

Presented at the:
**JMR TD Pre-Solicitation
Conference**
Williamsburg, Virginia



JMR TD: Phase 1



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1 November 2012

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Topics



- **Business Strategy**
- **Business Arrangements**
 - **Intellectual Property**
 - **Security Arrangements & Foreign Participation**



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Business Strategy



BLUF: quality product towards JMR end state more important than cost share or agreement type

- **Methods of Soliciting Proposals:**
 - **Broad Agency Announcement (BAA)**
 - **Evaluation via scientific peer review**
- **Instrument:**
 - **Technology Investment Agreement (TIA) as a Cooperative Agreement**
 - **TIA's purpose is "to foster the best technologies for future defense needs"**
 - **Solicit 50% Cost Share to demonstrate recipient commitment to research effort**





Basis for Business Strategy



- **BAA vs traditional “best value” acquisition:**
 - Work directed towards advancing the state of the art
 - Proposals with widely varying technical approaches not suitable to comparison
- **TIA vs procurement contract or other agreements:**
 - Other Transaction (OT), mandatory cost share, assessed as negatively impact on small business
 - OT for prototype (OTP) (not developing prototypes)
 - FAR based Contract (not looking to procure anything; stimulating research)





Business Arrangements Intellectual Property



- **BAA & Draft TIA state since technical data and software will developed with “mixed funding”, i.e. mix of Government and recipient funding, the Government will obtain Government Purpose Rights (GPR)**
- **Recipient will retain rights in background data (i.e. developed outside of agreement), so assertions regarding background data should be noted as early as possible**
- **Government objective is to retain IP rights (GPR) to support follow on efforts leading to further R&D, development, EMD, etc. based upon Government investment**
- **Draft TIA requires flow-down of GPR rights and identification of any existing arrangement negatively impacting this strategy, e.g. exclusivity agreements**
- **Bottom-line: If the technology stems from the agreement, technical data rights in the technology will be GPR**





Security Arrangements & Foreign Participation



- **Recipients must have, or demonstrate ability to qualify, for facility clearance (FCL) for access, generation, and storage of classified data**
 - Proposal must state if entity has FCL
 - If entity does not have FCL, must address its ability to obtain FCL
 - While not required for selection for funding, if recipient fails to obtain FCL that does not support JMR TD Phase 1 schedule, Government will have ability to terminate funding
- **Foreign Affiliates:**
 - Due to FCL requirement, proposal must address if entity is subject to Foreign Ownership, Control, or Influence (FOCI)
 - If FOCI, does the entity have an agreement with Defense Security Service (DSS) to mitigate the FOCI
 - TIA, IAW DoDGRS, requires products embodying the technology or produced through the use of the technology will be manufactured
 - substantially in the US

