

Dictionary of Agreement Terminology

A | B | C | D | E | F | I | M | N | O | P | R | S | T



OAAM

Office of Acquisition &
Agreements Management

A

Acceptance (Fully Executed) - Occurs *only* at the time when the agreement is signed by both parties. Acceptance can mean the same thing as "obligation" to requesting organizations.

Advance Payment - Payment (in whole or in part) in advance of the work. See also "**Billing Terms**" and "**Payment Options**".

Agency Location Code (ALC) - Also known as Accounting Station Symbol. A unique eight-digit code (00-00-0000) assigned to all US gov't agencies by the Department of Treasury that identifies that specific organization.

1st two digits = the Department

2nd two-digits = Operating Division within the Department

3rd 2 digits = accounting points within the Operating Division

4th two-digits = accounting point (Treasury does not accept 4 zeros as the last four digits, instead "01")

NIST's ALC = 13060001

Agreement - A written arrangement between two parties where the principal purpose is for an agency to engage in collaborative activities with or to provide reimbursable goods or services to another party.

Agreement Number - A unique number given for each funding agreement. All modifications to the original funding document must match that document's agreement number.

Alternative Dispute Resolution - NIST cannot agree to binding arbitration or mediation. See "**Dispute Resolution**".

Amount Restrictions - A Federal agency cannot obligate funds *in excess* of its currently available appropriations or apportionments; a Federal agency also cannot obligate funds *in advance* of having received appropriations from Congress (*reference: Anti Deficiency Act (ADA)*).

Anti-Deficiency Act (ADA) - The law enacted by Congress to prevent the gov't from incurring obligations or making expenditures (outlays) in excess of amounts available in appropriations or funds (by appropriation, apportionment, or allotment; *reference: 31 USC 1341 <http://www.gao.gov/ada/antideficiency.htm>*).

B

Bona Fide Needs Rule - An appropriation is only available to meet the legitimate bona fide needs of an agency that arise during the appropriations period of availability.

Business Event Type Code (BETC) - Code designating the type of activity, thus identifying the sender and receiver for funding between federal agencies through the IPAC system.

The two most common codes used are:

DISB: disbursement from the sending or funding agency

COLL: collection by the receiving agency

Business Partner Network Code (BPN) - An on-line source of vendor data for the US Federal Gov't (*resource:* <http://www.sam.gov/>).

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C

Central Contractor Registration (CCR) - The primary supplier database for the US Federal Gov't (*resource: <http://www.sam.gov/>*).

Choice of Venue - NIST cannot agree to provisions that state that jurisdiction lies with the courts of a particular state or locality. See also "*State Law*".

Collaboration - NIST collaborates with partners in a variety of ways designed to meet a broad spectrum of needs. A key principle of the process is that both NIST and its partner benefit from the relationship. NIST provides fair and equitable access to both its technical expertise and its designated user facilities. NIST supports cooperative research through both formal and informal arrangements.

See the following for more information:

Cooperative Research and Development Agreement (CRADA)

Non-Disclosure Agreement (NDA)

Material Transfer Agreement (MTA)

Facility Use Agreement (FUA)

Guest Researcher (GR)

PREP and SURF Programs

Collecting (COLL) - A Business Event Type Code (BETC) used by the receiving agency in the IPAC system.

Commercial and Government Entity (CAGE) Code - A unique identifier assigned to suppliers to various government or defense agencies, as well as to government agencies themselves and also various organizations. CAGE codes provide a standardized method of identifying a given facility at a specific location.

NIST's CAGE Code = 0HV88

Contact Information - Name, address, phone number, fax number, and e-mail address for all parties to a reimbursable agreement include:

- *NIST Principle Investigator*
- *NIST Administrative Office*
- *NIST Financial Contact*
- *Sponsor Principle Investigator*
- *Sponsor Administrative Office*
- *Sponsor Financial Contact*
- *Sponsor Legal Office (not included in the written agreement)*

Cooperative Research and Development Agreement (CRADA) - A partnering tool that allows federal laboratories to work with US industries, academia and other organizations on cooperative R&D projects. CRADA's provide flexibility in structuring project contributions, intellectual property rights, and in protecting proprietary information and CRADA research results. In addition to traditional research collaborations, CRADA's may extend to such diverse mission-related activities as protecting the results of calibrations and NAVLAP inspections from public disclosure, equipment loans, interoperability testing, and familiarizing NIST researchers with industry practices. In NIST CRADA's, typically proprietary information means confidential scientific, business, or financial information, which may embody trade secrets provided by the organization and developed exclusively at private expense, ***except*** if such information:

- *was in NIST's possession before the receipt from the organization; or*
- *is or becomes a matter of public knowledge through no fault of NIST; or*
- *is received by NIST from a third party without duty of confidentiality; or*
- *is disclosed by the organization to a third party without duty of confidentiality on the third party; or*
- *is independently disclosed by NIST with the organization's prior written approval; or*
- *is independently developed by NIST without reference to information received by NIST (resource: 15 USC 371a).*

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D

Deliverables - A tangible object to be produced under the reimbursable agreement. This can be something physical, and in a piece of equipment, or something more nebulous, as in a written report on the results of the research. Deliverables should include a price and a due date associated with each. See "*severable*" and "*non-severable*".

Determination and Findings (D&F) - A special form of written approval by the sponsoring organization's authorized official for all reimbursable agreements using the Economy Act as the transfer authority.

Disbursement (DISB) - The Business Event Type Code (BETC) used by the sending agency in the IPAC system.

Dispute Resolution - A method of settling disagreements (*resource:* <http://www.fms.treas.gov/tfm/index.html>).

Dun and Bradstreet Numbering Systems (DUNS) - The "*Data Universal Numbering System*" is a unique nine-digit identification number provided by Dun & Bradstreet (D&B), which is site-specific for each distinct physical location of an entity (*resource:* <http://www.dnb.com/>). *NIST's DUNS # = 929956050*

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E

Economy Act - Transfer Authority authorizing Federal agencies to purchase goods and services from other Federal agencies or major organizational units within the same agency (*resource: 31 USC § 1535*).

Employer/Taxpayer Identification Number (EIN/TIN) - The Federal Tax Identification Number used to identify a business entity set up by the Internal Revenue Service (*resource: [http://www.irs.gov/Individuals/International-Taxpayers/Taxpayer-Identification-Numbers-\(TIN\)](http://www.irs.gov/Individuals/International-Taxpayers/Taxpayer-Identification-Numbers-(TIN))*)

NIST's EIN/TIN = 53-0205706

Estimated Costs - NIST must be paid for all actual costs (Full Cost Recovery) unless the Director grants a waiver (obtained consistent with internal NIST policy (e.g., fixed fee activities such as SRM's, Calibrations, etc.)). The Director can only waive costs if the NIST Act is used as the transfer authority. Costs can be paid either in advance or on a reimbursable basis.

Expiration Date - Date by which costs must be accrued, or the authority to continue work on the customer order will lapse. Any modification (including No-Cost Time Extensions) must be executed prior to the agreement expiring

Expired Agreement - A reimbursable agreement that has passed the end date of its period of performance. Expired agreements **CANNOT** be amended or extended. Any future activities must be documented in a new agreement.

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F

Facilities Use Agreement (FUA) - Industry may use NIST equipment and facilities designated by the NIST Director for proprietary or nonproprietary measurements. Fees may be charged.

Financial Reporting Address - The address where the requesting organization wants NIST to send all financial reports (monthly, quarterly, annual, or at end of agreement). Even if financial reports are to be sent to an e-mail address, NIST must have a physical or mailing address for the reports. Only one address allowed.

Fixed Price - An agreement between a requesting organization and NIST that carefully defines the work to be done for a fixed price and results in "*full cost recovery*".

Fixed-Year Appropriation - Also known as "*multi-year funds*" and "*one-year funds*".

Economy Act: the money expires when the appropriation expires and must be returned at that time whether the statement of work is "*several*" or "*non-severable*".

NIST Organic Act: services may extend beyond the expiration of the appropriation if the statement of work is "*non-severable*".

Foreign Governments - Review the *Case-Zablocki Act (DAO 218-4)* for questions about foreign government agreements; the State Department could possibly get involved in the review and approval of a reimbursable agreement with a foreign government.

Full Cost Recovery - NIST is to be reimbursed for the full cost of doing the work as agreed upon in the reimbursable agreement. By the end of the agreement, the financial goal is to have a zero profit/loss.

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I

Incremental Funding - The partial funding of an agreement or an exercised option, with additional funds anticipated to be provided at a later time. NIST does not allow this type of funding unless the deliverables are clearly defined and a period of performance can be directly tied to the funding received.

Indemnification Clause - The Federal government cannot agree to an open-ended indemnification clause because it is a violation of the "*Anti-Deficiency Act*".

Intellectual Property (IP) - Property that results from original creative thought, as patents, copyright material, and trademarks. See also "*proprietary information*" (resource: *Title 17 USC § 105 & 18 USC § 1905*).

Interagency Agreement (IAA) - *See Memorandum of Understanding.*

IPAC System - Payment system between Federal agencies.

M

Material Transfer Agreement (MTA) - Formally defines the terms and conditions under which materials, typically having unique and proprietary properties, are transferred to or from NIST to be subjects of research by NIST or the collaborator, respectively, usually through a CRADA.

Memorandum of Understanding (MOU) - A document which describes a bilateral or multilateral agreement between parties which formalizes a working relationship. Other references to this type of agreement include IAA's, MOA's, NIPR's, and MIPR's.

- *MOU template for Economy Act transfers*
- *MOU template for NIST Organic Act transfers by Other Agency*
- *MOU template for NIST Organic Act transfers by Non-Federal gov't*

Multi-Year Funds - Appropriation authority to obligate over a specific number of years. Also known as "*Fixed-Year Appropriations*".

N

Non-Disclosure Agreement (NDA) - Defines how proprietary information will be treated. It must be fully executed before the underlying agreement expires. See also "*Proprietary Information*".

Non-Severable - Services that constitute a single, indivisible undertaking for which the requesting organization receives no benefit until the entire project is completed. The entire cost is chargeable to the Fiscal Year (FY) in which the agreement was executed even though the services continue in later years. All funding should be available for obligation prior to the work beginning.

No-Year Funds - No-year funds remain available for obligation until expended.

O

Obligation - The legal liability of an agency to disburse funds. An agreement which an agency promises to disburse a specified amount of funds for the provision of specified goods or services constitutes an obligation of the specified amount of funds.

One-Year Funds - Funds available for obligation only during the year for which the funds were appropriated.

Organic Act - Also known as "*NIST Act*". NIST's authority to conduct its functions, including the authority to exercise its functions for the Gov't of the United States and other organizations and to accept reimbursement for the provision of such services. The Organic Act includes many of NIST's programmatic authorities and a transfer authority.

Resources:

- *15 USC 273 = NIST's authority to perform work for others*
- *15 USC 275a = NIST's authority to charge for work performed under 15 USC 273*
- *15 USC 275b = used instead of 15 USC 275a where a statute states that the other agency must have NIST do the work*
- *15 USC 278b = NIST's authority to credit amounts to the Working Capital Fund*

(NOTE: Other Agencies are encouraged to use this act as the "Transfer Authority").

Other Agency-Specific Authorities - Other agencies may have their own statutory authority to transfer funds to NIST or to engage in collaborative activities with NIST.

P

Parties - The entities that are to take part in the agreement (sponsor and NIST).

Payment Options - How payment will be made, either "*in Advance*" or "*Reimbursable*". Non-Federal requesting organizations must allow for advance billing, in whole or in part, depending on the deliverables. If in part, the sponsor should allow for advance billing of a portion upon acceptance of the agreement, then in advance before each succeeding deliverable.

Period of Availability - The period in which funds are available for obligation purposes.

Billing Terms:

Domestic Customers: Net 30

Foreign customers: Net 45

See also "Payment Options"

Period-of-Performance (POP) - The period of time during which work is to take place under a reimbursable agreement.

Principal Investigator (PI) - The lead scientist or engineer who is primarily responsible for the research to be performed in the reimbursable agreement. The PI from both NIST and the requesting organization should be listed with their respective contact information.

Professional Research Experience Program (PREP) - Provides laboratory experience and financial assistance to qualified undergraduates, graduates, and postgraduates. Postdocs from any university are welcome to apply and are brought into the program through participating universities. For more information about PREP in Boulder, CO, please visit: <http://www.boulder.nist.gov/bdprepo.htm> and PREP in Gaithersburg, MD, please visit http://www.nist.gov/mml/mml_prep.cfm.

Program Manager (PM) - The lead who is primarily responsible for the service to be performed under the reimbursable agreement. The PM's from both NIST and the requesting organization should be listed with their respective contact information.

Programmatic Authority - A Federal organization's authority to undertake the activities set forth in the agreement. For NIST, many of these authorities are contained in the Organic Act.

Propriety Information - Information that is not public knowledge and that is viewed as the property of the holder. NIST generally publishes its research, so any proprietary information is generally not safeguarded, unless the parties to the agreement have entered into a "**CRADA**" or an "**NDA**". Receipt of Proprietary Information must be approved by NIST management **BEFORE** acceptance. See also "*Cooperative Researcher and Development Agreement*" and "*Non-Disclosure Agreement*" (*resource: 5 USC 552*).

Purpose - The reason for the agreement. See also "*deliverables*".

R

Reimbursable Agreement (RA) - Overarching term for all agreements that transfer funds between NIST and requesting organization, public and private, foreign and domestic.

Reimbursable Agreements Coordination Office (RACO) - An office delegated with the responsibility of coordinating the review and acceptance of all reimbursable agreements for NIST.

Reimbursable Agreement Tracking Number - A unique tracking number assigned by the Administrative Officers (AO's) before submitting packages to RACO; to identify the specific reimbursable agreement pending review and clearance.

Resolution of Disagreements - The process of resolving disputes between parties and how the parties will approach the process. See also "*Dispute Resolution*".

S

Scope - The area covered by the activity described in the reimbursable agreement.

Severable - Services that are ongoing or repetitive in nature (natural breaking points). An agency may generally only obligate funds for services that can be completed within the period of availability of the agency's funds.

Signature Authority - The authority delegated to an official within an organization who is authorized to sign an agreement.

Statement of Work (SOW) - A formal document that captures and defines the work activities, deliverables and timeline of a reimbursable agreement. Detailed requirements and pricing may be included, along with standard regulatory and governance terms and conditions.

Summer Undergraduate Research Fellowship (SURF) Program - A NIST/National Science Foundation partnership that teams outstanding undergraduate students with NIST mentors on cutting-edge research projects. For more information about the SURF program please visit the NIST Gaithersburg website at: <http://www.nist.gov/surfgaithersburg/index.cfm> or the NIST Boulder website at: <http://www.nist.gov/surfboulder/index.cfm>.

T

Termination/Cancellation Clause - Defines the process by which and conditions under which a reimbursable agreement may be terminated.

Time Restrictions - Appropriations may be used to meet the needs of an agency only during the time for which the funds were available for obligation. See also "*Bona Fide Needs Rule*", "*Severable*", and "*Non-Severable*".

Trading Partner Identification Number (TPIN) - Also known as "*CCR*". A number assigned to organizations by the Central Contractor Registration (CCR) of the Department of Defense; which are intended to be contractors to the Federal Government. Contractors are advised by CCR to treat the TPIN as if it were a password, and not to reveal it to others not directly involved in their business operations (*resource*<http://www.sam.gov/>).

Transfer Authority - The authority under which an agency transfers funds to NIST.

Types of Transfer Authorities:

- *Economy Act (31 USC 1535) (requires a D&F) or*
- *NIST Organic Act (15 USC 273, 15 USC 275a, or (15 USC 275b or 15 USC 275c) and 15 USC 278b)*
- *Other Agency - Specific transfer authorities such as those found [here](#).*

Treasury Account Symbol (TAS) - An alpha-numeric string that identifies Federal appropriation accounts.

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