

What is a CRADA?

A Cooperative Research and Development Agreement (CRADA) is a contract entered into by one federal and one non-federal entity in order to facilitate sharing of joint research and development (O'Dower, 2004). CRADAs were first created as a result of the Stevenson-Wydler Technology Innovation Act of 1980, as amended by the Federal Technology Transfer Act of 1986 (NAL, 2004).

A CRADA can:

- * allow the Federal and non-Federal partners to optimize resources.
- * facilitate sharing of technical expertise within a protected environment.
- * facilitate sharing intellectual property which results from the joint effort.
- * expedite the commercialization of federally developed technology.
- * protect any proprietary information brought to the CRADA effort by the non Federal partner.
- * allow all parties to keep IP resulting from the CRADA effort confidential and free from disclosure through the Freedom of Information Act for up to 5 years.
- * allow the sharing of patents and patent licenses between the government and the partner.
- * allow one partner to retain exclusive rights to technology as a part of the CRADA agreement(USGS,2004).

When to Consider a CRADA

A CRADA allows small business concerns to leverage the resources of the Federal Laboratories. The Federal Labs are motivated to pursue opportunities to develop jointly owned intellectual property (IP) because the government wants to build strong partnerships with private sector partners.

Some possible scenarios where a CRADA might be appropriate are:

- * A federal lab has a patented technology that a company wants to license. The company requires the expertise of the lab in order to modify the technology for a commercial application that can be brought to the commercial market. In this scenario the company may pay the entire cost of the joint project or they may share cost if the federal lab will benefit from the modification of this technology by using it in government applications. In any case, both partners will share in the ownership of the new application. Decisions on how to and who will protect the IP associated with the new technology application will be negotiated on a case-by-case basis.
- * In the event that a university and a federal lab are pursuing research in the same areas, the university may seek to collaborate with the lab in order to maximize their resources and efforts. In this case, both parties would fund the continued efforts through internal funding sources; research and development (R&D) tasks will be divided according to each parties area of expertise;and any result from the collaboration will be shared. The relationship between the lab and the company is mutually beneficial, as a result no funds are exchanged.
- * A company may seek to partner with lab to learn more about a new manufacturing process that will benefit the company. If the company can offer a comparable benefit to the lab, a cost-shared collaboration may be appropriate. If no comparable benefit is available, a cost-in collaboration can be negotiated. In either case, no IP would be created (O'Dower, 2004).

Intellectual Property and CRADA

Each partner may take title to its own CRADA-generated IP. IP that the company brings into the lab remains its property. The lab and the company do have co-ownership of any new IP, but the lab has the right to use the new IP internally. CRADA generated information can be protected up to five years from Freedom of Information Act requirements for public release and a CRADA nondisclosure provision protects proprietary information. The company has the right of first refusal on any new IP that is discovered during the CRADA process. In the event that a company refuses the rights to any new IP, the federal lab retains ownership (AdTech, 2004).

Funding Options for a CRADA

Cost-In CRADA (Also called "Work For Others")

A Cost-In CRADA is usually pursued when a company owns the IP and wishes to develop additional IP or processes. A cost-in CRADA requires that the non-federal partner pay for all work at a negotiated rate. The Federal partner does retain rights to joint-ownership of new IP - but only for the purpose of internal use. New IP cannot be used by the lab for commercial purposes or licensed from the lab for commercial use (USGS, 2004).

Cost-Shared CRADA

A Cost-Shared CRADA is usually pursued when the government owns the IP of interest and a non federal partner wants to develop and commercialize a product based upon this IP. Because the Federal Lab owns the IP, the non-federal partner will bear the cost of developing the new IP. Again, any newly developed IP cannot be used by the lab for commercial purposes, nor can they license it for commercial use (USGS, 2004).

Contract Research

While contract research does not qualify as a CRADA, it is a mechanism by which many public-private partnerships are formed with the federal labs.

Resources

Under the Federal Technology Transfer Act of 1986, the US government formally chartered the Federal Laboratory Consortium (FLC) to assist in the transfer of technology between the public and private sectors (FLC for Technology Transfer, 2005). The FLC divides the Federal labs into six geographic regions: Northeast, Southeast, Midatlantic, Mid-Continent, Southwest, and Far West. Perhaps the biggest challenge for manufacturers or universities is finding a partner within the Federal Laboratory system. With over 700 labs, the Federal Laboratory system can seem complex and intimidating. The primary gateway to the Federal labs is through the National FLC locator Service (http://www.federallabs.org/content/technology_locator.html) and through location services maintained by the six FLC regions (<http://www.federallabs.org/search.html>).

The Technology Transfer Desk reference has useful information in Section Three, where the applicable public laws and United States codes for CRADAS are referenced.

http://www.federallabs.org/ContentObjects/Publications/T2_Desk_Reference.pdf

Federal Technology Transfer Legislation and Policy, "The Green Book" pages 27 - 35 (15 USC 3710a), also available from <http://www.federallabs.org>

The Cooperative Research and Development Agreement Handbook is available in hard copy only. To order this handbook go to:

<http://www.federallabs.org/servlet/FLCItemDisplayServlet?wItemID=2000-03-16-11-02-47-843-Item>

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Federal Technology Transfer Act of 1986. 15 U.S.C.S §3710d (2004)

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