

Department of Homeland Security Technology Transfer Agreements

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Available Types of Agreements

(yes, no, and maybe)

- Cooperative Research And Development Agreements
- Patent License Agreements
- Cooperative Agreements & Grants
- Commercial Test Agreements (working on this)
- Partnership Intermediary Agreements (delegation issue)
- Material Transfer Agreements
- Education Partnership Agreements (working on this)
- “Other Transactions” (ended FY2010)

DHS GOGO Laboratories and GOCO Laboratory

- DHS Government-Owned, Government-Operated Laboratories:
 - Transportation Security Laboratory
 - Plum Island Animal Disease Center
 - Environmental Measurements Laboratory
 - Secret Service Forensics Laboratory
 - Chemical Security Analysis Center
- DHS Government-Owned, Contractor-Operated Laboratory:
 - National Biological Analysis and Countermeasures Center (NBACC) at Fort Detrick, MD. S&T awarded a contract to Battelle for the operation of the NBACC.

General and Limited purpose

- Standard stuff
- Long version (1040): general purpose agreement for garden-variety situations involving S&T laboratories
- Short version (1040a): limited purpose that abbreviates the terms and conditions by 50%. Focus is on transfer of property/information for testing/evaluation

Four Primary CRADA Agreements

- All based on 15 U.S.C. 3710a
 - Authority cooperative research and development agreements
- General Purpose, Limited, SECURE™, FutureTECH™
- Available due to broad definition of “laboratory”
- Under constant revision

Innovative use of the CRADA

- DHS has an Office of Commercialization
- Tasked with outreach to private sector to act as clearing house of information, point of contact for inquires, face to an agency, and concerted effort to align operational requirements with market based solutions
- Created “SECURE” or the “System Efficacy through Commercialization, Utilization, Relevance and Evaluation” Program

SECURE™ Overview

- The 1040ez of CRADAs
- The SECURE Program is an efficient and cost-effective program to foster cooperative win-win partnerships between the U.S. Department of Homeland Security and the private sector.
- The DHS works with the private sector to develop products, systems or services aligned to the needs of its operating components, first responders and critical infrastructure/key resources owners and operators, representing in many cases, large potential available markets.
- The DHS posts detailed operational requirements in the form of an Operational Requirements Document (ORD) on this site to articulate specific requirements in conjunction with a conservative estimate of the Potential Available Market (PAM) of a given product, system, or service.
- Private sector entities possessing technologies or products aligned to these requirements can use this valuable information to generate a business case and develop (at their cost) a fully deployable product or service after their verification of market potential.
- The Department assures that a product or service has demonstrated operational performance that meets a given private sector entity's published specifications through our review of recognized third-party independent testing data.
- Enables the private sector, through the free market system, to develop products and services that capture significant revenue opportunities and demonstrates to potential purchasers that the product does what it claims to do.
- Designed to bring a product to Technology Readiness Level 9 (TRL) – ready for market

Where's the CRADA?

- Buried in the middle of the process
- An applicant with a potential product aligns with an S&T program manager to craft a CRADA that requires testing and evaluation, within or without DHS, to determine the product/services ability to meet the requirements
- The Director of Transition is the laboratory director with authority to sign the CRADA
- A passing grade gets a Trademarked “certification” usable for advertising and marking on a product
- Without CRADA authority, it would be difficult to justify government time being spent on assisting private products

SECURE™ CRADA Example

- **SECURE™ Program: Cooperative Research and Development Agreement**

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- **Article 1. Parties**

- The United States Of America, represented by the Department of Homeland Security, (hereinafter referred to as DHS) and Wellspring Trailer Group, LLC (hereinafter referred to as *CRADA Partner*) enter into this Cooperative Research And Development Agreement (“Agreement”). The statutory authority for this Agreement is 15 U.S.C. 3710a.
- The purpose of this Agreement is to formalize the public-private partnership established by the SECURE™ program and to evaluate the effectiveness of a potential solution proposed by the CRADA Partner to address the stated requirements of DHS stakeholders.
- Authority
 - This agreement is entered into pursuant to the authority granted in 15 United States Code, Section 3710a.

- **Article 2. Work Statement**

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2.1 Appendix A sets forth the nature and scope of the work to be performed under this Agreement, including any facilities, test equipment, supplies, services, maintenance, and other support, and any associated reporting requirements. It also describes any and all test request procedures and/or test and evaluation data submitted by the CRADA Partner and the contents of each request.

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- **Article 3. Protection of Proprietary or Confidential Information**

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3.1 Pursuant to 15 USC 3710a(C)(7)(A), DHS will not disclose trade secrets or commercial or financial information that is privileged, proprietary or confidential, under the meaning of section 552(b)(4) of Title 5, United States Code, obtained in the conduct of or as a result of this Agreement without the written consent of the CRADA Partner. In the event that a government contractor needs access to such information in order to perform work under this Agreement, then DHS will require the government contractor to execute a nondisclosure agreement.

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3.2 Prior to publication or before any other public disclosure of any materials or information related to participation in the SECURE™ Program, including, but not limited to the results of the testing, each party will offer the other party a reasonable opportunity to review the proposed materials for release and to submit objections prior to any public disclosure. The objections shall be submitted to the parties identified in Article 7. If the objections cannot be resolved then the procedures of Article 6 shall apply.

• **Article 4. Modification and Termination**

• 4.1 Modification. Any and all modifications shall be by written agreement of the authorized representatives of the parties and shall be incorporated into this Agreement.

• 4.2 Termination. Either party may terminate this Agreement for any reason upon delivery of written notice to the other party at least thirty (30) days prior to such termination. Termination of this Agreement shall not affect the rights and obligations of the parties accrued prior to the date of termination of this Agreement. In the event of termination by the CRADA Partner, the CRADA Partner shall be responsible for all costs incurred by DHS through the date of termination and all related costs incurred after the termination. If DHS terminates this Agreement, it shall not be liable to the CRADA Partner or its contractors or subcontractors for any costs resulting from or related to the termination, including, but not limited to, incidental or consequential damages.

• **Article 5. Disputes**

• 5.1 Disputes. The parties shall resolve all disputes arising out of, or related to this Agreement in accordance with this Article.

• 5.2 The CRADA Partner and DHS shall attempt to resolve disputes between themselves. The parties shall refer any dispute, not resolved by agreement, to the Under Secretary of Science and Technology within 30 days after failure to resolve a dispute.

• 5.3 The Under Secretary of Science and Technology shall within sixty (60) days of the receipt of the dispute, notify the parties of the final and binding decision.

• 5.4 DHS may elect not to continue work under this Agreement until the dispute is resolved.

• **Article 6. Notices**

• Send correspondence by prepaid ordinary U.S. Mail and address them as follows:

• **Richard Kikla**

• Director of Transition

• S&T DOT STOP 0216

• DEPARTMENT OF HOMELAND SECURITY

• 245 MURRAY LN

• WASHINGTON DC 20528-0216

• **Article 7. Signatures**

• IN WITNESS WHEREOF, the Parties execute this Agreement, in duplicate, by their authorized representatives as follows:

• _____

• _____

• Title: Richard V. Kikla, Director of Transition

• Title:

• Date:

• Date:

FutureTECH™

- FutureTECH™ Logo Usage: The FutureTECH™ certification mark is intellectual property of the Department of Homeland Security and use without permission is unauthorized and in violation of trademark law. For more information or to request to use the logo please e-mail iprequest@hq.dhs.gov.
- The objective of the FutureTECH™ Program is to establish mutually-beneficial partnerships with the private sector, national laboratories, university community and other Research and Development (R&D) organizations to develop technologies/capabilities that address the long-term needs of the Department and its stakeholders.
- FutureTECH enables the private sector and others to peer into the critical research/innovation focus areas of interest to the Science and Technology Directorate. FutureTECH identifies and focuses on the future needs of the Department as fully deployable technologies and capabilities, in many cases, are not readily available in the private sector or federal government space.
- FutureTECH outlines focus areas for which current technology only exists at earlier stages on the technology readiness scale (TRL 1-6 on the [Product Realization Chart \(PDF, 1 page - 114 KB\)](#)). Its "sister program" [SECURE \(System Efficacy through Commercialization, Utilization, Relevance and Evaluation\)](#) is for fully deployable technology readiness level nine (TRL-9) products and services.

FutureTECH CRADA Example

- **FutureTECH™ Program: Agreement**
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- Article 1. Preamble
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- 1.1 The United States Of America, represented by the Department of Homeland Security, (hereinafter referred to as DHS) and _____ (hereinafter referred to as *CRADA Partner*) enter into this Cooperative Research And Development Agreement (“Agreement”). The statutory authority for this Agreement is 15 U.S.C. 3710a.
- **Article 2. Work Statement**
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- 2.1 Appendix A sets forth the nature and scope of the work to be performed under this Agreement, including any facilities, test equipment, supplies, services, maintenance, and other support, and any associated reporting requirements. It also describes any and all test request procedures of the CRADA Partner and the contents of each request.
- **Article 3. Cost Reimbursement**
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- 3.1 If appropriate and mutually agreed-upon by both parties, the CRADA Partner shall reimburse DHS for any costs incurred by DHS in its performance of this Agreement related to special testing that can not be performed by the CRADA partner. DHS’s responsibilities and those of the CRADA Partner are set forth at Appendix A.
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- 3.2 The not-to-exceed (NTE) total cost of any services is to be determined by DHS and the CRADA Partner prior to the beginning of any approved test.
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- 3.3 Payment of the not-to-exceed estimated amount shall be made in ADVANCE of any testing. Surplus funds, (i.e. in excess of costs incurred), remaining after the conclusion of each test shall be refunded to the CRADA Partner within 30 days thereof.
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- 3.4 The CRADA Partner shall make all payments by cashier’s check, certified check, bank money order or postal money order and payable to United States of America. Payment shall be mailed to the following address:

[Address]
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- 3.5 Payments shall reference this Agreement by its CRADA Number and by the names of the parties and shall state the purpose of the payments. The CRADA Partner shall also send, by ordinary mail, a copy of the payment documents to DHS.
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- Article 4. Confidentiality
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• 4.1 Any *Proprietary Information* received by DHS under this Agreement may not be disclosed outside the United States Government without the consent of the CRADA Partner. In the event a government support contractor will need access to such information in order to perform work under this Agreement, then DHS will require the government support contractor to execute a nondisclosure agreement.

• 4.2 Prior to publication or before any other public disclosure of the results of the testing, each party will offer the other party a reasonable opportunity to review the proposed materials for release and to submit objections prior to any public disclosure. The objections shall be submitted to the parties identified in Article 7. If the objections cannot be resolved then the procedures of Article 6 shall apply.

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• **Signatures**

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• Title:
• Date:

Title:
Date:

Conclusion

- DHS has a diverse mission with matching research and development effort
- Requires full use of all “agreements” legally available
- Innovative use creates benefits that tap private sector investment and ideas to produce workable solutions
- The SECURE and FutureTECH programs leverage CRADA authority to share information and align interests