



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
ACQUISITION LOGISTICS AND TECHNOLOGY
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SAAL-ZT

MEMORANDUM FOR RECORD

DATE: 19 APR 2022

SUBJECT: Headquarters, Department of the Army (HQDA) Foreign Cooperative Research and Development Agreement Review Procedural Guidance

REFERENCES:

- a. Executive Order (EO) 12591, *Facilitating Access to Science and Technology*, Dated 10 April 1987
- b. 15 USC 3710a Cooperative Research and Development Agreements
- c. Army Regulation (AR) 70-57, *Army Technology Transfer*, Dated 2 March 2022
- d. Designation of Responsible Official for the Administration of the Army Technology Transfer Program Memorandum, Dated 6 April 2022
- e. International Traffic in Arms Regulation (ITAR)

PURPOSE: In order to ensure that Army laboratories and other technical centers designated to conduct technology transfer (hereafter, laboratories) may benefit from scientific research and technology development abroad while ensuring information security, intellectual property protection, and adherence to export controls, laboratories and centers will carry out the following responsibilities before finalizing a cooperative research and development agreement (CRADA) with foreign-owned or foreign-controlled entities (hereafter, foreign CRADA) given in reference a.

PREREQUISITE LABORATORY/TECHNICAL CENTER RESPONSIBILITIES:

- 1) Laboratory directors are responsible to ensure the following:
 - a) general awareness of the preference given for businesses located in the United States stated in reference b; and
 - b) HQDA has provided a review of all foreign CRADAs before signature by the laboratory or center director and foreign partner required by reference c.
- 2) The Office of Research Technology and Applications (ORTA) is responsible to ensure the following:
 - a) clear identification of the partner, meaning the foreign person/s or organization/s partnered with are clearly identified with legal entity name, address, and foreign affiliation/s;
 - b) statement of work includes objective/s that align with the mission of the laboratory/center;
 - c) the principal investigator/s are identified in the CRADA;
 - d) partner has the option to license inventions arising from the CRADA under reasonable terms to be negotiated in good faith within a specified field of use ensuring the partner/s are offered the option to hold licensing rights provided in reference b;
 - e) local security reviews with the principal investigator, technology protection officer, and the foreign disclosure officer have provided resolution to required security assessments:
 - i) assessment identifying data, technologies, products, or services subject to export control under the Export Administration Regulation (EAR). If any such exchanges may occur, an export license or an authorization is required from the Department of Commerce. If EAR exchanges will not occur, please provide a clear statement that affirms the proposed agreement will not include any data, technologies, or products subject to EAR controls.

- ii) assessment identifying data, technologies, products, or services subject to the International Traffic in Arms Regulation (ITAR) as provided in the United States Munitions List (see ITAR Sec 121.1). If any such exchanges may occur, an export license or an authorization is required with assistance of the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation (DASA-DEC). If ITAR exchanges will not occur, please provide a clear statement that affirms the proposed agreement will not include any data, technologies, or products subject to the ITAR
- iii) assessment verifying there will be no exchange of Critical Program Information (CPI) or Controlled Technical Information (CTI). If CPI/CTI exchanges will not occur, please provide a clear statement that affirms the proposed agreement will not include any data, technologies, or products considered CPI or CTI.
- iv) assessment verifying there will be no exchange of classified information. If classified exchanges will not occur, please provide a clear statement that affirms the proposed agreement will not include any data, technologies, or products subject to a security classification secret or above.
- f) consult with the U.S. Trade Representative (USTR) to:
 - i) determine if the foreign government permits and encourages U.S. participation on a comparable basis; and
 - ii) determine whether the foreign government has policies that protect U.S. intellectual property (IP) rights as described in reference a.
- g) submit the foreign CRADA, the security vetting, export control assessments, USTR approval, and all documents referenced within the foreign CRADA to the Army Director of Technology Transfer (ADTT) who provides the review on behalf of the ASA(ALT) as designated in reference d.

HQDA RESPONSIBILITIES

The ADTT will facilitate a policy review of all foreign CRADAs, not to exceed 30 days, that includes the following;

- a) consultation with the DA Office of General Counsel (OGC) to confirm the foreign CRADA should not be undertaken with a foreign government as an international agreement, and if the CRADA is with a foreign governmental entity, that the appropriate disclaimers are present (see AR 70-57, para 1-18 a(2) and (b));
- b) consultation with the Office of the Deputy Assistant Secretary of the Army for Defense Export and Cooperation (DASA-DEC) to obtain export authorization if necessary to comply with the ITAR, see reference e.