

# **Chemical Biological Defense Acquisition Imitative Forum (CBD AIF)**

Industry Views on OTA's

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# Other Transaction Authority

Other transactions Authority (OTA) is the term commonly used to refer to the [10 U.S.C. 2371](#) authority to enter into transactions other than contracts, grants or cooperative agreements. The Department currently has temporary authority to award "other transactions" (OT) in certain circumstances for prototype projects that are directly relevant to weapons or weapon systems proposed to be acquired or developed by the Department. OT may be used for basic, applied, advanced research and prototype projects when it has been determined that it is in the Government's best interest to enter into an agreement that is not a contract, grant, or cooperative agreement (per 10 U.S.C. 2371 and Section 845 of the [National Defense Authorization Act \(NDAA\)](#)). OTs are not covered by the FAR. OTA are a highly flexible business tool, use of which requires application of astute business acumen to ensure smarter, more efficient acquisition of prototype systems for the DoD. OTs require a minimum of at least one nontraditional Defense Contractor participating to a significant extent in the prototype project or a cost sharing arrangement requiring that at least one-third of the cost of the OTA come from non-Federal sources. [1]

## Guide: [Other Transactions Guide for Prototype Projects](#)

This acquisition authority, when used selectively, is a vital tool that helps the Department achieve the civil and military integration that is critical to reducing the cost of defense weapon systems.

In accordance with statute, this authority may be used only when: [1]

- There is at least one nontraditional defense contractor participating to a significant extent in the prototype project; or
- No nontraditional defense contractor is participating to a significant extent in the prototype project, but at least one of the following circumstances exists:
  - at least one third of the total cost of the prototype project is to be paid out of funds provided by the parties to the transaction other than the federal government.
  - the senior procurement executive for the agency determines in writing that exceptional circumstances justify the use of a transaction that provides for innovative business arrangements or structures that would not be feasible or appropriate under a procurement contract.

# From: DoD OT Guide, August 2002

- This acquisition authority, when used selectively, is a vital tool that will help the Department **achieve the civil and military integration that is critical** to reducing the cost of defense weapon systems.
- **Individuals using this authority should have a level of responsibility, business acumen**, and judgment that enables them to operate in this relatively unstructured environment.
- **To the maximum extent practicable, competitive procedures shall be used** when entering into agreements to carry out prototype projects under this authority
- "Other Transactions" for Prototype Projects are instruments that are generally not subject to the federal laws and regulations governing procurement contracts. As such, they are **not required to comply with the Federal Acquisition Regulation (FAR), its supplements, or laws** that are limited in applicability to procurement contracts, such as the Truth in Negotiations Act and Cost Accounting Standards (CAS).
- These **nontraditional defense contractors can be at the prime level, team members, subcontractors, lower tier vendors, or "intra-company" business units**; provided the business unit makes a significant contribution to the prototype project (i.e., is a key participant).

## Why Expanded Use of OTA Makes Sense for the JPEO

- The majority of R&D in CBRNE-related technologies is paid for by industry (supports the 1/3 of total prototype project cost paid by other than federal government rule)
- Scientific and engineering advancements are moving faster than traditional DoD acquisition
- The majority of innovations are coming from companies that are non-traditional DoD contractors (e.g., startups)
- As Defense contracting opportunities shrink, more companies are focusing on commercial markets, and shedding FAR-mandated overhead so they can be cost-competitive
- OTs save the JPEO time and money

# Views From Industry

- OTAs can save considerable proposal/business pursuit costs for traditional DoD contractors; this money can go into technology development in support of JPEO priorities
  - DoD ultimately pays for proposal costs in traditional DoD businesses; using that money for technology development is better for both the companies and JPEO
- CBRNE industry members are deep into the advanced technologies in their fields, and can help identify potential leap-ahead capabilities for DoD

# Views from Industry (Cont.)

- CBRNE Industry partners (traditional DoD contractors) can provide the bridge between DoD acquisition offices, and companies not accustomed to federal contracting
  - Small Businesses may be particularly well suited to this role
- Application of OTA to Detection/Diagnostics likely to look far different than Pretreatments/Therapeutics