THE BDO GOVCON WEEK AHEAD - MAY 2021

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Do You Have What It Takes to Save the World? The National Science Foundation (NSF) is stepping up in a unique way to fund R&D efforts designed to help solve some of the most complex and pressing challenges facing the world today. Launched in 2019, the NSF Convergence Accelerator is working to fund research and development initiatives aimed at providing wide-ranging positive societal impacts and bring together some of the brightest minds and groups working in the field.

To more successfully achieve this goal and provide funding opportunities to the widest range of initiatives possible, the Convergence Accelerator is revamping its approach to attract a broader group of participants, including private sector companies, nonprofits, and academic institutions. The Convergence Accelerator has plans to fund 30 phase one awards for $750,000. This is down from $1 million in prior years; however, head of the Accelerator Doug Maughan argued that funding participants struggled in the past to spend the entire $1 million in the phase one funding round, and, by lowering the initial offering, more contractors can get a piece of the proverbial pie.

The Convergence Accelerator focuses on various tracks that change yearly to focus on different challenges bestowing the global community. In 2020, the tracks focused on quantum technology and AI-driven innovation through data and model sharing, while the current tracks focus on solving climate change challenges affecting the oceans and cybersecurity of communications systems.

Although it is too late for this year—participants had to send a letter of intent to NSF by May 5, 2021 and the final bids are due June 14, 2021. In advance of receiving the funding in September 2021—the NSF is doubling down on its support for the Convergence Accelerator and firmly stands by its mission. Contractors or startups working with cutting-edge technology or

that have a product they think might solve some of the world's most challenging hurdles should stay up to date on the Convergence Accelerator and its upcoming tracks as they might just have that "next big thing."

TSA Looks to Modernize Security Checkpoints: We've all been there, standing in the security checkpoint line at the airport, waiting not so patiently as thoughts of missing your flight start creeping into your mind. Meanwhile, the Transportation Security Administration (TSA) airport checkpoints have already earned an unpopular reputation with travelers, as long lines, pat-downs, and shoe removal lead to what can seem like an endless process. All of that may soon change as TSA has taken note.

The agency recently issued a solicitation for innovative and established technologies to help build the next generation of passenger screening that will expedite the process for travelers and provide better security outcomes. "To enable this mission objective, TSA [is] looking to establish the next generation of [on-person screening] solutions with a focus on moving passengers through the checkpoint in a continuous manner, enhancing threat detection capabilities with reduced false alarm rates, installing display image standardization and enabling operational connectivity through secure data transmission," according to the solicitation posted to beta.SAM.gov.

The agency has structured the solicitation to focus on six target areas: enhanced detection performance and throughput, footwear screening, material discrimination, improved data visualization, synthetic data creation, and new countermeasure systems. TSA has recognized that shoe removal and physical pat-downs are a bottleneck in the security process and make many travelers uncomfortable. As a result, the requested technologies would eliminate the need for both unpopular processes and get people in and out as quickly and safely as possible.

While TSA is looking for new proposed solutions, only established technologies at Readiness Level 5 or higher will be considered. The agency is accepting concept papers until June 23, 2021 and interested parties can find the solicitation on beta.SAM.gov.

Doubling Down on the Technological "Cold-War": The war for technological superiority between the U.S. and China is far from a new concept; however, in an effort to help the U.S. maintain its edge, a bipartisan group of senators introduced legislation, dubbed the "Technology Standards Task Force Act of 2021" that would have the Office of Science and Technology Policy's (OSTP) director create a task force meant to develop a long-term plan to ensure the U.S. is at the forefront of "emerging technology-centered standards-setting processes."

Setting standards would involve identifying and clarifying norms or requirements aimed to help guide technology adopters in the appropriate usage. The proposed legislation would direct the OSTP to work collaboratively with members in various departments, including Labor, Commerce, Treasury, Transportation, Justice and Energy, in creating a long-term standards strategy. In addition to this overarching goal, the task force would evaluate current and upcoming technology standards — for example, fifth- and sixth-generation wireless technologies and AI — to determine which could pose the greatest effect on

U.S. technological competitiveness and national security. The group would also be tasked with examining how new and upcoming standards could be misused by foreign government and propose solutions to ensure credibility with international organizations and allies to implement the strategy that would be developed.

This proposed legislation urges additional collaborations with the government contracting and academic sectors in the development and implementation of these new technological standards and could represent a fantastic opportunity should the task force come to fruition.

May 10, 2021

Raises All Around! Back in 2015, President Barack Obama signed an executive order that raised the minimum wage for federal contractors from $7.25 to $10.95 an hour. Now, in a similar move, President Joe Biden has signed an executive order raising the minimum wage for federal contractors and tipped employees who work on government contracts to $15 an hour.

This raise is slated to take effect in January 2022, and agencies must implement the measure no later than March 2022. The executive order also raises the tipped minimum hourly wage to $15 by 2024. This is done to ensure that tipped employees working on federal contracts cannot be paid less than the minimum wage required for other employees working on federal contracts. Finally, this new order increases the minimum wage to $15 for federal contract workers with disabilities and, beginning in 2022, includes a yearly cost-of-living increase.

The executive order does not change the national federal minimum wage, which is currently $7.25 per hour. An effort to change the federal minimum wage to $15 an hour fell flat in Congress in February 2021.

According to a White House official, next steps will include the Labor Department and the Federal Acquisition Regulatory Council issuing these rules to agencies. Once the rules are developed and issued, they will be applied to new contracts and contracts up for renewal. At that time, they will be revised to include the new minimum wage threshold.

With this new directive, it is more important than ever for contractors to review the wages of their employees working on federal contracts that may be up for renewal to ensure they hit this mark. Additionally, contractors should be sure to keep this new minimum wage number in mind when building out and submitting proposals for government work.

Army's Augmented Reality Success Makes a Case for OTA's: In last week's edition, we discussed the Department of Defense Office of Inspector General's (DoD OIG) audit findings over acquisitions made using Other Transaction Authority (OTA). The report highlighted several regulatory failures and 13 recommendations were made to Defense Pricing and Contracting (DPC). Although the findings will likely be viewed negatively, there are others on the opposite end of the spectrum that have recently praised acquisitions through OTAs.

John Whitley, the acting U.S. Army secretary, referred the Army's recent augmented reality project as a success story, made possible using OTAs and the integration of real-time feedback during the development process. At the end of March 2021, the Army awarded Microsoft a $22 billion contract to take its Integrated Visual Augmentation System (IVAS) to production. A recent press release stated, "The IVAS aggregates multiple technologies into an architecture that allows the soldier to fight, rehearse and train using a single platform. The suite of capabilities leverages existing high-resolution night, thermal and soldier-borne sensors integrated into a unified heads-up display to provide the improved situational awareness, target engagement and informed decision-making," or, in layman's terms, it sounds like something you would see in Call of Duty or Iron Man.

Technology aside, the Army has publicly credited the success of the project to OTA, and the ability to have Microsoft work "hand-in-glove with soldiers." Whitley praised these two factors in overcoming what's known in the DoD world as the valley of death, which is the time period between proving a prototype is successful, and when it can receive budgetary support. As technology continues to rapidly evolve, getting a prototype to production needs to happen quickly as it may soon be obsolete.

The Army stated that its "partnership with Microsoft redefined the timeline for rapid development and production of a major defense program by taking advantage of the middle tier of acquisition and Other Transaction Authorities, and partnering with a nontraditional defense contractor that is an industry leader in developing innovative technology."

Although OTAs may require additional oversight and will likely become less flexible in the near term, the Army's success story makes quite a strong case for the acquisition vehicle going forward.

A Goal without a Plan Is Just a Wish: In February 2021, we highlighted some of the plans and actions that would be implemented as a result of the "Made in America" Executive Order (E.O.). One of the key steps to be taken was to appoint someone to the newly created Made in America director position and, last week, the first-ever appointee, Celeste Drake, was announced.

Drake, formerly of the AFL-CIO and the executive in charge of government affairs at the Directors Guild of America, has long been considered an advocate for American manufacturing, working families and worker-centered policies. Now, Drake will be asked to shape and implement policies that are aligned with this Administration's goals for a future made in America, by American workers.

Drake's office will be responsible for reviewing waivers that would permit goods and services to be purchased outside of the United States, using government funds. It seems likely that fewer of these waivers will be granted as the Biden administration continues to work toward its goals of building a more robust domestic supply chain, while getting small and minority-owned businesses more involved.

May 3, 2021

Emerging Tech: If You're Not First, You're Last: So far, 2021 is setting up to be a year of technological innovation, at least from a Federal spending perspective. A bipartisan bill is hitting the Senate floor, which would include authorizing $100 billion in research and development in emerging technologies considered critical to give the U.S. a competitive edge.

The "Endless Frontier Act", led by Senate Majority Leader Chuck Schumer, D-NY, Sen. Todd Young, R-IN., and Reps. Ro Khanna, D-CA., and Mike Gallagher, R-WI, aims to position the U.S. as the leading technological powerhouse for years to come. The bill calls for the creation of a Technology and Innovation Directorate within the National Science Foundation (NSF), which would be tasked with implementing strategies and enabling basic and translational research opportunities to "advance key modern technological areas such as quantum computing and information systems, artificial intelligence, biotechnology, semiconductors, robotics and more." "Whichever country wins the competition in key technologies and supporting capabilities will be the superpower of the future," the lawmakers wrote in a two-page summary of the 160-page bill.

The bill surfaced at quite an opportune time, as the U.S. deals with the global semi-conductor chip shortage, as well as a study finding that major U.S. artificial intelligence (AI) players are not on the same page as the Government. The study was conducted by the Center for Security and Emerging Technology and found that leading private sector tech company investments in AI may not ensure "long-term national competitiveness." Research agendas of companies such as Apple, Amazon, Microsoft, and Google were mapped across 60 AI areas, including robotics and grasping to optimization, and "none of the leading companies examined in this analysis appear to be prioritizing work on problem areas within machine learning that will offset the broader structural challenges the United States faces in deploying and benefitting from the technology when competing against authoritarian regimes." U.S. policymakers are encouraged to "take into account the state of play of corporate investments' in AI in formulating national AI policy, and suggests the U.S. Government position itself as a "gap filler" by addressing certain machine learning areas.

The increased funding in these key modern technological areas could very well serve as this "gap filler" identified in the study. If passed, the increased funding could lead to significant opportunities for contractors in these key technology sectors. Those interested should continue to monitor the news, as well as, The BDO GovCon Week Ahead for developments with the bill.

A One-Stop-Shop for All Your Space-Based Needs, Welcome to the Space Systems Command: There's no pumping the brakes on the newest armed forces branch, the Space Force. The first and only of its kind, independent space force has been a proverbial fan favorite since its inception in late 2019, harking back to the days of Reagan's Strategic Defense Initiative or "Star Wars" program. This agency has seen exponential investment and expansion in its short life and now is urging Congress to help consolidate its structure of command under Space Systems Command (SSC).

The SSC component of the Space Force was started in April 2021 and is tasked with the acquisition, development, and

research of space-based systems. Many of the offices that fill these needs, including the Space Development Agency (SDA)—which is currently buying satellites for its Tranche 0 program and plans to put out an RFP in August 2021 for its 150-satellite Tranche One program—and Space Rapid Capabilities Office (Space RCO) do not report to the SSC, but, rather, the Chief of Space Operations. The Vice Chief of Space Operations, General David Thompson, has noted that the "Space Force is looking for ways to evolve and it thinks transitioning those offices over to SSC will be the best move for the future."

In addition to an expected integration of various space-based offices, the SSC plans to gain control of the Space and Missile Systems Center, the Commercial Satellite Communications Office, and there are even ongoing discussions to consolidate the Army and Navy's space-based components under the SSC's control. Finally, and in accordance with this pattern, the SSC is taking the helm of the Space Enterprise Consortium, a collection of companies working with the Government on space contracts and research.

As the Space Force continues to consolidate the acquisition, development, and research of space-based systems under the Space Systems Command, contractors both big and small working on space-based systems may finally have a single "point person" for all of their upcoming Government work.

Consistently Inconsistent - Consortia-Managed OTAs: Acquisitions made using Other Transaction Authority (OTA) are the preferred method for research, prototypes, and production, as a follow-up to prototype agreements, with the Department of Defense (DoD). They are preferred, as they give the Government buyer and the non-traditional Defense contractors an opportunity to work out a deal, while avoiding the tome of definitions, requirements, and flow down clauses like the one that requires contractors to inform their vendors that the Government highly frowns upon texting while driving, that is the Federal Acquisition Regulation (FAR). Additionally, many OTAs are not made directly between the non-traditional Defense contractor but rather, are made between consortia, or groups of companies /contractors and the non-traditional Defense contractor. Seems like an even less-restrictive acquisition process, right? Well, the DoD Office of Inspector General (DoD OIG) recently released audit findings that some of these agreements probably should have been slightly more restrictive.

The DoD OIG's report details an audit of 13 OTAs with a combined value of $24.6 billion, that turned out to be an audit of 718 projects with a combined value of $8.7 billion, which culminated in 13 recommendations made to Defense Pricing and Contracting (DPC). Some of the findings that DoD OIG had were the following:

- ▶ Failure to ensure that acquisition officers were fully trained on OTAs and the applicable laws
- ▶ Failure to ensure that consortium fees were negotiated in a consistent manner
- ▶ Failure by the DoD to report on the use of OTAs to Congress timely
- ▶ Failure to ensure that OTAs were approved at a consistent authority level

As aforementioned, DoD OIG made 13 recommendations, in all, and DPC agreed with 12 of them. As a result, companies looking at a potential OTA should expect less flexibility in future OTAs and should not expect the pendulum to swing entirely to FAR-based awards, as 2,136 OTA actions, valued at $15.8 billion were issued in Government fiscal year 2020.