

# Non-Traditional Acquisition Methods

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Wisconsin Procurement Institute

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Non-traditional acquisition methods can encompass a host of acquisition methodologies. One example is Other Transactions (OT) and Teaming arrangements. It is critical that a company fully understand the nuances of these methods and seek guidance as required.

OTs are not covered by the Federal Acquisition Regulations (FAR) and are a highly flexible business tool, use of which requires the application of astute business acumen to ensure the smarter, more efficient acquisition of prototype systems for the DoD. OTs require a minimum of at least one non-traditional Defense Contractor participating to a significant extent in the project or a cost-sharing arrangement requiring that at least one-third of the cost of the OTs come from non-Federal sources (ex. Universities).

Teaming arrangements can take many forms. Simply put, a teaming agreement is an agreement to allow a prime contractor to form a DoD-sanctioned partnership with a subcontractor. This allows the subcontractor to enhance the relationship with the prime by utilizing the very best capabilities of the relationship.

# Defining – “what”

- What is required
- What is needed
- What is wanted
- What would be of interest

Awareness is  
key



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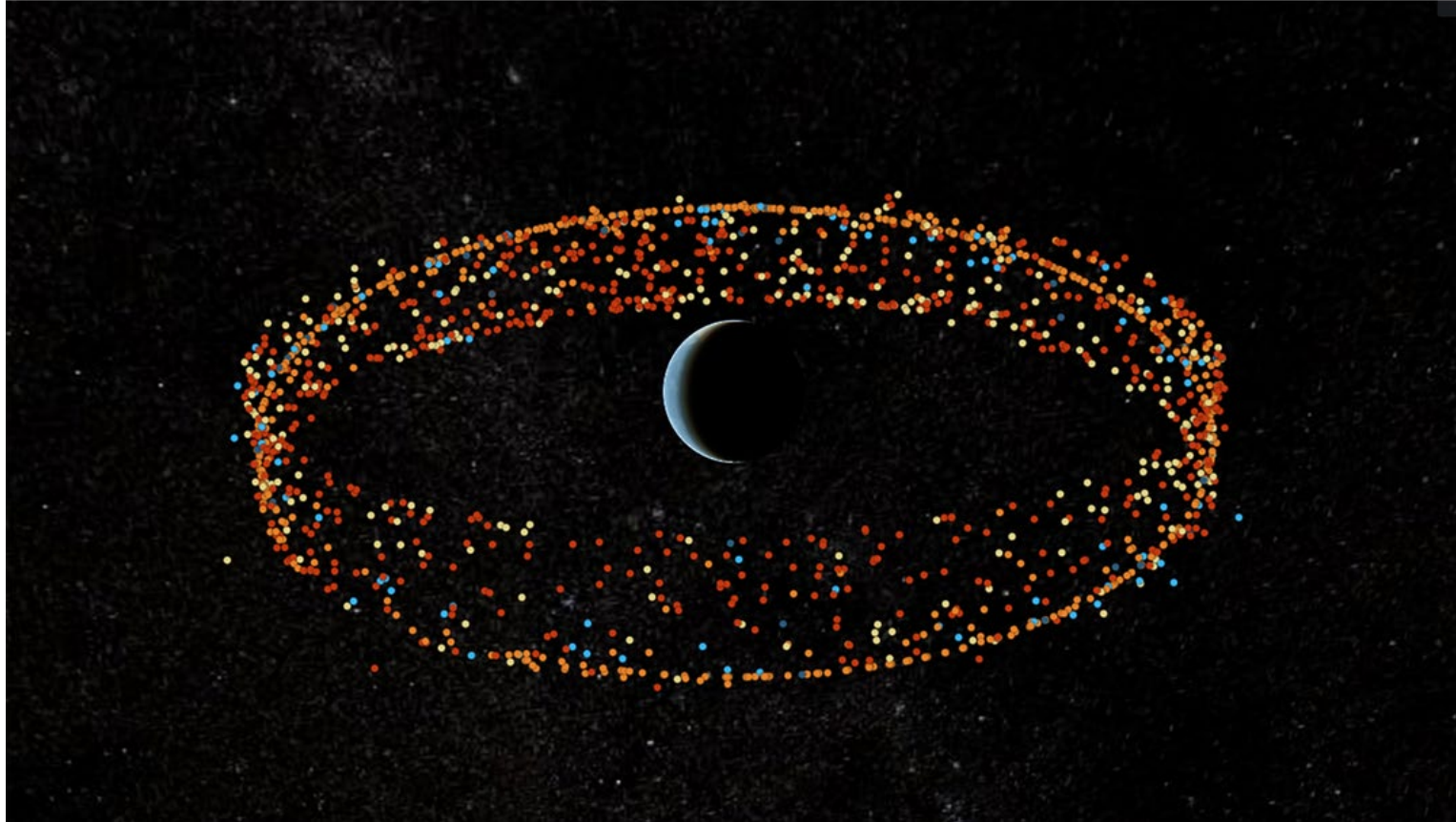
Awareness is  
key

- Having a mechanism to identify the truly important elements, determine what information is necessary, creating a system and/or process to develop – identify relevant information and manage it.

Awareness is  
key

- Why? – Selection; Use
- Programs-program requirements
- Opportunity Requirements
- Timing
- Communications
- Compatibility – program, participants
- Mature Relationship - trust
- “One mind”
- Vendor – supply chain
- Internal issues
- External issues

# FCC to open 'Space Bureau' to keep up with satellite boom in new, commercial 'Space Age'



# What creates the need?

**Defense  
One**

## **Defense One Today**

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### **Here's the Last Hurdle Keeping Subs from Being Drone Motherships**

By Caitlin M. Kenney

The unmanned underwater vehicles need software that enables them to come back aboard via torpedo tube.

One more example

# Small Radios On Armored Vehicles Will Be a Big Step Toward the Army's Networked Future

The challenges include trying to install them and making sure they don't run out of range.

Handheld tactical radios are officially entering the chat for this year's Project Convergence, the Army's annual large-scale effort to try out new tech.

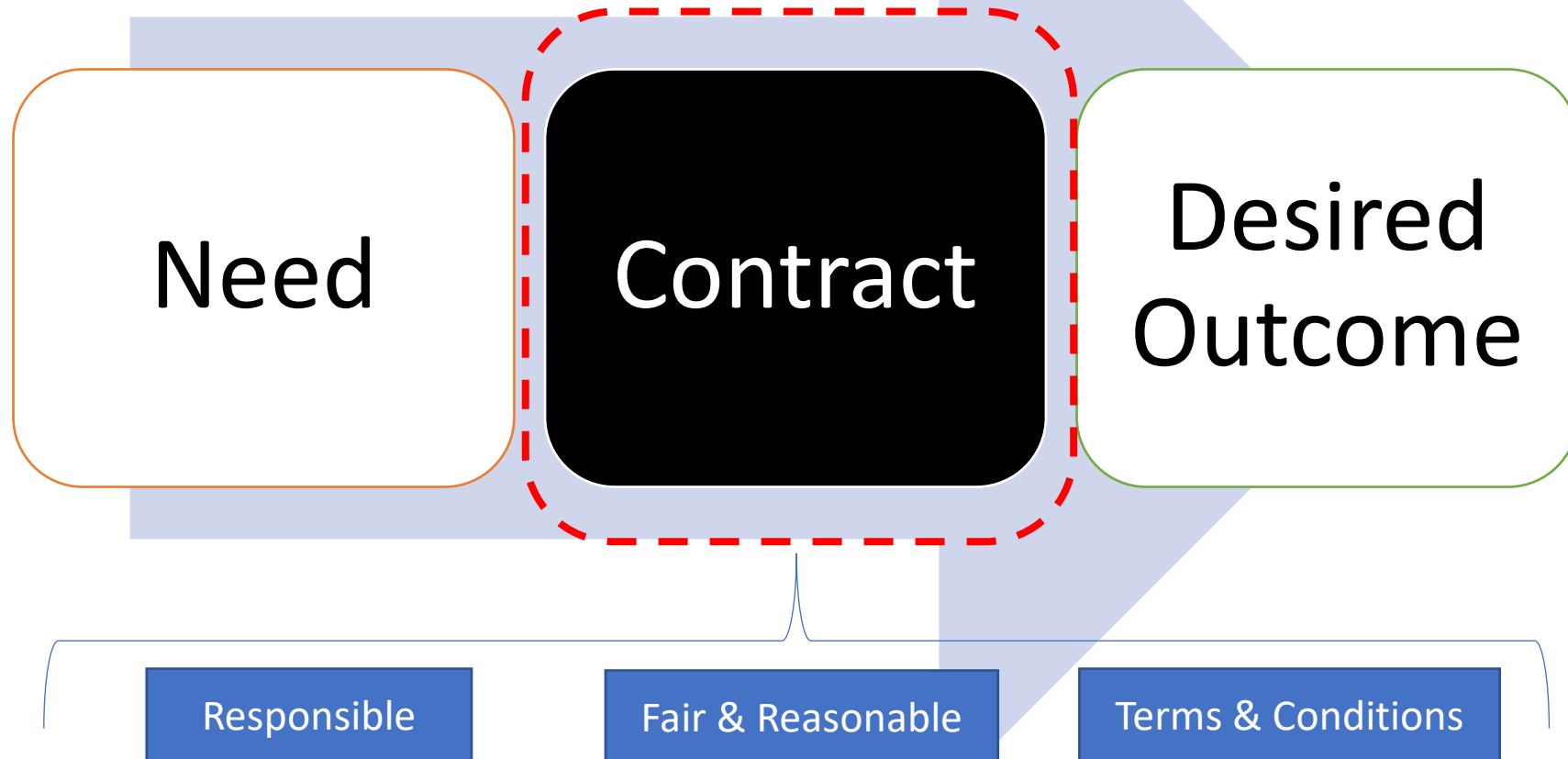
# Project Convergence

## What Worked, What Didn't at Army's Second Connect-Everything Experiment

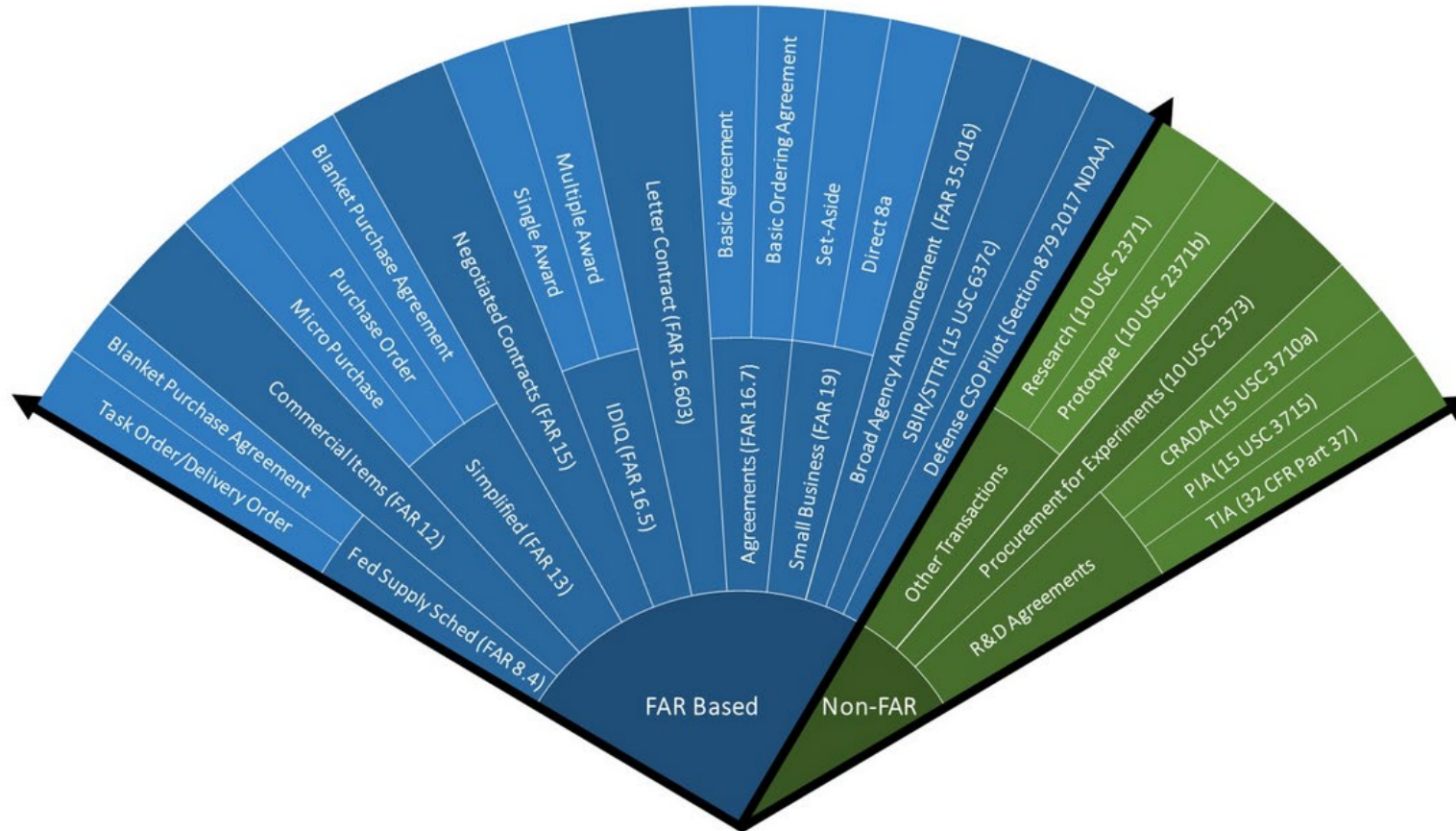
Drone-shooting helicopters, robot reconnaissance teams, and a lot more people mark Project Convergence's second year.

In just its second year, Project Convergence has become the U.S. military's most important experimentation effort for testing out new technologies for joint all-domain command and control, or JADC2. This year's version featured 110 technologies, triple that of last year. It involved more personnel, including 82nd Airborne Division troops and others from Navy, Marines and Space Force and drew in participants from Fort Bragg, North Carolina, to the White Sands Missile range, and yet it simulated an even larger battleground in the INDOPACOM area of responsibility.

# Traditional View (vendor)

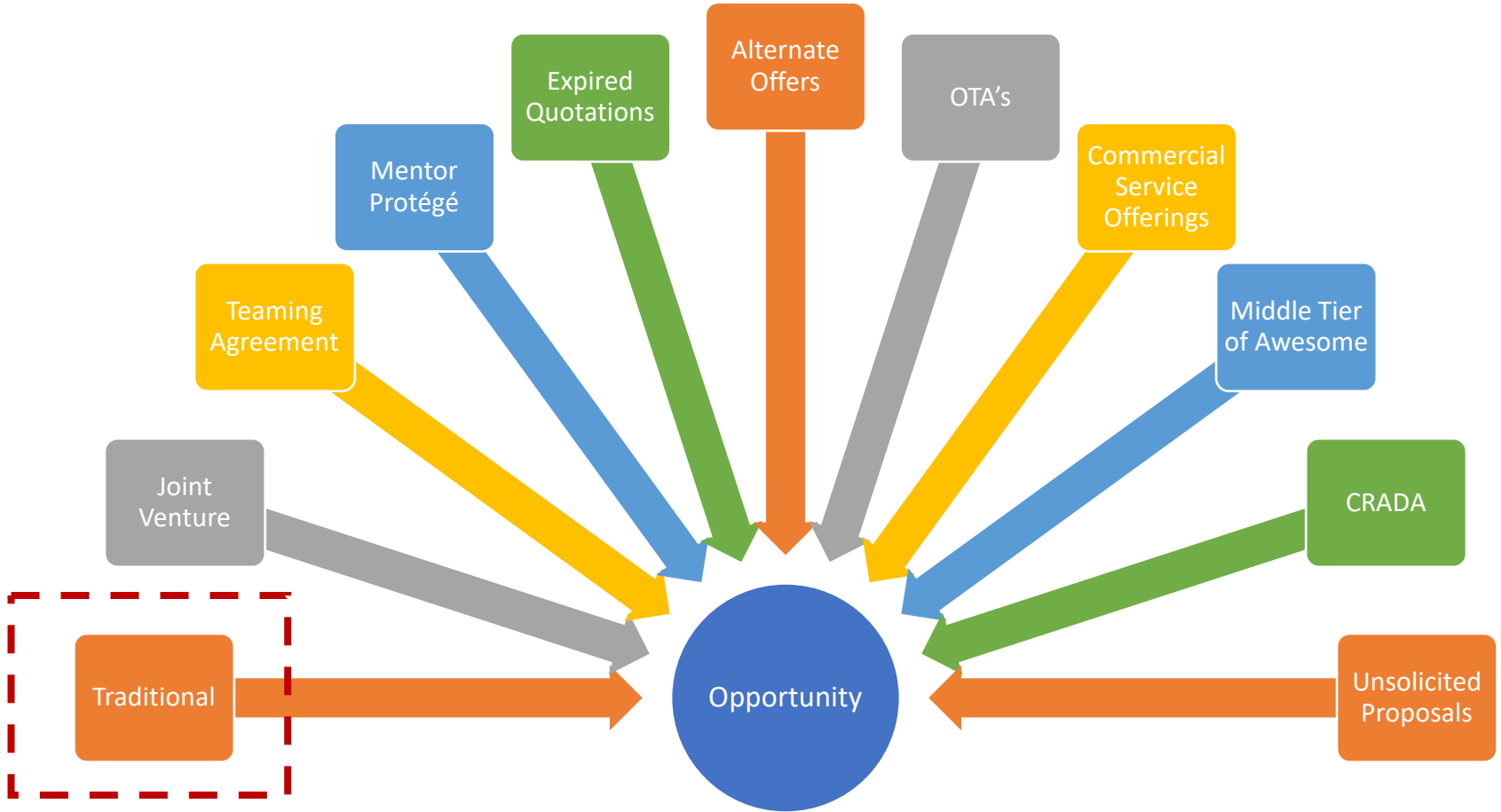


# Contracting Strategies



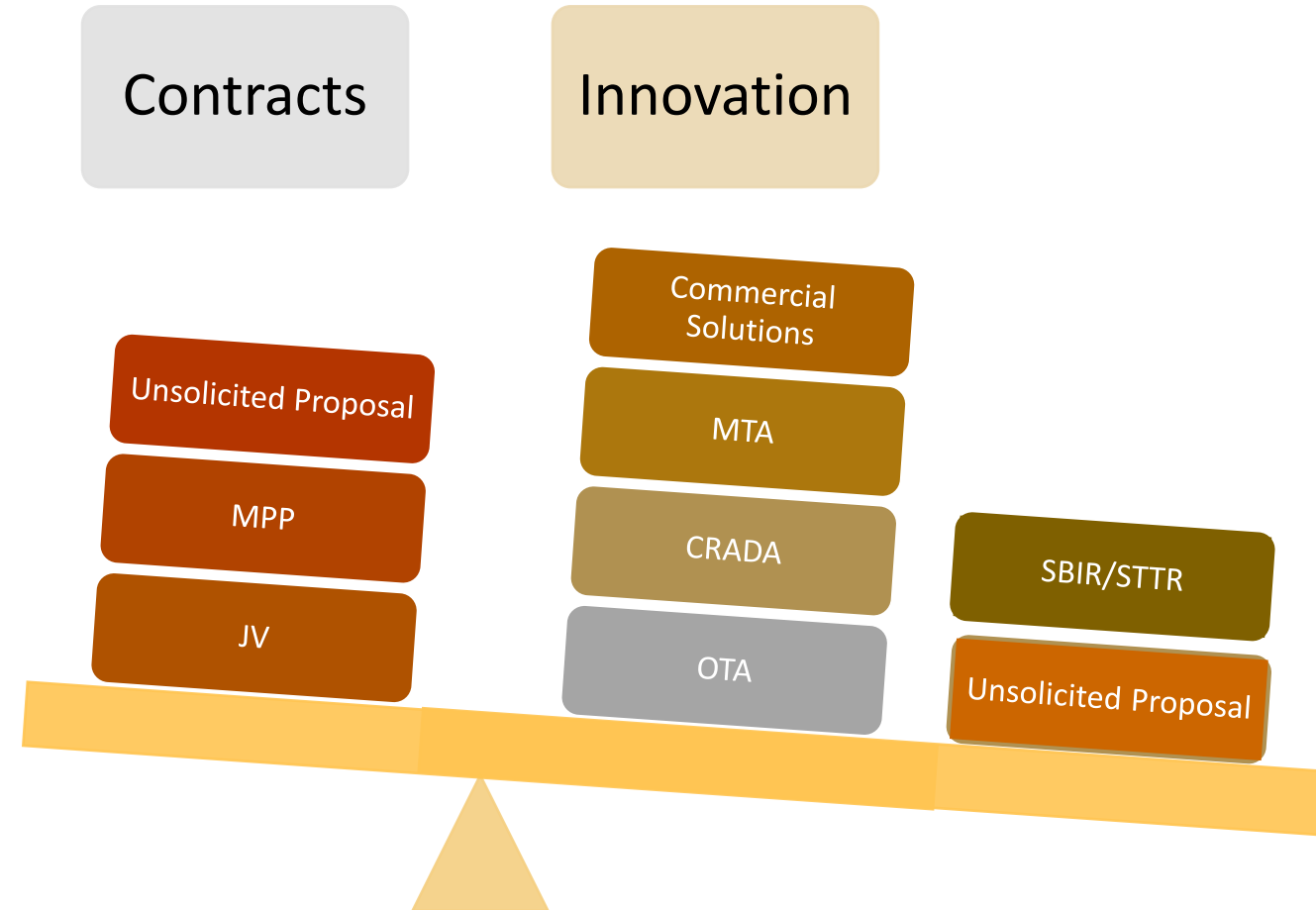
The Contracting Cone presents the full spectrum of FAR and non-FAR based contracting solutions available for consideration.

# Non-traditional approaches



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# Drivers



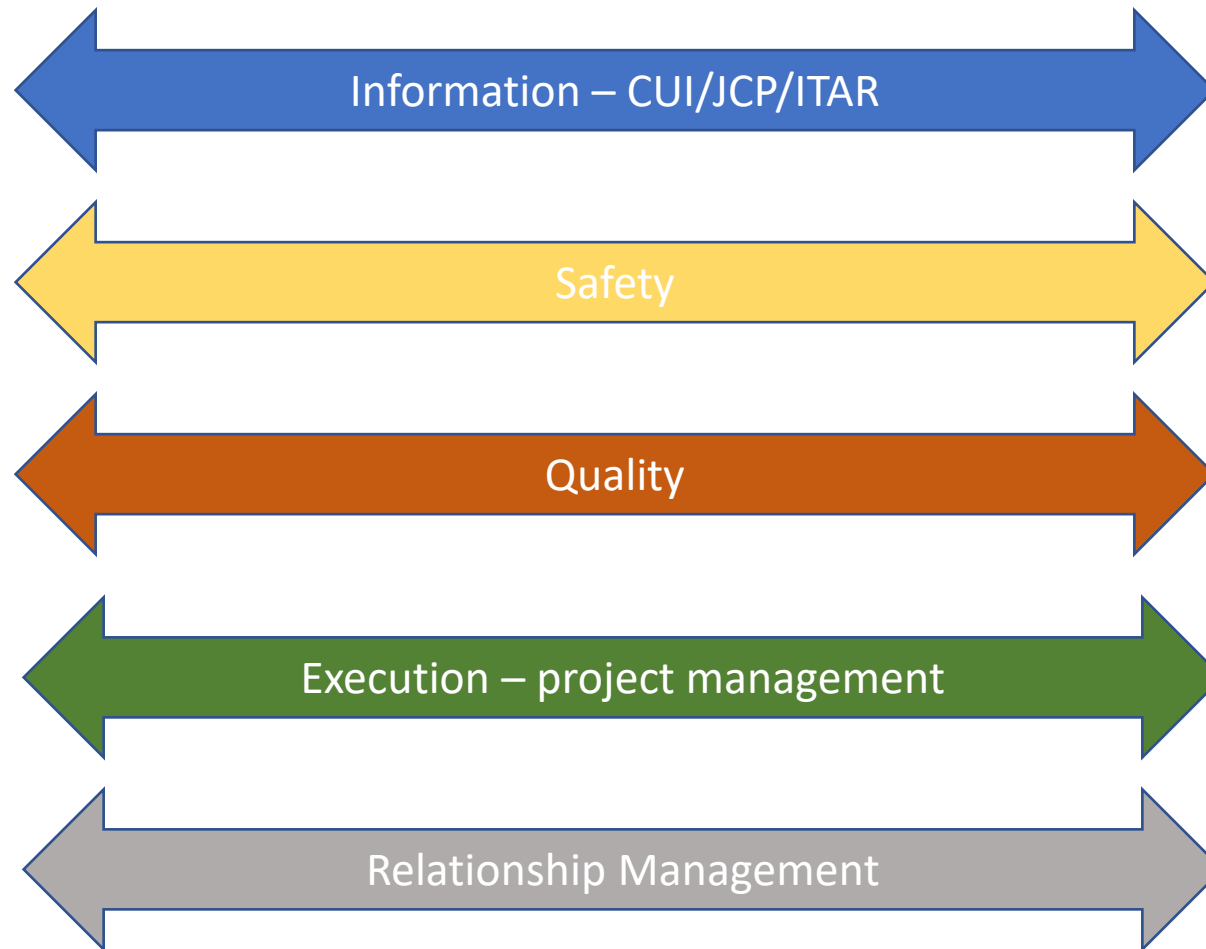
# Program purpose alignment

Traditional	Programs	Innovation	Attract new talent
<ul style="list-style-type: none"><li>• RFP</li><li>• RFQ</li><li>• IFB</li><li>• Expired RFQ's</li><li>• Unsolicited Proposal</li></ul>	<ul style="list-style-type: none"><li>• Joint Venture (JV)</li><li>• Mentor Protégé (MP-G)</li><li>• Mentor Protégé (MP DoD)</li><li>• JV + MP</li></ul>	<ul style="list-style-type: none"><li>• SBIR/STTR</li><li>• OTA</li><li>• Middle Tier</li><li>• Commercial Solutions Opening</li><li>• Unsolicited Proposal</li><li>• CRADA</li></ul>	<ul style="list-style-type: none"><li>• OTA</li><li>• SBIR/STTR</li></ul>

# Not to be overlooked or ignored

- Size
- Program eligibility
- Past Performance
- Knowledge
- Quality
- Safety
- Responsibility
- GIDEP

# Compatibility



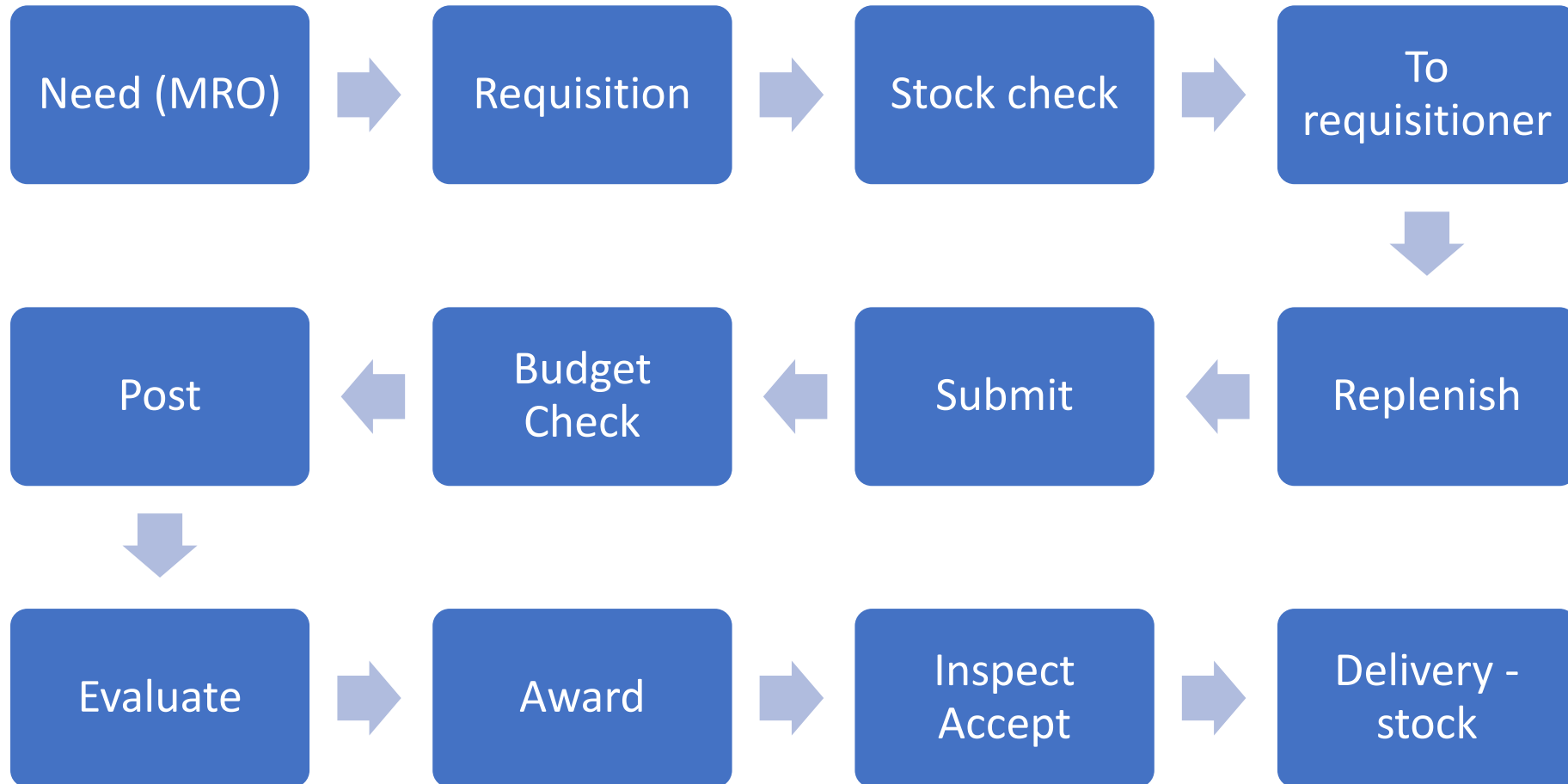
# Business Size Considerations

- Ostensible Subcontracting
- JV -- SB & SB -> SB
- JV -- SB & OTSB -> OTSB
- JV -- [MPP( SB & OTSB) ] -> SB

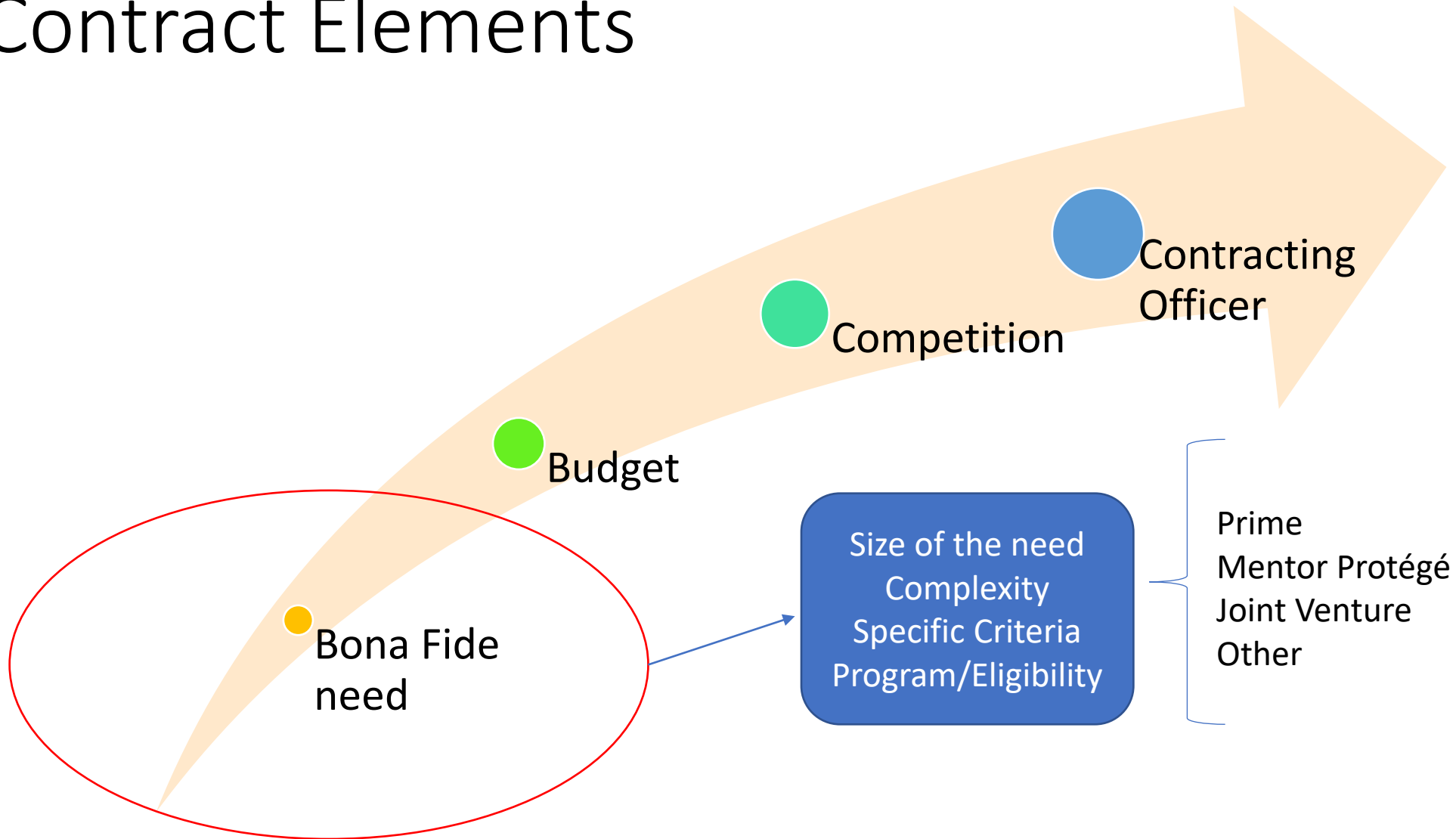
# Traditional – issues (DoD)

- Time required - process
- Requirements – burdensome – numerous - increasing
- “Time to market” – idea to operationally viable
- Traditional vendor profile
- Difficulty in attracting new vendors
- Difficulty in attracting non-traditional vendors
- Innovative solutions

# Traditional Process – generalized (stock)



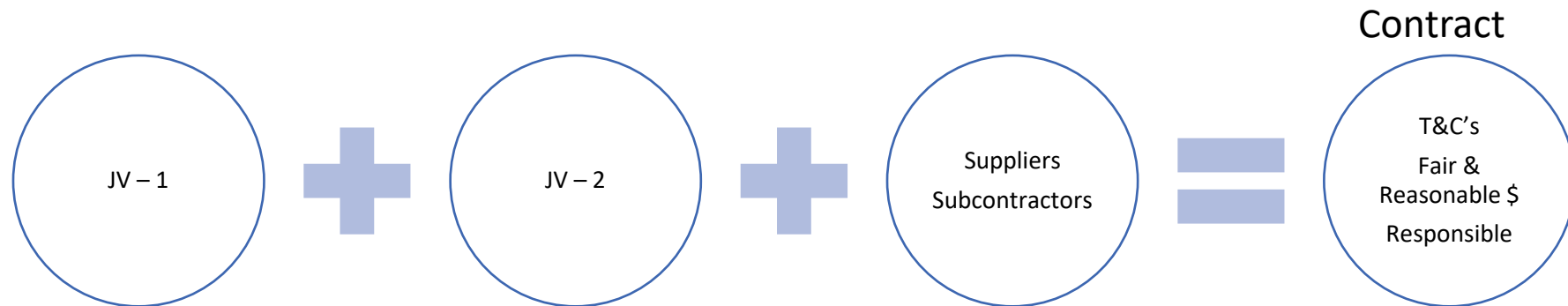
# Contract Elements



# Contracting Equation - Traditional



# Contracting Equation – Joint Venture



# Joint Venture

- Creation of a new business entity
- Formal documents
- State/SAM Registration
- Populated/Unpopulated
- Documents detail operational arrangements and responsibilities
- Purely commercial purpose
- Federal procurement purpose – additional considerations
- JV w/o MPP can create affiliation and SB to OTSB!!!

Wisconsin Department of Financial Institutions  
Strengthening Wisconsin's Financial Future

Search for: joint venture  Search Records [Search](#) [Advanced Search](#) [Name Availability](#)

### Corporate Records

ID	Entity Name / Type
J020230	<a href="#">JOINT VENTURE L.L.C.</a> 12 - Domestic Limited Liability Company
1T08874	<a href="#">2504 W. WELLS JOINT VENTURE, LTD.</a> 01 - Domestic Business
E051225	<a href="#">60TH AND CAPITOL JOINT VENTURE, LLC</a> 12 - Domestic Limited Liability Company
A075569	<a href="#">A&amp;G JOINT VENTURE, LLP</a> 14 - Domestic Limited Liability Partnership
C075754	<a href="#">A&amp;P JOINT VENTURES, LLC</a> 12 - Domestic Limited Liability Company

# Joint Venture

- **General.** A joint venture of two or more business concerns may submit an offer **as a small business** for a Federal procurement, subcontract or sale so long as each concern is small under the size standard corresponding to the NAICS code assigned to the contract, or qualify as small under one of the exceptions to affiliation set forth in [§ 121.103\(h\)\(3\) of this chapter](#).

# Joint Venture Agreements

- A joint venture agreement between two or more entities that individually qualify as small need not be in any specific form or contain any specific conditions in order for the joint venture to qualify as a small business.
- Every joint venture agreement to perform a contract set aside or reserved for small business **between a protégé small business and its SBA-approved mentor authorized by [§ 125.9](#) or [§ 124.520 of this chapter](#) must contain a provision:**
  - SB must be designated as managing venturer, POC by name – identified
  - SB owns 51+%
  - SB receives profits commensurate with work performed or an agreed upon %
  - And much, much more

# JV: SB Set-aside

- (viii) Obligating all parties to the joint venture to ensure performance of a contract set aside or reserved for small business and to complete performance despite the withdrawal of any member;
- (ix) Designating that accounting and other administrative records relating to the joint venture be kept in the office of the small business managing venturer, unless approval to keep them elsewhere is granted by the District Director or his/her designee upon written request;
- (x) Requiring that the final original records be retained by the small business managing venturer upon completion of any contract set aside or reserved for small business that was performed by the joint venture;

Agreement details: 4 single spaced pages

# Mentor-Protégé: General

- The small business mentor-protégé program is designed to enhance the capabilities of protégé firms by requiring approved mentors to provide business development assistance to protégé firms and to improve the protégé firms' ability to successfully compete for federal contracts. This assistance may include technical and/or management assistance; financial assistance in the form of equity investments and/or loans; subcontracts (either from the mentor to the protégé or from the protégé to the mentor); trade education; and/or assistance in performing prime contracts with the Government through joint venture arrangements. Mentors are encouraged to provide assistance relating to the performance of contracts set aside or reserved for small business so that protégé firms may more fully develop their capabilities.

# Mentor-Protégé: Mentors

- Any concern that demonstrates a commitment and the ability to assist small business concerns may act as a mentor and receive benefits as set forth in this section. This includes other than small businesses.

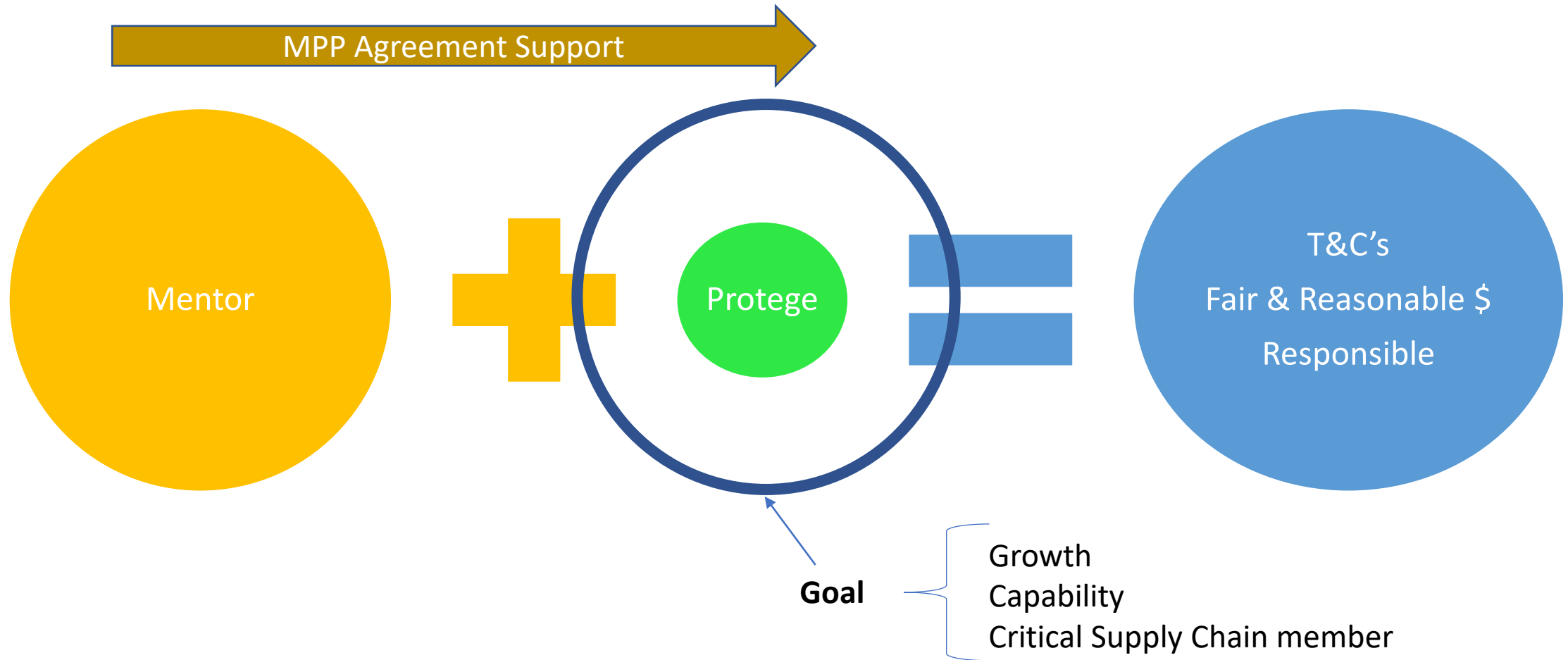
(1) In order to qualify as a mentor, a concern must demonstrate that it:

(i) Is capable of carrying out its responsibilities to assist the protégé firm under the proposed mentor-protégé agreement;

(ii) Does not appear on the Federal list of debarred or suspended contractors; and

(iii) Can impart value to a protégé firm due to lessons learned and practical experience gained or through its knowledge of general business operations and government contracting.

# Contracting Equation – Mentor Protege



# Subpart 9.6 - Contractor Team Arrangements

## 9.601 Definition.

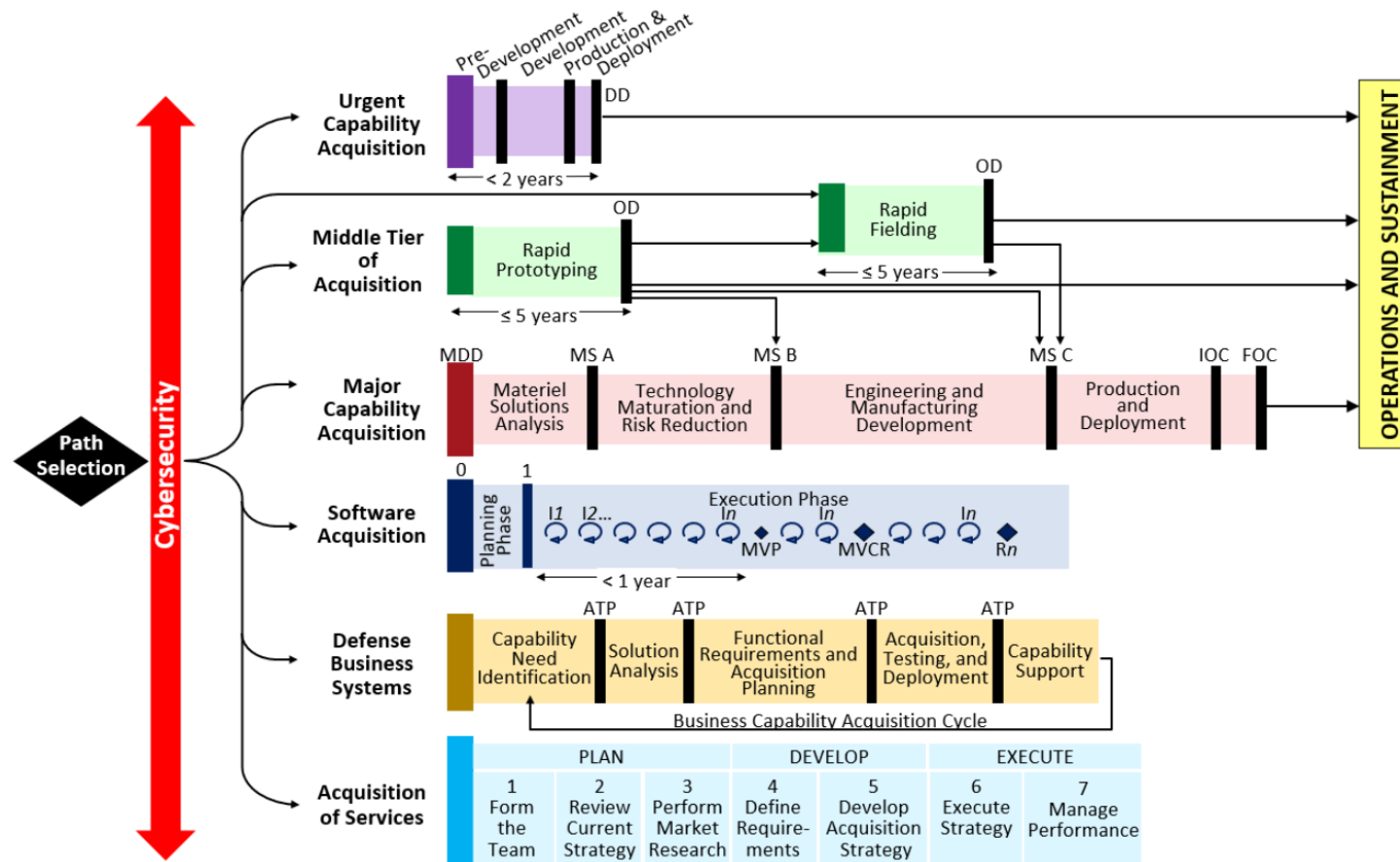
*Contractor team arrangement*, as used in this subpart, means an arrangement in which-

- (1) Two or more companies form a partnership or joint venture to act as a potential prime contractor; or
- (2) A potential prime contractor agrees with one or more other companies to have them act as its subcontractors under a specified Government contract or acquisition program.

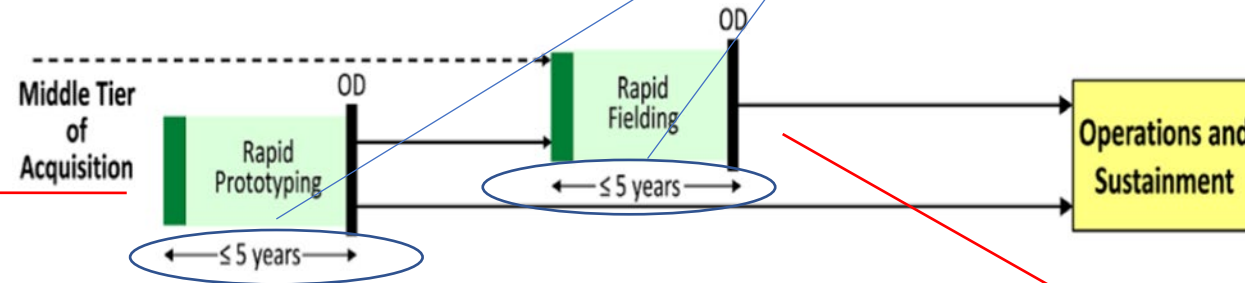
# Teaming Arrangement/Agreement

- Formal agreement
- Concept is recognized by the government – see requirements
- Does not create a new legal entity unless a JV\* is formed
- No additional registrations\*
- Document(s) detail purpose, arrangements, responsibilities
- Useful in addressing specific need/weakness/technical requirement
- Helps to manage customer risk
- Agreement provides evidence of commitment and expectations

# Adaptive Acquisition Framework



# MTA - Paths



The rapid prototyping path provides for the use of innovative technologies to rapidly develop fieldable prototypes to demonstrate new capabilities and meet emerging military needs.

The rapid fielding path provides for the use of proven technologies to field production quantities of new or upgraded systems with minimal development required.

# Middle Tier of Acquisition (Section 804)

- The Middle Tier of Acquisition pathway is used to rapidly develop fieldable prototypes within an acquisition program to demonstrate new capabilities and/or rapidly field production quantities of systems with proven technologies that require minimal development.
- The MTA pathway is intended to fill a gap in the Defense Acquisition System (DAS) for those capabilities that have a level of maturity to allow them to be rapidly prototyped within an acquisition program or fielded, within 5 years of MTA program start. The MTA pathway may be used to accelerate capability maturation before transitioning to another acquisition pathway or may be used to minimally develop a capability before rapidly fielding.

# When to use the MTA pathway?

## ***Provides PMs a streamlined approach to:***

- Accelerate capability maturation before transitioning to a separate, longer-term acquisition pathway
- Minimally develop a capability before moving into rapid fielding
- Assess feasibility in applying available or emerging technology to meet a military need
- Exploit multiple sources of innovation across the

## Defense Industrial Base:

Available  
Commercial  
Technology

Emerging  
Commercial  
Technology

Maturing  
Technology from  
Government  
Labs

Defense  
Prime IR&D  
Efforts

Innovative  
SBIR  
Solutions

# Other Transaction Authority

## **Traditional**

- Procurements – subject to the FAR
- Grants
- Cooperative Agreements
- Cooperative Research and Development Agreements (CRADAs)

## **Non-traditional**

- All for flexible business arrangements to acquire research and development to support technology advancement or to quickly develop a prototype.

# OT's – value proposition

1. Foster new relationships and practices involving traditional and NDCs, especially those that may not be interested in doing FAR based contracts with the Government
2. Broaden the industrial base available to Government
3. Support dual-use projects
4. Encourage flexible, quicker, and cheaper project design and execution
5. Leverage commercial industry investment in technology development and to partner with industry to ensure DoD requirements are included in future technologies and products
6. Collaborate in innovative arrangements

# Consortia - defined

- An OT Consortium is a relationship between a government sponsor and a collection of traditional and non-traditional vendors, non-profit organizations, and academia aligned to a technology domain area (i.e., cyber, space, undersea, propulsion) that are managed by a single entity, and focused on innovative solutions to government technology challenges that meet the intended scope and purpose of other transactions.

# 11 - Agencies with OT Authority

Agency	OT Authority	Agency Specific OT Requirements, Limitations, and Restrictions	Agency	OT Authority	Agency Specific OT Requirements, Limitations, and Restrictions
NASA	<a href="#">51 U.S.C. § 20113(e)</a>	No limitations or restrictions.	FAA	<a href="#">49 U.S.C. § 106(l)</a>	No limitations or restrictions.
DOD*	<a href="#">10 U.S.C. § 4021</a> <a href="#">10 U.S.C. § 4022</a>	Authorizes Research OTs and Prototype OTs. See <a href="#">DoD Other Transactions</a> for detailed requirements, limitations, and restrictions.	TSA	<a href="#">49 U.S.C. § 114(m)</a>	No limitations or restrictions.
DOE	<a href="#">42 U.S.C. § 7256</a>	Limited to RD&D projects. Cost sharing agreement required. Authorized for RD&D and prototype projects.	DNDO	<a href="#">6 U.S.C. § 596</a>	No limitations or restrictions.
HHS	<a href="#">42 U.S.C. § 247-7e</a>	Limited to RD&D projects. Cost sharing agreement required. Authorized for RD&D and prototype projects.	ARPA-E	<a href="#">42 U.S.C. § 16538</a>	No limitations or restrictions.
DHS	<a href="#">6 U.S.C. § 391</a>	Prototype projects require a non-traditional contractor and cost sharing agreement.	NIH	<a href="#">42 U.S.C. § 285b-3</a> <a href="#">42 U.S.C. § 284n</a> <a href="#">42 U.S.C. § 287a</a>	Limitations and restrictions differ based on specific research programs.
DOT	<a href="#">49 U.S.C. § 5312</a>	Limited to RD&D focused on public transportation.			

Agencies must be explicitly authorized by Congress to use OTs and Government Contracting Officers must have [Agreement Officer](#) authority to award OTs.

# non-traditional defense contractor - def

- A business unit that has not, for a period of at least one year prior to the date of the OT agreement, entered into or performed on
  - (1) any contract that is subject to full coverage under the cost accounting standards prescribed pursuant to section 26 of the Office of Federal Procurement Policy Act ([41 U.S.C. 422](#)) and the regulations implementing such section; or
  - (2) any other contract in excess of \$500,000 to carry out prototype projects or to perform basic, applied, or advanced research projects for a Federal agency, that is subject to the Federal Acquisition Regulation.

# Three types of OT's

- Research
- Prototype
- Production

# OT Consortia

Consortia sponsor	Number	Dues*	Membership*	Solicitations - open
OSD Sponsored	9	Varied	Yes	Yes
Air Force/Space Force Sponsored	6	Varied		No
Army Sponsored	10	Varied	DIB & Non-Traditional	Yes*
Navy Sponsored	7	Varied	L/S/NP/Academic	
Non-DoD Sponsored	2	Varied	L/S/Other	
		*Not uniform – Free, \$250, \$500, %Revenue	*Not uniform	

# Defense Electronics Consortium (DEC)

**Government Sponsor:** Department of Defense, facilitated by the [Cornerstone Consortium](#)

**Consortium Management Firm:** [U.S. Partnership for Assured Electronics](#) supported by [Advanced Technology International \(ATI\)](#)

**Consortium Focus/Mission:** Strengthen the economic and force posture of the U.S. defense electronics industrial base and provide the DoD with deeper insights and connections to the U.S. electronics industry while providing industry with greater access to DoD opportunities.

## Technology Focus Areas



### Who Can Join?

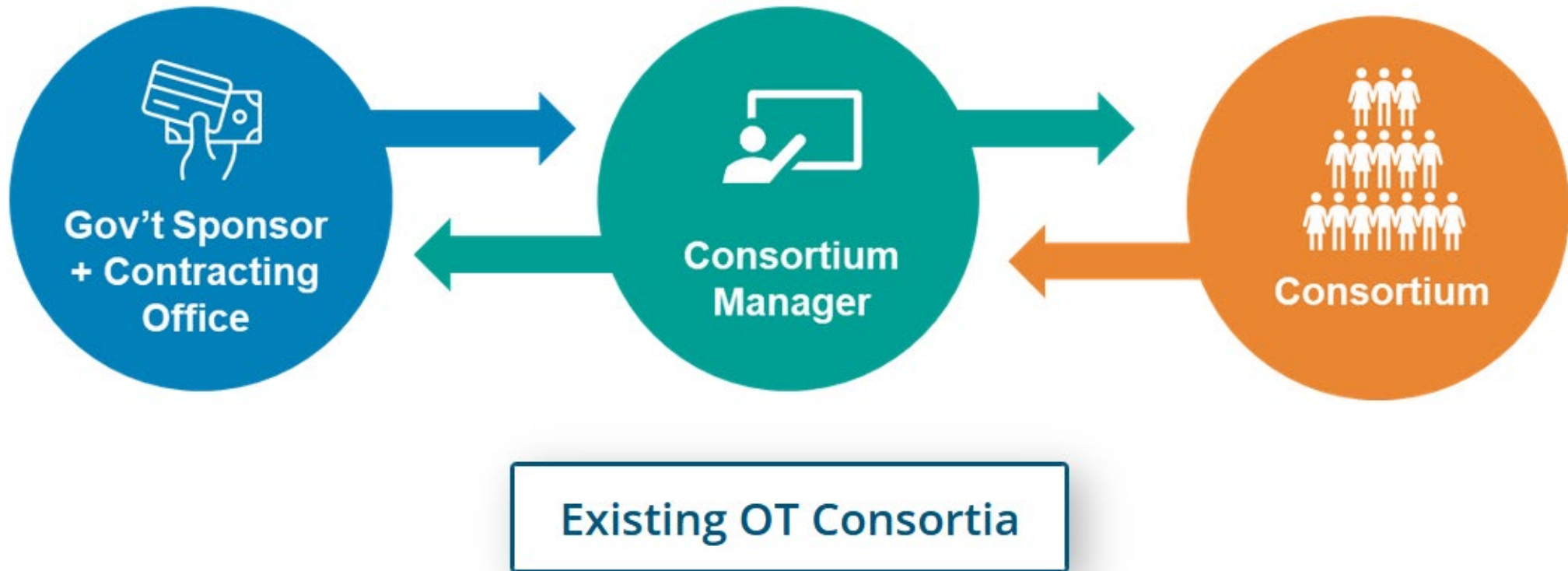
Small & medium-sized innovators, traditional and non-traditional defense contractors, academia, non-profit/not-for-profit research institutions.

### Cost to Join?

\$500 – \$50,000. USPAE assesses membership fees based on a company's revenue. Learn more [here](#).

[Current Members \(not public\)](#) | [Current Opportunities](#) | [Join the DEC](#)

# OT - Model



# Other Transactions Guide

This guide is issued by the [Office of the Under Secretary of Defense for Acquisition and Sustainment \(OUSD\(A&S\)\)](#), the organization responsible for promulgation of policy for Other Transactions (OTs). **This guide provides advice and lessons learned on the planning, publicizing, soliciting, evaluating, negotiation, award, and administration of OTs**, to include all three types of OT agreements: Research, Prototype, and Production ([See Myth 1](#)). While this document includes references to the controlling statutory and policy provisions for DoD OT authority, the document itself is not a formal policy document. Activities seeking to award OTs should consult with legal counsel for interpretation of statutory, regulatory, and formal policy requirements. If a strategy, practice, or procedure is in the best interest of the Government and is not prohibited by law or Executive Order, the Government team should assume it is permitted.

# DAU OTA Credential

New Other Transaction Authority (OTA) Credential



# DLA Internet Bid Board System (DIBBS)



The DLA Internet Bid Board System (DIBBS) is a web-based application that provides the capability to search for, view, and submit secure quotes on Requests For Quotations (RFQs) for DLA items of supply.



DIBBS also allows users to search and view Request For Proposals (RFPs), Invitations For Bid (IFBs), Awards and other procurement information related to DLA.

# Legal effect of quotations (FAR 13.004)

- (a) A quotation is not an offer and, consequently, cannot be accepted by the Government to form a binding contract. Therefore, issuance by the Government of an order in response to a supplier's quotation does not establish a contract. The order is an offer by the Government to the supplier to buy certain supplies or services upon specified terms and conditions. A contract is established when the supplier accepts the offer.
- (b) When appropriate, the contracting officer may ask the supplier to indicate acceptance of an order by notification to the Government, preferably in writing, as defined at [2.101](#). In other circumstances, the supplier may indicate acceptance by furnishing the supplies or services ordered or by proceeding with the work to the point where substantial performance has occurred.
- (c) If the Government issues an order resulting from a quotation, the Government may (by written notice to the supplier, at any time before acceptance occurs) withdraw, amend, or cancel its offer. (See [13.302-4](#) for procedures on termination or cancellation of *purchase orders*.)

# DIBBS – who can respond?

(a) CATEGORY I: Manufacturer of the same item for the Original Equipment Manufacturer (OEM), or for the Department of Defense (DOD).

(b) CATEGORY II: Manufacturer of a similar item for the OEM or DOD. A similar item is defined as an item whose design, application, operating parameters, material, and manufacturing processes are like those of the item for which source approval is sought.

(c) CATEGORY III: New manufacturer. The exact or similar item has not been previously provided to the OEM or DOD.


(4) SAR documentation requirements are also required for all non-critical parts:

(a) If the offeror seeking approval is not a manufacturer, the offeror shall submit SAR documentation on the manufacturer.

(b) Any SAR identified to Boeing Rights Guard must comply with the Boeing Rights Guard

# Quotes after RFQ closing date

If you anticipate quoting on a solicitation after the closing date, please submit a DIBBS quote with a bid type of "No Bid" and place an anticipated quote date or the reason you are not willing to quote. This does not prevent you from submitting an actual quote on DIBBS at a later date. It will overlay your previous no quote. This informs buyers of your intention to quote and prevents multiple calls for updates and cancelling of requirements assumed to be non-procurable due to no quotes/sources. The submission of an anticipated quote date does not

<b>REQUEST FOR QUOTATIONS</b>		THIS RFQ <input type="checkbox"/> IS <input checked="" type="checkbox"/> IS NOT A SMALL BUSINESS SET-ASIDE		PAGE 1 OF 24 PAGES
1. REQUEST NO. SPE7L3-22-T-451F	2. DATE ISSUED 2022 APR 07	3. REQUISITION/PURCHASE REQUEST NO. 0093734240	4. CERT.FOR NAT. DEF. UNDER BDSA REG. 2 AND/OR DMS REG. 1 	RATING DO-C9

# DLA Procurement Opportunities



Approximately 9,000 No bid items listed

- [Prime Strategic Contracting Opportunities](#) - This spreadsheet details small business strategic solicitations for DLA Aviation. You can filter by type of set-aside, National Stock Number (NSN) and nomenclature. If interested in a particular solicitation, copy and past the DIBBS link provided into your web browser to see the solicitation. It is suggested that if you are interested in the solicitation on DIBBS that you also sign up in DIBBS to receive an email alert to for amendments to the solicitation.
- [Strategic Subcontracting Opportunities](#) - This spreadsheet provides points-of-contact for the major Original Equipment Manufacturers (OEM) that support DLA Aviation's strategic contracts. You can use the information in the sheet if you are interested in exploring subcontracting opportunities with the OEMs.
- [Research and Development Opportunities](#) - Find [broad agency announcements](#) for open opportunities and read more about what [programs](#) are available for R&D-related efforts.
- [No Bid Solicitation List](#) - This list contains items that were not bid on during prior solicitations. Many of these items can be found on [DIBBS](#) under a new solicitation. You can find the new solicitation, *a point of contact, and complete data, if available* by searching the National Stock Number (FSC+NIIN, i.e. 5962011231234). *Contact the DLA Land & Maritime Business Counseling Center for assistance by email: [SmBizLandCols@dla.mil](mailto:SmBizLandCols@dla.mil).*
- [Replenishment Parts Purchase or Borrow \(RPPOB\) Program](#) - Aviation's reverse engineering opportunities through the RPPOB Program
  - [RPPOB Parts Online Catalog](#)
  - [Parts Catalogue Spreadsheet](#) - the link to the spreadsheet is located in the middle of the page
- [Land and Maritime Value Management & Engineering \(VE\) Programs](#) - View Land & Maritime's VE Programs webpage for various opportunities to include the RPPOB Program

# Source Approval Request (reverse engineer)

- NSN items likely have approved sources.
- Any company can apply to become an approved source by submitting a Source Approval Request Package (SAR package).
- The SAR package must include all the technical data needed to demonstrate that the prospective supplier can competently manufacture or perform Repair, Overhaul, Maintenance and Modification (ROMM) of the item requiring source approval to the same level of quality or better than the system prime contractor, major subsystem contractor, or OEM.

# Source Approval Request

- A SAR package contains all technical data needed to demonstrate that the prospective contractor can competently manufacture the NSN to the same level of quality or better than the approved source.
- The purpose of a SAR package is to demonstrate evidence of the manufacturer's ability to produce an item with acceptable quality, traceability, and sub-vendor control. SARs are item-specific; therefore, approval of a SAR grants the proposing manufacturer approval for the subject item only.
- Manufacturers are required to submit a unique SAR for *each item requiring approval*. The Actual Manufacturer is the supplier with plant equipment and personnel that performs the physical fabrication processes that produce the deliverable part or other items of supply for the government.
- The actual manufacturer must produce the part in-house. Distributors are permitted to supply critical items if traceability to an Engineering Support Activity (ESA) approved source is provided.

# RPPOB: Replenishment Parts Purchase or Borrow

DoD Manual [4140.01 \(PDF\)](#) Volume 9 allows contractors to buy or borrow part-numbered items to reverse engineer at their own expense. Contractors interested in the Reverse Engineering Program can submit their [Reverse Engineering Request](#) and we will get back to you in a timely manner.

**For *repeat customers*, please refer to the Resources below to access the Part Catalog and any service you need.**

The contractor will physically examine the item; produce drawings and specifications through technical analysis performed during the reverse engineering process, and provide same for review. The contractor and the Government agree when the borrowed part will be returned or a Source Approval Request (SAR) package will be provided to the Government.

Domestic business concerns may purchase, borrow, or view replenishment parts for the following purposes:

- Design replication, product improvement or modification, and alternate sourcing through product identification or reverse engineering practices;
- Development of data packages required to obtain approval to sell like parts to the government; and,
- Enhancement of competition with resultant cost reduction by obtaining alternative sources of supply and manufacturing.

# Purchase vs. Bailment

- The term bailment refers to a legal relationship between two parties in common law, where assets or property are transferred from a bailor to a bailee. In this relationship, the bailor transfers physical possession of a piece of personal property to the bailee for a certain *period of time but retains ownership*.
- A bailment is an agreement in common law that comes into effect when someone entrusts an [asset](#) to someone else for safekeeping.
- The bailor is the owner of the asset and temporarily relinquishes it to the bailee. Bailments only start once the property is in the hands of the bailee.
- The bailor is generally not entitled to use the [property](#) while the bailee holds it.

# Purchase vs. Bailment

- A Sale is a type of contract whereby one party (seller) either transfers the ownership of goods or agrees to transfer it for money to the other party (buyer).
- A sale can be an agreement to sell. In a contract of sale, when there is an actual sale of goods, it is known as Sale whereas if there is an intention to sell the goods at a certain time.
- The following are the essential conditions regarding a sale:
  - There must be at least two parties; one is the buyer, and other is the seller.
  - The subject matter of the sale is the goods.
  - Payment should be made in the country's legal currency.
  - The goods should pass from seller to buyer.
  - All the necessary conditions of a valid contract should be present like free consent, consideration, a lawful object, capacity of parties, etc.

# Non-Manufacturer

- The Non-Manufacturer Rule (NMR) is an exception to the performance requirements.
- It provides that a firm that is *not a manufacturer* may qualify as a small business on a supply contract set aside for small businesses if, among other things, it supplies the product of a small business made in the United States.
- The non-manufacturer rule applies when:
  - (1) an agency puts out a set-aside solicitation under manufacturing or supply NAICS codes; and (2) the estimated value of the acquisition is (a) over \$150,000 (small business set-asides); or (b) over \$3500 (8(a), SDVOSB, and WOSB set-asides).
- The FAR currently specifies that the non-manufacturer rule applies to HUBZone set-asides with an estimated value over \$25,000. The distributor must provide an item that was manufactured by another small business based in the U.S.

# Small Business Innovation Research and Technology Transfer Programs (SBIR/STTR)



# Congress reauthorizes the SBIR/STTR Programs

- Senate passed a bill to extend the SBIR, STTR and related pilot programs through Sept. 30, 2025.
- In addition to reauthorizing the programs, the legislation makes changes to performance standards for companies with numerous awards, foreign risk management, topic solicitations, and requires several new reports by SBA and the Government Accountability Office (GAO).
- Changes to be implemented

# SBIR/STTR

- Small Business: SAM + SBIR registration
- Innovative Research - 11 Federal Agencies Participate
- Three phases:
  - Phase I: Funded - \$50,000 - \$250,000 6 months, typically FFP
    - technical merit, feasibility, and commercial potential, quality of performance
  - Phase II\*: Funded – Generally \$750,000 for two years
    - continue the R/R&D efforts initiated in Phase I
  - Phase III: Not funded – Commercialization Phase

As of October 2022, agencies may issue a Phase I award (including modifications) up to \$295,924 and a Phase II award (including modifications) up to \$1,972,828 without seeking SBA approval. Any award above those levels will require a waiver.

\* Generally, only Phase I awardees are eligible for Phase II awards

<https://www.sbir.gov/about>

# SBIR Program Goals

- Stimulate technological innovation.
- Meet Federal research and development needs.
- Foster and encourage participation in innovation and entrepreneurship by women and socially or economically disadvantaged persons.
- Increase private-sector commercialization of innovations derived from Federal research and development funding.

In addition, the STTR program aims to:

- Foster technology transfer through cooperative R&D between small businesses and research institutions.

# SBIR Participating Agencies



Small Business Administration



Department of Agriculture



Department of Commerce



Department of Defense



Department of Education



Department of Energy



Department of Health and Human Services



Department of Homeland Security



Department of Transportation



Environmental Protection Agency



National Aeronautics and Space Administration

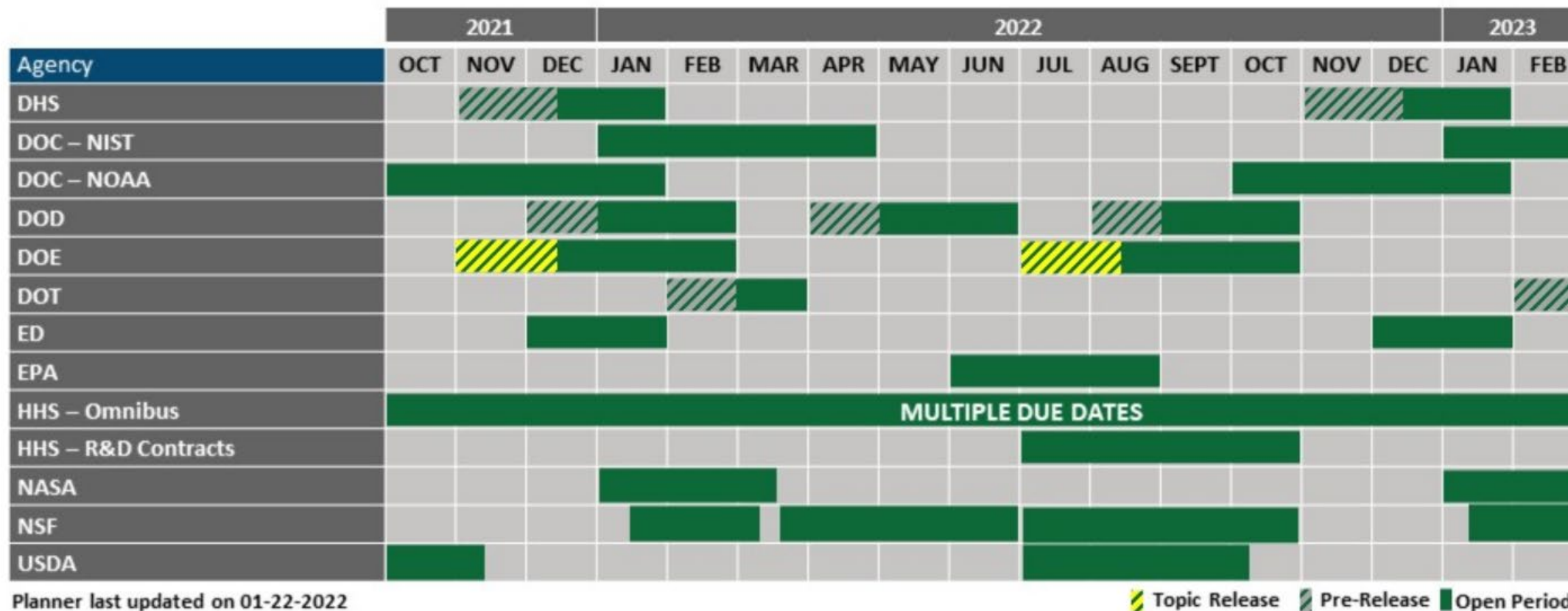


National Science Foundation



Agencies utilize Grants. All others award contracts.

# SBIR/STTR - Solicitations



# SBIR/STTR - concerns

SBIR mills – received 21% of awards

Valley of Death – Phase II <-> Phase III (commercialization)

“valley of death” where promising technologies fail to shift from the lab into actual operations

Warfighter needs - ~ 1,200 requirements

Commercialization

<https://breakingdefense.com/2022/08/lawmakers-propose-changes-to-sbir-as-program-renewal-deadline-nears/>  
<https://breakingdefense.com/2022/07/for-emerging-tech-dod-funds-100m-in-new-projects-to-help-bridge-valley-of-death/>

# SBIR/SSTR

- Phase Flexibility – allows the National Institutes of Health (NIH), Department of Defense (DOD) and Department of Education to make Phase II awards without an initial Phase I award;
- Civilian Agency Commercialization Readiness – enables agencies to use a portion of their funds to further support promising Phase II technologies;
- NIH Phase 0 Proof of Concept Partnership – allows NIH to fund research institutions for grants supporting researchers on proof of concept and commercialization mentoring;

# SBIR/STTR

- Commercialization Assistance – requires agencies to have a program offering continued support to companies, which can mean a third Phase II award;
- Accelerate DOD Awards – pilot requiring DOD to make faster award decisions and disbursements, including through process standardization; and,
- Assistance for Administrative, Oversight and Contract Processing Costs – allows agencies to use a portion of their funds to improve program operations, marketing and reporting.

# Unsolicited Proposal

- An Unsolicited proposal is a written application for a *new or innovative idea submitted to an agency on the initiative of the offeror for the purpose of obtaining a contract with the government.*
- Not in response to a request for proposals, Broad Agency Announcement, Program Research and Development Announcement, or any other Government-initiated solicitation or program.
- The State Dept accepts the submission of valid unsolicited proposals which contribute new and innovative ideas consistent with the Agency's mission.
- However, the requirements for contractor resources are normally program specific and must be responsive to the Department's needs.

# Unsolicited Proposal

- *Should not be an advance proposal for a known agency requirement to be procured by competitive methods* nor should it address previously published solicitations.
- Prospective offerors are encouraged to make preliminary contacts with agency personnel *prior to preparing detailed unsolicited proposals* or submitting proprietary information to the Government.
- A valid unsolicited proposal must-
  - (1) Be innovative and unique;
  - (2) Be independently originated and developed by the offeror;
  - (3) Be prepared without Government supervision, endorsement, direction, or direct Government involvement;
  - (4) Include sufficient detail to permit a determination that Government support could be worthwhile;
  - (5) Not be an advance proposal for a known agency requirement that can be acquired by competitive methods; and
  - (6) Not address a previously published agency requirement.
- *Unsolicited proposals in response to a publicized general statement of agency needs are considered to be independently originated.*

# CRADA (15 USC §3710a)

- Cooperative Research and Development Agreement
- Likely involves Federal Labs
- No funding – barter
- Government identifies a company with technology which it would like to have access to
- In return, the company is provided access to/use of ....
  - Equipment
  - A Lab
  - Expertise
- Formal agreement
- Often above the Contracting Officer level

# Commercial Solutions Opening (CSO)

- **\*\*\*Section 803 of the FY22NDAA provided the DoD with permanent CSO authority, codified in [10 U.S.C. §3458](#) – Authority to Acquire Innovative Commercial Products and Commercial Services using General Solicitation Competitive Procedures \*\*\***

[Commercial Solutions Opening \(CSO\)](#) is a competitive process to obtain solutions or new capabilities that fulfill requirements, close capability gaps, or provide potential technological advances. CSO procedures are similar to those for Broad Agency Announcements (BAAs), with the exception that a CSO can be used to acquire innovative commercial items, technologies, or services that directly meet program requirements, whereas BAAs are restricted to basic and applied research.

# CSO – Contracting Officer requirements

- Describes the agency’s interest, either for an individual program requirement or for broadly defined areas of interest covering the full range of the agency’s requirements;
- Describes the criteria for selecting proposals, their relative importance, and the method of evaluation, including, where applicable, the potential type of data rights that may be determined necessary to meet DoD’s minimum needs;
- Specifies the period of time during which proposals submitted in response to the CSO will be accepted;
- Contains instructions for the preparation and submission of proposals; and
- Uses “S” in position 9 and “C” in position 10 of the procurement instrument identifier to identify the solicitation as a CSO.