Negotiating Rights in 2539b Agreements

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What is 2539b?

- 10 US Code Section 2539b
  - Exception to the Miscellaneous Receipts Act
**Specifically Designated** Navy Laboratories, Centers, Ranges & similar facilities can

- Sell, rent, lend, or give samples, drawings & manufacturing or other information
- Sell, rent, or lend government equipment or materials
  - Exclusively for use in IR&D programs OR
  - For use in demonstrations to a friendly foreign government
All labs, ranges, and centers can

✓ Make available the services of any lab, center, range, or other testing facility
  ➢ For testing of materials, equipment, models, computer software, & other items

✓ Make available through leases, contracts, or other appropriate arrangements
  ➢ Facilities
  ➢ Services
  ➢ Equipment
    ▪ Of a lab, research center, or range
    ▪ No direct competition with domestic private sector
Benefits of using 2539b

- Assist US Industry
- Lab access to US Industry
  - Intro to your lab
  - Keeping the lights on
    - FY 14 – 18
      - 229 Agreements
      - $25.3 Million
Governing Authorities

✓ 10 USC 2539b
✓ DoD Instruction 5535.11 (Mar. 19, 2012)
✓ SECNAV Memo (May 9, 2012)
  ➢ ASN(RD&A)
Issues Faced in Negotiations

✓ Indemnification & Hold Harmless

✓ Granting of IP Rights

✓ Residual Clauses

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Indemnification & Hold Harmless

- NOT Required by Law
- REQUIRED by DoDI 5535.11
  - Negotiating Strategies
    - Corporate
    - State & local Governments
Granting of IP Rights

- Company Position
- The NRL Position

- NRL grants NO Commercial IP rights
  - Only right to use internally
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WHY?

✓ Not prohibited by the statute
✓ Not prohibited by the DoDI
✓ Not prohibited by the SECNAV memo
✓ Not prohibited by ASN(RD&A) guidance
▲ ONLY PROHIBITED BY INTERNAL LAB POLICY

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Residuals Clauses

- An emerging problem
- The right to remember
  - What to do?
POINTS OF CONTACT

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QUESTIONS

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