



Research Award Instruments

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Topics

- Acquisition Instruments
 - Procurement Contracts (Standard)
 - Other Transactions for Prototype Projects (845's) (Non-standard)

- Assistance Instruments
 - Grants (Standard)
 - Cooperative Agreements (Standard)
 - Technology Investment Agreements (Non-standard)



Types of Instruments

Acquisition*		Assistance*			
Procurement Contracts	Acquisition OTs	Grants	Cooperative Agreements	Technology Investment Agreements (TIAs)	
10 United States Code (U.S.C.) 2304 ↓ Federal Acquisition Regulation Part 15 Part 35 Best Value Cost/Price Based Competition of Ideas	<ul style="list-style-type: none"> • 1994 National Defense Authorization Act (NDAA), Section 845 • 2004 NDAA, Section 1441 • Federal Aviation Administration Authority • Homeland Security Act, Section 831 • National Aeronautics and Space Administration (NASA) Space Act • Transportation Equity Act for the Twenty-First Century (TEA-21), Section 502 	10 U.S.C. 2358 Non-profit and for profit DoD Grant and Agreement Regulations (DoDGARs)	10 U.S.C. 2358 Non-profit and for profit DoDGARs	10 U.S.C. 2371 (a) & (d) DoDGARs Part 37 Does not Comply with Bayh-Dole	10 U.S.C. 2358 DoDGARs Part 37 Complies with Bayh-Dole

* Chart does not display all forms of acquisition and assistance instruments or all statutes that allow these forms of award



Acquisition versus Assistance

- **Acquisition** instruments involve buying or *acquiring* goods and services for the government's direct benefit, such as:
 - Federal Acquisition Regulation (FAR)-based procurement contracts (traditional method)
 - Acquisition (Prototype) Other Transactions (OTs)
 - Derive authority from 1994 NDAA, Section 845
 - Are legally binding contractual instruments
 - Example: Development and testing of a prototype unmanned long-endurance rotorcraft needed to provide battlefield surveillance



Acquisition versus Assistance

- **Assistance** instruments are used to transfer a thing of value from the government to a recipient to carry out a public purpose, such as:
 - Grants
 - Cooperative Agreements
 - Technology Investment Agreements (TIAs)
 - ➔ Assistance instruments are not used for acquiring goods and services for the direct benefit of the government
- Example:* Development of an innovative chip-to-chip optical interconnect solution for computer processors which the Government desires be available as (or in) a commercial item in the future.



“Standard” Instruments

No commercial flavor/Rigid T&C’s

Acquisition*		Assistance*			
Procurement Contracts	Acquisition OTs	Grants	Cooperative Agreements	Technology Investment Agreements (TIAs)	
10 United States Code (U.S.C.) 2304 ↓ Federal Acquisition Regulation Part 15 R&D CPFF Best Value Cost/Price Based	<ul style="list-style-type: none"> • 1994 National Defense Authorization Act (NDAA), Section 845 • 2004 NDAA, Section 1441 • Federal Aviation Administration Authority • Homeland Security Act, Section 831 • National Aeronautics and Space Administration (NASA) Space Act • Transportation Equity Act for the Twenty-First Century (TEA-21), Section 502 	10 U.S.C. 2358	10 U.S.C. 2358	10 U.S.C. 2371 (a) & (d)	10 U.S.C. 2358
Part 35 R&D CPFF Competition of Ideas		Non-profit and for profit DoD Grant and Agreement Regulations (DoDGARs)	Non-profit and for profit DoDGARs	DoDGARs Part 37 Does not Comply with Bayh-Dole	DoDGARs Part 37 Complies with Bayh-Dole

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“Non-Standard” Instruments

Commercial Flavor/Fewer T&C’s

Acquisition*		Assistance*			
Procurement Contracts	Acquisition OTs	Grants	Cooperative Agreements	Technology Investment Agreements (TIAs)	
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Part 15 R&D CPFF Best Value Cost/Price Based		Part 35 R&D CPFF Competition of Ideas	Non-profit and for profit DoD Grant and Agreement Regulations (DoDGARs)	Non-profit and for profit DoDGARs	DoDGARs Part 37 Does not Comply with Bayh-Dole

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Technology Investment Instruments (TIAs)

- Congress enacted 10 U.S.C. 2371 in 1989 authorizing DoD use of cooperative agreements and other transactions
 - “Dual-Use” OTs evolved from this authority
 - DoD issued guidance in 1997 creating a single class of assistance instruments for “dual-use” called TIAs (also known as “OTs for Research”)
- DoDGARS Part 37 (Effective Sept 2003)
 - Established policies and procedures for the award and administration of TIAs
 - Plain language format



Technology Investment Instruments (TIAs)

- **TIAs are flexible instruments!!!**
 - Used to support or stimulate defense research projects involving for-profit firms, especially commercial firms that do business primarily in the commercial marketplace
 - Give DoD Agreements Officers greater flexibility to negotiate award provisions in areas that can present barriers to commercial firms
 - Use OT authority (10 U.S.C. 2371), cooperative agreement authority (10 U.S.C. 2358) or, sometimes, both



Technology Investment Instruments (TIAs)

- Typical Barriers Avoided or Mitigated by TIAs:
 - Standards for financial management systems
 - Cost Accounting Standards (CAS)
 - Intellectual Property (data rights, patents, etc.)
 - Access of Government auditors/audits
- TIAs often include unique teaming arrangements (e.g., consortium)



Technology Investment Instruments (TIAs)

- **Appropriate to use when....**
 - Principle purpose of the project is stimulation or support of research (i.e., assistance)
 - Performer team includes one or more for-profit firms involved in 1) performance of the research or 2) commercial application of the research results
 - Performer team includes one or more commercial firms (consortium are encouraged)
 - Non-Federal cost share of 50% to the maximum extent possible
 - No participant is to receive fee or profit



Technology Investment Instruments (TIAs)

- **TIA Content & Format**

- Far fewer terms and conditions than a FAR-based award instrument
- Although there is not a standard “model”, TIAs across agencies tend to be similar in format and content
- Most are expenditure-based due to cost sharing
- Payments are tied to payable milestones (adjustable)



Technology Investment Instruments (TIAs)

- **TIA Content & Format (continued)**
 - Typical Articles:
 - Background & Purpose
 - Scope
 - Term
 - Management of the Project
 - Articles of Collaboration (consortium/attachment)
 - Agreement Administration
 - Termination
 - Obligations and Payment
 - Disputes
 - Data and Patent Rights
 - Title to and Disposition of Property



Technology Investment Instruments (TIAs)

- **TIA Content & Format (continued)**
 - Civil Rights Act
 - Public Release or Dissemination of Information
 - Foreign Access to Technology
 - Export Control
 - Order of Precedence
 - Applicable Law (US Federal)
 - Severability
 - Attachments
 - Statement of Work
 - Reporting Requirements
 - Payable Milestones Plan
 - Funding Schedule (Federal and Non-federal/Share)