
Research Administration for Scientists

COMP 918

Contracts, Grants and Cooperative Agreements: What's the Difference?

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Federal Assistance

Types of Support

- Mandatory – block grants, formula-driven
- Discretionary – competitively awarded

Modes of Support

- Grants – assistance
- Contracts – procurement/acquisition
- Cooperative Agreements – assistance but with strings attached

Grant – a legal instrument for transferring money, property, or services to the recipient in order to accomplish a public purpose of support or stimulation where there will be **no substantial involvement between the federal agency and the recipient during performance.**

31 U.S.C. 6304

Grants

- Broad Agency Announcements (BAA): Program Solicitation/Program Announcement – excerpts from NIH (P01) sample follows!
- Part I Overview Information

Part I Overview Information

Department of Health and Human Services

Participating Organizations

National Institutes of Health (NIH), (<http://www.nih.gov/>)

Components of Participating Organizations

National Institute of General Medical Sciences (NIGMS), (<http://www.nigms.nih.gov/>)

Title: Support of NIGMS Program Project Grants (P01)

Announcement Type

This is a reissue of [PA-01-116](#), which was previously released July 9, 2001.

Update: The following update relating to this announcement has been issued:

[September 17, 2007](#) - Expiration Date adjusted to accommodate recent changes to standing submission deadlines, per NOT-OD-07-093.

Looking Ahead: As part of the Department of Health and Human Services' implementation of e-Government, during FY 2006 the NIH will gradually transition each research grant mechanism to electronic submission through Grants.gov and the use of the SF 424 Research and Related (R&R) forms. Therefore, once the transition is made for a specific grant mechanism, investigators and institutions will be required to submit applications electronically using Grants.gov.. For more information and an initial timeline, see <http://era.nih.gov/ElectronicReceipt/>. NIH will announce each grant mechanism change in the NIH Guide to Grants and Contracts (<http://grants.nih.gov/grants/guide/index.html>). Specific funding opportunity announcements will also clearly indicate if Grants.gov submission and the use of the SF424 (R&R) is required. Investigators should consult the NIH Forms and Applications Web site (<http://grants.nih.gov/grants/forms.htm>) for the most current information when preparing a grant application.

Grants

- Broad Agency Announcements (BAA): Program Solicitation/Program Announcement – **excerpts from NIH (P01) sample follows!**
- Part I Overview Information
- Part II Full Text of Announcement
- Section I. Funding Opportunity Description
 1. Research Objectives

Research Objectives

The program project mechanism is designed to support research in which the funding of several interdependent projects offers significant scientific advantages over support of these same projects as individual regular research grants. NIGMS supports research in the broad areas of Cell Biology and Biophysics; Genetics and Developmental Biology; Pharmacology, Physiology, and Biological Chemistry; and Bioinformatics and Computational Biology. Program project grants are investigator-initiated, but are restricted to areas of special interest to the individual divisions within NIGMS (see <http://www.nigms.nih.gov/About/overview> for scientific areas of interests). Potential applicants are strongly encouraged to contact the NIGMS program staff listed at the end of this announcement for guidance about the areas appropriate for program project grant applications and for the preparation of the application itself (see www.nigms.nih.gov/Research/Application/ProgProjFundPolicies.htm for policies related to NIGMS program project funding).

Successful program projects generally bring together scientists in diverse fields, who would not otherwise collaborate, to apply complementary approaches to work on an important well-defined problem. Since it is not unusual for principal investigators of individual research grants to share techniques, information, and methods, it is not sufficient that the projects are unified by a common theme. In this regard the burden of proof is on the principal investigator, and on each individual project leader, to demonstrate in the written application that the program would be much less effective if parceled out as a set of independent research grants. In addition, the program project can facilitate the support of essential shared core facilities, e.g., major equipment, although the need of a group of investigators for a major piece of equipment or a core facility does not in itself justify a program project grant. Administrative cores, except in special, well-justified circumstances, will not be allowed. Further, it is expected that successful program projects will establish effective collaborations, particularly in emerging areas of research, that extend beyond the life of the program project grant itself. Hence, a program project generally has a finite lifetime.

Part I Overview Information

Part II Full Text of Announcement

Section I. Funding Opportunity Description

1. Research Objectives

Section II. Award Information

1. Mechanism(s) of Support

2. Funds Available

1. Mechanism(s) of Support

This funding opportunity will use the National Institutes of Health (NIH) P01 award mechanism. As an applicant, you will be solely responsible for planning, directing, and executing the proposed project.

This funding opportunity uses the just-in-time budget concepts. It also uses the non-modular budget format described in the PHS 398 application instructions (see <http://grants.nih.gov/grants/funding/phs398/phs398.html>). A detailed categorical budget for the "Initial Budget Period" and the "Entire Proposed Period of Support" is to be submitted with the application.

2. Funds Available

For applications seeking initial funding in FY2007, an upper limit of \$6.1 million direct costs (exclusive of subcontractual facilities and administrative costs) for the entire five-year period may be requested.

Because the nature and scope of the proposed research will vary from application to application, it is anticipated that the size and duration of each award will also vary. Although the financial plans of the IC(s) provide support for this program, awards pursuant to this funding opportunity are contingent upon the availability of funds and the receipt of a sufficient number of meritorious applications.

Facilities and administrative costs requested by consortium participants are not included in the direct cost limitation, see [NOT-OD-05-004](#).

The total project period for an application submitted in response to this PA may not exceed five years. For applications seeking initial funding in FY2007, an upper limit of \$6.1 million direct costs (exclusive of subcontractual facilities and administrative costs) for the entire five-year period may be requested. Under certain circumstances, with the concurrence of NIGMS staff, additional funds may be requested and provided for major pieces of equipment. In compliance with NIH policy, a grant application that requests more than \$500,000 (direct costs) in any one year will not be accepted without prior approval from the Institute.

Part I Overview Information

Part II Full Text of Announcement

Section I. Funding Opportunity Description

1. Research Objectives

Section II. Award Information

1. Mechanism(s) of Support
2. Funds Available

Section III. Eligibility Information

1. Eligible Applicants
 - A. Eligible Institutions
 - B. Eligible Individuals
2. Cost Sharing or Matching
3. Other - Special Eligibility Criteria

Section IV. Application and Submission Information

1. Address to Request Application Information
2. Content and Form of Application Submission
3. Submission Dates and Times
 - A. Submission, Review, and Anticipated Start Dates
 1. Letter of Intent
 - B. Sending an Application to the NIH
 - C. Application Processing
4. Intergovernmental Review
5. Funding Restrictions
6. Other Submission Requirements

Section V. Application Review Information

1. Criteria
2. Review and Selection Process
 - A. Additional Review Criteria
 - B. Additional Review Considerations
 - C. Sharing Research Data
 - D. Sharing Research Resources
3. Anticipated Announcement and Award Dates

Section VI. Award Administration Information

1. Award Notices
2. Administrative and National Policy Requirements
3. Reporting

Section VII. Agency Contact(s)

1. Scientific/Research Contact(s)
2. Peer Review Contact(s)

Grants

- Broad Agency Announcements (BAA): Program Solicitation/Program Announcement
- Financial Assistance Award – all listed in the **Catalog of Federal Domestic Assistance:**
 - Database maintained by General Services Administration
 - Classifies all federal programs
 - Each program assigned a number

Types Of Assistance

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Currently, programs in the Catalog are being classified by GSA into 15 types of assistance. (Cooperative Agreements as a type of assistance is used for programs administered under that mechanism. However, the definition does not appear in this section.) Benefits and services of the programs are provided through seven financial types of assistance and eight nonfinancial types of assistance. The following list defines the types of assistance which are available through the programs. Code letters below (A through O) which identify the type of assistance will follow program titles in the Agency Index, Applicant Eligibility Index, the Functional Index, Deadlines Index, and in the list of added programs.

[\(A\) Formula Grants](#)

Allocations of money to States or their subdivisions in accordance with distribution formulas prescribed by law or administrative regulation, for activities of a continuing nature not confined to a specific project.

[\(B\) Project Grants](#)

The funding, for fixed or known periods, of specific projects. Project grants can include fellowships, scholarships, research grants, training grants, traineeships, experimental and demonstration grants, evaluation grants, planning grants, technical assistance grants, survey grants, and construction grants.

[\(C\) Direct Payments for Specified Use](#)

Financial assistance from the Federal government provided directly to individuals, private firms, and other private institutions to encourage or subsidize a particular activity by conditioning the receipt of the assistance on a particular performance by the recipient. This does not include solicited contracts for the procurement of goods and services for the Federal government.

[\(D\) Direct Payments with Unrestricted Use](#)

Financial assistance from the Federal government provided directly to beneficiaries who satisfy Federal eligibility requirements with no restrictions being imposed on the recipient as to how the money is

spent. Included are payments under retirement, pension, and compensatory programs.

[\(E\) Direct Loans](#)

Financial assistance provided through the lending of Federal monies for a specific period of time, with a reasonable expectation of repayment. Such loans may or may not require the payment of interest.

[\(F\) Guaranteed/Insured Loans](#)

Programs in which the Federal government makes an arrangement to indemnify a lender against part or all of any defaults by those responsible for repayment of loans.

[\(G\) Insurance](#)

Financial assistance provided to assure reimbursement for losses sustained under specified conditions. Coverage may be provided directly by the Federal government or through private carriers and may or may not involve the payment of premiums.

[\(H\) Sale, Exchange, or Donation of Property and Goods](#)

Programs which provide for the sale, exchange, or donation of Federal real property, personal property, commodities, and other goods including land, buildings, equipment, food and drugs. This does not include the loan of, use of, or access to Federal facilities or property.

[\(I\) Use of Property, Facilities, and Equipment](#)

Programs which provide for the loan of, use of, or access to Federal facilities or property wherein the federally owned facilities or property do not remain in the possession of the recipient of the assistance.

[\(J\) Provision of Specialized Services](#)

Programs which provide Federal personnel directly to perform certain tasks for the benefit of communities or individuals. These services may be performed in conjunction with nonfederal personnel, but they involve more than consultation, advice, or counseling.

[\(K\) Advisory Services and Counseling](#)

Programs which provide Federal specialists to consult, advise, or counsel communities or individuals to include conferences, workshops, or personal contacts. This may involve the use of published information, but only in a secondary capacity.

[\(L\) Dissemination of Technical Information](#)

Programs which provide for the publication and distribution of information or data of a specialized or technical nature frequently through clearinghouses or libraries. This does not include conventional public information services designed for general public consumption.

[\(M\) Training](#)

Programs which provide instructional activities conducted directly by a Federal agency for individuals not employed by the Federal government.

[\(N\) Investigation of Complaints](#)

Federal administrative agency activities that are initiated in response to requests, either formal or informal, to examine or investigate claims of violations of Federal statutes, policies, or procedure. The origination of such claims must come from outside the Federal government.

[\(O\) Federal Employment](#)

Programs which reflect the Governmentwide responsibilities of the Office of Personnel Management in the recruitment and hiring of Federal civilian agency personnel.

Note: Numbers in parenthesis after the type of assistance indicate the number of programs listed in the Catalog having that type. Also, a program may have more than one type of assistance associated with it.

General Services Administration
Integrated Acquisition Environment (IAE)

Grants

- Broad Agency Announcements (BAA): Program Solicitation/Program Announcement
- Financial Assistance Award
- Made for stated purpose (proposal/award)
- Made for stated period of time (project period)
- Made to an organization in the name of a Principal Investigator (PI)
- No substantial programmatic involvement by awarding agency
- Funding may be annual, multi-year or for entire budget period
- Minimum of limiting conditions

Contract – an agreement, enforceable by law, between two or more competent parties, to do or not do something not prohibited by law, for a legal consideration.

FAR 2.101 defines a contract as a mutually binding legal relationship that obligates the seller to furnish supplies or services and the buyer to pay for them.

Contracts

- Announced by either Competitive RFP or BAA
 - Competition in Contracting Act of 1984 allowed for basic research proposals - otherwise RFP or IFB
 - The Broad Agency Announcement (BAA) is a competitive solicitation procedure used to obtain proposals for basic and applied research and that part of development not related to the development of a specific system or hardware procurement. The BAA is described in FAR 6.102, “ Use of Competitive Procedures,” and FAR 35.016, “ Broad Agency Announcements.”
 - The type of research solicited under a BAA attempts to increase knowledge in science and/or to advance the state of the art as compared to practical application of knowledge.

Sample BAA for Contracts

N61339-05-R-0095

PART I - INTRODUCTION

AUTHORITY

U.S. Army Research, Development and Engineering Command – Simulation and Training Technology Center (RDECOM-STTC) issues this Broad Agency Announcement (BAA) under the provisions of paragraphs 35.016 and 6.102 (d) (2) of the Federal Acquisition Regulation (FAR), which provides for the competitive selection of research proposals. Contract(s) based on responses to this BAA are in full compliance with the provisions of PL 98-269, “The Competition in Contracting Act of 1984.”

RDECOM-STTC through NAVAIR Orlando Training Systems Division (TSD), contracts with educational institutions, nonprofit organizations, and private industry for research and development (R&D) in those areas covered in Part II of this BAA. Proposed efforts should address issues in all domains including Advanced Concepts and Requirements (ACR) and Research, Development and Acquisition (RDA). Contractors are urged to consider cost sharing schemes in cooperation with RDECOM-STTC. Details of a Cooperative Agreement are provided in Part VI of this document.

Differences Between a BAA and a Competitive RFP

(1) Type of Research and Development

RFP - Focusing on a specific system or hardware solution.

BAA- Scientific study and experimentation directed toward advancing the state-of-the-art or increasing knowledge or understanding.

(2) Statement of Work

RFP- The Government drafts a common SOW to which all offerors propose.

BAA- The Government drafts a statement of the problem or general research interest. Each offeror proposes its own statement of work and technical approach.

(3) Proposal Comparison

RFP -All proposals are supposed to do the same thing. Winner is selected by comparing proposals.

BAA- Proposals contain stand-alone unique solutions. They are not compared to one another.

(4) Nature of the Competition

RFP- Proposals address common SOW and compete, one against another. Cost, price, or best value, is often the deciding factor.

BAA- Each proposal presents a separate approach to solving the problem. There is technical competition in the “marketplace of ideas.” Cost or price is rarely the deciding factor on the winning proposal.

(5) Evaluation Process

RFP- An RFP follows very closely a predetermined source selection plan.

BAA- Proposals undergo a scientific review process. A proposal that is otherwise weak could be selected if it shows great technical promise, such as a risky but perhaps revolutionary approach.

Contracts

- BAA – Competition in Contracting Act of 1984 allowed for basic research proposals; otherwise RFP or IFB
- Mutually binding legal relationship that binds the seller to deliver certain specified goods or services (deliverables) in exchange for certain specified consideration (e.g., money)
- Terms are detailed and specific
- Activities dictated by sponsor (buyer)
- Less latitude to modify scope of work and line-item expenditures
- Funding may be incremental, tied to work components, final payment (e.g. 10%) may be held till “acceptance” of deliverables
- Process governed by the FAR (Federal Acquisition Regulation)

FAR: Federal Acquisition Regulation

- Body of regulations
- Chapter 1, Title 48 C.F.R.
- Primary source of authority for all government procurements
- Maintained jointly by Defense Acquisition Regulatory Council (DARC) and Civilian Agency Acquisition Council (CAAC)

Contract Types

Cost-Reimbursement (CRC)

- Pays allowable costs to extent proposed and funded
- Contractor must have adequate accounting system to track **applicable** costs
- Contains limitation of costs clause (LOC) – notice given to government when costs incurred reach 75%, or when contractor estimated costs will be substantially greater or less than contractual estimated costs

Contract Types

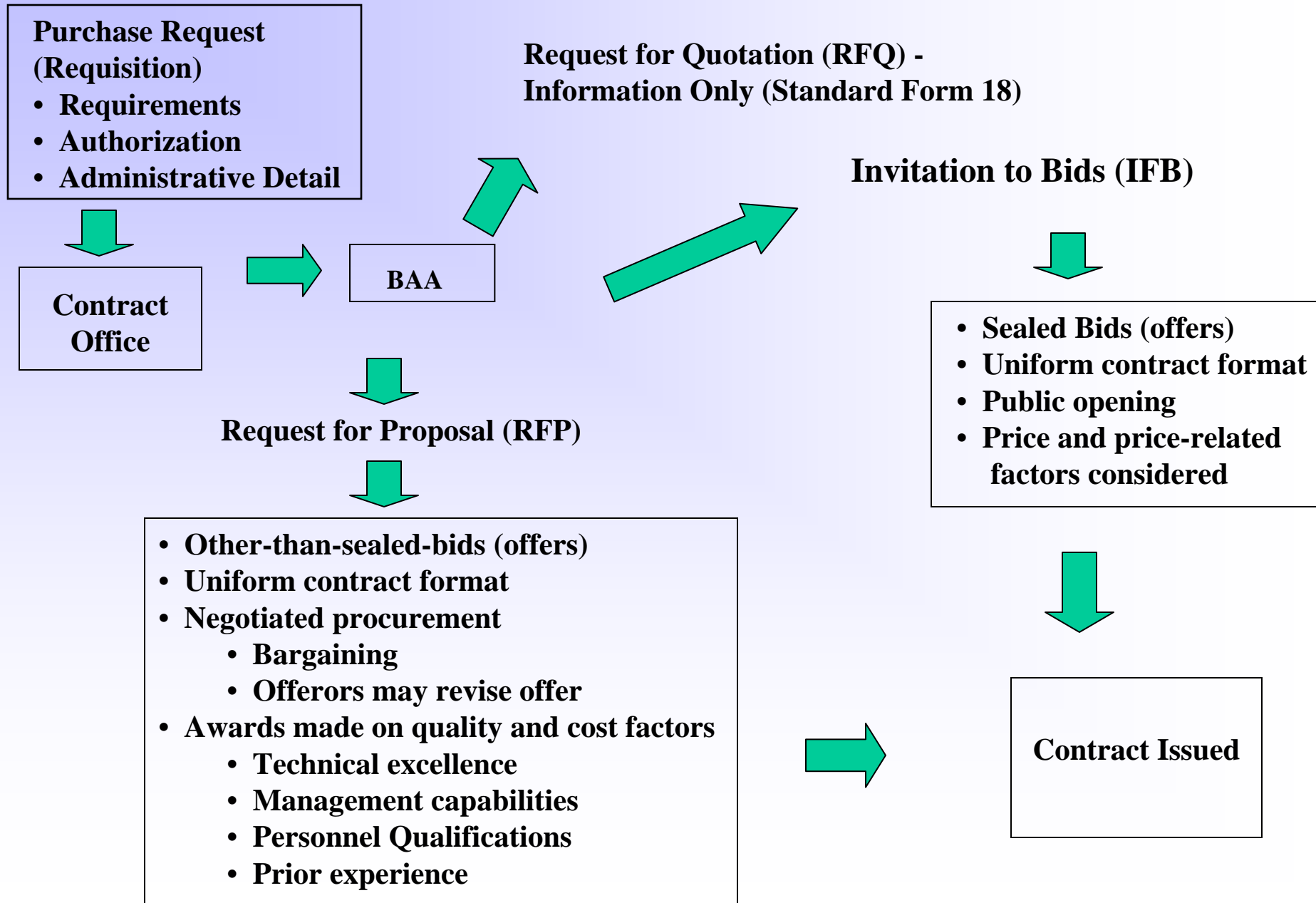
Variations in Cost-Reimbursement (CRC)

- Cost-sharing (CSC)
- Cost-plus-fixed fee (CPFF) – negotiated fee fixed at contract inception - FAR 16.306
- Cost-plus-incentive fee (CPIF) – target cost and fees (adjustable)

Fixed Price (FPC)

- Price-based, not cost-based
- Price defined in contract (by unit or deliverable)
- May be firm or adjustable (Economic circumstances, profit)

Contracting Process



Contract Terminology

- **Contracting Officer (CO)** – an employee of the federal government with the authority to enter into, administer, and/or terminate contracts. (FAR 2.101)
- **COR/COTR** – assigned certain responsibility and authority as delegated from CO.
- **Modification** – any written change in the terms of a contract (FAR 43.101)
 - Change orders
 - Supplemental agreements
 - Exercises of contract options
 - Notices of termination

Contract Terminology

- **Estimated Cost** – anticipated cost of performance of a cost contract.
- **Funding Increment** – an amount of funding associated with a period of performance of a contract.
- **Established Funding Limit** – sum of all funding increments of a contract.
- **Reductions in Estimated Costs**
 - Results in Descoping of Work

Contract Terminology

- **Best and Final Offer (BAFO)** – a contractor's final offer following negotiation.
- **Basic Ordering Agreement (BOA)** – negotiated instrument detailing terms and clauses that apply to future contracts (orders), description of supplies/services to be offered, and methods of pricing and delivery. A BOA is not a contract.
- **Blanket Purchase Agreement (BPA)** - Establish a GSA Schedule for filling orders for repetitively needed products/services.

Other Contract Issues

- **Termination**

- **For default** – right of government to completely or partially terminate a contract because of the contractor’s actual or anticipated failure to perform its contractual obligations, (FAR 49.401)
- **For convenience** – right of government to completely or partially terminate a contract because the CO determines that termination is in the government’s interest (FAR 49.101)

Other Contract Issues

- **Contract – Acquired Property** – property acquired by a contractor for performing a contract to which the government has title.
- **Rights in Data** – if the government has funded development of an item, component, or process, the government may gain **unlimited rights** to data. If development was at private expense to contractor, the government may gain only **limited rights**.

Cooperative Agreement – a legal instrument for transferring money, property, or services to the recipient in order to accomplish a public purpose of support or stimulation where **substantial involvement is expected between the government agency and the recipient.**

31 U.S.C. 6305

Cooperative Agreements

Financial Assistance Award as defined by the Federal Grant and Cooperative Agreement Act of 1977

- Similar to grant except
 - There is substantial programmatic involvement by awarding agency.
 - Principal purpose is to transfer money or something of value to recipient in order to accomplish a public purpose.

Cooperative Agreements

- Agencies have substantial freedom to structure the terms and conditions (T&Cs)
 - Agencies must issue CA regulations
 - Often differ from standard assistance regulations and may even resemble acquisition regulations



Grants and Debarment

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The Federal Grant and Cooperative Agreement Act of 1977

In the 1970's, Congress was concerned over the perceived misuse of assistance agreements - using assistance agreements to circumvent competition and procurement rules. To address these problems, and to ensure uniform Agency practices, Congress passed the Federal Grant and Cooperative Agreement Act of 1977 (FGCAA).

The FGCAA establishes government-wide criteria for determining the appropriate legal instrument for funding an extramural activity.

The FGCAA distinguishes between acquisition (procurement/contracts) and assistance (grants and cooperative agreements), based on the principal purpose of the legal relationship between the parties.

If the principle purpose of the funded activity is to provide something for the direct benefit or use of the Federal government, then a contract is the appropriate legal instrument to use.

Benefit or Use Test:

- Is EPA the direct beneficiary or use of the activity?
- Is EPA providing the specifications for the project?
- Is EPA having the project completed based on its own identified needs?

If the purpose of the funded activity is to support or stimulate activities that are not for the direct benefit or use of the Federal government, an assistance agreement (grant or cooperative agreement) may be use.

Support or Stimulation Test:

- Is the applicant performing the project for its own purpose?
- Is EPA merely supporting the project with financial or other assistance?
- Is the benefit to EPA incidental (i.e., do funded activities compliment EPA's mission)?

The distinguishing factor between a grant and a cooperative agreement is the degree of Federal participation or involvement during the performance of the work activities.

If EPA, usually the Project Officer, participates in project activities, then a cooperative agreement is the proper funding mechanism.

If the funded activities meet the definition of assistance and no substantial involvement by EPA is anticipated, a grant must be used to fund the project.

It should be noted that the FGCAA is not the legal authority by which EPA funds assistance agreements. EPA's legal authorities are obtained from the environmental statutes (Clean Air Act, Clean Water Act, etc.).

New National Term on Suspension and Debarment

Tips On Writing a Grant Proposal

Sample Indirect Cost Proposal Format For Nonprofit Organizations

EPA Organization Chart

Grant Award Activity Summary

Historical Information

OMB Circulars

Cross-Cutting Public Policies

Lobbying and Litigation

The Federal Grant and Cooperative Agreement Act of 1977

Catalog of Federal Domestic Assistance

Competition for Assistance Agreements

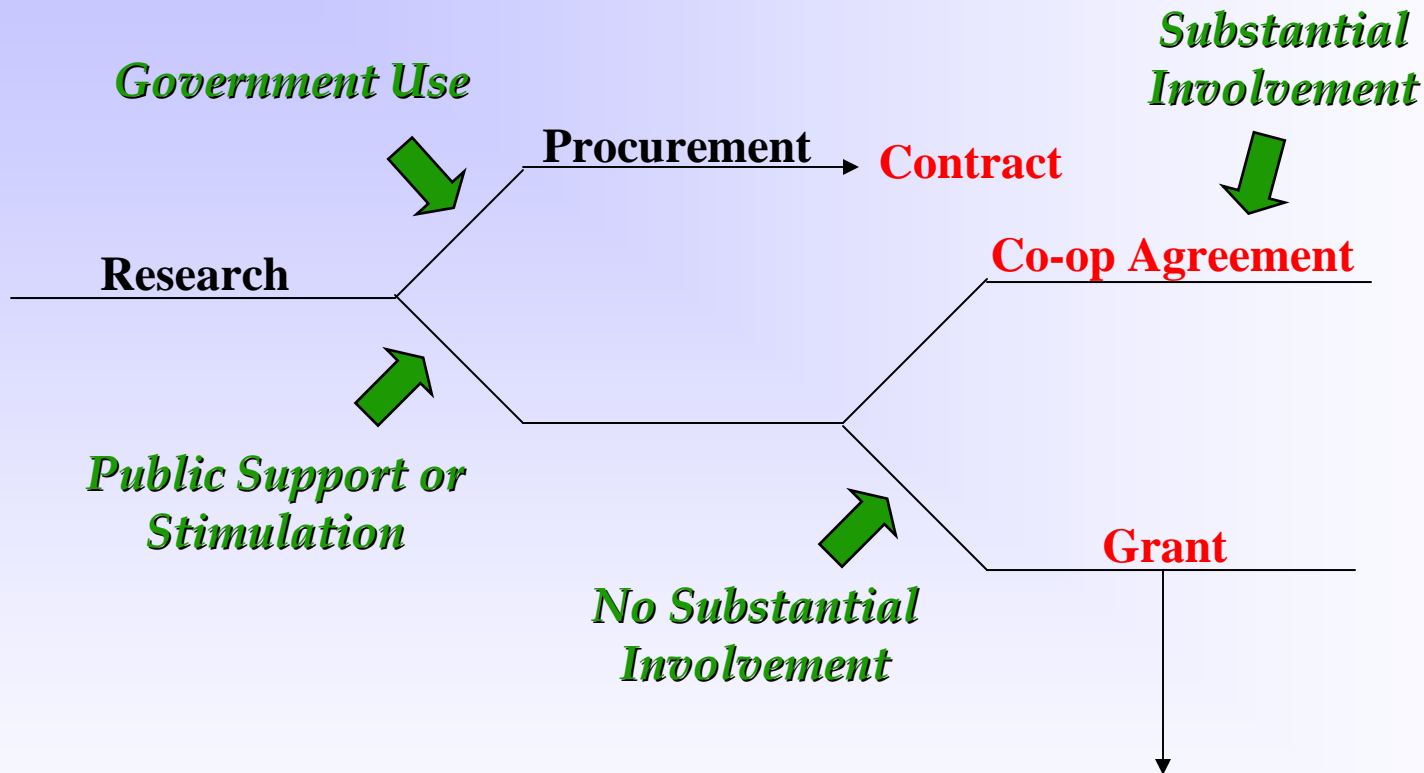
MBE/WBE Utilization

Overview of the Award Document and Terms and Conditions

Use of a Universal Identifier by Grant Applicants

Responsibilities -

DISTINGUISHING CONTRACT, GRANTS AND COOPERATIVE AGREEMENTS



- Idea for the project is initiated by the investigator.
- Grantor has no expectation of a specified service or end product

3 P's – Patron (Grant): Partner (Co-op Agreement): Purchaser (Contract)

Assignment for Next Class

*Review the following federal circular
before next class:*

http://www.whitehouse.gov/omb/circulars/a021/a21_2004.html