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R&D

DOD Using Nontraditional Research Approaches To Attract More Commercial Firms, GAO Reports

The Defense Department has been experimenting with nontraditional approaches such as cooperative agreements and other instruments to attract commercial firms and consortia to undertake research, the General Accounting Office reports.

“Cooperative agreements and other transactions appear to have provided DOD a tool to leverage the private sector’s technological know-how and financial investment,” GAO says. “The instruments have attracted firms that traditionally did not perform research for DOD by enabling more flexible terms and conditions than the standard financial management and intellectual property provisions typically found in DOD contracts and grants.” Thus, they have contributed to reducing some of the barriers between the defense and civilian industrial bases.

These instruments also appear to be contributing to fostering new relationships and practices within the defense industry, especially under projects being undertaken by consortia, GAO says. DOD and consortia representatives observed that use of consortia improve information flow, expedite technology development, and promote a different government-recipient relationship. The instruments also provide traditional defense firms with an opportunity to develop or use practices other than those employed under contracts, but it is unlikely such firms will do so given the need to maintain their current systems to comply with regulations or standards applicable to government contracts.

GAO says that by sharing the costs of projects, DOD has partially offset its costs while generally enabling recipients to expand the scope of the projects undertaken. In 72 projects reviewed by GAO, recipients planned to contribute about \$1.39 in cash or in-kind contributions for each dollar provided by the government.

However, under the Federal Acquisition Regulation, some of the recipients’ contributions may be allocated to their overhead costs as independent research and development (IR&D) expenses. As such, they would be eligible for reimbursement by DOD.

GAO reports that about 10 percent of the recipients’ total planned contributions was attributable to the value of past research efforts, with such contributions accounting for more than 20 percent in eight of the 72

agreements reviewed. These practices increase DOD’s actual monetary share of the projects’ costs. In particular, accepting the value of prior research in lieu of concurrent financial or in-kind contributions may not provide an accurate depiction of the relative financial contributions of the parties under an agreement, GAO says.

The selection of instruments by the military services and the Defense Advanced Research Projects Agency (DARPA) has not been consistent, which has led to some confusion among firms that negotiate agreements with these agencies, GAO says. While the instruments share many similar characteristics, there are differences in how the services and DARPA incorporate auditing, access to records, and intellectual property provisions, according to GAO.

Research Approaches Provide Flexibility Prior to 1989, DOD generally did not enter into assistance relationships with commercial organizations for various policy and implementation reasons, GAO says. However, the enactment in 1989 of 10 USC 2371—the legislative authority for DARPA to enter into cooperative agreements and other assistance transactions—was a turning point. Of the 72 agreements reviewed by GAO, 59—or 82 percent—were with consortia comprised primarily of for-profit firms, GAO notes. This high number of consortia-led projects was due in part to the fact that most of the programs under which the agreements were entered into—such as the Technology Reinvestment Project—required or expected that some type of partnership agreement be formed.

Between fiscal years 1990 and 1994, DOD entered into 72 agreements, of which 16 were cooperative agreements and 56 were “other transactions” involving DARPA. At the time of award, the planned contributions by DOD and the recipients totaled about \$1.5 billion.

GAO estimates that about 42 percent of the 275 commercial firms that participated in one or more agreements were firms that traditionally had not performed research for DOD.

DOD officials stressed that a contracting officer cannot elect to use a cooperative agreement or other transaction to attract a nontraditional firm when the principal purpose of the research is for the direct benefit of the government. However, for projects in which the use of such instruments was appropriate, the ability to attract such firms was a significant benefit, especially in those areas in which these firms’ technological capabilities exceed those possessed by traditional defense firms. For example, in one Air Force agreement, 14 firms, including five that traditionally had not performed research for DOD, entered into a \$60 million co-

operative agreement to develop computer interface standards. The consortium manager told GAO that the commercial firms involved would not have participated had DOD imposed standard FAR clauses for certified cost and pricing data or intellectual property provisions.

At the same time, DOD may face some trade-offs in using more commercial-like practices, GAO observes. For example, there may be some added risks to the government due to the less stringent oversight requirements. However, most DARPA and other DOD officials indicated that offsetting factors, such as the recipient's interest in having the project succeed, given its commercial applications, and the tendency of consortium members to self-police agreements, act to reduce that risk.

Recommendations Because inconsistent selection of a particular instrument and treatment of specific clauses may increase confusion for government and industry users and thus hinder their effective use, GAO recommends that revised guidance on the use of cooperative agreements and other transactions promotes increased consistency among DOD components on the selection and structure of these instruments. "In particular, the guidance should specifically address the extent that the value of prior research should be accepted as part of a participant's cost-sharing contribution."

The GAO report (GAO/NSIAD-96-11, 3/29/96) was prepared for the Senate Armed Services Committee and the House National Security Committee.