

Resolution, 2003, Public Law 108-7 (February 20, 2003). FRA will make available up to \$6.5 million under the BAA during fiscal year 2003 (FY 03) and fiscal year 2004 (FY 04), through the BAA 2003-1 open period, for awards of proposal concept papers evaluated favorably and determined by the FRA to be consistent with the objectives of this BAA and of interest to the Government, and for which adequate funding exists. FY 03 awards are subject to the availability of FY 03 appropriations or the continued availability of unobligated FY 02 or other prior no-year funds. No funding provision or commitment can be made at the time of award for phased or expanded work or projects beyond the initial or base phase funded at time of award that the applicant may propose in its submissions. In the event future appropriated funds are authorized for the Program, FRA may, at its discretion, provide additional funding for phased or expended effort under existing awards. Awards may be of any dollar value (so long as those amounts do not exceed the total amount available under the BAA), but it is anticipated that most, if not all, individual awards (or that part of the Government's portion in a cost sharing arrangement) will have dollar values ranging between \$25,000 and \$500,000 each. Prospective offerors are advised that contract awards greater than \$500,000 will generally require the awardee (except a small business concern) to already have in place or prepare, at or before the time of award, an acceptable plan to maximize the participation of small business enterprises to include separate goals for using small and SD businesses, and WO, VO, and HUBZone small businesses as subcontractors. Prospective offerors are advised that contract awards greater than \$500,000 may require the submission and certification of cost and pricing data. Although cost sharing by awardees is not mandatory under this BAA, because of the potential for long-term benefits to those firms or institutions involved in these research development and demonstration activities, it is FRA's policy to obtain cost participation, whenever possible. This is preferred when FRA supports research, development, or demonstration efforts, where the principal purpose is ultimate commercialization and utilization of the technologies by the private sector, and when there are reasonable expectations that the offeror will receive present or future economic benefits beyond the instant contract/agreement as a result of performance of the effort. For the

purposes of this BAA, cost participation is a generic term denoting any situation where the Government does not fully reimburse the offeror for all allowable costs necessary to accomplish the project or effort under the contract or other award instrument. The term encompasses cost sharing, cost matching, participation in-kind or other investment of resources as a means of venture sharing in lieu of a formal cost sharing arrangement, third-party in-kind contributions, cost limitations (direct or indirect) and similar concepts. Generally, many forms of cost participation, by their very nature and definition, minimize or negate the opportunity for profit or fee. Prospective offerors are cautioned that only the cognizant Grants/Contracting Officers can legally commit the Government to the expenditure of public funds under this BAA.

#### Awards

An offer must be found acceptable under all applicable evaluation factors and subfactors to be considered eligible for award. All evaluation factors other than cost or price, when combined, are significantly more important than cost or price alone. Technical evaluation is appreciably more important than cost or price and, as such, greater consideration shall be given to technical excellence rather than cost or price alone. Cost or price is somewhat more important than past performance and, as such, greater consideration shall be given to cost or price rather than past performance alone. Tradeoffs, as described in FAR Part 15, are also allowed. Awards will be made to those responsible offerors whose offers provide the best value to the Government, in terms of technical excellence, cost or price, and performance risk (as applicable), and other factors—to include consistency and accord with the objectives of the BAA and the FRA's mission and its interest in pursuing the proposed research project, technology advancement and/or demonstration. Awards may take the form of contracts, grants or cooperative agreements. Contracts will be used when the principal purpose is the acquisition of supplies or services (including research and development) for the direct benefit or use of the Federal Government. It is anticipated that most contracts resulting from this BAA will be cost-reimbursement type contracts (*i.e.*, cost, cost-sharing, or cost-plus-fixed-fee). These types of contracts permit reimbursement of the actual cost of performing the contracted work, and may or may not allow for profit or fee. Cost-reimbursement contracts are

suitable for use only when uncertainties in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract. Some contracts resulting from this BAA may be awarded on a fixed-price basis (*e.g.*, firm-fixed price completion, or firm-fixed-price level-of-effort term contracts). Fixed-price contracts are used when the research/work effort can be estimated accurately and the services to be rendered are reasonably definite. Other contract types, as described in FAR Part 16, may also be used. To the maximum extent practicable, the Government will structure contracts awarded under the BAA using "Performance-based contracting" methods. As described in FAR Part 37.6, performance-based contracting methods are intended to ensure that required performance quality levels are achieved and that total payment is related to the degree that services performed meet contract standards. Performance-based contracts (a) describe the requirements in terms of results required rather than the methods of performance of the work; (b) use measurable performance standards (*i.e.*, terms of quality, timeliness, quantity, etc.) and quality assurance surveillance plans; (c) specify procedures for reductions of fee or for reductions to the price of a fixed-price contract when services are not performed or do not meet contract requirements; and (d) include performance incentives where appropriate. Because of the broad range and diversity of activities that may be proposed under the BAA, it does not lend itself to the use of a common work statement. As such, no single North American Industry Classification System (NAICS) code (formerly Standard Industrial Classification (SIC) codes), will be issued for the BAA. NAICS codes will be specific to each individual contract award, as determined by the type of activity in which the actual offeror will be engaged, and as a function of the ownership characteristics of the prospective offeror. Grants or cooperative agreements will be used when the principal purpose of the transaction is to stimulate or support research and development for public purposes. When awarding federal financial assistance through a grant or a cooperative agreement, the most appreciable difference in choosing between the two forms will be the level of involvement between the FRA and the recipient when carrying out the activity contemplated in the agreement. Substantial FRA involvement is permitted in cooperative agreements.