

# Non-US Citizen Issues and User Agreements

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# Outline

- Foreign Visits & Assignments (FVA) Requirements
  - What are FVA Requirements
  - Why are FVA Requirements Challenging
- User Agreements 101
  - What are User Agreements
  - How are User Agreement Administered
  - Comparison of Agreements

# Foreign Visits & Assignments

- National laboratories are required to compile with DOE Order 142.3--  
Unclassified Foreign Visits & Assignments
- Non-US citizens are required to be in a DOE Federal Access Central  
Tracking System (FACTS) data base to obtain site access to *most* national  
laboratories
  - Citizenships are categorized into non-sensitive countries (e.g., England),  
sensitive countries (e.g., China), and T4 countries (e.g., Cuba)
  - In some case the applicant must be vetted before access can be granted
  - National labs are required to ensure that a person is in proper immigration  
status before access to a national laboratory can be granted
  - Immigration documents must correspond to the access time granted
  - National labs are required to maintain immigration document on file

# Compliance Difficulties for User Facilities

- Users often do not arrive with complete immigration documents. For example:
  - Lawful permanent residents consider themselves US citizens
  - Individuals may bring their passport and visa but not their “ruling documents” such as a DS2019
  - Family members may travel with user and don’t realize that they too must comply with the Order requirements
- DOE Order 142-3 applies to individuals conducting hands-on research as well as individuals coming to national laboratories for tours or conferences
- Processing times often conflict with scheduled beam time
- Labor-intensive process for user offices



# User Agreements 101

- The Department of Energy (DOE) issued master agreements for use at all DOE designated user facilities
- Legal agreement based on a class waiver that covers liability, indemnification, intellectual property, and financial issues
- Terms and conditions are non-negotiable (*with rare exceptions*)
- Users conducting hands-on research at the APS require an agreement to be in place before conducting research (before arrival)
- A user agreement, signed by the home institution, is a prerequisite for all experimental work at the APS

# User Agreement 101

- Users are not permitted to do experimental work at the APS until agreements are in place with the *home institution*
- The type of agreement depends on the work being conducted, how the work is being done, and who is sponsoring the research
- Work at the APS can be done under three basic types of agreements
  - Non-proprietary
  - Proprietary
  - Work for Others Agreement (WFO)
- All users are required to sign an acknowledgment making them aware that a legal agreement exists with their institution

## COMPARISON OF AGREEMENTS

<b>NON-PROPRIETARY RESEARCH</b> Facility use costs are not paid	<b>PROPRIETARY RESEARCH</b> Full cost recovery for facility use is paid	<b>WORK FOR OTHER AGREEMENT*</b> Full cost recovery for facility use is paid
<ul style="list-style-type: none"> <li>Users <b>ARE NOT</b> charged for "machine time" or potential agreed upon collaborative effort of Argonne researchers; users may be charged for ancillary materials, supplies, and services obtained from the User Facility.</li> </ul>	<ul style="list-style-type: none"> <li>Users <b>ARE</b> charged for "machine time" and limited support services (non-collaborative) from Argonne personnel on a full- cost recovery basis.</li> </ul>	<ul style="list-style-type: none"> <li>Users <b>ARE</b> charged for "machine time" and support services (non-collaborative) from Argonne personnel on a full- cost recovery basis.</li> </ul>
<ul style="list-style-type: none"> <li>Users must intend to publish their research results in the open scientific literature. Research results are available to the public.</li> </ul>	<ul style="list-style-type: none"> <li>Users may keep their research results private</li> </ul>	<ul style="list-style-type: none"> <li>Users may keep their research results private</li> </ul>
<ul style="list-style-type: none"> <li>Proposals are required to obtain machine time at the facility.</li> </ul>	<ul style="list-style-type: none"> <li>Proposal are required to obtain machine time by the facility.</li> </ul>	<ul style="list-style-type: none"> <li>Proposal are required.</li> </ul>
<ul style="list-style-type: none"> <li>Users may retain title to their researchers' inventions; and Argonne retains title to its researchers' inventions; the Government retains a royalty-free license and some oversight of utilization efforts.</li> </ul>	<ul style="list-style-type: none"> <li>Users may retain title to their inventions; Government rights are extremely limited.</li> </ul>	<ul style="list-style-type: none"> <li>Users may retain title to their inventions; Government rights are extremely limited.</li> </ul>
<ul style="list-style-type: none"> <li>User may access the User Facility with or without collaboration of Argonne researchers.</li> </ul>	<ul style="list-style-type: none"> <li>User may access the User Facility with or without limited support (non-collaborative) from Argonne personnel.</li> </ul>	<ul style="list-style-type: none"> <li>User may access the User Facility with or without limited support (non-collaborative) from Argonne personnel.</li> </ul>
<ul style="list-style-type: none"> <li>Users provide sufficient information to ensure that each planned experiment can be performed safely.</li> </ul>	<ul style="list-style-type: none"> <li>Users provide sufficient information to ensure that each planned experiment can be performed safely.</li> </ul>	<ul style="list-style-type: none"> <li>Argonne personnel ensure that each planned experiment can be performed safely.</li> </ul>
<ul style="list-style-type: none"> <li>The experiment is not directed towards researching and/or producing a specific commercial end result (e.g., marketable product)</li> </ul>	<ul style="list-style-type: none"> <li>The experiment may be directed towards researching and/or producing specific commercial end result (e.g., marketable product)</li> </ul>	<ul style="list-style-type: none"> <li>The experiment may be directed towards researching and/or producing specific commercial end result (e.g., marketable product)</li> </ul>

\*Approval of the work and terms and conditions are subject to case-by-case DOE approval.