

FINANCIAL MANAGEMENT REQUIREMENTS

VOLUME 16

REIMBURSABLE AGREEMENTS

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CHAPTER 1. GENERAL OVERVIEW

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CHAPTER 1. GENERAL OVERVIEW

1.1 OVERVIEW.

1.1.1 This Volume establishes financial management policies for reimbursable agreements related to (1) administrative procedures; (2) pricing reimbursable agreements; and (3) exceptions and costs. These policies are applicable to all agreements for reimbursable and related activities performed by National Aeronautics and Space Administration (NASA) Headquarters offices and the NASA Centers. NASA has the authority to enter into agreements that allow for reimbursable work with other Federal and non-Federal entities, for the reimbursable use of NASA facilities, personnel, expertise, or equipment. The term reimbursable work as used throughout this Volume includes use of NASA facilities, personnel, expertise, materials and supplies and equipment. The term customer is used in this Volume to identify the entity receiving services, materials, or support from NASA on a reimbursable basis. NASA Policy Directive (NPD) 1050.1, "Authority to Enter into Space Act Agreements," and NASA Advisory Implementing Instruction (NAII) 1050-1, "Space Act Agreements Guide," provide the policies and procedures governing the establishment and contents of NASA Space Act Agreements.

1.2 AUTHORITIES AND REFERENCES.

1.2.1 Federal statutes, presidential directives, Office of Management and Budget (OMB) circulars, as well as NASA directives and guidelines provide authority and guidance for establishing and implementing reimbursable agreements between NASA and other Government entities or the public.

1.2.2 Legislation.

A. National Aeronautics and Space Act of 1958 (42 U.S.C. § 2451 et. seq.). The Space Act authorizes NASA "to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its work and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, Territory, or possession, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution." Additionally, the Act authorizes NASA "to use, with their consent, the services equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities." In addition, the Act states, "The Administration, under the foreign policy guidance of the President, may engage in a program of international cooperation in work done pursuant to this Act, and in the peaceful application of the results thereof, pursuant to agreements made by the President with the advice and consent of the Senate." Agreements using these authorities are referred to as Space Act Agreements. The NASA

Space Act Agreements Manual is the primary source of guidance for entering into Space Act Agreements.

- B. Federal statutes other than the Space Act also authorize and govern reimbursable agreements for certain types of facilities and activities.
1. Economy Act of 1932 (31 U.S.C. § 1535). This Act provides authorization for Federal agencies to request and perform interagency reimbursable work. Under the Act, such reimbursable work must be in the best interest of the Government, and goods and services are less expensive or more conveniently provided by Federal agencies than by commercial vendors.
 2. Commercial Space Launch Act (49 U.S.C. § 701). This statute governs the sale, by NASA, of launch property for fair market value and the sale of launch services for direct cost only. The charge for launch services or reentry services is an amount equal to the direct costs, including the basic pay of Government civilian and contractor personnel, the Government incurred because of acquisition of the services.
 3. Fees and Charges for Government Services and Things of Value (31 U.S.C. § 9701). This Act requires that charges be fair; and based on (A) the costs to the Government; (B) the value of the service or thing to the recipient; (C) public policy or interest served; and (D) other relevant factors. User charges are ordinarily deposited into Treasury miscellaneous receipts, but may be retained by NASA where authorized by law. Detailed procedures for user charges are included in the Office of Management and Budget (OMB) Circular No. A-25.
 4. Land Remote Sensing Policy Act of 1992, (15 U.S.C. § 5601-5602). To maximize the value of the Landsat program to the American public, unenhanced Landsat 4 through 6 data should be made available, at a minimum, to United States Government agencies, to global environmental change researchers, and to other researchers who are financially supported by the United States Government, at the cost of fulfilling user requests, and unenhanced Landsat 7 data should be made available to all users at the cost of fulfilling user requests. The term “cost of fulfilling user requests” means the incremental costs associated with providing product generation, reproduction, and distribution of unenhanced data in response to user requests and shall not include any acquisition, amortization, or depreciation of capital assets originally paid for by the United States Government or other costs not specifically attributable to fulfilling user requests.
 5. Commercial Space Competitiveness Act - Use of Government Facilities (15 U.S.C. § 5807). This Act provides authority for NASA to use its space-related facilities on a reimbursable basis to support commercial space activities, and to charge only direct cost.

6. National Historic Preservation Act (16 U.S.C. § 470h-3). The National Historic Preservation Act provides Federal Agencies the authority to lease historic property and retain the proceeds to defray the cost of administration, maintenance, repair, and related expenses incurred by the agency with respect to property that is on the National Register.
 7. Enhanced Use Lease (EUL) of Real Property (42 U.S.C. § 2459j). This section of the Space Act gives the Administrator authority to lease NASA real property to other Federal Agencies and non-Federal entities. The financial policy applicable to the EUL program is discussed in Chapter 5 of Financial Management Requirements, Volume 16.
- C. In addition, various statutes govern financial accounting and reporting for reimbursable work.
1. Chief Financial Officers Act of 1990 (31 U.S.C. § 902). This statute requires a biennial review of costs of services provided versus charges imposed. The Agency Office of the Chief Financial Officer (OCFO) shall be responsible for that review.
 2. Custodians of Money (31 U.S.C. § 3302). This statute requires all monies to be deposited to Treasury, unless otherwise provided by law.
- 1.2.3 Executive Orders and Regulations. The following Executive Branch issuances pertain to NASA's operations:
- A. OMB Circular No. A-11, Preparation, Submission, and Execution of Budget. OMB Circular No. A-11 provides guidance on preparing Agency budget submissions and includes instructions on budget execution. This Circular requires an estimate of the amount of reimbursable work the agency expects to perform each fiscal year and the process for requesting the reimbursable spending authority for the monies collected from customers.
 - B. OMB Circular No. A-25, User Charges. Reimbursable policy regarding work for other than Federal entities under the authority of 31 U.S.C. § 9701 is covered by OMB Circular No. A-25 User Charges. In any case where another OMB Circular provides guidance concerning a specific user charge area, the guidance of that other Circular shall be deemed to meet the requirements of Circular No. A-25. In cases where another statute authorizes reimbursable work, the provisions of that statute apply.
 - C. OMB Circular No. A-45, Rental and Construction of Government Quarters. This Circular provides policy and direction concerning charges for rental quarters.
 - D. OMB Circular No. A-97, Specialized or Technical Services for State and Local Governments. As the title states this Circular provides guidance

concerning the provision of specialized technical services to State and local governments.

- E. Federal Acquisition Regulation (FAR) Part 17.5, Interagency Acquisitions. Under the Economy Act and PART 1817.5 of the NASA FAR supplement The Federal Acquisition Regulation contains requirements and guidance concerning the use of reimbursable agreements between Federal agencies.
- F. 14 CFR § 1215, "Tracking a Data Relay Satellite System (TDRSS)." This regulation sets forth the reimbursement policy for TDRSS usage and has been established to purposely influence users to operate with TDRSS in the most efficient and orderly manner possible.
- G. Memorandum for Chief Acquisition Officers, Senior Procurement Executives from the Administrator, Office of Federal Procurement Policy, "Improving the Management and Use of Interagency Acquisitions," June 6, 2008.
- H. Statement of Federal Financial Accounting Standards (SFFAS) No. 4: Managerial Cost Accounting Standards and Concepts, Issued July 31, 1995.
- I. Statement of Federal Financial Accounting Standards (SFFAS) No. 7: Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, Issued May 19, 1996
- J. Statement of Federal Financial Accounting Standards (SFFAS) No. 30: Inter-Entity Cost Implementation: Amending SFFAS 4, Managerial Cost Accounting Standards and Concepts, Issued August 15, 2005

1.2.4 NASA Regulations and Directives. The following NASA documents provide policy and procedures for the format and content of Space Act Agreements.

- A. NASA Policy Directive (NPD) 1050.1, "Authority to Enter into Space Act Agreements." The Space Act provides authority to enter into Space Act Agreements, and the NPD provides guidance for entering into those agreements.
- B. NASA Advisory Implementing Instruction (NAII) 1050-1, "Space Act Agreements Guide," March 7, 2008. This guide provides guidance and sample clauses on various classes of agreements divided according to the type of agreement and identity of the parties.

1.3 DEFINITIONS.

1.3.1 The following definitions apply to the types of reimbursable agreements NASA enters into with other Federal Agencies, foreign governments, and private parties.

- 1.3.2 Direct Budget Authority. Direct Budget Authority is the authority provided by law to incur financial obligations that will result in outlays. The term direct budget authority is used in FMR Volume 16 to identify the authority NASA receives as the result of Congressionally enacted appropriations and apportionments issued by OMB. As used in FMR Volume 16, direct budget authority does not include reimbursable budget authority.
- 1.3.3 Full Cost. The term Full Cost is used in the NASA Financial Management Requirements (FMR) to identify the fully burdened cost of a program or project. For purposes of reimbursable work, full cost means the direct and indirect resources used to provide the specific work. It would include Center Management and Operations (CM&O), except in the cases of Headquarters and Jet Propulsion Laboratory (JPL) agreements. Generally, it would not include Corporate G&A. The level of Headquarters expenses resulting from reimbursable agreements generally cannot be clearly identified with a specific customer's work and are so minimal that the collection of corporate charges from individual reimbursable agreements is not warranted. The full cost of Headquarters and JPL reimbursable agreements would include an administrative fee. See the discussion of the "Headquarters Administrative Fee for Headquarters and JPL Reimbursable Agreements," in Chapter 3 of this Volume.
- 1.3.4 Incremental Costs. Incremental costs are those costs that NASA will incur to perform a specified unit of work that are over and above the costs that NASA is currently incurring. Incremental costs do not include indirect or other costs that NASA will incur if the new work is not performed.
- 1.3.5 Interagency Agreements (IA). Interagency Agreements are agreements between NASA and another Federal agency that document the performance terms and conditions between the parties.
- 1.3.6 Reimbursable Agreement Price. The term Price is used in this FMR Volume to represent the level of reimbursement the customer is required to provide in return for a specified benefit the customer will receive.
- 1.3.7 Reimbursable Budget Authority. Reimbursable budget authority is provided by Congress annually. This is not the same as direct budget authority. By itself reimbursable budget authority does not permit the agency to incur obligations. Instead, reimbursable budget authority is authority to perform work on a reimbursable basis for other entities. Authority to incur obligations is recorded when signed reimbursable agreements are recognized. Monies collected from the reimbursable customer as payment for the services provided are included in the Agency's total budgetary resources.
- 1.3.8 Space Act Agreements. NASA's "Space Act Agreements Manual," NAII 1050-1 describes the types of Space Act agreements and contains detailed guidance and advice for entering into Space Act Agreements.
- A. Domestic Space Act agreements are agreements between NASA and a non-government U.S. entity.

- B. International Space Act agreements are agreements between NASA and a non-U.S. entity. International reimbursable agreements are established and negotiated by NASA Headquarters. The Assistant Administrator for External Relations is responsible for the negotiation, execution, amendment, and termination of International Agreements.

1.3.9 Categories of Reimbursable Agreements.

- A. Classifications of Reimbursable Agreements. Per NPD 1050.1, "Authority to Enter Into Space Act Agreements," it is NASA's policy to utilize the broad authority granted to the Agency in the Space Act to further the Agency's missions and that work performed in connection with reimbursable agreements shall be consistent with the Agency's missions. Accordingly, reimbursable agreements shall be classified appropriately in accordance with the type of work being performed, which can include work related to Agency programmatic missions (i.e., that are directly related to an existing NASA program) or support functions. The classifications should be reflected in a work breakdown structure (WBS) structure. Some reimbursable agreements in support of existing NASA programs involve collaborative arrangements in which the customer/partner provides funding for some portion of its share of the project. There is also a very broad category of agreements that includes research and test services, facilities type services such as host-tenant agreements, and any other reimbursable agreements that are not directly related to an existing NASA program. Unless otherwise indicated in connection with the specific type of agreement, a full cost Estimated Price Report (EPR) must be prepared for reimbursable agreements and alternative sources of funding must be determined for any waived incremental costs.
- B. Additional Types of Reimbursable Agreements. In addition to reimbursable agreements where the work is consistent with Agency missions, there can be other types of reimbursable agreements.
 - 1. Host-Tenant Agreements. A host-tenant agreement is an agreement between NASA and another organization that provides for the use of NASA facilities, institutional services, or for provision of support services, including but not limited to guards, automated data processing (ADP) personnel, or other support to the non-NASA customer. A host-tenant agreement is a type of interagency agreement (IA) or Space Act agreement that establishes the formal relationship between NASA and the non-NASA party. These agreements define the relationship between the parties, delineate the general policies and responsibilities, specify responsibilities for identifying requirements and delivering services, establish the basis for reimbursement by the tenant to NASA, and recognize the non-NASA party as a tenant with long-term requirements that will be described by an extended plan (frequently five years) and annual updates. Exhibits that provide information on the specific facilities and services that NASA will provide may support the agreement and how

the tenant will reimburse NASA for them. For a Government tenant, funding documents will explain reimbursement procedures. Pricing requirements are identified in Chapter 4 of this Volume.

2. Intergovernmental Personnel Act Agreements. The Intergovernmental Personnel Act (IPA) (5 U.S.C. § 3371-3376) permits Federal Agencies to enter into agreements governing the assignment of personnel to or from, state, and local governments, institutions of higher learning, Indian Tribal Governments and other eligible organizations on a temporary basis. The Office of Personnel Management has issued implementing regulations (5 CFR § 334) and NASA has issued procedural requirements in NPR 3300.1A. Reimbursement is limited to basic pay, supplemental pay, fringe benefits, and travel and relocation expenses. NASA Centers are not required to prepare Estimated Price Reports (EPR) and develop a full cost Reimbursable Agreement for IPA agreements. Reimbursements for IPA agreements shall not include indirect or administrative costs associated with the assignment. This includes charges for preparing and maintaining payroll records, developing reports on the mobility assignment, and negotiating the agreement. Other costs that can not be reimbursed include tuition credits, office space, furnishings, supplies, staff support and computer time.
3. Reimbursable Travel Agreements (Also Known as "Travel-Only" Agreements). Under Reimbursable Travel Agreements another party agrees to reimburse NASA for travel expenses incurred by a NASA employee. These agreements are used when the NASA employee is making a presentation or other appearance that is approved in accordance with 41 CFR § 304, NPD 9701.1, and NPD 1385.2G. They are called "travel-only" agreements because they involve reimbursement for only the actual travel expenses and are not to be utilized for the provision of products and/or services. Travel-only agreements permit reimbursement for expenses incurred by the traveler normally incidental to travel, including, but not limited to, transportation, accommodations, registration fees, automobile rental, meals, and other directly related expenses that the traveler incurs. Travel only agreements shall not include payment for the cost of the time the traveler spends traveling, or while away from his/her home site, or for any services that person provides. The individual is not allowed any supplementation of his/her salary in "travel only" agreements. NASA Centers are not required to prepare Estimated Price Reports or develop a full cost Reimbursable Agreement for travel-only agreements.
4. Pass-Thru Reimbursements. Pass-thru reimbursements represent agreements where NASA allows another party to obtain services from a NASA contract as a convenience to the other party. In such cases, NASA is not providing any type of product, service, or use of facilities other than the processing of the contract. For example, a NASA Center may accept funding from another party for the other party's

share of a utility bill when service for both parties has been established under a single utilities contract. Another example, NASA repairs a fence and the entity on the other side of the fence shares that cost. The Centers are not required to prepare an Estimated Price Report and develop a full cost reimbursable agreement for pass-thru reimbursements. NASA Centers may charge an administrative fee to cover the cost associated with processing this type of reimbursement.

1.4 ROLES AND RESPONSIBILITIES.

1.4.1 NASA Agency Chief Financial Officer (CFO) shall:

- A. Develop, issue, and interpret financial management policies for reimbursable agreements.
- B. Maintain financial records and related reports, including Agency-wide reports of reimbursable obligations, costs, accounts receivable, and collections during the year.
- C. Request and receive apportionments of reimbursable authority from the Office of Management and Budget.
- D. Review supporting documentation and issue reimbursable resources authority (NF 506A-R) to Centers.
- E. Implement internal controls necessary to prevent over-obligation of reimbursable funds.
- F. Ensure that WBS codes are assigned to reimbursable agreements in accordance with NASA policy for numbering programs and projects.

1.4.2 Agency Associate Administrators for the Mission Directorates, Officials in Charge of Headquarters Offices shall:

- A. Perform the following for Headquarters-negotiated reimbursable agreements:
 1. Negotiate, amend, and terminate as appropriate Headquarters-negotiated reimbursable agreements (except International Agreements), prepare or obtain EPRs from performing organizations, and obtain necessary concurrences, including the Agency Office of the Chief Financial Officer (OCFO).
 2. Execute the agreement and authorize the work.
 3. Monitor the financial status of Headquarters-negotiated reimbursable agreements and take action as needed to ensure that NASA receives the proper level of reimbursement.
 4. Arrange necessary approvals or terminations.

- B. Identify and provide funding to cover all proposed waived cost that the Mission Directorate believes should be funded by one of the Mission Directorate's programs.
- 1.4.3 Assistant Administrator for External Relations. The Assistant Administrator for External Relations (or designee) is responsible for negotiating, amending, executing, and terminating International Space Act Agreements.
- 1.4.4 NASA Headquarters Director for Headquarters Operations. The Director for Headquarters Operations is responsible for:
- A. Reviewing and concurring with Headquarters-negotiated reimbursable agreements and Estimated Price Reports (EPR).
 - B. Verifying that all Headquarters accepted reimbursable agreements are assigned a WBS identity.
 - C. Securing and documenting exceptions to full cost and advance requirements for Headquarters-negotiated agreements.
 - D. Performing closeout of Headquarters negotiated agreements.
- 1.4.5 NASA Center Directors and the NASA Management Office-Jet Propulsion Laboratory. NASA Center Directors and the NASA Management Office-Jet Propulsion Laboratory are responsible for negotiation, execution, amendment, and termination of reimbursable agreements for their respective Center.
- 1.4.6 Center Chief Financial Officers (CFOs) (and for Headquarters negotiated reimbursable agreements, the Headquarters Director for Operations) shall:
- A. Ensure that market surveys are conducted for each area of reimbursable work or services the Center provides that are also available from non-NASA sources.
 - B. Review and approve or non-concur with all Center negotiated reimbursable agreements and Estimated Price Reports (EPRs) including the amount and funding source, if needed, of all price adjustments or waived costs. A funding source would need to be specified in the case of waived incremental costs.
 - C. Verify that all agreements, or separately funded orders under multiple order agreement(s), are assigned a WBS.
 - D. Maintain financial control over each agreement and generate all financial reports.
 - E. Implement internal controls necessary to prevent over-obligation of reimbursable funds.

- F. Properly document and approve waivers of advance payment requirements from non-Federal customers. Confirm that a valid source of direct program funding would be available to fund project obligations and costs in case a reimbursement can not be realized from the reimbursable customer.
- G. Ensure the program office has obtained any NASA program funding that was negotiated as part of a programmatic reimbursable agreement.
- H. Ensure obligations and costs related to reimbursable agreements are clearly charged to proper reimbursable funding and to correct WBSs.
- I. Maintain complete financial records of all reimbursable agreements including estimated costs, waived cost and the reason for the waiver, actual costs, estimated customer reimbursement, and actual customer reimbursement.
- J. Ensure the reimbursable budget authority is distributed within the Center to reimbursable projects based on signed agreements. Distribution of budget authority is discussed in FMR Volume 5, *Budget Execution*.

1.4.7 Agreement manager and supporting resource management staff shall:

- A. Prepare Center-negotiated reimbursable agreements and EPRs, and obtain required concurrences including that of the Center CFO.
- B. Ensure there is justification for any waivers of advance payment requirements. Per NPD 1050.1, "Authority To Enter Into Space Act Agreements," where a non-Federal party demonstrates a financial hardship or legal restriction prohibiting advance payments and is requesting that reimbursable work commence in advance of the receipt of funds by NASA, a waiver must be approved by the NASA CFO (for Headquarters Agreements) or Center CFOs (for Center Agreements). Such a waiver may only be approved if the work is of a type that NASA could properly fund on its own and funds are certified and allocated to account for costs that may accrue prior to the provision of funds by the non-Federal party.
- C. Where an advance is not received from a non-Federal reimbursable customer, ensure that a valid source of direct program funding would be available to fund project obligations and costs in case a reimbursement is not realized from the non-Federal customer. A valid source of direct funding should be consistent with the intended purposes of direct program funding in accordance with 31 U.S.C. §1301(a). If NASA makes or authorizes an expenditure or obligation without a valid source of funding, that may constitute a violation of 31 U.S.C. § 1341(a) Antideficiency Act.

- D. Coordinate with the Center CFO to develop the WBS at the customer order level where the customer issues individual orders under one agreement.
 - E. Comply with established internal controls and implement additional controls if needed to prevent over obligation of reimbursable funds.
 - F. Immediately notify the Center OCFO when conditions necessitate Center OCFO action including changes in the price of the agreement, termination of the work, or closeout of the agreement.
 - G. Develop budget estimates for individual reimbursable agreements as required in the annual budget guidance.
 - H. Review and validate obligations and costs assigned to the reimbursable project in order to ensure that the reimbursable customer is properly charged.
 - I. Monitor both cumulative project costs and projected costs in order to complete the project. Determine whether additional funding will be needed and to arrange incremental funding from the customer, if needed, in collaboration with the Agreement Manager and the Center CFO office. Determine whether incremental funding will be required to permit continued performance under the agreement if funds are expiring (either NASA reimbursable funding or funds from a Federal reimbursable customer). Budget authority to incur new reimbursable obligations shall be based on available appropriations and shall not include unobligated balances that have since expired.
- 1.4.8 Headquarters Office of General Counsel and the Centers' Office of Chief Counsel shall review, provide legal guidance, and concur with each agreement in accordance with applicable laws, regulations, and internal NASA policies.