

NATIONAL WEATHER SERVICE INSTRUCTION 70-211

AUGUST 28, 2017

Financial Management

***Financial Management Policy, NWSPD-70-2
AGREEMENTS***

NOTICE: This publication is available at: <http://www.nws.noaa.gov/directives/>

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SUMMARY OF REVISIONS: This directive supersedes NWSI 70-211 “Agreements” dated July 13, 2015. Changes were made to reflect the NWS Headquarters reorganization effective April 1, 2015.

Revisions include:

- The addition of a linked location for record keeping on page 8
- The addition of guidance for utilizing agreement waivers on page 9

Signed

8/14/2017

John E. Potts
Chief Financial Officer/
Chief Administrative Officer

Date

AGREEMENTS

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1. Purpose:

This directive establishes the National Weather Service policy for Interagency Agreements and is in addition to any NOAA policies or guidance. This directive is for agreements between National Weather Service, and other Federal Agencies, State and Local Governments, Commercial Businesses, Universities and Research Institutions, International Governments and other entities either public or private. This directive does not cover agreements between NWS and other components within NOAA.

This directive will also assign responsibilities and establish procedures for the processing of proposed agreements, and amendments thereto, with other agencies and to assure proper coordination, control and administration of such agreements.

This directive is in addition to any NOAA policies or guidance.

1.1 Applicability:

The provisions of this order apply to all reimbursable, International and No-Cost agreements, modifications, and amendments.

1.2 Policy:

- Agreements cover a wide range of services and may involve one or more administrative actions such as contract negotiation, assignment of employed personnel, allocation of employment ceiling, allotment of funds, rental of space, etc. It is therefore essential that all such agreements be reviewed for pertinent administrative as well as substantive program implications by the Program Manager as well as the Department of Commerce Office of General Counsel (OGC).
- The Program Manager is ultimately responsible for ensuring that program funds are spent in a manner that results in planned outcomes. Further, NWS Financial Management Centers (FMC) must ensure that adequate documentation is maintained with respect to the results achieved under each Interagency Agreement.
- During the drafting and planning process the Program Manager should communicate with stakeholders within NOAA and NWS to ensure that the terms of the agreement can be executed. After the agreement has been approved by all parties the Program Manager is responsible for providing the affected NWS Offices with a signed copy of the agreement and answering any questions they may have with regards to the management and execution of the agreement.
- Agreements are not to be signed until after the Department of Commerce OGC has performed a review.
 - The Clearance process usually takes 30 to 45 days. If you need expedited clearance submit a request to OGC stating why the need exists and the ramifications if the request can't be met must accompany the clearance packet.

1.3 Outline of an Agreement:

- All Interagency Agreements must cite the statute upon which the agreement is based. Interagency Agreements may rely upon one or more statutes. The Economy Act should be used as the statutory authority for an Interagency Agreement involving the transfer of funds only when a more specific authority supporting the transfer is not available.
- Please refer to the reimbursable webpage for assistance with how to build a proper reimbursable agreement located at:

https://sites.google.com/a/noaa.gov/nws-best-practices/nws-hq/cfo/reimbursable_agreements?pli=1

- All Agreements will be documented in writing. At a minimum, agreements shall include the following:
 - Services being performed
 - Period of performance (Should not exceed 5 years)
 - Period of Funding Availability (if applicable)
 - Estimate of Cost for Services or Fixed Amount (if applicable)
 - Obligating Authority (if applicable)
 - Programmatic Authority
 - Termination Clause
 - Dispute Resolution Clause

2. Type of Agreements:

To assure appropriate coordination and consistent documentation of proposed agreements, the following procedures and routing are prescribed for the different types of agreements.

2.1 International Agreements:

Agreements with any international partners, whether it be a foreign governmental or non-governmental partner, are required to be drafted in conjunction with the NWS Office of International Activities (IA) and reviewed by the NOAA OGC to make sure that the agreement complies with the Case-Zablocki Act of August 22, 1972, 1 U.S.C. § 112b (the Act). The Act requires that all international agreements entered into by the U.S. Government receive prior approval by the Secretary of State.

- Notify IA of your intent or need to enter into an Agreement with an international partner prior to beginning discussions with your foreign counterparts. IA will assist you with foreign counterpart consultation and developing draft language that adheres to both NWS international policy and U.S. foreign policy and is in compliance with the Case Zablocki Act.

- When IA has been notified of your intent to enter into an agreement with an International entity, IA will assign a liaison from its office to assist you with the clearance process. The liaison will coordinate interactions with OGC, the Sponsor, Department of State (DOS), Management, and any-other party concerning the agreement.
- Submit Unsigned Agreement and paperwork to IA for review. IA will submit the paperwork to NOAA International Affairs Council, NOAA OGC, and DOC General Council for Case-Zablocki review and/or clearance
- Once an agreement is cleared by Department of Commerce and DOS IA will coordinate signing procedures.
- Once an agreement is signed IA must be furnished with signed copy of the agreement.

2.2 No Cost Agreements:

Agreements between NWS and another party where no funds are being exchanged between NWS and the other partner.

- Submit agreement to NWS Executive Affairs (EA) for upload into Webdocflow and DOC OGC review. NWS EA needs both electronic and printed copies of the documents.
- The printed copies should be in a regular manila folder, arranged as follows (applies only to offices in SSMC2):

Left side of the folder, top to bottom:

(If requesting expedited clearance, the written justification is on top.)

Document 1. Point of contact(s)

Name:

Phone:

Email:

Document 2. Previous OGC clearance (new agreements will not have prior clearance)

Right side of the folder, top to bottom:

1. Agreement to be cleared
2. Statement of Work, if appropriate
3. Backup/Misc. documents, if appropriate

2.3 Reimbursable Agreements:

Reimbursable agreements will be approved and executed in accordance with appropriate delegations of authority set forth in NOAA Reimbursable Agreement User Guide and Chapter 10 of the NOAA Finance Handbook.

2.3.1 Reimbursable Agreements (Incoming Funds):

Requests initiated by other agencies for NWS to be the Performing Agency.

As soon as an agreement is drafted that requests NWS to provide services subject to reimbursement, the unsigned agreement, along with any funding documents will be referred to the CFO1 Budget Analyst in the CFO's Office for review.

- The CFO1 Budget Analyst will review the documents for completeness and forward the paperwork through webdocflow to DOC OGC for review.
- After the DOC Office of General Counsel has reviewed/ cleared the agreement. The FMC will submit a packet containing the following items to its reimbursable analyst.
 - Signed Allotment Form
 - Coversheet
 - Copy of OGC Clearance
 - Signed documents reviewed by DOC OGC
 - Military Interdepartmental Purchase Request (MIPR)/Modification/Amendment
 - Agreement
 - Determinations & Finding (Economy Act Agreements)
 - Project Request form if applicable
- The FMC will also fill out a RADG002 form in Commerce Business System (CBS).
- After the CFO1 Analyst has reviewed the packet. It will be forwarded on to NOAA Finance for processing. After NOAA Finance process the agreement they will send it to NOAA Budget for review.
- The FMC is responsible maintaining and storing the above documents in a file.

There are also two main types of reimbursable agreements.

2.3.1.1 Reimbursable:

Funds are paid to the sponsors after the work is performed. Reimbursable agreements are limited to other Federal Agencies, State and Local Governments, and Universities.

- Fund Code 0007 – Funds are paid to the sponsor after the work is performed. NOAA Finance will automatically bill the sponsors on a quarterly basis.
- Fund Code 0097 (NON Work-In-Process (WIP)) – Reimbursable Sales Fixed Fees (RSFF) are based on fixed price for a product or service. Recipients are not billed on actual accrued costs and RSSF projects are not recorded in CFS (Commerce Finance System). Fund Code 0097 projects are billed only when NWS submits a request to NOAA Finance to Bill the Sponsor.

2.3.1.2 Advances:

Funds are paid by the sponsor in advance of work being performed. All Non US Government (Federal, State, and Local) entities should be set up as agreements requiring advance payment.

- In order to set up an advance agreement with a Federal entity you must cite an authority that allows you to accept funds in advance of work being performed.
- Fund Code 0006 – Funds are collected before NWS provides services in advance of work being performed.
- Fund Code 0096 (NON WIP) Reimbursable Sales Fixed Fee (RSFF) are based on fixed price for a product or service. Recipients are not billed on actual accrued costs and RSSF projects are not recorded in CFS. For Fund code 0096 projects funds must be collected or billed in advance of work or services being performed.

2.3.2 Reimbursable Agreements (Outgoing Funds):

Requests Initiated in NWS (NWS to be the Paying Agency)- Any organizational unit within NWS desiring to obtain services through another Federal agency will initiate action by submitting the unsigned agreement to the Approver below based on the dollar amount of the agreement. If your agreement involves an assisted acquisition, get email clearance from OGC’s Contract Law Division (CLD) before submitting to EA. General Law Division (GLD) will **NOT** clear until CLD provides preliminary clearance.

[CAM 1317.570](#) (revised April 2010) defines assisted acquisition as follows:

An **assisted acquisition** is a type of interagency acquisition where the parties enter into an interagency agreement pursuant to which the servicing agency performs acquisition activities on the requesting agency’s behalf, such as awarding a contract, task order, delivery order, or blanket purchase agreement.

- Submit to Approver below for review. For agreements over \$25,000.00 route the agreement through NWS EA and they will route the agreement through the CFO’s office for review.

From	To (Limit)	Approver
\$0	\$3,000.00	Program Manager
\$3,000.01	\$500,000.00	Deputy Chief Financial Officer
\$500,000.01	+	CFO’s Office

- After the agreement is reviewed it will be submitted to NWS EA for DOC OGC Review. To expedite the clearance prescreening of agreements with out-going funds please provide NOAA Executive Secretariat with the following:
 - Bona fides Need Statement
 - Quick Report (Q0009) showing that the FMC has the funds available
 - Late Acquisition Request (if needed)

- NWS EA needs both electronic and printed copies of the documents. The printed copies should be in a regular manila folder, arranged as follows (applies only to offices in SSMC2):

Left side of the folder, top to bottom:

(If requesting expedited clearance, the written justification is on top.)

Document 1. Point of contact(s)

Name:

Phone:

Email:

Document 2. Previous OGC clearance (new agreements will not have prior clearance)

Right side of the folder, top to bottom:

1. Agreement to be cleared
2. Statement of Work, if appropriate
3. Funding document, if appropriate
4. Signed Determination & Findings (D&F), if appropriate

3. Cleared Agreements:

Once an agreement is cleared by OGC it can be signed by NWS. However, signatures should follow the procurement guidelines below.

From	To (Limit)	Approver
\$0	\$3,000.00	Program Manager
\$3,000.01	\$25,000.00	FMC Director
\$25,000.01	500,000.00	Deputy CFO
\$500,000.01	1,000,000.00	Chief Financial Officer
1,000,000.01	2,000,000.00	Deputy AA
2,000,000.01	+	Director

4. Record Keeping:

The FMC in charge of an agreement is responsible for maintaining a file of paperwork associated with the agreement for audit purposes. This file must be kept in accordance with Departmental record keeping requirements. This file, regardless of location, must contain the documents and information listed below, as applicable.

- A copy of the agreement and all amendments and addendums with signatures by all parties to the agreement. The operating unit file copy of each of these documents shall contain the agreement identification number.
- A copy of all clearance documents obtained in developing and completing the agreement.
- A copy of the budget or other basis for estimating funds to be obligated and/or resources committed by each party if applicable.
- Financial information (e.g., billing, MIPRS, receivables, payables, etc.) if applicable.
- Other pertinent material.

More information regarding record keeping procedures is located at:

http://www.corporateservices.noaa.gov/audit/records_management/schedules/chapter-100-general.pdf

4.1 Retention:

The official agreement file must be retained in accordance with the applicable operating unit-specific records retention schedule or the Government-wide general records schedule. To the extent you have questions about what materials constitute records and the length of time records must be maintained, you should consult with your operating unit's records management officer.

4.2 Storage:

A signed copy of the agreement needs to be uploaded to the NWS repository page located at:

<https://sites.google.com/a/noaa.gov/nws-repository>.

This will ensure that all parties in NWS have access to the agreement if questions or concern may arise.

5. Waivers:

There are three types of waivers associated with agreements with incoming funds.

- Policy – In situations where advance payment is required (such as with an International agreement) but the actual costs are unknown until the time of execution. A policy waiver must be submitted prior to establishing the agreement within CBS.
- Rent – For all reimbursable agreements where a Federal Employee codes their hours to a the reimbursable project code a Rent Surcharge is automatically created. If the NWS Employee is not stationed in a NWS facility when working on the agreement a waiver should be submitted.
- Overhead – For all reimbursable agreements where a Federal Employee codes their hours to the reimbursable project code three levels of overhead (NOAA, LO, and FMC) surcharges are automatically created. If NWS Management feels that the full rates should not be charged to the sponsor they must obtain CFO approval on waiving rates. Overhead rates can't be waived on agreements under the Economy Act. Per NOAA policy overhead waivers are limited to 60%.

6. Definitions:

Assisted Acquisition(s): Interagency acquisitions for which a Requesting Agency, at its discretion, has determined that it is in the best interest of the government to seek the acquisition services of a Servicing Agency in the procurement of supplies or services from the private sector and where the Servicing Agency awards a contract or order on behalf of the Requesting Agency.

Intra-governmental Payment and Collection (IPAC): The Treasury Department system used by most Federal agencies for interagency payments.

Interagency Agreement: A written agreement between Federal agencies or Components of Federal agencies to acquire supplies or services as authorized by statute.

Reimbursable agreement: A deal between two parties to repay one party for costs undertaken in a specific service.

Requesting Agency: A Federal Agency that has a requirement and desires to obtain goods or services from a Servicing Agency.

Servicing Agency: A Federal Agency that is willing and able to provide goods or services to a Requesting Agency.