



Commercial Spaceflight Federation Position Statement

Commercial Spaceflight Federation Supports Use of Space Act Agreements (SAAs) for Next Phase of NASA's Commercial Crew Development Program

For the next phase of NASA's Commercial Crew Development Program, following CCDev Rounds 1 and 2, the Commercial Spaceflight Federation strongly supports the use of Space Act Agreements (SAAs) under NASA's Other Transaction Agreements (OTA) authority, rather than a Federal Acquisition Regulations (FAR)-based approach. SAA's are the best means for NASA to support commercial development of systems to transport crew and cargo to the Space Station.

Over the last 30 years, the Air Force and NASA have made numerous attempts to replace some of the capabilities of the Space Shuttle, such as satellite launch, cargo transport, and human transport. Examples include Ares I, COTS Cargo, Orbital Space Plane (OSP), VentureStar/X-33, Evolved Expendable Launch Vehicle (EELV), National Launch System (NLS), and X-30/National Aerospace Plane (NASP). The contrast is stark: of these programs, only the programs that used OTAs resulted in new launch vehicles successfully flying to orbit.

A primary example is the successful development of the two Evolved Expendable Launch Vehicles (EELVs) under Air Force OTAs with Boeing and Lockheed Martin. Both companies received \$500 million from the government and contributed additional funds of their own. Both programs successfully met requirements levied by the federal government, and have since been used to launch our Nation's most critical national security space assets for nearly a decade. Another example is NASA's COTS Cargo development program, also conducted under an SAA/OTA, was the first NASA program since 1981 to result in a new launch vehicle and spacecraft successfully reaching orbit.

Space Act Agreements embody a public-private partnership between both NASA and the company to develop a capability that is to be used for both government and private purposes. SAAs let companies focus on the most essential aspects of a program, meeting the requirements for performance and safety at a reduced cost. By contrast, traditional FAR-based acquisition approaches "by and for the government" establish a manager-contractor relationship in which the government directs the contractor, effectively controlling the development decisions. Such a relationship is not conducive to the innovative approach necessary to develop new capabilities that will be owned and operated by commercial companies to serve both government and commercial customers.

In addition, SAAs are more appropriate than traditional FAR-based contracting for the next phase of the Commercial Crew Development Program because:

- **SAAs will increase competition and expand NASA's choices** – Traditional FAR-based contracts contain numerous regulations and reporting requirements that would

fundamentally change the way some commercial companies have to do business, such that they would likely not participate in the Commercial Crew program. Examples include tracking requirements for all employees' activities whether engaged in the particular development activity or not and compliance monitoring of numerous legal contracting clauses. SAAs will allow many more companies and subcontractors to participate, bringing low-cost, innovative solutions to federal requirements. This includes commercial entities that previously avoided doing business with the government because of the burdensome obligations imposed by the FARs. The use of FAR-based contracts for the next phase of NASA's Commercial Crew development program – even fixed-price – will significantly limit NASA's choices.

- **SAAs allow incorporation of safety and performance requirements** – SAAs can be written to ensure the proper insight versus oversight level and processes as mutually agreed by NASA and the companies. SAAs allow the tailoring of the public-private partnership to meet both parties' needs, including levying NASA safety and performance requirements, as was done under the EELV program. In contrast to the FAR, which can be both overly broad and burdensome, the flexibility of a SAA allows NASA and its commercial partners to formulate a relationship that permits optimal results.
- **SAAs can include other FAR requirements as needed** – SAAs can contain virtually anything both parties agree to include, and have the flexibility to be easily tailored as needed. Traditional FAR-based contracts have numerous legal requirements that cannot be easily modified or waived. SAAs represent the best of both worlds, providing NASA with the ability to incorporate relevant and necessary FAR provisions without imposing the entirety of the FAR that will result in time and money being wasted on rigid, irrelevant, and counterproductive provisions.
- **SAAs allow for private investment** – SAAs allow funding from both public and private sources to be used in developing capabilities that will be used for both commercial and government purposes. Traditional FAR-based contracting rules do not easily accommodate the use of both public and private funds. Private investment enables a program to achieve the same result at a lower cost to the government.
- **SAAs have been proven to lower costs** – A NASA cost study showed the COTS Cargo development program has achieved successes at a fraction of the cost of a traditional government launch-vehicle program. If instead of using SAAs NASA had used a hybrid of traditional and commercial approaches, the cost would have been significantly increased, and if NASA had used a more traditional FAR-based approach the cost would have increased further still. The cost-growth that traditionally accompanies the FAR approach often reaches the point where costs become prohibitive and the development program is later canceled.

In summary, the use of SAAs/OTAs is vital for NASA to promote innovation and quickly, affordably, and safely develop crew transportation capabilities. SAAs have been upheld by the Government Accountability Office as an appropriate mechanism for supporting the development of commercial space transportation. For these reasons, the Commercial Spaceflight Federation strongly supports the use of Space Act Agreements (SAAs) for the next phase of NASA's Commercial Crew Development Program following CCDev Rounds 1 and 2.