Roadmap Workshop on Manufacturing R&D for the Hydrogen Economy

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Types of Government/Industry R&D Interactions

• **“Advisory” role, peer review:**
  – Credibility for the Government R&D program
  – Access to technical knowledge in Industry to avoid wasting resources on R&D that industry doesn’t think will work
  – Examples
    • FreedomCar
    • Solid State Lighting MOU DOE/Alliance

• **R&D Funding**
  – Direct Contract, Grant cooperative agreement and in the future other transaction
  – Partnership with DOE laboratory through subcontract, CRADA, WFO, license
  – Examples
    • USABC
    • SECA
Types of Government/Industry R&D Interactions: “Advisory” Role IP issues

• Antitrust
  – Joint venture
  – Individual companies
  – Who is invited to participate

• Sharing of Proprietary Data
  – Discouraged
  – Non Disclosure Agreement: among companies, Government

• Informal collaboration leading to an invention
• Unocal
Types of Government/Industry R&D Interactions: Direct Agreements

• New inventions owned by Technology Developer

• How does industry get access to new inventions
  – Industry players have 1 year to take Nonexclusive license
Types of Government/Industry R&D Interactions: Direct Agreements

- Partner with a company which subcontracts or with consortium which subcontracts
  - Impact of Bayh-Dole: Party that creates owns regardless of who funds
  - Who controls IP?
  - Impact of DOE Waiver statute: Title waived to prime except for those subs subject to Bayh-Dole
Types of Government/Industry R&D Interactions: Direct Agreements

- Qualification requirements
  - EPACT: 10 CFR 600.500
    - Manufacture in the US
    - IP reciprocity of home country
- Cost Sharing
  - What does the cost sharing party get for their cost sharing?
Types of Government/Industry R&D Interactions: Direct Agreements-Terms and conditions issues

- Public Release of scientific data first produced under agreement with government vs. public dissemination of scientific data first produced
  - Quid pro quo for cost sharing
  - Induce follow-on private investment
  - Public release needed to stimulate further research
  - If no release looks like corporate welfare
  - Statutory authority with negotiation to satisfy both party’s needs
Types of Government/Industry R&D Interactions: Direct Agreements-Terms and conditions issues

- U.S. Manufacture, benefit to the US economy
- Recoupment
- March-in rights to assure commercialization
- Government march-in rights to Background IP to assure commercialization
Types of Government/Industry R&D Interactions:

• Other Transactions Authority: IP flexibility

• DOE now has authority
  – Must issue regulations before authority used
  – Each transaction must be approved by Presidential appointee