

# A Translation of the Contracting Alphabet: From BAAs to OTAs



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**DEFENSE INNOVATION  
UNIT EXPERIMENTAL**

# NATIONAL POLICY ON “SBs”



“It is the policy of the Government to provide maximum practicable opportunities in its acquisitions to *small businesses ... concerns.*

Such concerns must also have *maximum practicable opportunity to participate* as subcontractors in the contracts awarded by any executive agency...”

# CONTRACTING METHODS



- Traditional contracts (“FAR-based”)
- Instruments that support and stimulate research for the public good (“DoD Grant Regulations”)
- Other Transactions for Prototypes (“non-FAR based”)

***...A whole new ball game***

# WHAT IS THE “FAR”?



- Federal Acquisition Regulation
- Establishes policies and procedures
- Supplemented by DoD and Air Force
- Rules the Government follows to:
  - Deliver “best value” products and services
  - Maintain public trust
  - Fulfill public policy objectives (e.g., small business goals)
  - Conduct business with integrity, fairness, openness

# TYPES OF SOLICITATIONS



## Request for Proposals (RFP)

- Government knows its specific needs
- Gov't prepares a Statement of Work (SOW) that describes the work to be performed & required deliverable items, including documentation
- Variation on a SOW: “Statement of Objectives (SOO)” where the Gov't prepares a short statement of objectives, and companies respond with their own SOW that satisfies the objectives

# TYPES OF SOLICITATIONS

- RFP (continued) **TRANSPARENCY!**
  - Evaluation criteria are stated in the solicitation against which interested “offerors” compete
  - Examples: Technical excellence, management capability, personnel qualifications, prior experience, and cost/price
  - Follows structured process for determining “best value”
    - Tradeoffs are considered
    - Not just lowest price wins, we look for the best deal
    - Won’t pay significantly higher price for only slightly better technical features

# TYPES OF SOLICITATIONS

## 2

### Broad Agency Announcements (BAAs)

- Similar concept as a SOO, describes the agency's areas of research interest
- For scientific study/experimentation directed toward advancing the state-of-the-art or increasing knowledge
- Not used for R&D related to specific weapon systems or hardware development unless to demonstrate a concept (e.g., exploratory development models)

# TYPES OF SOLICITATIONS

- BAAs (continued)
  - Does not limit ideas and/or approaches for solutions, Gov't expects varying approaches; offerors prepare a Statement of Work tailored to their proposed solution to the problem
  - Offerors can respond to all or part of the areas of interest
  - Can be "Open" (up to 5 years) or "Closed" (cut off date)
  - Can be "One-Step" (just proposals) or "Two-Step" (first white papers, then proposals)



# TYPES OF SOLICITATIONS

- BAAs (continued)
  - Evaluation is based on overall technical merit, benefit to mission, and a reasonable, realistic price
  - Open BAA: Not necessarily evaluated against other offers at the same time
  - Closed BAAs: Offers are evaluated at the same time
  - Awards are dependent upon funding availability \$\$\$
  - BAA will state what type of awards can be made (grants, cooperative agreements, contracts and/or other transactions)



# TYPES OF SOLICITATIONS

## 3

## Small Business Innovation Research (SBIR)

- Essentially a DoD-wide BAA reserved for small business
- Strengthening the role of small business in meeting DOD R&D needs
- Fostering and encouraging participation by minority and disadvantaged persons in tech innovation
- Increasing commercial application of DOD-supported R&D



# TYPES OF SOLICITATIONS

## 4

### Other Transaction Authority (OTA)

- Created to obtain leading edge R&D and prototypes from commercial sources, especially “non-traditional DoD contractors”
- The FAR and certain procurement statutes do not apply
- Accordingly, the OTA gives agencies the flexibility necessary to develop agreements tailored to a particular transaction
- Competitive procedures are still preferred



# EXAMPLE: AIR FORCE OTA

- Other Transaction for Prototype (OTP)
  - Air Force OTP for Cyber, Command, Control, Intelligence, Surveillance, and Reconnaissance (C4ISR) technologies for DoD info systems
  - “Open System Acquisition Initiative”
  - Consortium for System of Systems Security (SOSSEC)

<http://sossecconsortium.com>

*“As an alternative to the often complex FAR, which might discourage small non-traditional entities from seeking to work with the Government, SOSSEC provides its members and eligible Federal agencies a user-friendly partnership path.” - SOSSEC*

# EXAMPLE: AIR FORCE OTA

- OTP (continued)
  - Fixed-price Project-Level Agreements (PLAs) will be used to acquire individual projects
  - Watch for Project Announcements asking for white papers or proposals
  - Focus will be on specific “mission threads” from Gov’t agencies
  - Rights are negotiable

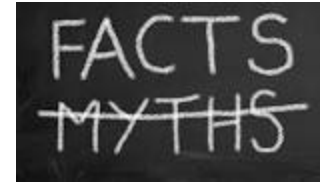
<http://sossecconsortium.com>

# Words of Caution

- No DoD commitments can be made outside a contractual arrangement
- Only a warranted “Contracting Officer” or “Agreements Officer” can obligate Gov’t funds
- Gov’t technical reps can discuss potential opportunities & Gov’t requirements/needs, and must be fair



# Intellectual Property: Myth-Busting



In general, follow the money...

*However, everything is negotiable!*

As a minimum, rights must satisfy the Government's minimum needs, e.g.,:

- Form, fit and function data
- Data necessary for install, operations, operation, maintenance, or training purposes (not detailed mfg or process data)
- 1 copy of software plus backup

# Intellectual Property: Myth-Busting



Gov't gets a license to use tech data and computer software

- Royalty free, world-wide, nonexclusive, irrevocable license rights

The Contractor still owns the data/SW

- Retains the copyrights & ability to commercialize



# Data Rights Spectrum

Unlimited Rights                      GPR  
(after 5 years, reverts to Unlimited Rights)                      SBIR Data Rights – “GPR with more teeth”                      Limited/Restricted Rights



Govt Funding

Mixed Funding

Privately Funded

Restrictions



Least

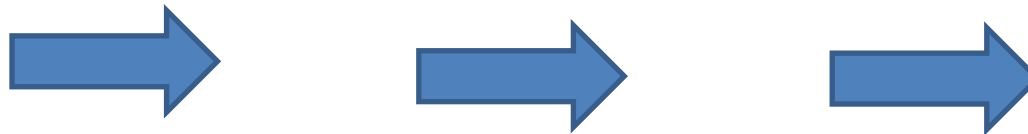
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# Primary Paths to Procurement

1

**Very Mature Technology** = Commercial item

- Minor modifications are okay IF they do not significantly alter the nongovernmental function or essential physical characteristics of an item or component, or change the purpose of a process
- Gov't simply buys the item, and gets standard commercial license
- Parties can mutually agree on rights, to meet user's needs or to make license consistent with Federal procurement law



***Appropriate path depends on stage of technical maturity***

# Primary Paths to Procurement

## 2

**Emerging Technologies** = Already partially developed at private expense, but needs further development to mature

- BAAs, SBIR Program, OTP could all be used
- Combination of private and Gov't funding = **NEGOTIABLE**  
"Government Purpose Rights (GPR)" **!**
- Gov't gets a license to use software/tech data for Gov't purposes only
- Company retains the right to commercialize



***Appropriate path depends on stage of technical maturity.***

# Primary Paths to Procurement

## 3

**New Capabilities** – Not developed at private expense,  
Gov't funds the entire project

- RFP, BAA, SBIR, or OTP could be used
- Gov't funding = typically “Unlimited Rights” **NEGOTIABLE**!
- Gov't gets a license to use software/tech data for any purpose, including commercialization
- Company retains copyrights, but anyone can commercialize



***Appropriate path depends on stage of technical maturity.***

# The Trust Factor: “Let’s Make a Deal”

“Specifically Negotiated License Rights”

- All rights are negotiated prior to award, and are included as an attachment to the contract/agreement
- Segregate software components as much as possible so each part can retain its rights
- Result: No surprises, all needs met, a clear meeting of the minds



# “Let’s Make a Deal”

## “Specifically Negotiated License Rights”

- Examples:
  - GPRs that never expire
  - Expand the definition of “Restricted Rights” to allow the Gov’t to use software on multiple computers within the Government
  - GPRs that exclude use for competitive procurement, unless technology is “abandoned”
  - Government-wide use but advance notice must be given to contractor re. locations and purpose



# AFRL Mission



- 711th Human Performance Wing - OH
- Aerospace Systems Directorate – OH, CA
- Air Force Office of Scientific Research (AFOSR) – VA
- Directed Energy Directorate - NM
- Information Directorate – NY
- Materials and Manufacturing Directorate – OH, FL
- Munitions Directorate – FL
- Sensors Directorate – OH
- Space Vehicles - NM

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**Air Force Research Laboratory  
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**Small Business Office  
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