

Commercial Solutions Opening (CSO)

Office of the Secretary of Defense Defense Innovation Unit (DIU)

SECTION 1 – INTRODUCTION

1.1 Background and Authority

The *2014 Quadrennial Defense Review* (QDR) established innovation as a central line of effort in the national defense strategy of the United States. The decisive military advantage of the United States over its adversaries and peer competitors is steadily eroding. Globalization has contributed significantly to a renaissance in commercial innovation fueled by venture capital investment that far exceeds the research and development budget of the Department of Defense (DoD). As a result, the global technology ‘water line’ has risen faster than DoD’s ability to outpace it alone. Both state and non-state actors have gained access to new technologies that substantially advance their offensive capabilities, allowing some to compete in entirely new domains of warfare. Consequently, the Secretary of Defense launched Defense Innovation Unit Experimental, or DIUx (as of August 2018, DIUx is now DIU), in order to accelerate and streamline the process by which commercial technology is sourced and integrated across the U.S. military to regain our nation’s technological lead and ensure our national defense.

The *2018 National Defense Strategy* reiterates the significant impact rapid technological advancements originating from the commercial sector have on the security environment and character of war, emphasizing the urgency of the threat to U.S. dominance. Early access to the most advanced, dual-use commercial technologies is essential. In order to preserve conventional overmatch, the Department must adapt acquisition behaviors and culture to this new strategic landscape.

To meet this challenge, under the authority of 10 U.S.C. 2371b, DIU utilizes Other Transaction Agreements (OTA or Agreements) to partner with nontraditional and traditional defense contractors and non-profit research institutions to carry out prototype projects that are directly relevant to enhancing the mission effectiveness of military personnel and the supporting platforms, systems, components, or materials proposed to be acquired or developed by the DoD, or the improvement of platforms, systems, components, or materials in use by the armed forces. The information provided in this Commercial Solutions Opening (CSO) is intended to ensure that to the maximum extent practicable, competitive procedures are used when entering into agreements to carry out these prototype projects.

1.2 CSO Procedure

This CSO is a competitive solicitation seeking proposals for innovative, commercial technologies that accelerate attainment of asymmetric defense capabilities. In this context, innovative means any new technology, process, or business practice, or any new application of an existing technology, process, or business practice that contributes to enhancing military effectiveness and sustaining global peace and U.S. national security. This CSO will result in the

award of prototype projects, which include not only commercially-available technologies fueled by commercial or strategic investment, but also concept demonstrations, pilots, and agile development activities that can incrementally improve commercial technologies, existing government-owned capabilities, or concepts for defense application.

The CSO is soliciting Solution Briefs in response to Areas of Interest (AoIs). AoIs are focused topic(s) categories that will be published separately and posted on the DIU website. All Solution Briefs submitted in response to any AoI will be in response to and governed by this CSO.

The CSO outlines the procedures to submit a response to an AoI to ensure a competitive process that consists of three-phases (Solution Brief, Pitch, and full written proposal):

Phase 1 Solution Briefs: shall be submitted as specified in Section 3 of this CSO. The Government will evaluate Solution Briefs against the criteria stated in this CSO. The Government will not pay Companies for the costs associated with Solution Brief submissions.

Phase 2 Pitch Session: Companies whose Solution Briefs are evaluated to be of merit may be invited to provide a pitch following the instructions provided in Section 3.3 of this CSO. In the event that the Government requires a demonstration, additional information will be provided in the specific AoI highlighting those procedures, otherwise Phase 2 will be comprised solely of the Pitch. The Government will not pay Companies for costs associated with Pitches, unless otherwise stipulated.

Phase 3 Request for Prototype Proposal (RPP): Those Companies whose Solution Brief and Pitch are evaluated to be of merit and are selected for potential award of a Prototype OTA may, if funding is available, be invited to submit a full written proposal following the instructions provided in Section 3.4 of this CSO. The Government will not pay Companies for costs associated with developing materials in Phase 3, unless otherwise stipulated.

The Government may add additional AoIs at any time. Interested Companies are encouraged to frequently check the DIU website for new AoI postings or subscribe to its RSS feed which will automatically notify companies of new AoI postings.

Benefits of the CSO process and OTAs include:

- A streamlined application process requiring only minimal corporate and technical information
- Fast track evaluation timelines for Solution Briefs
- Negotiable payment terms
- Capital is non-dilutive
- All intellectual property (IP) rights are negotiable and the Government does not plan to own any IP
- Direct feedback from operators, customers and users within the DoD to help product teams develop and hone product design and functionality
- Potential follow-on funding for promising technologies and sponsorship of user test cases for prototypes and possible follow-on production contract or transaction

SECTION 2 – DEFINITIONS

“Area of Interest” (AoI) means an announcement posted on the DIU website which may result in the award of an Other Transaction Agreement (OTA).

“Commercial Solutions Opening” (CSO) is DIU’s method for employing the prototyping authority under 10 U.S.C. § 2371b.

"Other Transaction for Prototype Projects" refers to the type of Other Transaction Agreement (OTA) that will be placed as a result of this CSO and associated AoIs. This type of OTA is authorized by 10 U.S.C. § 2371b for prototype projects directly relevant to enhancing the mission effectiveness of military personnel and the supporting platforms, systems, components, or materials proposed to be acquired or developed by the DoD, or for the improvement of platforms, systems, components, or materials in use by the armed forces. This type of OTA is treated by DoD as an acquisition instrument, commonly referred to as an "other transaction" for a prototype project or a Section 2371b "other transaction".

“Prototype Project” can generally be described as a proof of concept, model, reverse engineering to address obsolescence, pilot, novel application of commercial technologies for defense purposes, agile development activity, creation, design, development, demonstration of technical or operational utility, or combinations of the foregoing. A process, including a business process, may be the subject of a prototype project. Although assistance terms are generally not appropriate in OT agreements, ancillary work efforts that are necessary for completion of the prototype project, such as test site training or limited logistics support, may be included in prototype projects. A prototype may be physical, virtual, or conceptual in nature. ([ref: p. 31, Appendix A, November 2018 Other Transactions Guide, v.1.0.](#)) The quantity should generally be limited to that needed to prove technical or manufacturing feasibility or evaluate military utility.

“Nontraditional Defense Contractor” is defined in 10 U.S.C. § 2302(9) as an entity that is not currently performing and has not performed, for at least the one-year period preceding the solicitation of sources by the DoD for the procurement or transaction, any contract or subcontract for the DoD that is subject to full coverage under the cost accounting standards prescribed pursuant to 41 U.S.C. § 1502 and the regulations implementing such section. This includes all small business concerns under the criteria and size standards in 13 C.F.R. § 121).

“Nonprofit Research Institution” means a nonprofit institution, as defined in 15 U.S.C. § 3703 as an organization owned and operated exclusively for scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

“Small Business” is defined under Section 3 of the Small Business Act (15 U.S.C. 632)

“Innovative” means—

- (1) any new technology, process, or method, including research and development; or
- (2) any new application of an existing technology, process, or method.

SECTION 3 - GUIDELINES FOR SOLUTION BRIEFS, PITCHES, AND PROPOSALS

3.1 General Guidelines

1. Unnecessarily elaborate brochures or proposals are not desired.
2. Use of a diagram(s) or figure(s) to depict the essence of the proposed solution is strongly encouraged.
3. Companies may submit multiple Solution Briefs in response to any single AoI if each submission represents a separate and distinct concept. Individual Solution Briefs may **only** address **one** concept based on the stated Government AoI.
4. The period of performance for any Solution Brief or proposal submitted under this CSO should generally be no greater than 24-months.
5. Technical data with military application may require appropriate approval, authorization, or license for lawful exportation.
6. All Solution Briefs, Pitches, and Proposals shall be unclassified. Solution Briefs, Pitches, and Proposals containing data that is not to be disclosed to the public for any purpose or used by the Government except for evaluation purposes shall include the following sentences on the cover page:

“This [select one: Solution Brief, Pitch, or Proposal] includes data that shall not be disclosed outside the Government, except to non-Government personnel for evaluation purposes, and shall not be duplicated, used, or disclosed -- in whole or in part -- for any purpose other than to evaluate this submission. If, however, an agreement is awarded to this Company as a result of -- or in connection with -- the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent agreed upon by both parties in the resulting agreement. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [insert numbers or other identification of sheets]”

Each restricted data sheet should be marked as follows:

“Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.”

7. Foreign-Owned businesses may independently submit a solution or do so as part of a teaming arrangement with one or more United States-Owned businesses. However, the ability to obtain an agreement based upon a submission may depend upon the ability of the Foreign-Owned business to obtain necessary clearances and approvals to obtain proscribed information.

8. Questions regarding the objectives or preparation of the Solution Brief should be addressed to CSOquestions@diux.mil.
9. Submissions must be submitted electronically via the DIU website: <https://diux.mil/work-with-us/companies>.
10. Submissions sent through other channels or after the AoI period has ended will not be reviewed nor evaluated.
11. Solution Briefs that are not chosen for the Pitch Phase will be notified in writing as soon as practicable. Further verbal feedback will be provided, upon request, at DIU's discretion.

3.2 Phase 1 Solution Brief

PHASE 1 SOLUTION BRIEF CONTENT

Solution Briefs should not exceed five (5) written pages using 12-point font or, alternatively, Solution Briefs may take the form of briefing slides which should not exceed fifteen (15). These limits are not requirements but are strongly recommended.

Title Page (does not count against page limit)

Company Name, Title, Date, Point of Contact Name, E-Mail Address, Phone, and Address.

Specifically identify the AoI for which the Solution Brief is submitted.

Executive Summary (one page)

Provide an executive summary of the technology.

Technology Concept

Describe the unique aspects of your technology and the proposed work as it relates to the AoI. Identify whether the effort includes the pilot or demonstration of existing commercial technology (identified as commercially ready and viable technology), or the development of technology for potential defense application. If development or adaptation is proposed, identify a suggested path to mature the technology. Identify aspects which may be considered proprietary.

Company Viability

Provide a brief overview of the company. Provide a summary of current fundraising to date or a summary of the top line (gross sales/revenues). Provide a summary of product commercialization and go-to-market strategy.

PHASE 1 SOLUTION BRIEF BASIS OF EVALUATION

Individual Solution Briefs will be evaluated against the evaluation criteria described below:

- 1) Relevancy of the Solution Brief in addressing the AoI;
- 2) Technical Merit of solution in adequately addressing government need and in the feasibility of the solution;
- 3) Evaluation of company viability and viability of business solution; and
- 4) Company's approach is unique, underutilized and/or innovative to government application.

Solution Briefs will be evaluated on the basis of the merit of the proposed concept in addressing the AoI, not against other Solution Briefs submitted in response to the same AoI. The Government may elect to use external market research in the evaluation of a company's viability. The Government will endeavor to complete the Phase 1 evaluation of Solution Briefs within 30 calendar days of the closing of the submittal period and will effort to notify the Company of the results of the evaluation soon thereafter.

Additional technical evaluation criteria specific to a particular project may be used. In these instances, the additional criteria will be posted with the AoI on the DIU website.

Upon review of a Solution Brief, the Government may elect to invite a company into Phase 2, the Pitch. In Phase 2, Companies are invited to pitch and further discuss their proposed concept/technology/solution in person or virtually. During Phase 2, the Government may request and/or provide additional information to the Company.

3.3 Phase 2 Pitch

PHASE 2 PITCH CONTENT

In Phase 2, companies shall provide an in-person (or virtual) Pitch to demonstrate and provide further details on the technical and business viability of the proposed solution. Specifics of the Pitch will be covered in the Area of Interest. In addition to the Pitch, the Government, at its discretion, may request an additional written submission to further supplement the information provided in the Phase 1 Solution Brief. During the Phase 2 Pitch, the Company must detail/address:

Estimated Price/Schedule

Provide a rough order of magnitude (ROM) price and notional schedule for how this concept could be tested within the DoD.

Data Rights Assertions

The Solution Brief will identify any IP involved in the effort and associated restrictions on the Government's use of that IP.

In addition to these required areas, the Government may request the Company provide additional information/detail with respect to the Technology Concept information provided in the Phase 1 Solution Brief.

PHASE 2 PITCH BASIS OF EVALUATION

Individual Pitches will be evaluated against the evaluation criteria below and not against any other Pitches held under the same AoI. Pitch submissions will be valid for 120 days after pitch evaluation. The Government will aim to complete evaluation of Pitches within 30 calendar days of the Pitch. Upon completion of evaluations, the Government will notify the Company if they have been selected for possible award of a Prototype OTA and invited to submit a full proposal; or if their proposed concept/technology/solution is not of interest to the Government at this time; or if their proposed concept/technology/solution is of interest, but not eligible for a proposal due to available government resources. After 120 days, if government resources are not identified to formally move into Phase 3, the government will provide a notification of non-eligibility.

Pitches shall be evaluated on the following factors:

- 1) Technical Merit of solution adequately addresses Government need and is feasible;
- 2) Evaluation of company viability and viability of business solution;
- 3) Company's approach is unique, underutilized and/or innovative to government application;
- 4) The ROM;
- 5) The notional schedule is acceptable; and
- 6) The potential impact of data rights assertions.

3.4 Phase 3 Proposal

PHASE 3 PROPOSAL CONTENT

The third and final phase of the CSO process is the RPP. Based upon the evaluation detailed above, the Government may issue an RPP. At this time, the Company will be invited to develop and submit a full written proposal as well as negotiate appropriate terms and conditions governing the prototype project. Companies may discuss ideas and details of the proposal during the proposal writing process with the Government. Each proposal submitted shall consist of two sections: Section 1 shall provide the technical proposal; Section 2 shall address the price/cost/schedule portions of the proposal. Additionally, companies are invited to provide their own internal terms and conditions to be consolidated with those of the Government. This includes Service License Agreements (SLA) and/or User License Agreements (ULA). Companies should note that there are certain terms and conditions the Government is unable to accept. However, projects awarded through the CSO are flexible to adopt customary industry standards where it is otherwise legal and where it meets the government's needs.

3.4 Section 1 Technical Proposal

Title Page

Company Name, Title, Point of Contact Name, Date, E-Mail Address, Phone, and Address and any subcontractors or team members. Include an abstract which provides a concise description of the proposal.

Propose a Technical Approach

Describe the background and objectives of the proposed work, the approach, deliverables, and the resources needed to execute it. Include the nature and extent of the anticipated results. Include ancillary and operational issues such as certifications, algorithms, and any engineering/software development methodologies to be used. This proposal must include a Statement of Work (SOW) identifying the work to be performed and the deliverables. Provide a detailed project schedule that outlines the various phases of work to be accomplished within the proposed period of performance. You may refer to the Solution Brief that prompted this proposal request, but do not duplicate it.

Government Support Required

Identify the type of support, if any, the Company requests of the Government in general such as facilities, equipment, data, and information or materials.

3.4 Section 2, Price Proposal

The Company shall propose a total price to complete the prototype project and shall provide any other data or supporting information the parties agree is necessary for the determination of a fair and reasonable price. This can include commercial price catalog or other proprietary information to help the government assess project cost.

PHASE 3 PROPOSAL BASIS OF EVALUATION

Proposals may be reviewed as they are received by a Government subject matter expert panel. Proprietary information will be protected from potential competitors. Proposals will be reviewed to determine the following:

- 1) The degree to which the proposal is relevant to disruptive defense capabilities, including the degree to which the proposed solution enhances and/or accelerates innovative development contributing toward military effective third offset strategies.
- 2) Technical merit of the proposal with an emphasis on innovative solutions.
- 3) Realism and/or adequacy of the proposal performance schedule
- 4) Realism and/or reasonableness of the price analysis

Additionally, while not required to be specifically addressed in the proposal (with the exception of the 1/3 cost-share requirement if applicable), the Government will review the proposal to determine if the following statutory requirements are met:

1. *Fits the definition of a prototype:* does/does not fit the CSO definition of a prototype
2. *Quantity:* quantity is/is not limited to that needed to prove technical or manufacturing feasibility or evaluate military utility
3. *Meets mission effectiveness standard:* Is/is not directly relevant to enhancing DoD mission effectiveness
4. *Meets non-traditional participation/cost share requirement:* Non-traditional defense contractor contributes to a significant extent or not; if not, 1/3 cost share implementation is addressed
5. *Defense Utility:* Solution is/is not applicable to a DoD platform, system or component

SECTION 4 – AWARDS

4.1 General Guidelines

Upon favorable review and available funds, the Government may choose to make an award. Awards will be made using OTAs. The Agreements Officer will negotiate directly with the Company on the terms and conditions of the OTA, including payments, and will execute the OTA on behalf of the Government. Be advised, only an Agreements Officer has the authority to enter into, or modify, a binding agreement on behalf of the Government.

Companies must have a Dunn and Bradstreet (DUNS) number and must register in the System for Award Management (SAM). Companies are advised to commence SAM registration upon receipt of an RPP.

Companies must also register in the prescribed government invoicing system (ex. Wide Area Work Flow). DIU will provide assistance to those Companies from whom a full proposal is requested.

The Company must be determined to be responsible by the Agreements Officer and must not be suspended or debarred from award by the Federal Government nor be prohibited by Presidential Executive Order and/or law from receiving award.

Receipt of an RPP does not guarantee that a Company will receive an award and the Government reserves the right, at any point prior to award of an OTA, to cancel the RPP.

4.2 Comptroller General Access to Information

In projects that provide for payments in a total amount in excess of \$5,000,000, the Agreement will include a mandatory clause that provides for the Comptroller General the ability to examine

the records of any party to the agreement or any entity that participates in the performance of the agreement.

4.3 Procurement Integrity Act (PIA)

As required by 10 U.S.C. § 2371b(h), all Agreements awarded under this CSO shall be treated as Federal Agency procurements for purpose of 41 U.S.C. Chapter 21. Accordingly, the CSO competitive solicitation process and awards made thereof must adhere to the ethical standards required by the PIA.

SECTION 5 - ITERATIVE PROTOTYPING

As it is the mission of DIU to enable access to commercially-derived disruptive capabilities across the entirety of the DoD enterprise, Prototype OTAs awarded against this CSO will allow for an iterative prototyping process.

An iterative prototyping process will allow the Government to modify, by mutual agreement, the scope of a prototype project to allow the adaptation and modification of the technology being prototyped to meet additional unique and discrete purposes/mission sets. The sequential prototype iterations may result in a separate prototype project rather than a modification of the original prototype project. These additional unique and discrete purposes/mission sets can be generated by the original Government customer or originate with other organizations within the DoD Enterprise.

SECTION 6 – FOLLOW-ON PRODUCTION

Upon successful completion of a prototype project under the OTA, the Government and Company may negotiate a follow-on production contract or agreement without further competition. Any concept/technology/solution successfully proven through a Prototype OTA can be transitioned to production.

AoIs posted by the Government under this CSO and Prototype OTAs awarded will include language providing for the potential award of a follow-on production contract or agreement as authorized under 10 U.S.C. § 2371b(f). Individual AoIs and CSO prototype OTAs will explicitly identify follow-on Prototype OTAs as a potential outcome of a successful prototyping effort.

SECTION 7 – SUCCESSFUL COMPLETION

A transaction for a prototype project is complete upon the written determination of the appropriate approving official (program manager and Agreement Officer) for the matter in question that efforts conducted under a Prototype OTA: (1) met the key technical goals of a project; (2) satisfied success metrics incorporated into the Prototype OTA; or (3) accomplished a particularly favorable or unexpected result that justifies the transition to production.

Furthermore, successful completion can occur prior to the conclusion of a prototype project to allow the government to transition any aspect of the prototype project determined to provide utility into production while other aspects of the prototype project have yet to be completed. Any Prototype OTA shall contain a provision that sets forth the conditions under which that prototype agreement must be successfully completed.

SECTION 8 – NON-GOVERNMENT ADVISORS

1) Solution Briefs - Non-Government advisors may be used in the evaluation of solution Briefs and Pitches and will have signed non-disclosure agreements (NDAs) with the Government.

The Government understands that information provided in response to this CSO is presented in confidence and may contain trade secret or commercial or financial information, and it agrees to protect such information from unauthorized disclosure to the maximum extent permitted or required by Law, to include:

- a. 18 U.S.C. 1905 (Trade Secrets Act);
- b. 18 U.S.C. 1831 et seq. (Economic Espionage Act);
- c. 5 U.S.C. 552(b)(4) (Freedom of Information Act);
- d. Executive Order 12600 (Pre-disclosure Notification Procedures for Confidential Commercial Information); and,
- e. Any other statute, regulation, or requirement applicable to Government employees.

2) Pitches - Non-Government advisors may also be used in the evaluation of the pitches. In these cases, Companies will be notified of the name and corporate affiliation of these advisors in the request from the Government to provide a Pitch. Companies will be afforded the opportunity to enter into a specific NDA with the corporate entity prior to submission of the proposal.

3) Proposals - Non-Government advisors may also be used in the evaluations of proposals. In these cases, Companies will be notified of the name and corporate affiliation of these advisors in the request from the Government to submit a full written proposal. Companies will be afforded the opportunity to enter into a specific NDA with the corporate entity prior to submission of the proposal.

DIU policy is to treat all submissions as source selection information, and to disclose their contents only for the purpose of evaluation. Restrictive notices notwithstanding, during the evaluation process, submissions may be handled by support contractors for administrative purposes and/or to assist with technical evaluation. All DIU and DoD support contractors performing this role are expressly prohibited from performing DIU-sponsored technical research and are bound by appropriate NDAs.

Submissions will not be returned. The original of each submission received will be retained at DIU and all other non-required copies destroyed. A certification of destruction may be requested, provided the formal request is received at this office within 5 days after notification that a proposal was not selected.

SECTION 9 – CONTACT INFORMATION

CSOquestions@diux.mil