

**NPD 1050.2**Effective Date: September 12, 2013
Expiration Date: September 12, 2018**COMPLIANCE IS MANDATORY**[Printable Format \(PDF\)](#)

Request Notification of Change (NASA Only)

Subject: Authority to Enter into Cooperative Research and Development Agreements**Responsible Office: Office of the General Counsel**[NAII 1050-2 Cooperative Research and Development Agreement \(CRADA\) Program Information Package \(MSWord Version\)](#)[NAII 1050-2 Cooperative Research and Development Agreement \(CRADA\) Program Information Package \(PDF Version\)](#)**1. POLICY**

a. It is NASA's policy to use Cooperative Research and Development Agreements (CRADAs), as appropriate, to transfer federally owned or originated technology to non-Federal entities and improve access to science and technology consistent with the Federal Technology Transfer Act of 1986 (FTTA), which amends the Stevenson-Wydler Act of 1980. CRADAs must comply with the FTTA as well as Executive policy, including Executive Order 12591, dated April 10, 1987, "Facilitating Access to Science and Technology," as amended by Executive Order 12618, dated December 22, 1987, "Uniform Treatment of Federally Funded Inventions," Presidential Memorandum, dated October 28, 2011, "Accelerating Technology Transfer and Commercialization of Federal Research in Support of High- Growth Businesses," and Presidential Memorandum, dated February 18, 1983, "Memorandum on Government Patent Policy." The goals of the FTTA and Executive policy are to ensure the full use of the results of the Nation's Federal investment in research and development and broaden the U.S. technology base by moving new knowledge into the development of new products and processes outside the U.S. Government.

b. This NASA Policy Document (NPD) provides authority for Center Directors to negotiate, execute, amend, and terminate domestic CRADAs when the activity does not benefit a foreign entity within their areas of jurisdiction. It does not address policies for CRADAs executed under authority remaining with the Administrator. Authority to enter into CRADAs with, or for the benefit of, foreign (non-U.S.) entities is not delegated to Center Directors and remains with the Administrator.

c. The FTTA and Executive policy authorize NASA, as a Federal laboratory, to enter into CRADAs for research and development consistent with NASA's mission. Use of a CRADA should be considered when the primary purpose of the activity is to ensure the full use of the results of NASA's investment in research and development outside the U.S. Government. NASA CRADAs advance the purpose of the FTTA by providing a Collaborating Party access to NASA goods, services, and facilities in a manner that is consistent with NASA mission requirements to support the transfer of NASA technology and commercial technology development.

d. Use of CRADAs is not mandatory. Centers may choose to support the goals of the FTTA through the use of a Space Act Agreement rather than a CRADA. The decision to use a CRADA or a Space Act Agreement will be determined by the Office of Chief Counsel, in consultation with the NASA designee supporting the activity, as to which approach most appropriately supports the goals of the proposed activity. Activities with, or for the benefit of, foreign entities will normally be conducted through Space Act Agreements.

e. CRADAs are treated as fully reimbursable agreements for the purpose of NASA Office of Chief Financial Officer (CFO) policy. Centers may waive costs under CRADAs consistent with NASA policy on reimbursable agreements, including the requirements for Center or Agency CFO review. Waivers of costs under CRADAs should only be considered where there is a clear and demonstrated NASA benefit. To the extent practicable, the benefit should be quantifiable so that its value can be reasonably estimated and compared with the amount of reimbursement to be

waived. Centers may not provide funding to a non-Federal Collaborating Party. Appropriated funding may be provided to another Federal agency to support CRADA activities only in compliance with applicable law and policy.

f. CRADAs shall comply with the following requirements:

- (1) All CRADAs entered into pursuant to this NPD shall be done in accordance with the Cooperative Research and Development Agreement NASA Advisory Implementing Instruction (NAII 1050-2, CRADA Program Information Package, or PIP), including compliance with the preliminary abstract review process.
- (2) CRADAs shall include provisions specifying the following:
 - (a) Respective responsibilities of NASA and the Collaborating Party, with the standard of performance based on "reasonable efforts," that are stated with sufficient clarity to support preparation of Estimated Price Reports, sound management planning, and efficient CRADA administration. CRADAs may involve other Federal agencies; however, each CRADA must include at least one non-Federal Collaborating Party.
 - (b) Performance milestones.
 - (c) Clearly defined financial commitments, including a statement that NASA's performance of the CRADA is subject to the availability of appropriated funds and that no provision of the CRADA shall be interpreted to require obligation or payment of funds in violation of the FTTA, 15 U.S.C. § 3710a(b)(3)(A), or the Anti-Deficiency Act, 31 U.S.C. § 1341.
 - (d) Resource commitments providing that NASA's use of its goods, services, and facilities shall have priority over the usage planned in the CRADA.
 - (e) Allocation of liability between NASA and the Collaborating Party.
 - (f) Allocation of intellectual property rights implicated by or created under the CRADA consistent with the FTTA, including providing the Collaborating Party the option for an exclusive license for a pre-negotiated field of use for any invention made in whole or in part by a NASA employee under the CRADA or any pre-existing federally-owned invention directly within the scope of the CRADA for which NASA shall retain a government purpose license.
 - (g) Termination rights and obligations.
 - (h) A fixed expiration date, as specified in the CRADA PIP.
- (3) Small Business: NASA shall give special consideration to small business firms, as defined in 15 U.S.C. § 632 and implementing regulations (13 C.F.R. Part 121) of the Small Business Administration.
- (4) Preference for Domestic Manufacturing: NASA shall give preference to arrangements in which the products embodying inventions made under a CRADA, or products produced through the use of such inventions, are manufactured substantially in the U.S.
- (5) Ethics Compliance: NASA shall comply with Conflicts of Interest Prohibitions and other Federal Ethics Requirements, including those required by the FTTA.

2. APPLICABILITY

This NPD is applicable to NASA Headquarters and NASA Centers, including Component Facilities and Technical and Service Support Centers.

3. AUTHORITY

Federal Technology Transfer Act of 1986, 15 U.S.C. § 3710a.

4. DOCUMENTS AND FORMS

1. Stevenson-Wydler Technology Innovation Act of 1980, 15 U.S.C. § 3701.
2. Anti-Deficiency Act, 31 U.S.C. § 1341.
3. Facilitating Access to Science and Technology, Exec. Order No. 12591, 52 Fed. Reg. 13,414 (Apr. 10, 1987).
4. Uniform Treatment of Federally Funded Inventions, Exec. Order No. 12618, 52 Fed. Reg. 48,661 (Dec. 22, 1987).

5. Accelerating Technology Transfer and Commercialization of Federal Research in Support of High-Growth Businesses, Presidential Memorandum (Oct. 28, 2011).
6. Memorandum on Government Patent Policy, Presidential Memorandum (Feb. 18, 1983).
7. Ethics Program Management, NPD 1900.3.
8. Reimbursable Agreements, NPR 9090.1.
9. CRADA Program Information Package, NASA Advisory Implementing Instruction (NAII) 1050-2.

5. RESPONSIBILITY

a. The Directors of NASA Centers, within their areas of jurisdiction, are responsible for:

(1) The negotiation, execution, amendment, and termination of CRADAs with domestic entities in which the activity would not benefit a foreign (non- U.S.) entity.

(a)The Directors of NASA Centers may not further delegate the execution authority delegated herein.

(2) Ensuring that each CRADA has been properly reviewed, consistent with this NPD, including compliance with the abstract review process.

(3) Selecting CRADA Managers.

(4) When NASA receives less than the full cost of its activities, determining that the Collaborating Party's contribution is fair and reasonable compared to the NASA resources to be committed, NASA program risks, and corresponding benefits to NASA.

(5) Making any requests to hire personnel in excess of current Full-Time Equivalent (FTE) limits or in conflict with Agency hiring authority through the Associate Administrator, Mission Support Directorate.

(6) Ensuring that the Space Act Agreement Maker (SAAM) is used to store all CRADAs.

b. The Associate Administrator for International and Interagency Relations is responsible for reviewing all CRADAs involving other U.S. Federal agencies.

c. The NASA CFO is responsible for developing financial management policies and procedures consistent with Federal legislation, regulatory guidance, and NASA policy for reimbursable agreements.

d. Center CFOs are responsible for:

(1) Ensuring that Agency financial management policies and procedures are followed and incorporated into Center operating procedures.

(2) Reviewing, in accordance with NPR 9090.1, Reimbursable Agreements, all Estimated Price Reports for CRADAs within the authority of their respective Center Director.

e. The Center Chief Counsel is responsible for:

(1) Conferring with the NASA designee supporting the activity to determine whether use of a CRADA is appropriate.

(2) Reviewing all CRADAs entered into under this NPD within the authority of their respective Center Director to ensure compliance with applicable statutes, regulations, and policies.

(3) Performing the ethics review, in coordination with the Office of General Counsel, to the degree required by the NASA ethics program standards in NPD 1900.3, Ethics Program Management, prior to the submission of the preliminary abstract.

f. The Associate Administrator for the Mission Support Directorate is responsible for:

(1) Coordinating the preliminary review of proposed CRADA activities across NASA through the preliminary abstract review process and for facilitating resolution of any issues or concerns arising from the process.

(2) Referring Center Director requests to hire personnel in excess of existing FTE limits or in conflict with Agency hiring authority, on a discretionary basis, to the Mission Support Council.

g. The Mission Support Council is responsible for reviewing and dispositioning a Center Director's request to hire personnel in excess of existing FTE limits or in conflict with Agency hiring authority, if recommended and referred to the Mission Support Council by the Associate Administrator, Mission Support Directorate.

h. Center Supply and Equipment Management Officers are responsible for reviewing and processing any personal

property loans provided in the CRADA and within the authority of their respective Center Director.

i. CRADA Managers are responsible for:

(1) Collecting information required to establish reasonable expectations of the parties for concluding the CRADA formation process; managing the draft, review, and approval process of the CRADA; and facilitating the meeting of established expectations. Information required to establish reasonable expectations of the parties includes data necessary to define each party's responsibilities and to establish the terms and provisions of the CRADA, identify the necessary NASA resources, determine the viability of the business case, and establish mutually agreed-upon processing times for concluding the CRADA formation process. Each CRADA Manager may act as a facilitator, negotiator, or both.

(2) Identifying and ensuring timely involvement of the appropriate NASA offices in the review and approval process, including, but not limited to, the preliminary abstract review process, and, as appropriate, the Partnership Integration Council; maintaining a system for tracking and documenting each phase of the review; and preparing an adequate review package for the Center Director.

(3) Ensuring Agency recordkeeping requirements are met. CRADA Managers shall upload a copy of the signed CRADA into SAAM within ten (10) working days of the effective date of the CRADA.

6. DELEGATION OF AUTHORITY

None.

7. MEASUREMENT/VERIFICATION

Compliance will be measured through audits of adherence to the procedures and standards set forth in the Program Information Package (PIP).

8. CANCELLATION

None.

Charlie F. Bolden
Administrator

ATTACHMENT A: REFERENCES

A.1 Bayh-Dole Act of 1980, 35 U.S.C. §§ 200-212.

A.2 Bribery, Graft, and Conflicts of Interest, 18 U.S.C. §§ 201-27.

A.3 Freedom of Information Act, 5 U.S.C. § 552.

A.4The Chiles Act, 31 U.S.C. §§ 6303, 6305.

A.5The National Aeronautics and Space Act, 51 U.S.C. § 20113(e), Contracts, Leases, and Agreements.

A.6The National Aeronautics and Space Act, 51 U.S.C. § 20141, Misuse of Agency Name and Initials.

A.7Ethics Commitments by Executive Branch Personnel, Exec. Order No. 13490, 74 Fed. Reg. 4,669 (Jan. 21, 2009).

A.8Delegation of Authority to Take Actions in Real Estate and Related Matters, 14 C.F.R. § 1204.501.

A.9NASA Seal, NASA Insignia, NASA Logotype, NASA Program Identifiers, NASA Flags, and the Agency's Unified Visual Communications System, 14 C.F.R. Subpart 1221.1.

A.10Patent Waiver Regulations, 14 C.F.R. Part 1245 Subpart 1.

- A.11 Authority to Enter into Space Act Agreements, NPD 1050.1.
- A.12 Reimbursable Utilization of NASA Facilities by Foreign Entities and Foreign-Sponsored Research, NPD 1370.1.
- A.13 Authority To Enter Into License Agreements and Implementation of Licensing Authority, NPD 2090.6.
- A.14 NASA Export Control Program, NPD 2190.1.
- A.15 NASA Personal Property Disposal Policy, NPD 4300.1.
- A.16 Authority To Enter Into License Agreements and Implementation of Licensing Authority, NPR 2090.6.
- A.17 NASA Export Control Program, NPR 2190.1.
- A.18 NASA Personal Property Disposal Procedural Requirements, NPR 4300.1.
- A.19 NASA Technology Commercialization Process, NPR 7500.1.
- A.20 Real Estate Management Program, NPR 8800.15.
- A.21 Reimbursable Agreements, NPR 9090.1.
- A.22 Space Act Agreements Guide, NASA Advisory Implementing Instruction (NAII) 1050-1.

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None.

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