright office specifically requires that the page of code containing the **copyright notice** must be included with the code print-out. Special language mandated by DOE must be included in the copyright notice as follows:

" NOTICE: The Government is granted for itself and others acting on its behalf a paid-up, nonexclusive, irrevocable worldwide license in this data to reproduce, prepare derivative works, and perform publicly and display publicly. Beginning five (5) years after (date permission to assert copyright was obtained) the Government is granted for itself and others acting on its behalf a paid-up, nonexclusive, irrevocable worldwide license in this data to reproduce, prepare derivative works, distribute copies to the public, perform publicly and display publicly, and to permit others to do so.

NEITHER THE UNITED STATES NOR THE UNITED STATES DEPARTMENT OF ENERGY, NOR ANY OF THEIR EMPLOYEES, MAKES ANY WARRANTY, EXPRESS OR IMPLIED, OR ASSUMES ANY LEGAL LIABILITY OR RESPONSIBILITY FOR THE ACCURACY, COMPLETENESS, OR USEFULNESS OF ANY INFORMATION, APPARATUS, PRODUCT, OR PROCESS DISCLOSED, OR REPRESENTS THAT ITS USE WOULD NOT INFRINGE PRIVATELY OWNED RIGHTS."

The normal copyright notice required by USC 17 sec. 401 must also be included - as follows:

“. . . (1) the symbol (AF) (the letter C in a circle), or the word "Copyright", or the abbreviation "Copr."; and

(2) the year of first publication of the work; in the case of compilations, or derivative works incorporating previously published material, the year date of first publication of the compilation or derivative work is sufficient.

(3) the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner.

Please fill out the copyright application Form TX to the best of your ability. OTT will complete the form, ready for your signature at the time of submission of the entire package.

NB: All forms can be filled out by hand as OTT will make the final corrections and submissions.

Links:

Copyright Documents

[Circular 61 – Submission Procedures for Computer Software](#)

[Copyright Form TX](#)

OSTI/ESTSC Forms

[Software submittal form](#)

[Software submittal form instructions](#)

[Computer Media Profile](#)

ESTSC Attachments

[IIC](#)

[IID](#) – instructions and sample of description abstract format

Sample Abstract Submittal

Attachment III-D

1a. Software Acronym:

PUBS

1b. Short Title:

Database publishing system; generates bibliographic publications

2. Author Name(s) and Affiliations:

Norman E. Smith, David Cobb, Rick Anthony (Science Applications International Corporation, Oak Ridge, TN (United States)); Joe Edgar (XYZ Corporation, Knoxville, TN (United States))

3. Software Completion Date:

9/9/91

4. Brief Description:

PUBS is a database publishing system that is used to generate bibliographic publications. Data is pulled directly from a BASIS database, processed by PUBS, and output to a laser printer or phototypesetter. The output is formatted and camera ready. Features include automatic handling of special characters including Greek characters and math symbols, automatic generation of abstract numbers, and user specified section headers. The publications are organized by subject.

5. Method of Solution:

PUBS is table driven using object oriented programming techniques. A software based finite state machine controls much of the processing. All run-time options are specified via an Option File that can be parsed both by DCL and application programs. Functional design was applied in the design phase. The software is constructed in a modular manner.

6. Computer(s) for which software is written:

VAX

7. Operating System:

VMS

8. Programming Language(s) Used:

STOIC (80%); C (4%); Fortran (1%); TeX (10%); DCL (5%)

9. Software Limitations:

Disk space is a limiting factor. The largest single usage is temporary sort work files.

10. Unique Features of the Software:

PUBS is a batch system with no manual intervention to produce a typeset publication. It translates human readable special character representations directly into TeX tags for proper printing. Special characters are Greek and math symbols, as well as superscripts and subscripts. Nested symbols are allowed. Customization of the document can be done via the option file at run-time. This includes such things as generating "refer also" entries for abstracts. Abstract numbers are generated and maintained by the software. This includes routine publications.