Other Transaction (OT) for Prototype
Fact Sheet

The statutory authority to award Other Transactions (OT) for Prototypes is found in 10 U.S.C. 2371b.

The authority states that the Director of DARPA and the Secretary of Military Departments may use the authority in 10 U.S.C. 2371b to carry out prototype projects that are directly relevant to enhancing the mission effectiveness of military personnel and the supporting platforms, systems, components, or materials proposed to be acquired or developed by the Department of Defense, or to improvement of platforms, systems, components, or materials in use by the armed forces.

Under 10 U.S.C. 2371b, most of the Federal Government acquisition statutes and regulations are not applicable, which gives the parties the freedom to approach these agreements in a more commercial-like manner. The standard Government solicitation process does not have to be followed, the agreement looks more like a commercial contract, and the terms and conditions can be negotiated among the parties. Contractors will not be required to follow the Government accounting rules and will have the option to propose the use of their own systems and processes. The handling of intellectual property rights between the parties is also negotiable.

When the agreement is entered into, one of the following conditions will be met:

- At least one nontraditional defense contractor is participating to a significant extent, or
- All significant participants in the transaction other than the Federal Government are small business or nontraditional defense contractors, or
- At least 1/3 cost share of the <u>total</u> cost of the prototype project is to be paid out of funds provided by the parties to the transaction other than the Federal Government, or
- Senior Procurement Executive for the agency determines exceptional circumstances exist that would justify use of the authority

Approvals to use at OT for Prototype:

- Greater than $250M — OSD(ATL);
- Greater than $50M but less than $250M — Director, DARPA;
- Less than $50M — Contracting Officer

"Prototype" is defined as "a physical or virtual model used to evaluate the technical or manufacturing feasibility or military utility of a particular technology or process, concept, end item, or system."

"Nontraditional" is defined as "an entity that is not currently performing and has not performed, for at least the one-year period preceding the solicitation of sources by the Department of Defense for the procurement or transaction, any contract or subcontract for the Department of Defense that is subject to full coverage under the cost accounting standards prescribed pursuant to section 1502 of title 41 and the regulations implementing such section."

"Significant Contribution":

- The contribution causes a material reduction in the cost or schedule or increases the performance of the prototype.
- The non-traditional performer is responsible for a key component, technology, or process without which the prototype cannot be successfully developed (i.e., on the critical path)

Questions?

Contact Mr. Scott Ulrey, Deputy Director, Contracts Management Office, phone: 703-696-2434/email: scott.ulrey@darpa.mil.

For a copy of the DoD Other Transactions (OT) Guide for Prototype Projects visit: http://www.acq.osd.mil/dpap/cpic/cp/specific_policy_areas.html#other_