basis. After the five-year period, infor-
mation may be protected for longer pe-
riods if it meets any of the criteria in
5 U.S.C. 552(b) (as implemented by the
DoD in subpart C of 32 CFR part 286)
for exemption from FOIA disclosure re-
quirements.

Subpart E—Pre-Award Business
Evaluation

§ 37.500 What must my pre-award busi-
ess evaluation address?

(a) You must determine the qualifi-
cation of the recipient, as described
in §§37.510 and 37.515.

(b) As the business expert working
with the program official, you also
must address the financial aspects of
the proposed agreement. You must:
(1) Determine that the total amount
of funding for the proposed effort is
reasonable, as addressed in §37.520.

(2) Assess the value and determine
the reasonableness of the recipient’s
proposed cost sharing contribution, as
discussed in §§37.525 through 37.555.

(3) If you are contemplating the use
of a fixed-support rather than expendi-
ture-based TIA, ensure that its use is
justified, as explained in §§37.560 and
37.565.

(4) Address issues of inconsistent cost
accounting by traditional Government
contractors, should they arise, as noted
in §37.570.

(5) Determine amounts for milestone
payments, if you use them, as dis-
cussed in §37.575.

§ 37.505 What resources are available
to assist me during the pre-award
business evaluation?

Administrative agreements officers
of the Defense Contract Management
Agency and the Office of Naval Re-
search can share lessons learned from
administering other TIAs. Program of-
cficials can be a source of information
when you are determining the reason-
ableness of proposed funding (e.g., on
labor rates, as discussed in §37.520) or
establishing observable and verifiable
technical milestones for payments (see
§37.575). Auditors at the Defense Con-
tact Audit Agency can act in an advi-
sory capacity to help you determine
the reasonableness of proposed
amounts, including values of in-kind
contributions toward cost sharing.

§ 37.510 What are my responsibilities
for determining that a recipient is
qualified?

Prior to award of a TIA, your respon-
sibilities for determining that the re-
cipient is qualified are the same as
those of a grants officer who is award-
ning a grant or cooperative agreement.
Those responsibilities are described in
subpart D of 32 CFR part 22. When the
recipient is a consortium that is not
formally incorporated, you have the
additional responsibility described in
§37.515.

§ 37.515 Must I do anything additional
to determine the qualification of a
consortium?

(a) When the prospective recipient of
a TIA is a consortium that is not for-
ma-ly incorporated, your determina-
tion that the recipient meets the
standard at 32 CFR 22.415(a) requires
that you, in consultation with legal
counsel, review the management plan
in the consortium’s collaboration
agreement. The purpose of your review
is to ensure that the management plan
is sound and that it adequately ad-
dresses the elements necessary for an
effective working relationship among
the consortium members. An effective
working relationship is essential to in-
crease the research project’s chances of
success.

(b) The collaboration agreement,
commonly referred to as the articles of
collaboration, is the document that
sets out the rights and responsibilities
of each consortium member. It binds
the individual consortium members to-
gether, whereas the TIA binds the Gov-
ernment and the consortium as a group
(or the Government and a consortium
member on behalf of the consortium, as
explained in §37.1015). The document
should discuss, among other things, the
consortium’s:
(1) Management structure.
(2) Method of making payments to
collaboration members.
(3) Means of ensuring and overseeing
members’ efforts on the project.
(4) Provisions for members’ cost shar-
ing contributions.