

**Appendix B to Part 37-What Type of Instrument is a TIA
and What Statutory Authorities Does it Use?**

A. A TIA may be either a type of cooperative agreement or a type of "assistance transaction other than a grant or cooperative agreement," depending on its patent-rights provision. It is awarded under the statutory authority of 10 U.S.C. 2358, 10 U.S.C. 2371, or both, as explained in the paragraphs B through E of this Appendix and illustrated in the table below.

	The TIA's patent provision complies with Bayh-Dole	The TIA's patent provision varies from what is possible under Bayh-Dole
1. The TIA does not include recovery of funds provision	The TIA is a type of cooperative agreement, under 10 U.S.C. 2358(b)(1).	The TIA is a type of assistance transaction other than a grant or cooperative agreement, under 10 U.S.C. 2371.
2. The TIA includes recovery of funds provision	The TIA is a type of cooperative agreement, under 10 U.S.C. 2358(b)(1). It uses recovery of funds authority of 10 U.S.C. 2371.	The TIA is a type of assistance transaction other than a grant or cooperative agreement, under 10 U.S.C. 2371. It also uses the recovery of funds authority of 10 U.S.C. 2371.

B. A TIA is a type of cooperative agreement whenever its patent-rights provision complies with the Bayh-Dole statute (Chapter 18 of Title 35, U.S.C.), as shown in the preceding table. The authority to award the TIA is 10 U.S.C. 2358, in addition to any program-specific statute that may provide authority to award cooperative agreements. The TIA also may use the authority of 10 U.S.C. 2371 to include a recovery of funds provision that requires the recipient, as a condition for receiving support under the agreement, to make payments to the Department of Defense or other Federal agency.