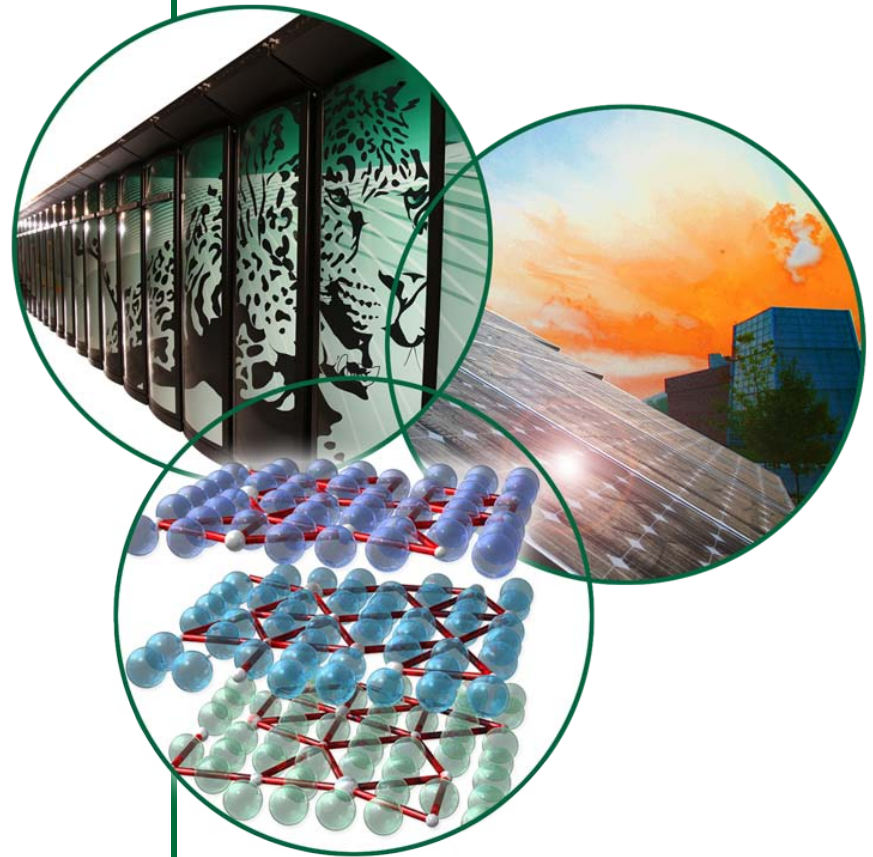


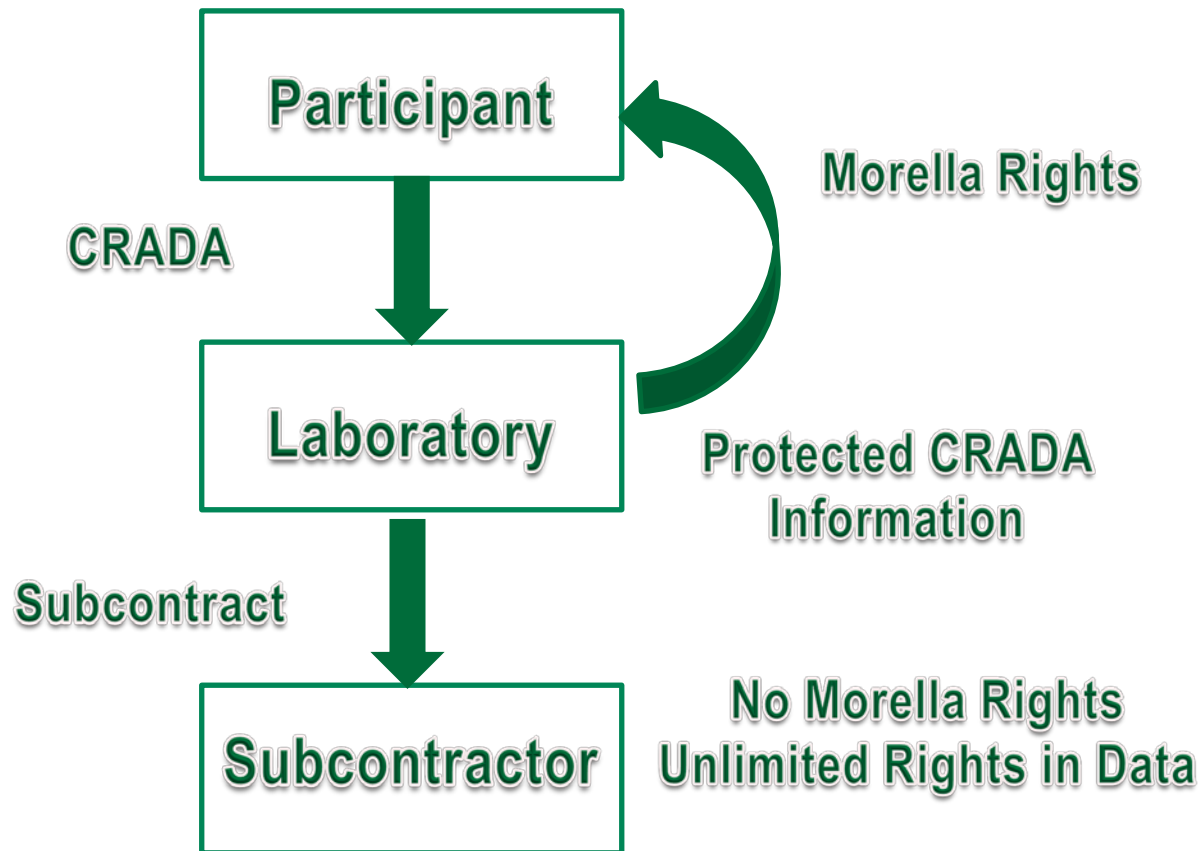
Subcontractor Rights Under CRADAs and WFO Agreements

Jud Hightower

September 13, 2011



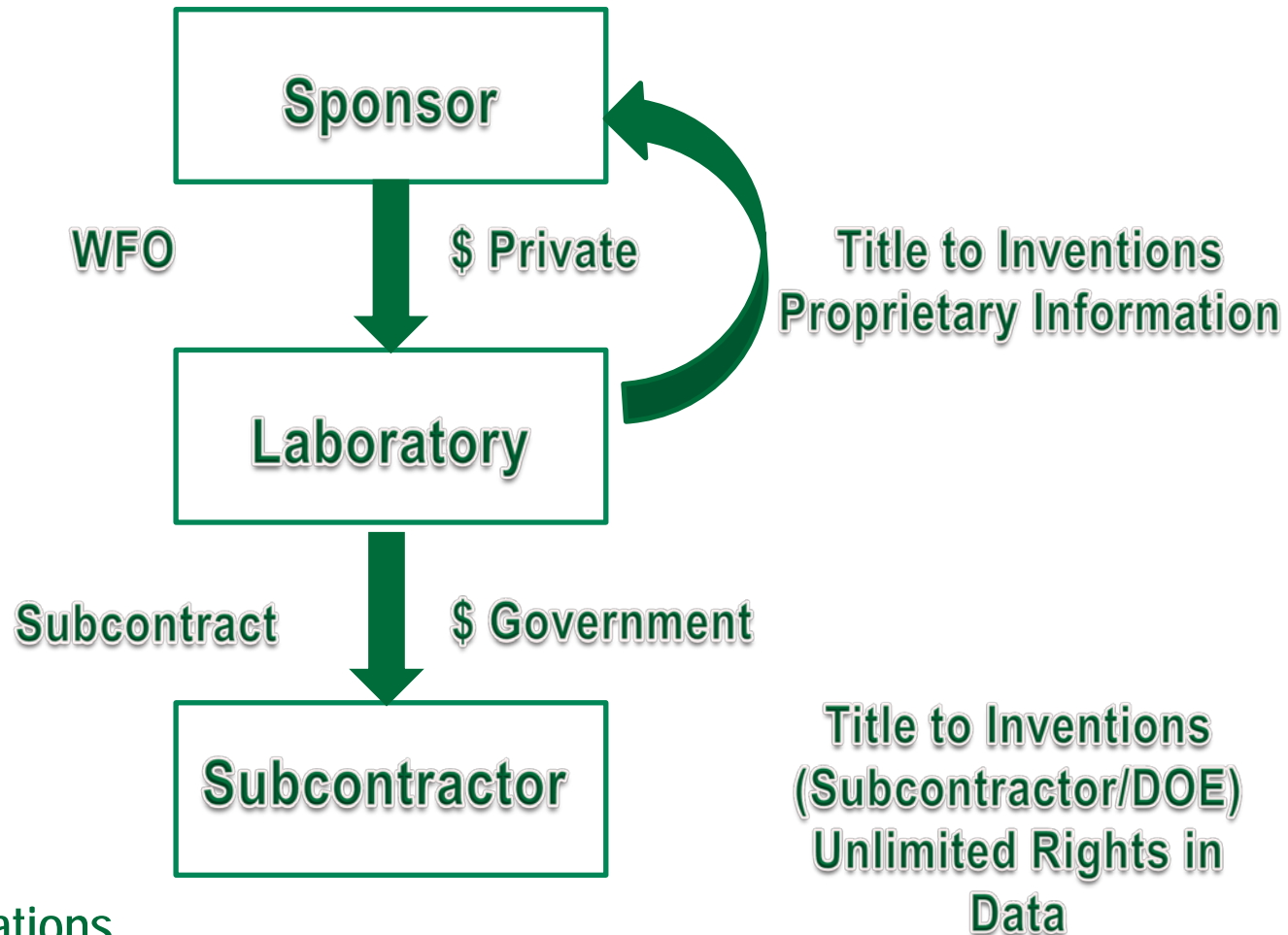
CRADAs



Recommendations

- Follow Federal Register and Extend Morella Requirement to Off-Site Subcontractors
- Extend Protected CRADA Information to Subcontractor

WFOs



Recommendations

- Treat Subcontract Funds as Private Dollars
- Class Waiver for Subcontractor Inventions
- Extend Proprietary Information to Subcontractors

Proposed CRADA Changes

Definitions

D. "Generated Information" means information produced in the performance of this CRADA, including information produced by Subcontractors."

Proposed new definition:

"Subcontractor" means a subcontractor of the Contractor or Participant at any tier.

ARTICLE VIII: OBLIGATIONS AS TO PROTECTED CRADA INFORMATION

Each Party may designate as Protected CRADA Information any Generated Information produced by its employees or Subcontractors which meets the definition of Article I.F and, with the agreement of the other Party, so designate any Generated Information produced by the other Party's employees or Subcontractors which meets the definition of Article I.F. All such designated Protected CRADA Information shall be appropriately marked.

Proposed WFO Agreement Changes

- Definitions in Patent Rights Provision

A. "*Subject Invention*" means any invention or discovery of the Contractor **or Subcontractor**,.....

Proposed new definition:

"Subcontractor" means any subcontractor of the Contractor at any tier.

- Definitions in Data Rights Provision

A. "*Generated Information*" means information produced in the performance of this Agreement, **and any subcontracts at any tier hereunder.**

Additional Topics for Discussion

- Use of User Agreements at facilities other than Designated User Facilities
- Inclusion of language in DOE contracts, cooperative agreements, grants waiving flow-down provisions to Laboratories when awardee has work done at Laboratories
- Give Laboratory contractors automatic right to copyright computer software
- Licensing of domain names by Laboratory contractors
- DOE website for international agreements