

Protecting you, Protecting U.S.

SAFETY Act

The Support Anti-terrorism by Fostering Effective Technologies Act of 2002

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From Science and Technology... Security and Trust



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SAFETY Act Summary:

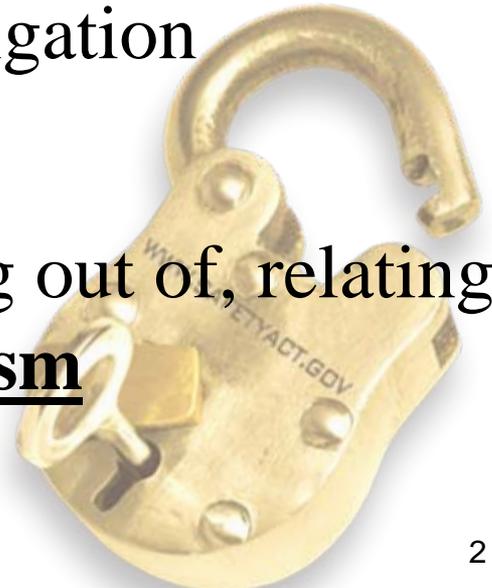
The Support Anti-terrorism by Fostering Effective Technologies Act of 2002 (SAFETY Act) was enacted as part of the Homeland Security Act of 2002

Intended to facilitate the development and deployment of effective anti-terrorism technologies by creating systems of “risk management” and “litigation management”

Protections apply **only** to claims arising out of, relating to, or resulting from an **Act of Terrorism**



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What is considered an “Anti-Terrorism Technology?”

- Any technology that is designed, developed, modified or procured for preventing, detecting, identifying, or deterring acts of terrorism or limiting the harm such acts might otherwise cause harm.



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What is Eligible for SAFETY Act Protections?

The SAFETY Act liability protections apply to a vast range of technologies, including:

- Products
- Services
- Software and other forms of intellectual property

Examples of eligible technologies:

- Threat and vulnerability assessment services
 - Detection Systems
 - Blast Mitigation Materials
 - Screening Services
- Sensors and Sensor Integration
- Threatening Object Detectors
 - Decision Support Software
 - Security Services
- Crisis Management Systems

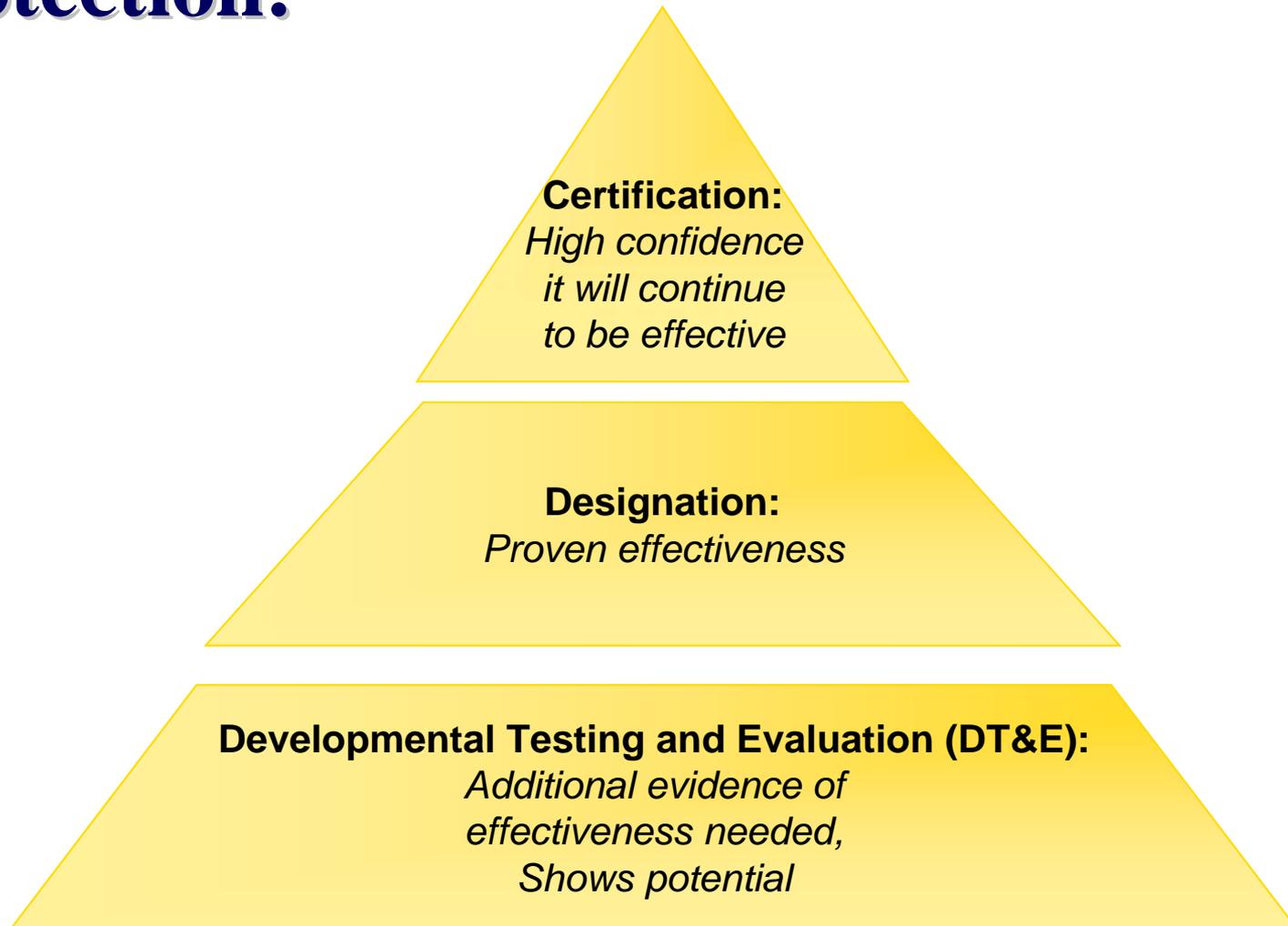


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Timeline of Review Process:



The Different Levels of SAFETY Act Protection:



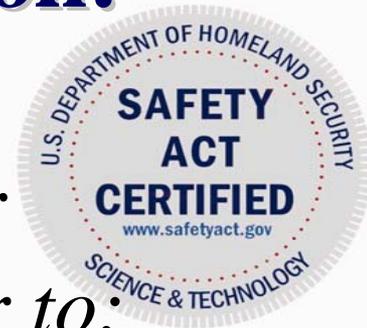
SAFETY Act Designation Benefits:

- Liability = Insurance required by DHS
- Exclusive action in Federal court
- No joint and several liability for non-economic damages
- No punitive damages or prejudgment interest
- Plaintiff's recovery reduced by amounts from collateral sources



Benefits of SAFETY Act Certification:

In addition to the benefits provided under Designation, Certification allows a Seller to:



- Assert the Government Contractor Defense for claims arising from acts of terrorism
- Certificate of Conformance issued to the Seller
- Be placed on DHS's Approved Products List for Homeland Security

SAFETY Act Protections Extend to Users

“Such cause of action [lawsuit] may be brought only against the Seller of the QATT [Qualified Anti-Terrorism Technology] and may not be brought against the buyers, the buyers’ contractors, downstream users of the QATT, the Seller’s suppliers or contractors, or any other person or entity...”

- Preamble to SAFETY Act Regulations, 6 CFR Part 25, at 33150.

Criteria Per SAFETY Act Regulations:

Technical Criteria

- Prior U.S. Government use (Demonstrates effectiveness)
- Availability for immediate deployment
- Risk exposure if the Technology is not deployed
- Evaluation of Technology's capability to substantially reduce risks of harm
- Technology's effectiveness in defending against Terrorism
- ATT determination made by Federal, State, or Local officials

Economic Criteria

- Third party liability risk exposure to the Seller or other provider of the technology
- SAFETY Act risk management protections are strongly necessary for deployment



✓ *We adopt the flexible approach*

SAFETY Act Application's Effectiveness criteria?

- Successful testing in operational environment
 - Operational testing
 - ✓ Evidence of performance metrics, including:
 - Probability of Detection
 - False Positive and False Negative Rates
 - Limits of Detection (and why that limit is relevant)
 - Interferents
 - Maintenance and Training
- Documented performance of past deployments
- Appropriate domain expertise
- Favorable In/external audits
- Favorable customer feedback
- Proven repeatability
- Documented quality assurance plans



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Proprietary Data is Protected

- Certified and accredited database that conform to DHS information security standards
- All application reviewers are screened for conflicts of interests, sign conflict of interest statements for each application they review, and sign general nondisclosure agreements



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SAFETY Act Reviewers?

- Three Technical Reviewers and two Economic Reviewers per application
- Approximately 420 Subject Area Experts (SMEs)
- From the Federally Funded R&D Centers (FFRDCs), non-profits, Federal Government, Federal & National Labs, and Academia
- SMEs experienced in:

- Cyber
- Economic
- Explosive
- Chemical
- Biological
- Explosive
- Rad/Nuc
- Human
- Services



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Examples of SAFETY Act Approved Technologies:

VULNERABILITY ASSESSMENTS

- Threat and Vulnerability Assessment
- Risk Mitigation Services
- Risk Auditing and Assurance Services
- Event Security Management Services

SECURITY SERVICES

- Screening of persons and packages
- Physical security guard staffing and parameter services
- Installation of security equipment for the detection of hazardous threats
- Systems to detect CBRNE threats
- Systems that provide intrusion detection



Examples of SAFETY Act Approved Technologies (cont.) :

DETECTORS / SENSORS / SYSTEMS

- Devices for early warnings of chem/bio agent release
- Sensors that identify chem/bio contaminants in water supplies
- Systems that detect toxic industrial chemicals & chemical warfare agents
- System that monitors the air for hazardous substances



PERSONNEL PROTECTION TECHNOLOGIES

- Receptacles designed to withstand explosions
- Devices designed to suppress damage from explosive devices, fires, etc.
- Protective materials that absorb energy and protect assets from explosive damage



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Examples of SAFETY Act Approved Technologies (cont.) :

CRISIS MANAGEMENT

- Mass public notification system in the event of terrorism
- Incident command software system for disaster management / public safety
- Real-time monitoring system that collects data for recovery efforts



AND MANY MORE...



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General Vocabulary

- Similar use: Deployments that are similar to the way in which your technology is intended to be used as an anti-terrorism technology.
- Customer testimonials: Statements from customers that detail how your technology has been utilized and how effective it has been in those deployments.
- Standards: Prescribed set of rules, conditions or requirements concerning definition of terms, classification of components, specification of materials, performance or operations, delineation of procedures, or measurement of quantity and quality in describing materials, products, systems, services, or practices.*



Services Vocabulary

- Process: How the service works, what best practices/ standards apply, what type of QA is in place.
- Best Practices: An operation which is most appropriate under the circumstances, esp. as *considered acceptable or regulated in business*; a technique or methodology that, through experience and research, has *reliably* led to a desired or optimum result.



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Products Vocabulary

- Developmental testing: Controlled conditions. The product could still be under-going modifications.
- Operational testing: In an environment that closely mimics the environment in which the product will be used. Final configuration.
- Measures and Metrics: A **measure** is an operation for assigning a number to something. A **metric** is our interpretation of the assigned number.
 - E.g.,
 - Measurement = 1 mg/m³
 - Metric = Lower limit of Detection



- **Designation**



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Item D1: Application Type

- Initial Filing
- Filing Following a Pre-application
- Filing a Resubmission
- Public Web site listing preference



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Item D2: Expedited Review

- Generally for pending procurements, needed for RFP submissions, or SAFETY Act-dependent deployment
- An expedited review request should include:
 - Deploying entity
 - Contract start date
 - A point of contact to verify this information or a letter on the deploying agency's letterhead with the contract start date or outlining reason why the deployment is delayed
- The Director of OSAI determines if an expedited review is warranted.



Item D3: Registration Information

- Please make sure your registration information is current.
- Within your registration status (different form), please indicate the primary and secondary point of contact from your company and indicate whether e-mail communication is allowed.



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Item D4: Technology/Company Profile

- Technology name
- Give a brief description of your company including:
 - Company name
 - State of incorporation
- Other useful information:
 - Company size (number of employees)
 - Manufacturing facilities
 - Company headquarters (principal place of business)
- Include a brief non-proprietary description of your technology



Item D5: Nature of your technology

Executive Summary

- What do you sell?
- What are the major steps required with the deployment of your technology?
- How does your technology counter terrorism?
- What is your customer responsible for?
- The answer to this question is a top level overview. You can provide more detailed information about each step or component in response to Item D9.



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Item D6: Past Sales

- It is important to identify any prior use of your technology.
- Only include imminent users if contracts are in place.
- Include testing agencies.
- When identifying past or future users and/or testing agencies, please include the following:
 - Deploying entity
 - Description of how the technology was used
 - Duration of use
 - Contract status (pending, complete, in-progress)
 - Points of contact who will verify the above



Item D7: Additional Sellers

- Are there any additional Sellers of your technology?
- Provide states of incorporation for all Sellers listed here.



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Item D8: Earliest Date of Sale

- When did you start selling this technology as an *anti-terrorism technology*?
- The earliest date of sale can be:
 - Earlier than the date of application.* However, a justification for this date should be provided.
 - Stable, static technology
 - Otherwise would require purely bureaucratic contract changes
 - The date of the application
 - A future date associated with a pending contract

*Act-of-terrorism-free retroactive liability protection



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Item D9: Technology Description

- Build on what you supplied in Item D5
- Kit has ~2 pages of guidance
- What is each component (or sub-process) of your technology?
- Why are these components (or sub-processes) important?
- Services
 - Hiring Practices
 - Training methods
- Products
 - Installation
 - Site Acceptance Testing

Critical: This will define the scope of your coverage!



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Item D10: Deployment and Operation

- Step us through a typical deployment of your technology
- What is invariable from deployment to deployment?
 - Products: how do you ensure that each time you deploy your technology, the same technical metrics are met?
 - Services: what quality control do you utilize to ensure that each deployment uses the same procedures or that all employees are trained the same?
- What is customized for each deployment?



Item D11: Readiness for Sale

- When could you sell your fully developed technology?
- Products
 - Has/when will efficacy be determined?
 - Do you have a manufacturing facility?
 - Are you modifying existing facilities?
 - Do you have quality control methods in place?
- Services
 - Do you have practices and procedures in place for all deployments?
 - Do you have a staffing procedure in place?
 - Do you have training materials ready?



Item D12: Magnitude of Risk

- What does your technology protect the public from?
- What are the likely consequences of a successful attack of that sort (estimates)?
 - Injury
 - Property
 - Economic loss
 - Loss of life
 - Other harm (including financial)



Item D13: Impact of Coverage

- How will the protections of the SAFETY Act affect your deployment plans?
 - If SAFETY Act protection is obtained, our business plan for the Technology is ...
 - If SAFETY Act protection is not obtained, our business plan for the Technology is ...



Item D14: Effectiveness and Utility

- **Products**
- Performance metrics and test data
 - Supporting information needed
 - Narrative explanations are good; test reports and operational data are better.
- Developmental testing
 - Who tested?
 - What was tested?
 - How was it tested?
 - What happened?
 - What changed?



Item D14: Effectiveness and Utility

- **Products, continued:**
- Operational testing
 - Who?
 - What?
 - Where?
 - What happened?
- Past use
 - Customer testimonials
 - Points of contact



Item D14: Effectiveness and Utility

- **Services**
- What is your process?
- What is your expertise? What is the expertise of your employees?
- What is your TRAINING program?
- What is your past experience? Have you ever been internally or externally audited?
- Quality Control/Quality Assurance
- Customer testimonials



Item D15: Other information

- What else should we know about you or your technology?
- Have people used your technology successfully?
- Have you won any awards for your technology?
- Have your processes received any certifications (ISO, CMMI, etc.?)
- Provide a Table of Contents



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Items D16-17

- Insurance and Financials



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Item D16: Insurance Data

- Describe your current insurance policy(ies) that would satisfy compensable 3rd party claims arising from, relating to or resulting from an Act of Terrorism.
- For example:
 - General liability
 - Professional liability
 - Product liability
 - Stand-alone terrorism



Item D16.1: Insurance Data

- **For each policy (a-l):**
- Primary and additional named insured
- Type of policy
- Policy dates (start – end)
- Insurer
- Per-Occurrence, Aggregate Limits and Premiums
- Deductibles or Self-insured retentions
- Pertinent exclusions and cancellation terms or limits that potentially dilute or eliminate the availability of coverage
- Type and limits of terrorism coverage (e.g., TRIA)
- Dedicated limit or shared limit



Item D16.2: Unavailability of Insurance

- When securing quotes, ask the broker or insurer to assume that SAFETY Act protection will be obtained.
- If you cannot obtain insurance quotes for the Technology, please indicate the reasons and provide letters of declination on your broker/insurer letterhead.
- If you believe that the cost of insurance premiums would “unreasonably distort the price of the Technology”...
 - Talk to us



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Item D16.3: Insurance P.O.C.

- Point of Contacts
 - Risk Manager
 - Insurance Broker
 - In-House Counsel/Attorney
 - Insurance Agent



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Item D16.4: Technology Revenue

- Current year Technology revenue and cost
- Two-year projected Technology revenue and cost
- Any additional financial information that you believe is material to your application
- When projecting revenue, assume SAFETY Act protection is awarded



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Item D16.5: Deployment

- Present a plausible scenario in which your Technology could be the proximate cause of 3rd party claims in the event of an Act of Terrorism
 - Estimate injuries, deaths and economic damages that would arise under those claims
- Big Picture:
- What liability do you face during deployment?
- Why do you need SAFETY Act to deploy?



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Item D17: Financial Data

- Your most recent financial statements
 - income statement
 - balance sheet
 - statement of cash flows
- If the primary named insured for your insurance program is a parent, provide their most recent financial statements (income statement, balance, sheet, statement of cash flows)
- Any additional financial information that you believe is material



- Developmental
Test & Evaluation
Designation



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A Different Kind of Application

- For technologies that require more testing to understand the capabilities of the technology, but cannot be tested without being in the public sector and exposed to potential liability
- By definition, convincing efficacy data may not exist yet
- Requires some evidence that:
 - The technology could work (TE10)
 - There is a test scenario/deployment opportunity that will allow you to gather more information (TE6)



Items TE 1-4

- Largely same as Designation



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Item TE 5: Specification of your Technology

- Equivalent to Item D9, and just as critical
- Products/Services
 - What do you sell?
 - What is your customer responsible for?
 - What is each component (sub-process) of your technology?
 - Why are these components important?
- Services
 - Hiring Practices, Training, Methods
- Products
 - Installation, Site Acceptance Testing



Items TE 6-7: Nature of test/CONOPS

- Where will you test? Have you made arrangements with a test agency or private company to deploy your Technology for information gathering purposes?
- How will you deploy your technology during test? Do you have standard operating procedures or will you be writing these during the course of the test?
- Who will operate the technology during testing?
- What will you test (metrics)? What do you expect the outcome of testing to be?
- What are the steps required to deploy your technology?

We will be looking for a thoroughly outlined test plan!



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Item TE 8: Magnitude of Risk

- What does your technology protect the public from?
- What are the likely consequences of a successful attack of that sort (estimates)?
 - Injury
 - Property
 - Economic loss
 - Loss of life
 - Other harm



Item TE 9: Impact of Coverage

- How will the protections of the SAFETY Act affect your testing plans?
 - If SAFETY Act protection is obtained, our business plan for the Technology is ...
 - If SAFETY Act protection is not obtained, our business plan for the Technology is ...



Item TE 10: Effectiveness and Utility

- What testing has been done in the past?
 - Developmental testing?
 - Operational testing?
 - What did you learn about your technology's
 - Quality, specifications, repeatability, ...
- POCs that **will** substantiate
- Or, is this a first test?
- What are the expected outcomes of the upcoming test?
 - What will you measure?
 - What will that tell you?
 - Will more tests be required?



Item TE 11: Other information

- Similar to Designation application: what else should we know about you or your Technology?



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Items TE 12-13: Insurance/Financial

- A DT&E application requires the same insurance and financial information as a full application. Your application cannot be processed without this information!



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Additional SAFETY Act Information



Online: www.safetyact.gov

- FAQs
- Help Topics
- Help Desk: Online form for questions requiring an individual response

Email: helpdesk@safetyact.gov

Toll-Free: 1-866-788-9318



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