
INNOVATIVE TECHNOLOGIES – AVENUES FOR WORKING WITH THE GOVERNMENT



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THE TARGET AUDIENCE



- ✘ This event is a must for ambitious small companies in the defense industry looking to strengthen their existing business operations with the Department of Defense, medium to large-sized companies interested in establishing working relationships with small businesses.
- ✘ This presentation is aimed at firms, large and small, that are engaged in emerging technologies, research and development, and applied research.

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WHAT IS THIS PRESENTATION ABOUT??



- ✘ High Technology Opportunities that will result in FAR Contracts – SBIR/STTR
- ✘ High Technology Opportunities that will result in Other than FAR Contracts
 - + Grants
 - + Other Transactions
 - + Cooperative Research and Development Agreements - CRADAs
 - + Technology Investment Agreement (TIA)
- ✘ How to find the activities that are using these instruments
- ✘ How to position your firm for these opportunities

FAR BASED CONTRACTS

- SMALL BUSINESS INNOVATIVE RESEARCH(SBIR)/SMALL BUSINESS TECHNOLOGY TRANSFER (STTR)



- ✘ Probably the best known federal government program for technology transfer
- ✘ The SBIR and STTR programs have provided small tech companies with more than \$26 billion in funding since the programs were launched in 1982. Nearly 18,000 firms have participated, with 6,244 currently active in at least one project. Those companies have also obtained more than 67,500 patents. SBIR accounts for over half of all the federal R&D awards that small companies receive.
- ✘ portals for opportunities <http://www.sbir.gov/> and <http://www.er.doe.gov/sbir/>
- ✘ Army, Navy, Defense Advanced Research Projects Agency, Defense Micro Electronics Activity, Defense Threat Reduction Agency, OSD now combined into one announcement

SMALL BUSINESS INNOVATIVE RESEARCH (SBIR)



FAR Contracting

The **Small Business Innovation Development Act of 1982** established the **Small Business Innovation Research (SBIR) Program**.

President Obama signed into law HR 1541 to amend PL 110-235 and to continue all small business programs through July 31, 2009.

Currently, **11 Federal agencies participate**.

Participating Department of Defense agencies include:

- Air Force
- Army
- Navy
- Defense Advance Research Projects Agency (DARPA)
- U.S. Special Operations Command, Defense Threat Reduction Agency (DTRA)
- Missile Defense Agency (MDA)
- National Geospatial Intelligence Agency (NGA; formerly NIMA)

Small Business Innovative Research (SBIR)



Program Purpose and Funding

- The Small Business Innovation Research program funds early-stage R&D at small technology companies and is designed to:
 - Stimulate technological innovation
 - Increase private sector commercialization of federal R&D
 - Increase small business participation in federally funded R&D
 - Foster participation by minority and disadvantaged firms in technological innovation
- Funding for the SBIR Program provides up to \$850,000 in early-stage Research and Development funds for projects that:
 - Serve a DoD need
 - Have potential for commercialization in private sector and/or military markets

Small Business Innovative Research (SBIR)



The SBIR program includes a three-phased process:

Phase I – Project Feasibility

Companies apply first for a Phase I award of six months of up to \$120,000 (agency dependent) to test the scientific, technical, and commercial merit and feasibility of a particular concept.

Phase II – Project Development to Prototype

If Phase I proves successful, the company may be invited to apply for a two-year Phase II award of up to \$750,000 (agency dependent) to further develop the concept, usually to the prototype stage. Proposals are judged competitively based on:

- Scientific
- Technical
- Commercial merit (only Phase I award winners considered)

Phase III – Commercialization (Move products from lab to marketplace: military or private sector)

Following completion of Phase II, small companies are expected to obtain funding from the private sector and/or non-SBIR government sources (in Phase III) to develop the concept into a product for sale in private sector and/or military markets.

- Private Sector Funding
- Military can put other than SBIR funding into product development
- Awards are sole source but may be considered competitive since competition was obtained in Phase I

Small Business Innovative Research (SBIR)



Qualification and Award Eligibility

In order to qualify for the program, a business must:

- Be a small business, independently owned, organized for profit with its principal place of business located in the United States.
- Be at least 51% owned by U. S. citizens.
- Have no more than 500 employees.

Award Eligibility

In order to be eligible to receive awards:

- Principal investigator involved must be employed primarily by proposing firm.
- Two-thirds of Phase I and one-half of Phase II work must be accomplished by proposing firm.
- All work must be performed within the U.S.

Small Business Innovative Research (SBIR)



Copyrights, Patents, and Technical Data Rights

- In regards to **copyrights, patents, and technical data rights**, a small business:
 - Copyrights material developed under SBIR program
 - Retains patent rights to any invention developed
 - Retains rights in technical data, including software

The Government retains a royalty-free license.

GRANTS



GENERAL INFORMATION

- ✘ DoD grants are federal assistance agreements under which payments in cash and/or in kind are made for specified purposes.
- ✘ Grants are assistance awards for which no substantial involvement is anticipated between the Federal Government and the recipient during performance of the contemplated activity.
- ✘ Recipients of DoD grants include individuals, nonprofit organizations, local and state governments, U.S. territories, and federally recognized tribal governments.
- ✘ Databases of contributing agencies
- ✘ [DOD, DOE, NSF, EPA, SBA , NASA, Transportation Research Board, USDA](#) Primary Sources of GRANTS
- ✘ <http://www.grants.gov>

Grants and Cooperative Agreements



- The acceptance of an assistance award from the Department of Defense creates a legal duty on the part of the recipient to use the available funds or property in accordance with the terms and conditions of the assistance agreement.
- Payments may be made in advance or as reimbursement for either work performed or costs incurred by awardees.
- Recipients are required to return to the Department of Defense
 - (1) the unused balances of advance payment awards (plus earned interest, unless recovery is prohibited by statute),
 - (2) any funds improperly applied,
 - (3) property or facilities purchased or otherwise made available under the conditions of the awards, unless legal title thereto is vested unconditionally in the recipient by the terms of the award.

COOPERATIVE AGREEMENTS



- ✘ Cooperative agreements are federal assistance agreements under which payments in cash and/or in kind are made for specified purposes. cooperative agreements should be used when the principal purpose of the transaction is to stimulate or support research and development for another public purpose.
- ✘ The major difference between grants and cooperative agreements is that grants are assistance awards for which no substantial involvement is anticipated between the Department of Defense and the recipient during performance of the contemplated activity, whereas cooperative agreements may require substantial involvement.
- ✘ However, the accounting treatment for the two types of agreements is similar. Recipients of DoD grants and cooperative agreements include individuals, nonprofit organizations, local and state governments, U.S. territories, and federally recognized tribal governments.

GRANTS AND COOPERATIVE AGREEMENTS



How do I find grant and cooperative agreement funding opportunities?

- Grants.gov provides "one-stop shopping" that will allow you to review synopses of all available competing funding opportunities for grants and cooperative agreements (and other types of financial assistance if the funding agency chooses) under the hundreds of discretionary grant programs.
- You can search by agency, category of activity to be funded, Catalog of Federal Domestic Assistance number, and other parameters. You also can sign up for email notification of newly posted opportunities based on parameters it provides. Grants.Gov FIND will include a link to the full funding opportunity announcement. Depending on the agency, these still may be published in the Federal Register or be posted on a website.

WHAT IS AN “OTHER TRANSACTION”?



- ✘ "Other transaction" is a shorthand expression used to refer to any instrument other than a procurement contract, grant, or cooperative agreement. Other Transactions, or OTs, are often used for prototype projects.

Other transactions are usually solicited as Broad Agency Announcements (BAA) on FedBizOPS

- ✘ **Who is eligible to receive an OT award?**

To receive an OT award, a proposer must meet either or both of the following criteria:

- 1) There is at least one **non-traditional defense contractor** participating to a significant extent in the prototype project;
OR
- 2) There are no **non-traditional defense contractors** participating to a significant extent in the prototype project, but at least one of the following circumstances exists:
 - (i) at least **one third** of the total cost of the prototype project is to be paid out of funds provided by the parties to the transaction other than the federal government
OR
 - (ii) the senior procurement executive for the agency determines in writing that exceptional circumstances justify the use of a transaction that provides for innovative business arrangements or structures that would not be feasible or appropriate under a procurement contract.

- ✘ **Who is a non-traditional defense contractor?**

- ✘ A non-traditional defense contractor is a business unity that has not, for a period of at least one year prior to the date of the OT agreement entered into or performed on (1) any contract that is subject to full coverage under the cost accounting standards prescribed pursuant to Section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422) and the regulations implementing such section OR (2) any other contract in excess of \$500,000 to carry out prototype projects or to perform basic, applied, or advanced research projects for a Federal Agency that is subject to the Federal Acquisition

COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS (CRADA)



- ✘ **What is a CRADA?**

A CRADA is a written agreement between a federal research organization and one or more federal or non-federal parties (collaborators) to work together as partners on a research project of mutual interest. The CRADA opportunity is open to any company in private industry that is interested in taking advantage of it.

- ✘ **What's involved?**

These written agreements typically consist of:

- General provisions in a standardized format that provide the legal framework for the agreement
- A Statement of Work (SOW) describing the objectives, tasks, and deliverables of the collaborative project

Under a CRADA, the federal government activity may provide the collaborator, or the collaborator may provide the federal government either: Personnel, Services, Facilities, Equipment, or other Resources

- ✘ **Does the government provide funds?**

The agreement involves no transfer of funds from the government. Although the names are similar, a CRADA should not be confused with a cooperative agreement (financial assistance typically used for competitive acquisition of cost-shared research services).

- ✘ **Are proprietary ideas protected?**

Yes. At the conclusion of the cooperative effort, the results may often be considered proprietary. All parties agree to keep the research results confidential to the extent permitted by the law until they are published in scientific literature or presented at a public forum. The private industry cooperator can retain patent and intellectual property rights or retain an exclusive license to a patent. The government has the right to use any information, but must respect the proprietary rights of the cooperator. In addition, any other government agency may use the information emerging from a CRADA effort, but it, too, must protect the cooperator's proprietary rights. The proprietary right protection gives added incentive to the cooperator for transferring the technology or research development through marketing and commercialization efforts.

TECHNOLOGY INVESTMENT AGREEMENT



- ✘ Newest of the non-FAR based instruments available - 1998
- ✘ TIAs are a class of assistance instruments that may be used to carry out **basic, applied, and advance research projects** when it is appropriate to use assistance instruments, and the research is to be performed by a for-profit firm, or by consortia that include a for-profit firm. TIAs replaced two types of assistance instruments: "consortium agreements", a type of OT used by the Defense Advance Research Projects Agency (DARPA), and "cooperative agreements under 10 U.S.C. 2371", addressed in **Part 37 of the 1994 Draft Interim Guidance DoDGARs**, and also referred to as "flexible cooperative agreements". A TIA is a type of cooperative agreement (awarded under the authority of 10 U.S.C. 2358) when its patent rights provision complies with the Bayh-Dole statute (Chapter 18 of Title 35, U.S.C.). A TIA is a type of other transaction (awarded under the authority of 10 U.S.C. 2371) when its patent rights provision is less restrictive than is possible under Bayh-Dole. An **OTs for prototype** is not covered under the TIA classification.

WHAT ARE THE TWO KINDS OF TIAS?



Flexible Cooperative Agreement

- × 42 U.S.C. 7256(a)
- × Flexible (10 CFR 600 applies only if specified in agreement)
- × Bayh-Dole Act and DOE patent statutes that provide for a free Govt. license and other restrictions, apply.

Other Than a Grant or Cooperative Agreement

- × 42 U.S.C. 7256(g)
- × Maximum flexibility
- × Useful for consortia or teaming arrangements
- × Exception to Bayh-Dole and DOE patent statutes.

TYPE OF RECIPIENT FOR TIA



- ✘ For profit firm must be involved in either:
 - + performance or
 - + commercial application of results
- ✘ TIAs particularly useful for awards to consortium that are not formally incorporated
 - + consortia potentially provide a self-governance mechanism.



TIA RECIPIENTS COMMITMENT & COST SHARING

- × To maximum extent practicable, non-Federal parties provide at least **50%** of the resources
- + Contracting Officer must seek cost sharing
- × If this amount of cost sharing is impractical, Contracting Officer must determine whether other factors show recipient commitment to project success.

SOURCES FOR INFORMATION



- × Websites
 - + <http://www.sbir.gov/>
 - + <http://www.grants.gov>
 - + <https://www.fbo.gov>
- × Small Business Specialists
- × Consortiums
- × Associations

QUESTIONS

