



DEPARTMENT OF DEFENSE
Defense Contract Management Agency

INSTRUCTION

Grants, Agreements, and Other Transactions

Contracts Directorate
OPR: DCMA-AQCF

DCMA-INST 137
April 2, 2013

Validated Current with Administrative Changes, March 31, 2014

1. PURPOSE. This Instruction:

a. Reissues and updates DCMA Instruction (DCMA-INST) “Grants, Agreements, and Other Transactions” (Reference (a)).

b. Establishes policies, assigns responsibilities, and provides procedures for managing grants, agreement and other transactions (OT), hereafter referred to collectively as Non-Procurement Instruments (NPI).

c. Is established in compliance with DoD Directive 5105.64 (Reference (b)), and all references listed on page 4.

2. APPLICABILITY. This Instruction applies to all DCMA activities.

3. MANAGERS’ INTERNAL CONTROL PROGRAM. This Instruction contains internal management control provisions that are subject to evaluation and testing as required by DCMA-INST 710, “Managers’ Internal Control Program” (Reference (c)). The process flowchart is located *on the resource Web page in this Instruction*.

4. RELEASABILITY – UNLIMITED. This Instruction is approved for public release.

5. PLAS CODE(S).

a. Process: 149 – Grant, Cooperative, OT and TIA Agreements.

b. Programs: ACAT/Other Customers (when applicable).

c. Other National; Training and Travel; Local Programs (when applicable).

6. POLICY RESOURCE WEB PAGE. <https://home.dcmamil/policy/137r>

7. EFFECTIVE DATE. By order of the Director, DCMA, this Instruction is effective immediately.

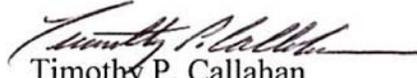

Timothy P. Callahan
Executive Director
Contracts

TABLE OF CONTENTS

| | |
|--|-----------|
| REFERENCES | 4 |
| CHAPTER 1 – POLICY | |
| 1.1. Policy | 5 |
| CHAPTER 2 – ROLES AND RESPONSIBILITIES | |
| 2.1. Administrative Grants/Agreements Officer (AGO/AAO)..... | 6 |
| CHAPTER 3 – PROCEDURES | |
| 3.1. Establish a Surveillance Plan | 7 |
| 3.2. Review Payment Terms | 7 |
| 3.3. Review Reports for Accuracy | 9 |
| 3.4. Monitor Expenditure Rates and Cash Management Process | 9 |
| 3.5. Review and Approve or Disapprove Payment Requests | 10 |
| 3.6. Review Termination for Convenience Notice | 11 |
| 3.7. Closeout <i>of Nonprocurement Instrument (NPI)</i> | 11 |
| GLOSSARY | |
| Definitions..... | 13 |
| Acronyms | 15 |

REFERENCES

- (a) DCMA-INST 137, “Grants, Agreements, and Other Transactions,” September 2012 (hereby canceled)
- (b) DoD Directive 5105.64, “Defense Contract Management Agency (DCMA),” January 10, 2013
- (c) DCMA-INST 710, “Managers’ Internal Control Program,” September 12, 2011
- (d) DCMA-INST 129, “Warrants and Other Official Appointments,” **August 5, 2013**
- (e) Part 22.815(a) of Title 32, Code of Federal Regulations, Claims, Disputes and Appeals, Award Terms
- (f) Part 22.815 (b) of Title 32, Code of Federal Regulations, Claims, Disputes and Appeals, Submission of Claims
- (g) Part 22.820 of Title 32, Code of Federal Regulations, Debt Collection
- (h) **Parts 21 through 37 of Title 32, Code of Federal Regulations**
- (i) **Part 37 of Title 32, Code of Federal Regulations, Technology Investment Agreements**
- (j) Office of Management and Budget (OMB) Circular A-133
- (k) DCMA-INST 104, “Contract Debt,” December 11, 2012
- (l) DCMA-INST 135, “Contract Closeout,” **August 6, 2013**
- (m) **Part 22.715 of Title 32, Code of Federal Regulations, Grants administration office functions**
- (n) Section 6305 of Title 31, United States Code, “Using Cooperative Research”
- (o) Section 3710a of Title 15, United States Code, “Cooperative Research and Development Agreements”
- (p) DoD Directive 3210.06, “Defense Grant and Agreement Regulatory System (DGARS), **February 6, 2014**
- (q) **Part 22.100 of Title 32, Code of Federal Regulations, Purpose, relation to other parts, and organization**
- (r) Section 2371 of Title 10, United States Code, “Research Projects: Transactions Other Than Contracts and Grants”

CHAPTER 1

POLICY

1.1. POLICY. It is DCMA policy that:

1.1.1. Administrative Grants Officers (AGO) and Administrative Agreement Officers (AAO) may bind the Government only to the extent of the authority delegated to them in their written statements of appointment.

1.1.2. A valid administrative contracting officer warrant must be conferred upon the nominee or requested concurrently with the AGO/AAO appointment. (See DCMA-INST 129, "Warrants and Other Official Appointments" (Reference (d)) for steps on requesting a warrant.) Defense Acquisition University (DAU) course GRT 201 must be completed to be appointed as an AGO/AAO. A copy of the completion certificate or valid DAU registration with session number of the course must accompany the nomination for this type of appointment.

CHAPTER 2

ROLES AND RESPONSIBILITIES

2.1. ADMINISTRATIVE GRANTS OFFICER (AGO) AND ADMINISTRATIVE AGREEMENTS OFFICER (AAO). The AGO/AAO shall:

2.1.1. Ensure Non-Procurement Instruments (NPIs) are properly captured in Mechanization Of Contract Administration Services (MOCAS), unless security prohibits the use of this tool.

2.1.2. Ensure procedures for processing recipient claims/disputes and for deciding appeals of grants officers' decisions are included in the terms or conditions of the NPI. See part 22.815(a) of Title 23, Code of Federal Regulations (CFR), Claims, Disputes and Appeals, Award Terms (Reference (e)).

2.1.3. Establish a surveillance plan appropriate for the NPI.

2.1.4. Review NPIs for payment request format, submittal requirements, approving official, and method of payment. Any questions regarding payment terms and procedures should be addressed during a post-award orientation or other initial contact with the recipient.

2.1.5. Ensure that the reports submitted by the recipient are delivered to the appropriate Program Office and any other appropriate parties. The report submitted should be in accordance with the terms and conditions of the NPI.

2.1.6. Determine whether the recipient's rate of funds use is appropriate to meet program objectives. When monitoring the recipient's cash management process, the AGO/AAO shall ensure the cash available on-hand is as close as possible to the actual expenditure of funds.

2.1.7. Confirm that the payment request complies with the NPI terms and that the funds are available to the pay the request.

2.1.8. Forward any interest earned from advance payment accounts to the responsible payment office, for return to the Treasury's miscellaneous receipts accounts.

2.1.9. Settle NPIs terminated for the convenience of the Government.

2.1.10. Resolve findings identified by any audits and monitor the audit process so conditions that impact the Government's interest are noted.

2.1.11. Inform grant recipients that all claims related to NPIs must be submitted to the grants officer in writing for a decision. Additionally, claims of a recipient's indebtedness, by DoD Components, require timely issuance of a written decision by the grants officer according to part 22.815 (b) of Title 32, CFR, Claims, Disputes and Appeals, Submission of Claims (References (f) and (g)).

CHAPTER 3

PROCEDURES

3.1. ESTABLISH A SURVEILLANCE PLAN.

3.1.1. The appropriate surveillance plan should be created for the administration of the NPI. The surveillance plan should address:

3.1.1.1. How performance criteria or milestone completion is verified and by whom.

3.1.1.2. In what form data/reports are to be provided by the recipient to the AGO/AAO. The data/reports set forth the procedures for monitoring and reporting on the recipient's financial and program performance.

3.1.1.3. The types and frequency of reviews to be conducted. Recipients are responsible for managing and monitoring projects. However, the AGO/AAO is responsible for ensuring that the reports are delivered to the appropriate program office and any other appropriate parties.

3.1.2. The AGO/AAO should consider the following when creating the surveillance plan:

3.1.2.1. Whether or not recognition of pre-award costs are included in the NPI, as these costs may have a significant bearing on initial payments. (Normally, these costs are only recognized as a part of the contributions received by the recipient. The recipient receives the money and later pays it out as an expense rather than a contribution.)

3.1.2.2. Requirements for, and frequency of, cost/schedule reporting for the program. The recipient is to provide this information to the AGO/AAO.

3.1.2.3. How the recipient's accounting system treats program costs and the period of time during which the recipient's accounting records are subject to examination.

3.1.2.4. For any cost sharing, the sufficiency of information for the type (cash, in-kind, independent research and development, technology transfers), amount, and timing of recipient contribution.

3.2. REVIEW PAYMENT TERMS.

3.2.1. The standard types of payments are reimbursement, advance, or scheduled payments. The preferred payment method is reimbursement. Standard Form (SF) 270, Request for Advance or Reimbursement, is generally used to request advance or reimbursement payments.

3.2.2. Under the reimbursement payment method, the recipient submits individual payment requests for reimbursement of costs incurred during a specific period of time. Scheduled payments do not require individual payment requests.

3.2.3. An advance payment is made before expenditures are made by the recipient. The amount of the advance payment given to a recipient is based on projections of the recipient's cash needs, or on a predetermined payment schedule. Advances to a recipient shall be limited to the minimum amount needed and shall be timed in accordance with the actual, immediate cash requirements of the recipient to carry out the purpose of the approved program or project.

3.2.4. Recipients are paid in advance of expenditures, provided they maintain (or demonstrate the willingness to maintain) written procedures minimizing the time elapsing between transfer of funds and disbursement by the recipient, and financial management systems meeting the established standards for fund control and accountability. *(In accordance with parts 21 through 37 of Title 32, CFR (Reference (h)))*.

3.2.5. Advances of Federal funds for NPIs are deposited and maintained in insured accounts whenever possible. Recipients maintain advances of Federal funds in interest bearing accounts, unless:

3.2.5.1. The recipient receives less than \$120,000 in Federal awards per calendar year.

3.2.5.2. The best reasonably available interest bearing account would not be expected to earn interest in excess of \$250 per year on Federal cash balances.

3.2.5.3. The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources. *(In accordance with parts 21 through 37 of Title 32, CFR (Reference (h)))*.

3.2.6. Grants and Cooperative Agreements shall not provide for the payment of fee or profit to the recipient. *(In accordance with parts 21 through 37 of Title 32, CFR (Reference (h)))*. For OT for prototype projects, profit or fee is permitted, although not generally allowed for projects that are cost-shared. Cost-shared means that portion of a project or program cost not borne by the Federal Government.

3.2.7. AGOs/AAOs review and approve or disapprove payment requests in a timely manner for NPIs.

3.2.7.1. The preferred method of payment is reimbursement. Under the reimbursement payment method, the recipient submits individual payment requests for reimbursement of costs incurred during a specific period of time. Scheduled payments do not require individual payment requests.

3.3. REVIEW REPORTS FOR ACCURACY.

3.3.1. The AGO/AAO reviews the reports submitted by the recipient for accuracy and compliance with the respective NPI. Accurate reporting is beneficial for several reasons, including:

3.3.1.1. The value of property and capital improvements purchased with agreement funds is important for determining fair market values and Government interest in property and equipment.

3.3.1.2. The value of in-kind contributions and submission of verifiable cost information may accelerate the closeout process.

3.4. MONITOR EXPENDITURE RATES AND CASH MANAGEMENT PROCESS.

3.4.1. When monitoring the expenditure of funds, the AGO/AAO shall determine whether the recipient's rate of funds use is appropriate to meet program objectives. When monitoring the recipient's cash management process, the AGO/AAO shall ensure the cash on-hand is available as close as possible to the actual expenditure of funds.

3.4.1.1. Monitoring the expenditure rates and cash management process occurs throughout the administration of the NPI.

3.4.2. Failure to spend program funds may indicate lack of performance toward the NPI objectives. Conversely, high expenditure rates do not ensure program success. Examples of expenditure rate issues may include:

3.4.2.1. The actual expenditure rate by the recipient may be on target in terms of incurring costs (salaries, travel, equipment, etc.); however, the recipient may be late in requesting payments.

3.4.2.2. The recipient may not be spending as much time on the program as originally indicated in the proposal due to involvement in another program.

3.4.2.3. The prime recipient may have issued one or more awards to sub recipients that may be causing delays in submitting payment requests.

3.4.3. For NPIs containing payments based on payable milestones with cost reimbursement features, the milestone payments should reasonably track to program expenditures.

3.4.4. The AGO/AAO shall review the recipient's SF 425, Federal Financial Report, to identify issues with excess cash on hand or other issues related to receiving advance payments. The AGO/AAO shall ensure adequate funds are available to perform the work, without large cash balances beyond what is required for immediate needs. Additionally, the AGO/AAO shall review the SF 425 to ensure the recipient has effective procedures to minimize the time elapsed between receiving and spending funds.

3.4.4.1. Reviewing the recipient's SF 425 can provide the AGO/AAO insight into problems with the management of excess cash and other problem with receiving advance payments. Frequency of submission for the SF 425 is provided in the award document. A final SF 425 is always required.

3.4.5. If AGO/AAO analysis reveals significant expenditure variances (normally +/- 10 percent at the aggregate level), or negative trends, the AGO/AAO shall immediately contact the recipient and obtain an explanation. The NPI should contain language as to remedies (including milestone adjustment). In addition, the AGO/AAO shall consult with the Government program manager and awarding officer regarding the need for corrective action. The AGO/AAO shall document the post-award file with the analysis and any corrective action.

3.4.6. For any expenditure-based Technology Investment Agreements (TIAs) with advance payments or payable milestones, the AAO shall ensure good cash management in accordance with Part 37 *of Title 32, CFR* (Reference (i)).

3.5. REVIEW AND APPROVE OR DISAPPROVE PAYMENT REQUESTS.

3.5.1. Some NPIs permit the recipient to submit interim payment requests directly to the payment office in accordance with a payment schedule, with only the final payment requiring approval by the AGO/AAO. However, most agreements require AGO/AAO approval of each payment request.

3.5.1.1. When the payment request is based on payable milestones, the AGO/AAO shall ensure the event or criteria have been accomplished. To determine this, the AGO/AAO may be required, based on the award or agreement terms, to obtain the concurrence of the Government program manager or designated other official, prior to payment approval (Milestone Certification sample). OTs for prototype projects should include procedures for adjusting payable milestones based on actual expenditures.

3.5.1.1.1. Upon receipt of a recipient request for payment, the AGO/AAO shall ensure the payment request complies with the NPI terms and that funds are available to pay the request.

3.5.1.2. When a payment will be made from multiple contract Accounting Classification Reference Numbers (ACRN), the AGO/AAO shall provide clear instructions to the payment office on how to pay at the ACRN level.

3.5.1.3. When the payment request is based on incurred costs, the AGO/AAO shall obtain appropriate reviews of costs (no less than annually), consistent with the terms of the NPI and the amounts at risk. This may include reviews by Defense Contract Audit Agency or reviews in accordance with the Office of Management and Budget (OMB)'s Circular A-133, Audits of States, Local Governments and Non-Profit Organizations (Reference (j)).

3.5.1.3.1. Recipients of Federal funds are subject to an independent audit, generally conducted by a commercial accounting firm. These audits are known as Single Audit Inquiries. OMB Circular A-133 (Reference (j)) defines the requirements for audits of States, local governments, and Indian tribal governments that administer Federal financial assistance programs.

3.5.1.3.1.1. Upon completion of the audit by the commercial accounting firm, the DoD Inspector General's (IG) office reviews the audit. Subsequently, the DoD IG sends the audit findings for resolution to the AGO/AAO if the award administration is delegated to DCMA.

3.5.1.3.1.2. OMB Circular A-133 (Reference (j)) requires Federal awarding agencies to issue a management decision on audit findings within 6 months of receipt of the audit report and to monitor the implementation of appropriate and timely corrective actions.

3.5.1.3.1.3. The management decision shall state in writing if the auditee has corrected the issues identified in the audit findings. If the auditee has not completed the corrective actions, a timetable for follow-up should be provided. Prior to issuing the management decision, AGO/AAO may request additional information or documentation from the auditee. The management decision should describe any appeal process available to the auditee.

3.5.2. The AGO/AAO shall coordinate with the Government program manager and awarding contracting officer, as necessary, prior to withholding or disapproval of payment requests. In instances of reporting requirements not being met by the recipient, the AGO/AAO should consider a temporary withholding of payment, or a portion of the payment, until the recipient complies, depending on the type of NPI involved. OTs for prototype projects should include withholding procedures for undelivered reports. The AGO/AAO shall ensure the post-award file adequately documents the decision to temporarily withhold or disapprove payment requests. The AGO/AAO shall notify the recipient in writing of the reason for any withholding or disapproval.

3.5.3. The AGO/AAO shall not approve final payments until the recipient has completed all required deliveries or performance requirements and submitted all reports/documentation.

3.6. REVIEW TERMINATION FOR CONVENIENCE NOTICE. It is important to remember that NPIs do not incorporate the provisions/clauses of the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement. Any settlements must be in accordance with the terms and conditions of the NPI, in accordance with DODGARs and be of sound business judgment.

3.7. CLOSEOUT OF NONPROCUREMENT INSTRUMENT (NPI).

3.7.1. The AGO/AAO coordinates the NPI close-out process with all participants, and ensures that all NPI requirements are met. The NPI shall be closed out only when it is determined that all applicable administrative actions and all required work have been completed.

3.7.2. The AGO/AAO shall begin the closeout process within 90 days after NPI performance is completed. The AGO/AAO should inform the recipient that the performance period has ended, and provide information on submitting final reports.

3.7.3. The responsible AGOs/AAOs and payment office shall expedite completion of the steps needed to closeout NPIs and make prompt, final payments to a recipient for allowable reimbursable costs under the NPI being closed out.

3.7.4. When authorized by the terms and conditions of the NPI, the AGO/AAO shall make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

3.7.5. Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the NPI constitute a debt to the Federal Government.

3.7.5.1. AGOs/AAOs shall follow the procedures in part 22.820 of title 32, CFR (Reference (g)), for issuing demands for payment and transferring debts to DoD payment offices for collection. Recipients will be informed about pertinent procedures and timeframes through the written notices of AGO/AAO's decisions and demands for payment (DCMA-INST 104, "Contract Debts" (Reference (k)), for additional procedures).

3.7.6. AGOs/AAOs shall refer to the DCMA-INST 135, "Contract Closeout" (Reference (l)), for the MOCAS closeout procedures.

GLOSSARY DEFINITIONS

Administrative Grants Officer/Administrative Agreements Officer (AGO/AAO). Primary responsibility is to advise and assist grants officers and recipients prior to and after award, and to help ensure that recipients fulfill all requirements in law, regulation, and award terms and conditions (*Part 22.715 of Title 32, CFR* (Reference (m))). Appointments include authority to act as an AGO and AAO.

Cooperative Agreement. A legal instrument used to enter into the same kind of relationship as a grant (see definition of “grant” below), except that substantial involvement is expected between the DoD and the recipient when carrying out the activity contemplated by the cooperative agreement. The term does not include “cooperative research and development agreements” as defined in *section 3710a of Title 15, United States Code (U.S.C.) (Reference (o))*.

Defense Grant and Agreement Regulatory System (DGARS). *A system of policies and procedures to guide DoD grants and cooperative agreements that includes the DoD Grant and Agreement Regulations and other issuances. It governs other non-procurement transactions, in addition to grants and cooperative agreements, where its provisions so indicate. (Part 22.100 of Title 32, CFR (Reference (q)))*.

Grant. *A legal instrument used to enter into a relationship, the principal purpose of which is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, rather than to acquire property or services for the DoD’s direct benefit or use. Further, it is a relationship in which substantial involvement is not expected between the DoD and the recipient when carrying out the activity contemplated by the grant.*

Management Decision. The evaluation by the Federal awarding agency or pass-through entity of the audit findings and corrective action plan and the issuance of a written decision as to what corrective action is necessary.

Non-Procurement Instruments. Fall into three basic types: grants, cooperative agreements, and other transactions. A related class of instrument is the Technology Investment Agreement (TIA) which may be either a cooperative agreement or another transaction.

Other Transaction (OT). Generally used to provide support or stimulation (i.e., “assistance”) and is commonly referred to as another transaction for research, or a *section 2371 of Title 10, U.S.C.* (Reference (r)) other transaction. Authorized by the basic *section 2371 of Title 10, U.S.C.* authority for basic, applied, and advanced research projects.

Pass-through entity. A non-Federal entity that provides a Federal award to a sub recipient to carry out a Federal program.

Recipient. The organization receiving financial assistance directly from the Federal awarding agencies to carry out a project or a program.

Technology Investment Agreements (TIAs). A class of assistance instruments that may be used to carry out basic, applied, and advance research projects when it is appropriate to use assistance instruments, and the research is to be performed by a for-profit firm, or by consortia that include a for-profit firm.

GLOSSARY

ACRONYMS

| | |
|-----------|---|
| ACRN | Accounting Classification Reference Number |
| AAO | Administrative Agreements Officer |
| AGO | Administrative Grants Officer |
| CFR | Code of Federal Regulations |
| DAU | Defense Acquisition University |
| DCMA-INST | DCMA Instruction |
| DoDGARs | Department of Defense Grant and Agreement Regulations |
| FAR | Federal Acquisition Regulation |
| IG | Inspector General |
| MOCAS | Mechanization Of Contract Administration Services |
| NPI | Non-Procurement Instrument |
| OMB | Office of Management and Budget |
| OT | Other Transactions |
| PLAS | Performance Labor Accounting System |
| SF | Standard Form |
| TIA | Technology Investment Agreement |
| U.S.C. | United States Code |