

# **Cooperative Research and Development Agreements (CRADAs)**

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**"Sustaining Rapidly Deployable,  
Radically Innovative Technologies"**

# Technology Transfer

- Statutory requirement to make Federal technology available to public
- DON laboratories execute and fund technology transfer
- Primary technology transfer tools
  - **Cooperative Research and Development Agreements (CRADAs)**
  - **Licensing of Navy patents**

# What is a CRADA?

- Legal agreement between a Government R&D laboratory and interested partners
- Allows partners to collaborate in mutually beneficial R&D in a specific technical area consistent with laboratory mission
- Pre-determines all intellectual property rights

# **Ground Rules for a CRADA**

- **Partners can provide facilities, equipment, and personnel in support of the CRADA**
- **Government laboratories can enter into CRADAs with the private sector, universities, and state and local governments**
- **The non-Government partner can provide funds to the Government laboratory to perform tasks under the CRADA**
- **The Government laboratory CANNOT provide funds to their partners**

# **How a CRADA Differs from a Contract**

- **NO funds can be transferred from the Government laboratory to their partners**
- **A CRADA is a legal agreement and not a procurement contract**
- **Therefore, a CRADA does not come under the control of the Federal Acquisition Regulations (FAR)**
- **CRADAs not required to be competitively announced**

# What is Contained in the CRADA?

- **Navy has a “living” Standard, or model, CRADA**
- **Provisions that do not change**
  - **Legaleeze**
    - **Definitions**
    - **Intellectual Property**
    - **Indemnification/Liability**
    - **Termination**
- **Provisions that are specific to each agreement**
  - **Summary**
  - **Funding**
  - **Reporting**
  - **Statement of Work**

# Typical CRADA Process

- **Navy & non-Navy researchers agree to work together**
- **Navy researcher works with lab Tech Transfer office**
- **Draft a CRADA, circulate for review**
- **Navy lab Commander and authorized non-Navy signatory sign final CRADA**
- **Distribute signed agreements to signatories and to ONR**
- **Researchers begin work**

# Best CRADA Practices

- Tight statement of work
- Keep CRADAs open a reasonable length of time
- Advertising of CRADAs not required, but sometimes a good practice
  - **Only one opportunity**
  - **Establishing a sole source**
  - **Only known partner is foreign owned or influenced**

# **CRADAs with foreign companies: Executive Order 12591**

**Executive Order 12591 (Apr 1987) requires that when entering a CRADA with a Foreign Owned Controlled or Influenced (FOCI) entity, DoD shall, in consultation with the US Trade Representative, give consideration to the following:**

- ü Whether the foreign government permits U.S. organizations to enter into CRADAs on a comparable basis.**
- ü Whether the foreign government has policies to protect U.S. rights.**
- ü Whether the foreign government has adopted adequate non-proliferation measures (e.g. is a participant in the Wassenaar Arrangement).**

# Who approves a CRADA with a foreign company?

- ∇ **USTR “considers” #1 and #2, but not #3.**
- ∇ **Navy Foreign Disclosure Officials (FDO) are concerned with non-proliferation issues, i.e. #3.**
- ∇ **Each SYSCOM has their FDO:**
  - ∅ **NAVSEA: Pam Brant, SEA 09T1, (703) 602-3210**
  - ∅ **NAVAIR: Dan Prasada-Rao, AIR 7.4.1, (301) 757-6339**
  - ∅ **SPAWAR: Helen Bragg, SPAWAR 07X, (619) 524-2398**
  - ∅ **All others: Lori Troutman, IPO-01D, (202) 764-2399**

# National Disclosure Policy criteria

The FDOs ensure that the NDP is followed. Each CRADA must meet the following NDP criteria:

- ü **Consistent with U.S. foreign policy objectives.**
- ü **Consistent with U.S. military and security objectives.**
- ü **Recipient will give information the same degree of protection as the U.S. provides.**
- ü **Benefits to the U.S. are at least equivalent**
- ü **Information will be limited to that which is necessary for the purpose of the CRADA**

# Obtaining approval for a CRADA with a foreign company

- **Provide all of the following information (in  $\leq 2$  pages), along with a copy of the proposed Agreement:**
  - ü **Scope and objective of the CRADA**
  - ü **Contact info for the foreign partner**
  - ü **Will data to be shared or Subject Data be Classified?**
  - ü **Is the technology on the MCTL, ITAR, or CCL?**
  - ü **Justification for working with a FOCl organization instead of a U.S. company.**
    - Ø **Name U.S. companies contacted**
    - Ø **List public presentations at which U.S. company reps were present**
    - Ø **Give factors that make the foreign company uniquely qualified**
    - Ø **Identify the benefit to the U.S. Government**

# CRADA Pitfalls

- **SBIR officers have various interpretations of SBIR policy wrt subcontracting funds to a Federal lab.**
- **NIST's Advance Technology Program (ATP) agreements require any participating Federal laboratory to forfeit rights to any IP created under the agreement to the small business member(s) of the ATP team.**

# Typical CRADA

- ü **Parties = Navy lab + one company**
- ü **Company is a large or small U.S. business**
- ü **Objective is development of a commercial product or service based on technology developed by Navy for military application**
- ü **Company provides funding that includes Navy researcher(s) salary**
- ü **There is research being done and both sides “give” and “get”.**

# Examples of Non-typical CRADAs

- ü **Parties = Multiple Navy labs and/or non-Federal entities**
  - Ø Navy lab + a consortium or joint venture group
  - Ø Navy lab + other Federal lab + company
  - Ø Navy lab + non-profit org. + company
- ü **CRADA party other than a commercial business**
  - Ø University
  - Ø Non-profit organization
  - Ø State or local government
- ü **Funds are received from a 3<sup>rd</sup> party sponsor**
  - Ø DARPA
  - Ø Other Navy or DoD activity
  - Ø Other Federal agency
- ü **Company is Foreign Owned or Controlled**