FLC

Federal Laboratory Consortium
for Technology Transfer

2027 Executive Board **Guidebook**



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SECTION 1: ROLES, RULES, AND RESPONSIBILITIES

FLC STRUCTURE

Origins

The FLC was organized in 1974 and formally created by the U.S. Congress in the Federal Technology Transfer Act of 1986[1] for the purpose of coordinating federal laboratory technology transfer. In addition to the statutory mandate, the FLC members have adopted Bylaws that govern how the FLC operates. The Bylaws describe the organizational structure, roles, duties, and activities of the FLC. While changes to the underlying statute require Congressional action and do not change very often, the Bylaws may be amended by a vote from the members. The FLC is not a federal agency but is considered a "quasi-Governmental organization."[2][3] This status allows for some flexibility for the organization, as not all requirements for Executive Branch agencies apply directly. However, many rules that do not apply directly to the FLC do apply to many of its members, and there are specific grant requirements that apply to the FLC's cooperative agreement partner as well. The FLC strives to use best practices of government organizations to support its members and accomplish its statutory mission. The FLC is not subject to the financial and corporate governance rules and restrictions that apply to nonprofit boards but is subject to the Joint Ethics Regulation.[3]

Use of the FLC name and logo is covered by a U.S. Trademark (figure 1).

Figure 1, The FLC Logo is a registered trademark

FLC

[1] Public Law 99-502, codified at 35 U.S.C. 3710(e)

[2] Memorandum: "Status of the Federal Laboratory Consortium." Barbara S. Fredericks, U.S. Department of Commerce Office of General Counsel. See also Appendix C.

[3] Title 5, Code of Federal Regulations, Part 2635, "Standards of Ethical Conduct for Employees of the Executive Branch." See also FLC Bylaws Article V, Section 1(10) in Appendix B. See a summary of these standards at http://www.oge.gov/Laws-and- Regulations/OGE-Regulations/5-C-F-R--Part-2635---Standards- of-ethical-conduct-for- employees-of-the-executive-branch/ or the entire text at https://www.ecfr.gov/cgihttps://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=5:3.0.10.10.9bin/text-idx?rgn=div5&node=5%3A3.0.10.10.9

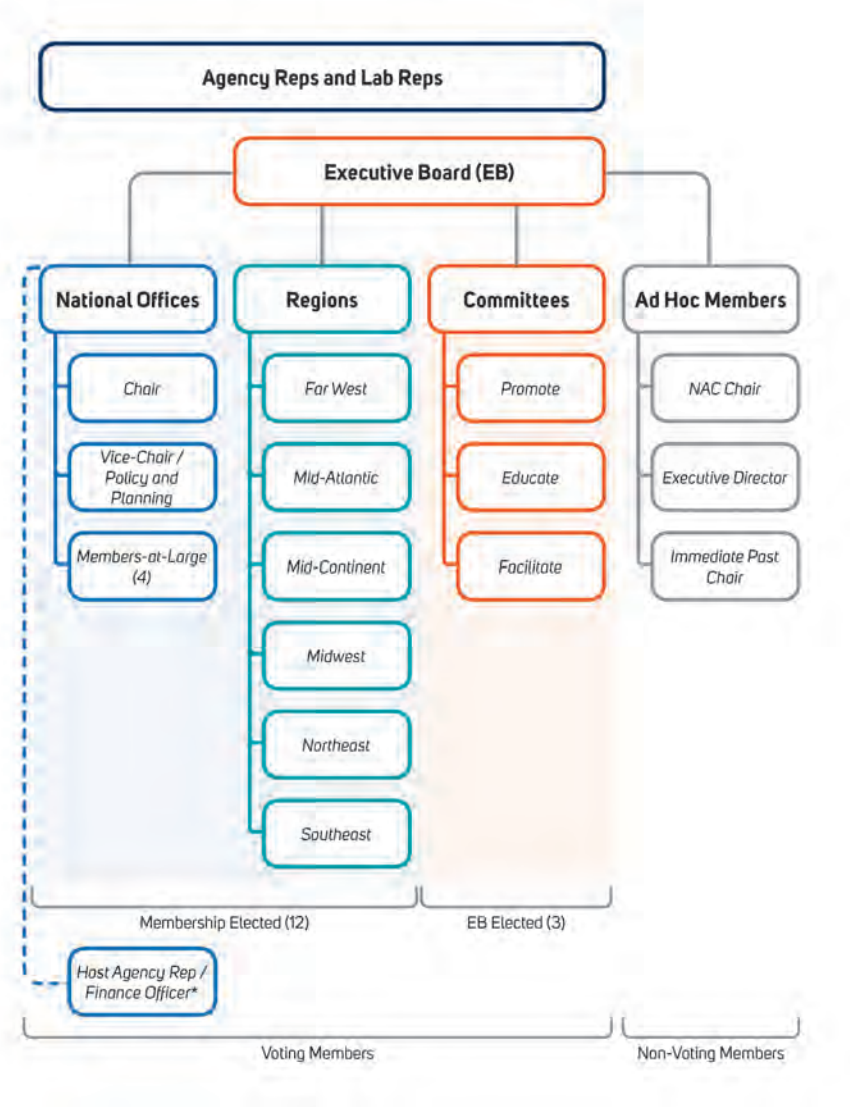
Professional Organization

The FLC is an organization of and for federal technology transfer professionals. The members of the FLC are defined by statute. All federal research and development laboratories (including both government operated laboratories and federally funded research and development centers) and agencies are FLC members. Laboratories and agencies can designate representatives that serve as the FLC voting members. While the FLC can form alliances with industry, universities, state and local governments, nonprofit organizations, and others, those entities are not members and cannot hold any FLC office or other leadership role.

FLC ORGANIZATION

The FLC Bylaws describe the organizational structure and functions of the FLC. By statute, senior agency and laboratory representatives from the FLC voting members comprised of Agency Representatives and Laboratory Representatives. These members vote to enact the Bylaws and, under those Bylaws, provide for FLC officers who collectively make up the Executive Board (EB). The EB comprises the elected representatives of the organization and serves as its directing body. The national offices of Chair, Vice Chair, and Member-at-Large are elected by all voting members. The Host Agency Representative (HAR) is appointed by NIST and the EB votes to accept the appointment. The Regional Coordinators are elected by those voting members in a particular region. Committee Chairs are elected by the EB itself. There are three ad hoc members of the EB who serve to inform the deliberations but may not vote or propose/second a motion. These non-voting members include the immediate past Chair, the Chair of the National Advisory Council (NAC), and the Executive Director. Figure 2 shows the EB structure in the current Bylaws.

Figure 2, FLC Organization Chart



The Executive Committee (EC) is comprised of the Chair, Vice Chair, Host Agency Representative, and the Executive Director. The EC meets more regularly than the EB in order to conduct the routine business of the FLC. The EC reports to the EB on activities on a regular basis.

- Established in the Bylaws
- Composed of Chair, Vice Chair, Host Agency Representative, Executive Director
- Generally, meet weekly and work on items for the EB
- Cooperative Partner provides support
- Joint meeting monthly with Committee Chairs
- Weekly notes published

DUTIES OF BOARD MEMBERS

All EB members have some common duties, including participating in EB meetings, reviewing and contributing to reports, taking part in discussions, and representing the FLC as an FLC officer. Voting members have the responsibility of approving the overall actions of the FLC. Most EB members have additional duties assigned in the Bylaws to provide oversight in specific areas. It is important for EB members to fully participate in these activities in a timely fashion to ensure that the FLC operates and delivers on its mandates. All activities are directed toward implementing the FLC's goals as outlined in its Strategic Plan (see Appendix D).

The duties and responsibilities are described in the statute, Bylaws, rules, and actions passed by the EB, each EB member also brings their interests and ideas as technology transfer professionals. EB members are expected to act in good faith and be fair in their dealings, conduct themselves in a professional manner, and share individual professional interests and ideas to the discussion.

As a Board, the EB is responsible to:

- Set the Direction of the FLC
    - Strategic Plan
    - Charters/Operations Plans
- Provide resources
    - Approve a budget
    - Decide on a method of FLC support services, such as a cooperative agreement or contract
- Provide oversight of activities
- Monitor performance
- Report progress to stakeholders

Other EB duties include:

- Specific duties provided by FLC Bylaws
- Serving as members on committees is encouraged
- Lead or participate in ad hoc projects
- Serve as Nominating Chair

Fiduciary Duty of Care

- Attend board and committee meetings
- Review and understand the organization's documents
- Help to frame strategic plans
- Identify and manage risks as well as opportunities
- Take prudent steps to advance the organization's mission and goals.

Fiduciary Duty of Obedience

- Ensure that the FLC obeys applicable laws and regulations
- Follow our own Bylaws
- Adhere to the stated purposes/mission of the FLC

Fiduciary Duty of Loyalty

- Avoid conflicts of interest
- Put FLC interests ahead of personal interest
- Respect confidentiality

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY (NIST) - HOST AGENCY

NIST serves as the Host Agency and provides Host Agency Representative (HAR) to the EB who serves as an EB and EC member. The FLC was created under Title 15 of the United States Code, which relates to Commerce. NIST is a part of the Department of Commerce and was given this responsibility. The FLC may request administrative support from NIST on a reimbursable basis. The FLC pays NIST for these services and overhead charges.

NIST provides a HAR, who serves as an EB and EC member. Other roles of the HAR include:

- Serve as finance officer for the FLC
- Liaise between NIST and FLC
- Collect annual funding from agencies
- Provide for administration and maintenance of FLC funds in federal account
- Manage communication between EB members and other NIST staff
- Provide for grant or contract administration/Federal Project Officer /Contracting Officer Representative support
- Provide invitational travel services
- Provide for micro purchases via credit card
- Coordinate other procurements for the FLC
- Provide connection to GPO for printing services

SECTION 2: CONDUCTING BUSINESS

APPLICABLE RULES

As previously noted, the FLC operates under a federal statute and an approved set of Bylaws. The FLC Bylaws note that meetings will follow parliamentary procedures according to the current version of Robert's Rules of Order.[4] The use of these rules helps to guide the discussion in an orderly way to accomplish business and provide a set of consistent practices for the FLC.

HOW DECISIONS ARE MADE

The EB will periodically approve an overall strategic plan and will annually approve a budget and committee charters to guide actions for the following year. Once a strategy has been set and annual budget and committee charters approved, the committees operate to guide the implementation of the overall direction through the Support Partner. Within the approved vision, charters, and budget, the committees are acting with approval and have authority to implement activities without further authorization from the EB. Actions representing significant deviations from approved plans, changes in policies, committing additional funds, and potentially sensitive issues require an EB vote for approval.

Voting Members

While all EB members may actively engage in discussions and provide input, making a motion and voting are limited to voting EB members:

- Chair
- Vice Chair
- Host Agency Representative
- Members-at-Large
- Regional Coordinators (RCs) - Deputy RCs may act as the RC for EB functions if the RC is unable to participate.
- Standing Committee Chairs (Promote, Educate, Facilitate)
  - Any co-occupied position on the EB will only have one vote to represent on the EB.

[4] https://www.robertsrules.com/

Conducting a Vote

Voting may take place during EB meetings and held in a manner to accommodate EB members who are present both in-person and virtually. Email votes can also be called at any time by the Chair. A vote requires a quorum of at least half the EB being present to be valid. A quorum being present, a simple majority will determine if the motion is passed.

Votes follow the following process:

- Normal voting decisions will be documented in the agenda and background information will be provided to the EB in advance of the meeting.
- If an EB member wants an issue raised to the EB in a future meeting, the member can request an agenda item and vote to any Executive Committee member. The Executive Committee will consider the request and determine if the issue will be included on the next EB agenda.
- If an issue is raised that is not on the agenda by an EB member during a meeting, the Chair will recognize the member and determine if the issue will be discussed immediately or tabled for further discussion.
- For any issue under EB consideration, the EB will discuss the issue and potential alternatives may be put forward by those present.
- A voting member will make a motion to the Chair for consideration by the EB.
- The Chair will ask the EB if there is a second to the motion.
    - EB members may second the motion as put forward or may propose changes to the motion.
    - A proposed amended motion will require a second to the amended motion.
- All motions require a second to be put to the EB for a vote.
- If a motion has a second, the motion is opened for additional discussion.
- The Chair will facilitate discussion and call for a vote after any further discussion.
    - For matters that appear to the Chair to be relatively uncontested, a voice vote may be used.
    - The Chair may individually poll members by roll or by a group indication of those in favor and those opposed.
    - A member may request that the Chair individually poll members if they feel there is a reasonable concern that the votes were in error.
    - The EB may use an electronic voting system as needed to aid voting.
- The Support Partner will record the vote and the result into the minutes of the meeting.

Actions Requiring a Vote

The following actions at a minimum require a vote. The Chair will exercise discretion regarding other actions that rise to the level of requiring a vote from the EB.

- Annual budget
- Committee charters
- Strategic plan
- New large-scale initiatives (see Finance Policy)
- Bylaws amendments to be put to a referendum
- FLC policies that define EB practices but do not rise to the level of the Bylaws

CONDUCT OF BUSINESS

Meetings

The EB meets four times annually on a general schedule. Meetings are typically planned for the third week of the month to allow some prior planning by EB members. This may vary depending on competing meetings and priorities impacting the EB. A special meeting may be called, if necessary, by the Chair.

Table 1, Standing Executive Board Meetings

Topic	Timing
Seat new EB Members, Charter Approval	Fall (October)
Strategic Planning	Winter (January)
General Business	Spring (at National Meeting)
Budget Approval	Summer (July)

The preferred method for attendance at the EB meetings is in person. Experience has shown that this is the best means to have discussions, build cohesion, and accomplish the work needed. The EB has sufficient funds to cover travel to meetings by EB members using NIST invitational travel funds. Any co-occupied EB voting member position will normally have only one EB member travel to any EB meeting using NIST invitational travel or other funds. Support Partner staff may not travel using NIST invitational travel funds, as it conflicts with Host Agency grant rules.

If an EB member cannot attend in-person, the Support Partner will generally provide for videoconferencing or teleconferencing options. The Bylaws do allow for full participation and voting if the meeting is attended via electronic means including video conference or conference call.

Where to Get Documents

The Support Partner will provide a Board Book in advance of each EB meeting with key documents that will be considered. This material will be supplemented at the meeting with other presentation material, such as PowerPoint slides. Materials will generally be distributed via email two weeks in advance of the EB meeting, attached to the meeting invitation, and posted in the EB e-Group file sharing repository.

SECTION 3: FINANCES AND SPENDING MONEY

A primary duty of the EB is to allocate resources. The EB has adopted a Finance Policy that is included in the Appendix.

FLC FUNDING

Funding for the FLC is determined as a formula by statute. All agencies contribute 0.008% of their intramural R&D annually as long as that amount exceeds $10,000. NIST is charged with collecting these funds, which the FLC uses for its operations as approved by the EB. Funding collected by NIST is held in a specific account for the FLC and is not otherwise merged with other NIST monies. The FLC is responsible for maintaining its own financial solvency, and NIST does not provide additional funding or working capital if FLC funds reach zero. For this reason, the FLC tries to keep sufficient funds on hand at NIST in case there is an issue in the annual collections from agencies to prevent the FLC from closing operations. Current revenues for the FLC are approximately $4M to $5M per year, depending on the annual federal funding of research and development.

BUDGET

The EB will ratify a budget annually that describes expenses for the following year to implement the Strategic Plan. The budget process is the responsibility of the Host Agency Representative and Executive Committee. The FLC approves a budget annually for each fiscal year. The FLC uses zero base budgeting, the authorized monies are either spent or they or not in the fiscal year. There is no carryover of funds unless specifically approved by the EB as part of the budget. Supplemental funds are allocated according to the Finance Policy.

FIDUCIARY RESPONSIBILITIES

Budgetary Responsibilities

Budget details are included in the FLC Financial Policy at federallabs.org/about/who-we-are/flc-policies including roles, processes, and approval authority for supplemental funding requests of varying levels.

- Host Agency: Collect, oversee, and distribute funds in accordance with internal procedures of the agency
- EB Voting Members: Ratify annual budget and supplemental funding requests as presented
- Committees: Provide tactical direction and request supplemental funds as needed
- Chair, HAR, and Executive Committee: Approve funding requests above approved budget and within available funds

Expenditure Responsibilities

- Ensure that projected expenses are included in the budget or otherwise approved according to the Finance Policy.
- Alert the Chair and Host Agency Rep if you have an unexpected expense before committing any funds.
- Work with the Support Partner to ensure the best use of funds.
- Request credit card purchases from Chair and Host Agency for use of funds directly from NIST.
- Follow NIST invitational travel policies if applicable.
- Follow other source travel policies as applicable (Support Partner, other agency).
- Request any Interagency Agreements as early as possible and include in budget development. Notify Chair and Host Agency Rep of any changes as soon as possible.

HOW MONEY CAN BE SPENT

Since NIST is the host agency and is responsible for administering FLC funds, disbursements must be made according to NIST policies. The following chart shows the different ways that FLC monies are spent.

Table 2, How Monies Are Spent

Mechanism	*Uses*	*Amount*	*Process*
Cooperative Agreement	*The FLC has entered into a cooperative agreement with AUTM through NIST to be the FLC Support Partner. Support Partner staff efforts will represent the majority of FLC funded activities.*	*$4M annually (current)*	*Support Partner prepares and presents proposed budget to the EB in July for approval. Support Partner works with Committees to implement approved FLC program activities.*
Credit Card	*Micro purchases outside of the scope of the Support Partner agreement. Typical uses are sponsorships or other partnership opportunities.*	*Maximum $10,000*	*Requests made to Chair, Finance Officer, Host Agency for use of funds directly from NIST*
Invitational Travel	*Travel by EB members. Travel by others requested by EB that are not covered in scope of the Support Partner agreement.*	*Approved in annual budget or approved by Chair or HAR*	*Travel for EB members to EB meetings is approved in the annual budget. Travel by others, EB Member makes request to Chair or HAR for use of NIST funds.*
Printing	*Printing is generally done using the Government Printing Office (GPO) through NIST. .*	*Approved in annual budget or approved by Chair or HAR*	*Support Partner initiates work. Printing is done by GPO through NIST. May request to Chair or HAR.*
Interagency Agreements	*Transfer of funds directly to another agency. Sometimes preferred agency method for travel. Also, for other purposes that go through an agency other than Host Agency.*	*Approved in annual budget or approved by Chair or HAR.*	*Requests proposed in annual budget or to Chair and HAR for use of NIST funds.*

NIST SUBMISSION DEADLINES BY PROCUREMENT TYPE

All FLC spending, whether approved in the budget or through a Supplemental Funding Request, will eventually lead to a NIST Procurement Request (PR) that will follow all NIST procurement policies and procedures. Prior to submission of a PR, the Host Agency Representative (HAR) encourages early partnership and planning to ensure that the Government meets its needs in the most effective, economical, and timely manner (see FAR Part 7 on Acquisition Planning, Part 10 on Market Research, and 2 CFR § 200.201 Use of grant agreements [including fixed amount awards], cooperative agreements, and contracts.).

This section is meant to set expectations that cover the majority of the funding requests that will be submitted to the HAR, understanding that there will be unique, complex procurements that will require increased engagement and coordination with the HAR and NIST acquisition personnel during the development of the requirement.

The key to any procurement is to communicate early with the HAR to set your procurement up for success. As always, the HAR encourages the submission of PR packages as soon as the requirement is identified, and funding is available. Additional information to consider:

- Except for modifications, the deadlines are based on the total dollar value of the contract, including the value of all option periods (e.g., a base period of $100,000 and four option periods at $100,000 results in a total dollar value of $500,000). The larger the dollar value and complexity of the procurement, the earlier the deadline.
- PR processing times (calendar days) may vary depending upon procurement complexities or conditions (e.g., site visit requirements, posting requirements, and limited sources, such as brand name only with competition among resellers, modification scope changes, etc.). Note: processing times are contingent upon receipt of a ready (i.e., current and complete) requisition package.
- For any action not identified below, consult the HAR for the appropriate submission timeframe.

1. Fiscal Year (FY) Negotiated Procurement/Competitive

Action Value	Cut-off Date	FY Planning Timelines (Historical Processing Time)
> $250,000 - $750,000	April	150
> $750,000 - $10,000,000	December of FY - 1	270
> $10,000,000	August of FY - 1	390

2. Simplified Acquisitions – Competitive

Action Value	Cut-off Date	FY Planning Timelines (Historical Processing Time)
Up to $25,000	July	60
> $25,000 - $250,000	June	90
> $250,000 - $750,000	May	120
> $750,000 - $7,500,000	April	150

3. a. Non-Competitive Contracts (8(a))

Action Value	Cut-off Date	FY Planning Timelines (Historical Processing Time)
< $250,000	July	60
> $250,000 - $4,500,000	June	90
> $4,500,000	May	120

b. Non-Competitive Contracts (sole source, includes brand name with no resellers)

Action Value	Cut-off Date	FY Planning Timelines (Historical Processing Time)
Up to $25,000	July	60
> $25,000 - $250,000	June	90
> $250,000	February	210

4. Task Orders Under GSA/FSS/other agency contracts

Action Value	Cut-off Date	FY Planning Timelines (Historical Processing Time)
< $1,000,000	July	60
> $1,000,000	June	90

5. Task/Delivery Orders against in-house (NIST awarded) IDIQ/BPA/BOAs

Action Value	Cut-off Date	FY Planning Timelines (Historical Processing Time)
Any amount – Single Award	June	90
Any amount – Multiple Award	April	150

6. Grants

Document Type/Description	Threshold (Total Project Budget)	FY Submission Deadline
New Awards and Funded Amendments	≥$250,000	July
New Awards and Funded Amendments	< $250,000	August
Notice of Funding Opportunity (NOFO): First draft for review – Awards to be issued by FY end	All Anticipated Dollar Values	December of FY - 1

SECTION 4: SUPPORT PARTNER

The FLC Board has currently obtained support through a cooperative agreement with AUTM under NIST Award 70NANB24H297 to provide for FLC operations led by an Executive Director. The period of performance on this award is November 1, 2024, through October 31, 2029. The HAR or a NIST designee serves as the Federal Program Officer on this award. The cooperative agreement is subject to 2 CFR 200 Grants and Agreements, and the Commerce Grants Manual, and the proposal/award conditions. The Support Partner will comply with these requirements in carrying out FLC functions.

A cooperative agreement is a form of a grant that permits a broad and flexible way to conduct business as a federal award to conduct a public purpose with substantial government involvement. The EB provides strategic direction to the Support Partner for implementation of the program as approved in the budgets and charters. The Support Partner works with the EB and committees to effectively implement a high quality FLC program. The Support Partner follows the strategic direction of the EB, reports on progress, and raises issues to the EB.

The staff reports to the FLC Executive Director (ED). The ED is the primary contact for the EB and assigns staff time and resources based on the direction of EB to accomplish much of the FLC's work and is available to represent the FLC and its activities within the direction of the EB.

While the ED is available for discussions with the EB members on a full-time basis, designated interactions include:

- Participation as an ad hoc EB member.
- At each EB quarterly meeting a breakout discussion will be held with the EB and ED to discuss performance of the Support Partner and to address any issues with program delivery.
- Serves as a member of the EC.
- The Chair and the ED may have a regular meeting to discuss FLC activities.

While the ED is the primary contact for the EB, staff is designated to support the FLC organization. The specific positions and personnel may change based on needs and discussions with the EB. Current staff positions are:

- AUTM CEO (10%) - Oversees implementation of the award for the AUTM Board of Directors and serves as Principal Investigator
- FLC Executive Director (100%) - Leads and supervises all FLC activities under the Cooperative Agreement
- Governance Manager (100%) - Support for Executive Board, Executive Committee, FLC elections, Agency Representative Meetings, the National Advisory Council and other key stakeholder groups for management and input to operations.
- Accounting and Human Resources Manager (50%) - Performs accounting and HR functions.
- Senior Director of Finance (50%) - Supports accounting, budget development, execution, and compliance.
- Administrative Associate (50%) - Assists Senior Director of Finance.

Promote

- Marketing and Communications Director (100%) - Leads and supervises FLC Promote activities.
- Marketing and Communications Manager (100%) - Manages content and communications, including printed and electronic media materials.
- Awards and Marketing Manager (100%) - Manages the FLC Awards program from development through award and contributes to other Promote activities.
- Digital Marketing Manager (50%) - Manages social media and coordinates all digital media activities.
- Graphics Manager (50%) - Leads FLC graphic design and visual branding across digital, print, and event materials.
- Web Content and Systems Manager (50%) - Manages FLC websites and digital platforms.

Educate

- Professional Development Director (100%) - Leads and supervises FLC Educate activities.
- Professional Development Manager (100%) - Conducts webinars, prepares content, and assists with meetings.
- Meetings and Events Manager (100%) - Negotiates hotel contracts for major meetings, develops and plans meetings logistics, and runs meetings on-site.
- Senior Business Development Manager (20%) - Works with interested external stakeholders and sponsors to develop agreements.

Facilitate

- Facilitate Director (100%) - Leads and supervises all FLC Facilitate activities.
- Partnerships Managers (200%) - Work directly with external businesses to facilitate interactions between member laboratories and other parties. Coordinate, attend and/or host technical events and workshops and other partnering activities both online and in person.
- Database Systems Manager (100%) - Coordinates systems and data across platforms.

Staff short bios, pictures, and contact information is on the FLC website at federallabs.org/about/who-we-are/flc-staff.

APPENDIX A – ESTABLISHING LEGISLATION OF THE FLC

TITLE 15 SECTION 3710(e)

(1) There is hereby established the Federal Laboratory Consortium for Technology Transfer (hereinafter referred to as the "Consortium") which, in cooperation with Federal laboratories and the private sector, shall—

A. develop and (with the consent of the Federal laboratory concerned) administer techniques, training courses, and materials concerning technology transfer to increase the awareness of Federal laboratory employees regarding the commercial potential of laboratory technology and innovations;

B. furnish advice and assistance requested by Federal agencies and laboratories for use in their technology transfer programs (including the planning of seminars for small business and other industry);

C. provide a clearinghouse for requests, received at the laboratory level, for technical assistance from States and units of local governments, businesses, industrial development organizations, not-for- profit organizations including universities, Federal agencies and laboratories, and other persons, and—

i) to the extent that such requests can be responded to with published information available to the National Technical Information Service, refer such requests to that Service, and

ii) otherwise refer these requests to the appropriate Federal laboratories and agencies;

D. facilitate communication and coordination between Offices of Research and Technology Applications (ORTA) of Federal laboratories;

E. utilize (with the consent of the agency involved) the expertise and services of the National Science Foundation, the Department of Commerce, the National Aeronautics and Space Administration, and other Federal agencies, as necessary;

F. with the consent of any Federal laboratory, facilitate the use by such laboratory of appropriate technology transfer mechanisms such as personnel exchanges and computer based systems;

G. with the consent of any Federal laboratory, assist such laboratory to establish programs using technical volunteers to provide technical assistance to communities related to such laboratory;

H. facilitate communication and cooperation between Offices of Research and Technology Applications of Federal laboratories and regional, State, and local technology transfer organizations;

I. when requested, assist colleges or universities, businesses, nonprofit organizations, State or local governments, or regional organizations to establish programs to stimulate research and to encourage technology transfer in such areas as technology

program development, curriculum design, long-term research planning, personnel needs projections, and productivity assessments;

J. seek advice in each Federal Laboratory Consortium region from representatives of State and local governments, large and small business, universities, and other appropriate persons on the effectiveness of the program (and any such advice shall be provided at no expense to the Government); and

K. work with the Director of the National Institute on Disability and Rehabilitation Research[5] to compile a compendium of current and projected Federal Laboratory technologies and projects that have or will have an intended or recognized impact on the available range of assistive technology for individuals with disabilities (as defined in section 3002 of title 29), including technologies and projects that incorporate the principles of universal design (as defined in section 3002 of title 29), as appropriate.

(2) The membership of the Consortium shall consist of the Federal laboratories described in clause (1) of subsection (b) and such other laboratories as may choose to join the Consortium. The representatives to the Consortium shall include a senior staff member of each Federal laboratory which is a member of the Consortium and a senior representative appointed from each Federal agency with one or more member laboratories.

(3) The representatives to the Consortium shall elect a Chairman of the Consortium.

(4) The Director of the National Institute of Standards and Technology shall provide the Consortium, on a reimbursable basis, with administrative services, such as office space, personnel, and support services of the Institute, as requested by the Consortium and approved by such Director.

(5) Each Federal laboratory or agency shall transfer technology directly to users or representatives of users, and shall not transfer technology directly to the Consortium. Each Federal laboratory shall conduct and transfer technology only in accordance with the practices and policies of the Federal agency which owns, leases, or otherwise uses such Federal laboratory.

(6) Not later than one year after October 20, 1986, and every year thereafter, the Chairman of the Consortium shall submit a report to the President, to the appropriate authorization and appropriation committees of both Houses of the Congress, and to each agency with respect to which transfer of funding is made (for the fiscal year or years involved) under paragraph (7), concerning the activities of the Consortium and the expenditures made by it under this subsection during the year for which the report is made. Such report shall include an annual independent audit of the financial statements of the Consortium, conducted in accordance with generally accepted accounting principles.

(7)

A. Subject to subparagraph (B), an amount equal to 0.008 percent of the budget of each Federal agency from any Federal source, including related overhead, that is to be utilized by or on behalf of the laboratories of such agency for a fiscal year referred to in subparagraph (B)(ii) shall be transferred by such agency to the National Institute of Standards and Technology at the beginning of the fiscal year involved. Amounts so

[5] This organization has been renamed National Institute on Disability, Independent Living, and Rehabilitation Research

transferred shall be provided by the Institute to the Consortium for the purpose of carrying out activities of the Consortium under this subsection.

B. A transfer shall be made by any Federal agency under subparagraph (A), for any fiscal year, only if the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000.

C. The heads of Federal agencies and their designees, and the directors of Federal laboratories, may provide such additional support for operations of the Consortium as they deem appropriate.

APPENDIX B – FLC BYLAWS

See: federallabs.org/getmedia/99036778-2c1d-4efa-8201-61e2af6ef41f/FLC-Bylaws-Approved-May-14-2025_2.pdf

APPENDIX C – FLC STRATEGIC PLAN

See: federallabs.org/about/what-we-do/flc-strategic-pillars

APPENDIX D – DEPARTMENT OF COMMERCE LEGAL OPINIONS

JAN 02 2013

UNITED STATES DEPARTMENT OF COMMERCE
Office of the General Counsel
Washington, D.C. 20230

MEMORANDUM FOR: Phillip Singerman
Associate Director for Innovation and Industry Services
National Institute of Standards and Technology

FROM: Barbara S. Fredericks
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for Administration

SUBJECT: Status of the Federal Laboratory Consortium

This responds to your questions, which were forwarded to this office as a matter within our purview, concerning the status of the Federal Laboratory Consortium for Technology Transfer (FLC) and its relationship to NIST.

As set forth below, the FLC is not part of NIST, and it is not an "Executive agency" under 5 U.S.C. §105. Nevertheless, because of its unique status, it should be viewed as a "quasi-Governmental organization" much like the National Academy of Sciences. The specific questions we were asked about how the FLC may obtain services from NIST, and the rules to which it is subject, require case-by-case review and are addressed individually below.

BACKGROUND

The FLC was initially established in the early 1970's as an *ad hoc* group of fewer than ten representatives of laboratories funded by the Department of Defense. Today, it includes over 300 member laboratories funded by over 25 Federal departments and independent agencies.

In 1980, the Stevenson-Wydler Technology Innovation Act (Stevenson-Wydler Act) required all Federal agencies that engaged in research and development to undertake efforts to transfer the benefits of such Government-funded work to the private sector. See Pub. L. No. 96-480, (October 21, 1980), *codified at* 15 U.S.C. § 3710. The Act established a Research and Technology Applications Office within each Federally-funded laboratory for the purpose of promoting the transfer of technology that was developed with Federal funds to states, academia, and the private sector. See Pub. L. No. 96-480, § 11, *codified at* 15 U.S.C. § 3710(b).

The Stevenson-Wydler Act referred to the FLC tangentially when it established a Center for the Utilization of Federal Technology (now the National Technical Information Service (NTIS))[1] within the Department of Commerce and directed the Center to obtain assistance and services from the National Science Foundation (NSF) and "the existing Federal Laboratory Consortium." See Pub. L. No. 96-480, § 11(d)(3).

Until passage of the Federal Technology Transfer Act (Pub. L. No. 99-502 (October 20, 1986)) (FTTA), the FLC had been funded by voluntary contributions from participating Federal departments and agencies and led by a program manager from the NSF. However, the legislative history to the FTTA observed that Federal funding and NSF support were not

[1] See Pub. L. No. 99-502, § 4(c)(1)(1986).

consistently provided. See S. Rep. No. 99-283 (99th Cong., 2nd Sess., *reprinted in* 1986 U.S.C.C.A.N. 3442, 3446, (April 21, 1986)).

In 1986, the FTTA amended the Stevenson-Wydler Act to formally establish the FLC to "remain a networking organization of federal laboratories and their technology transfer offices" and to "affiliate" the FLC with NIST. See H. Conf. Rep. No. 99-953 (99th Cong., 2nd Sess., *reprinted in* 1986 U.S.C.C.A.N. 3457, 3459 (October 21, 1986)), *codified at* 15 U.S.C. § 3710(e). Pursuant to the FTTA, the FLC's "members" consist of each Federal laboratory that has 200 or more full-time equivalent scientific, engineering, and related technical positions, and any other laboratory that may choose to join. The members are represented by a senior staff member from each Federally-funded laboratory and from each agency that funds one or more laboratories.[2] See 15 U.S.C. § 3710(e)(2). The FLC is funded from appropriations made available by each participating agency. Under 15 U.S.C. § 3710(e)(7)(A), each agency must transfer 0.008 percent of its research and development budget to NIST each year to support the FLC.

DISCUSSION

The FLC is not part of NIST

Nothing in the FTTA establishes the FLC within NIST. The legislative history provides at most that the FLC is "affiliated with" NIST so that it could have a permanent connection with a Federal agency and a more predictable source of funding than had been the case when the FLC was supported by other agencies and the NSF on an *ad hoc* and voluntary basis. See H. Conf. Rep. No. 99-953 (99th Cong., 2nd Sess., *reprinted in* 1986 U.S.C.C.A.N. 3457, 3459 (October 2, 1986)). In contrast, under the Stevenson Wydler Act, Congress specifically established the Center for Utilization of Federal Technology within NIST. This indicates that, if Congress had wished to place FLC within NIST, it knew how to do so. See Pub. L. No 96-480, § 11(d).

Moreover, under the FTTA, member agencies provide NIST a portion of their research and development budgets to fund the FLC and the FLC must reimburse NIST for services provided to it. See 15 U.S.C. § 3710(e)(4) and (7)(A). If the FLC were part of NIST, it would operate using funds appropriated to NIST, and the funding and reimbursement provisions of the FTTA would not have been necessary.

Finally, the legislative history provides that NIST is "not to be held responsible for performing the duties of the Consortium or accountable for the actions of the Consortium." S. Rep. No. 99-283 (99th Cong., 2nd Sess., *reprinted in* 1986 U.S.C.C.A.N. 3442, 3446, (April 21, 1986)). This also indicates that the FLC is a separate entity from NIST.

The FLC is not an Executive agency under 5 U.S.C. § 105

Pursuant to 5 U.S.C. § 105, the term "Executive agency" includes an Executive department, a Government corporation, or an independent establishment. Here, it is clear that the FLC is not an Executive department (or part of one) or a Government corporation. Therefore, the analysis turns to whether the FLC would be an independent establishment. Under 5 U.S.C. § 104(1), an "independent establishment" includes an establishment in the executive branch which is not: (1) an Executive department; (2) a military department, Government corporation, or part thereof; or (3) part of an independent establishment.

[2] Representatives of the laboratories need not always be Federal officials. For example, laboratories that are operated by contractors may have non-Federal representatives.

There is no bright line test for what constitutes an independent establishment under § 104 and it is necessary to examine each arrangement in its own context.[3] The courts generally have applied the following four-part test to determine whether an organization is considered an independent establishment under § 104:

(1) the organization was created by the Federal Government;
(2) the organization was established to pursue Governmental objectives;
(3) the officers of the organization are appointed by the Federal Government; and
(4) Federal Government officials handle and control its operations.[4]

As set forth below, the first and second elements of the test are met. However, the third and fourth are not.

(1) The FLC was created by the Federal Government

The FTTA makes clear that the FLC - as it currently exists and operates - was created by the Federal Government. Under 15 U.S.C. § 3710(e)(1), it was formally established by Congress to organize the technology transfer activities of laboratories that depend in whole or in part on Federal projects and funding.[5]

(2) The FLC was established to pursue Governmental objectives

The FTTA requires the FLC to fulfill Governmental objectives called for under the Stevenson-Wydler Act, as amended by the FTTA. The FLC supports NTIS in its function as a central clearinghouse for the dissemination of scientific and technical information to state and local governments, and to private industry. NTIS also must refer all requests that it receives from state and local governments that require a response that cannot be met using NTIS's resources to the FLC. See 15 U.S.C. § 3710(d)(2) and (3).

The FLC also has substantial duties of its own under 15 U.S.C. § 3710(e)(1)(A) through (K). These provide, among other things, that the FLC will: (1) develop techniques, training courses, and materials concerning technology transfer to increase the awareness of Federal laboratory

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[3] See Washington Research Project, Inc. v. Dep't of Health Education, and Welfare, 504 F.2d 238, 245 - 46 (D.C. Cir. 1974) (concerning whether an organization was an "agency" under the Administrative Procedure Act (5 U.S.C. § 551(1))).

[4] See Lebron v. National Railroad Passenger Corporation, 513 U.S. 374 (1995) (determining that the National Railroad Passenger Corporation (Amtrak) is a Federal entity for purposes of the First Amendment).

[5] The facts show that the FLC is closely tied to the Federal Government. Under the FTTA, the FLC operates with Federal funds made available to it by Federal agencies (§ 3710(e)(7)); senior staff personnel of participating Federal agencies serve as representatives (§ 3710(e)(2)); it is authorized to obtain administrative services from NIST (§ 3710(e)(4)); and must submit an annual report to the President, Congress, and participating Federal agencies on its activities and expenditures, and also provide an independent audit, prepared in accordance with generally accepted accounting principles, of its financial statements (§ 3710(e)(6)). The Government Printing Office also recognizes the FLC as a Federal Board or Commission that is authorized to use the Federal Register. See U.S. Government Manual, 2012 ed., "Boards, Commissions, and Committees." Finally, the FLC's own By-Laws state that it is a Federal organization. "The Consortium is a federal organization organized by statute and shall abide by those federal laws and regulations that routinely apply to the various federal agencies." FLC By-Laws, Article II, § 2.

employees regarding the commercial potential of laboratory technology and innovations; furnish advice and assistance requested by Federal agencies and laboratories for use in their technology transfer programs (including the planning of seminars for small business and other industry); (3) provide a clearinghouse for requests, received at the laboratory level, for technical assistance from States and units of local governments, businesses, industrial development organizations, not-for-profit organizations including universities, Federal agencies and laboratories, and other persons; and (4) facilitate communications between the technology transfer offices of Federal laboratories. See 15 U.S.C. § 3710(e)(1)(A-D).

(3) FLC officers are not appointed by the Government

The third element of the § 104 test is not met here. FLC officers and representatives are not "appointed" by any official in the Executive branch in the sense that a Federal official recruits, selects, and signs a memorandum appointing any individual to serve as an officer or member. Rather, membership and status as a "representative" (which is required to be an officer) is automatic, so long as certain statutory qualifications are met. The FTTA provides, at 15 U.S.C. § 3710(e)(2), that the FLC's membership shall consist of the Federally-funded laboratories that have 200 or more full-time equivalent scientific, engineering, or related technical positions and such other laboratories that may choose to join. A senior staff member (which might, but need not, be a Federal official) of each of the member laboratories, and a senior representative from each Federal agency that funds one or more member laboratories shall serve as representatives to the Consortium.

Section 3710(e)(3) also provides that the representatives to the Consortium shall elect the Chair. Hence, the Chair is not selected or appointed by any Government official.

(4) Federal government officials do not control the FLC's operations

The fourth test is not met here because Federal officials do not control the FLC's operations. Under 15 U.S.C. § 3710(e)(3), all representatives elect the Chair. Although the current Chair is a Federal official (Dr. Mojdeh Bahar from the National Institutes of Health), the balance of the FLC's leadership shows a mix of Federal officials and representatives from laboratories.[6]

Nothing in the FTTA or the FLC's By-Laws require that the Chair or any other leadership position be held by a Federal official. Once an individual is a representative, he or she may be elected by other representatives to national and regional-level positions. See FLC By-Laws, Article V, §§ 2 and 3.

All activities are carried out by the Executive Board (as led by the Chair) which makes policy for the Consortium and establishes the annual budget. Nothing in the By-Laws provides for involvement of any Federal agency in activities of the Board, the Executive Committee (which conducts FLC business between Board meetings), or any subordinate committee or regional coordination office.

Comparison of the FLC to other organizations

We have compared the FLC to three other entities within the Department that have been determined to be independent establishments under 5 U.S.C. § 104 and, therefore, Executive agencies under 5 U.S.C. § 105, and we conclud that the FLC is different. These include the

[6] See http://www.federallabs.org/home/contact/executive/.

- First Responder Network Authority Board (FirstNet Board), the Denali Commission, and the Fishery Management Councils organized under the Magnuson-Stevens Act.

The legislation establishing the FirstNet Board that it is a Federal entity and an Executive agency under 5 U.S.C. § 105. See Pub. L. No. 112-96 (February 22, 2012), Title VI, Subtitle B, § 6201 et seq. The Board was established as an "independent entity" within the Department's National Telecommunications and Information Administration. See § 6204(a). The Board's duties are to build, deploy, and operate a nationwide public safety broadband network. See § 6202(a). The Secretary of Commerce appoints the Board's members under § 6204(b)(1)(D) and selects the Chair under § 6204(d).

The Denali Commission was established in 1998 pursuant to Pub. L. No. 105-277, §§ 301-309 (October 21, 1998), *codified at* 42 U.S.C. § 3121, note. It consists of seven Commissioners, including the Federal Co-chair, who is appointed by the Secretary of Commerce under § 303(b)(2)(B) and (c), and six other Commission members who are, under § 303(b), officials of the State of Alaska or Alaska organizations. The Commission's statutory role is to propose an annual work plan for providing Federal financial assistance in the State of Alaska that addresses rural and infrastructure development and job training needs in the State. See § 304(a). Once the Federal Co-chair approves the work plan, the Commission may award grants and make payments necessary to carry out the plan. See § 305(d). The Government Accountability Office has also concluded that the Denali Commission is a Federal agency. See B-322162 (September 19, 2011).

The Magnuson-Stevens Conservation and Management Act created eight Councils from regional groupings of coastal States and gave them certain authority concerning ocean fisheries to the seaward of their member States. See 16 U.S.C. § 1852(a).[7] The Councils advise the Secretary in formulating fishery management plans within their respective geographic areas. See § 1852(h). After a management plan is prepared by a Council, it is submitted to the Secretary, who reviews it and either approves, disapproves, or partially disapproves it. See § 1854(a) and (b). If a Council fails to develop and submit a management plan, or fails to change a plan that the Secretary has partially or completely disapproved, the Secretary may prepare a management plan for that region. See § 1854(c). The Secretary of Commerce appoints a majority of the voting membership for three-year terms. See § 1852(a) and (b). The remaining members, voting and nonvoting, are State and Federal officials who serve in an ex officio capacity. See § 1852(b) and (c).

In each case, the organization meets all four elements of the test, including the last two elements, which are missing for the FLC. In all three cases, at least one member of the group is appointed by a Federal official. In the case of the Denali Commission and the Fishery Management Councils, Federal officials retain some authority over the work product of the group. None of this is present here.

The FLC is a "quasi-Government organization" much like the National Academy of Sciences

The FLC may be more readily compared to the National Academy of Sciences (NAS). They share similar origins. Like the FLC, the NAS began as a private group of scientists (albeit in the

[7] The Department of Justice Office of Legal Counsel concluded, on March 14, 1995, that the Councils were "Executive agencies" within the meaning of 5 U.S.C. § 105.

1850s) until it was formally recognized by Congress through its Act of Incorporation dated March 3, 1863 (*codified at* 36 U.S.C. § 150301 et seq.)[8]

The NAS also exercises a Federal function by virtue of its duty to assist the Federal government in the performance of the latter's duties to further science and technology. See § 150303. Both entities are funded by the Government: the FLC in full and the NAS in part.[9] Like the FLC, the NAS's members and officers are not appointed by Federal officials.[10] The NAS also has authority to direct its own organization through adoption of a constitution and by-laws and determines its own membership. See § 150302. No Federal officials serve as NAS officers.[11]

The NAS has been described as a "quasi-Government organization." In Animal Legal Defense Fund, Inc. v. Shalala, 104 F.3d 424 (D.C. Cir. 1997), advisory committees established by NAS were held to be subject to the Federal Advisory Committee Act (5 U.S.C. App. 2) (FACA) even though there was no finding that the NAS was an Executive agency under 5 U.S.C. § 105. Instead, the court extended the FACA's definition of "utilized committee" subject to the FACA to include "quasi-public organizations" that were 'permeated by the Federal Government" such as the NAS. Id. at 429. Nevertheless, the NAS was not viewed as purely private either, because the court contrasted the NAS with another "wholly private organization" from another case. Id. at 430.

Hence, because of its strong comparison to the NAS, the FLC is a "quasi-government organization" that is subject to Federal rules in some contexts, but not others.[12] Each

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[8] See http://www7.nationalacademies.org/archives/nasfounding.html.

[9] According to information on the NAS's website, in 2011, the NAS received $280,156,384 through grants and contracts from over 20 Federal agencies, and $49,692,077 from non-Federal sources.

[10] The NAS's operating arm is the National Research Council (NRC), established by Exec. Order No. 2859 (May 11, 1918). As amended by Exec. Order No. 10668 (May 10, 1956), the membership of the NRC is as follows:

> The Government shall be represented on the Council by members who are officers or employees of specified departments and agencies of the executive branch of the Government. The National Academy of Sciences shall specify, from time to time, the departments and agencies from which Government members shall be designated, and shall determine, from time to time, the number of Government members who shall be designated from each such department and agency. The head of each such specified department or agency shall designate the officers and employees from his department or agency, in such numbers as the National Academy of Sciences shall determine, who shall be members of the Council, but shall designate only those persons who are acceptable to the Academy.

This shows that even members of the NRC are not appointed by the Government, and the ultimate selection decision is subject to the NAS's control. This practice of allowing Federal employees to serve on behalf of their employing agencies is much like that of the FLC.

[11] See http://www.nasonline.org/about-nas/leadership/nas-council.html.

[12] For the purposes of applying the four-part test under 5 U.S.C. § 104, we draw no distinction between the fact that the NAS was expressly established as a "Government corporation" and the FLC was not. In each case, the important factor in our analysis is the fact that the organization was established by the Government and not the form that such establishment took. "Establishment" by the Government (as evidenced by the three Departmental examples discussed above) can take many forms. We could envision that each such organization could fall at a different point along a spectrum where there is a great deal of information concerning the type of organization that Congress contemplated at one end, and very little information at the other, yet each organization along the spectrum still would be "established" by the Government.

circumstance must be evaluated on a case-by-case basis. With this background in mind, we turn to the specific questions raised by the in-coming correspondence.

> Whether, in fulfilling its responsibility to provide administrative services to the FLC under § 3710(e)(4), NIST must comply with Government-wide requirements such as reporting FLC conference expenditures under Office of Management and Budget Memorandum (OMB) M-12-12 (May 11, 2012).

The FLC's expenses are not subject to the travel and conference controls imposed on NIST. The legislative history to the FTTA specifically provides:

> The fund transfers for the Consortium are to be made to the National Bureau of Standards at the start of each fiscal year in which they are required. These funds should not be subject to controls imposed on National Bureau of Standards funds, such as personnel ceilings and domestic travel limits. The Committee expects the Bureau to transfer funds as requested by the Consortium.

S. Rep. No. 99-283 (99th Cong., 2nd Sess., *reprinted in* 1986 U.S.C.C.A.N. 3442, 3446, (April 21, 1986)(emphasis added).

In light of this explicit Congressional intent, and the fact that the FLC is not part of NIST, controls on expenditures of NIST funds for certain purposes do not apply to FLC funds solely by virtue of the fact that NIST holds the funds. Moreover, the FLC expenditures should not be used in calculations of any ceilings imposed on NIST with respect to travel or conference expenditures.

We also have considered whether the OMB Memorandum of May 11, 2012 applies to FLC independently of NIST and conclude that it does not. The OMB Memorandum is addressed to "Heads of Executive Departments and Agencies." As stated above, the FLC is a quasi-government organization, and not an Executive Department or agency under 5 U.S.C. § 105. NIST could, as a matter of policy, ask the FLC to comply with the provisions of the OMB Memorandum, but there is no legal requirement that it do so.

If NIST does not ask the FLC to comply with the OMB Memorandum, then, in light of considerable scrutiny about Government expenditures on travel and conferences, we recommend that NIST be explicit when it engages in such expenditures on behalf of the FLC and identify that it is not spending its own funds but, rather, is providing administrative services to the FLC on a reimbursable basis as mandated by 15 U.S.C. § 3710(e)(4).

> Whether NIST must follow the Federal Acquisition Regulation (FAR) in letting contracts on behalf of the FLC.

The FAR (48 C.F.R. Parts 1-99) must be followed whenever appropriated funds are used to procure supplies or services by and for the use of the Government. See 48 C.F.R. Parts 1.104 and 2.101. In this case, all participating agencies provide appropriated funds to NIST, which uses the funds to obtain services for the FLC, a quasi-Governmental organization, to enable it to fulfill its Governmental objectives.[13]

[13] We note that, under its Organic Act (15 U.S.C. § 273, 275a, and 278b), NIST performs services for and accepts reimbursement from non-Federal entities that are unquestionably private for-profit corporations; yet it uses Federal contracting procedures when that is required to provide the services.

Nothing in the FTTA gives NIST the necessary explicit authority to dispense with Federal procurement laws and regulations, including the FAR, when it provides services to the FLC.[14] The legislative history that exempts the FLC's funds from controls on NIST funds such as personnel ceilings and travel limitations does not extend so far as to exempt all NIST transactions using the FLC's funds from the FAR. The exemptions mentioned in the legislative history involve policy ceilings on amounts that may be expended for specific purposes.[15] In contrast, the FAR is largely grounded in statute under 41 U.S.C. § 421 et seq.[16]

Therefore, in expending funds on the FLC's behalf, NIST is bound by statutes, and those regulations that implement statutes, that govern how agencies may expend Federal funds, including the FAR in all transactions that it undertakes, including those undertaken on behalf of the FLC.

The extent to which there may be discretion in applying Departmental procurement rules and policies to entities that are not part of the Department is a matter within the purview of the Contract Law Division, and we are referring the question to that office.

Whether NIST may impose an overhead charge on funds that have been collected from other agencies and transferred to the FLC.

The FTTA requires each participating agency to transfer 0.008% of its annual research and development budget to NIST at the beginning of each fiscal year. "Amounts so transferred shall be provided by the Institute to the Consortium for the purposes of carrying out activities of the Consortium." 15 U.S.C. § 3710(e)(7)(A).

We have been advised that NIST accepts funds from other agencies through inter-agency agreements and deposits them in a separate account that it holds for the FLC. NIST transfers funds from this account to make disbursements to third parties as requested by the FLC. All outgoing transfers made on behalf of the FLC are subject to a surcharge that, in fiscal year 2012, was estimated to be less than 3%, and is paid to NIST for general support.

We see no legal problem with NIST collecting amounts to process outgoing transactions on the FLC's behalf so long as this charge is rationally tied to the actual cost of providing such services to the FLC. See Office of Management and Budget Circular A-25, § 2(a) (requiring that user charges be set to recover the full cost to the Government of providing a good or service). The FTTA authorizes NIST to provide administrative services, including support services, on a reimbursable basis. 15 U.S.C. § 3710(e)(4). This could include the cost of administering procurement actions on the FLC's behalf.

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[14] See also 31 U.S.C. § 6303 (an Executive agency shall use a procurement contract where the principal purpose is to obtain goods or services for the benefit of the Government).

[15] The limitations referred to do not appear in the National Bureau of Standards (NBS) Authorization Act (Pub. L. No. 99-73 (July 29, 1985)) or its Appropriations Act (Pub. L. No. 99-180 (December 13, 1985)) for fiscal year 1986, which were in effect when the FTTA was under consideration. Had the limitations been statutory, they might reasonably have been expected to be found in one of those acts, and not in other free-standing legislation. The fiscal year 1987 NBS Authorization and Appropriations Acts were signed into law after the FTAA on October 20, 1986. See Pub. L. No. 99-574 (October 28, 1986), and Pub. L. No. 99-591 (October 30, 1986), respectively. Those Acts also did not include any limitations on personnel or travel costs for NIST.

[16] We have conferred with the Contract Law Division and been advised that some portions of the FAR, mostly concerning the administration of contracting procedures, are policy-based.

However, we see no similar authority that would permit NIST to collect a surcharge on the incoming funds from other agencies. Generally, when Congress makes funds available to an agency on behalf of a specific beneficiary, for a specific purpose, and in a specific amount, Congress intends the entire amount to be transferred without deduction for administrative expenses. See 72 Comp. Gen. 317 (1993) (General Services Administration could not deduct a percentage of an earmark grant award to cover its administrative expenses).
NIST has authority to collect amounts from the FLC, but only as a function of providing services to it. If there are expenses associated with the service of maintaining the FLC account, we could envision that NIST could collect from the FLC the actual cost of providing that service as an administrative expense under § 3710(e)(4), rather than by deducting a flat surcharge from the funding agencies' payments into the account.

Whether the FLC must use NIST or could seek services from other agencies or even from the private sector.

The FTTA requires that NIST provide administrative and support services to the FLC upon request. See 15 U.S.C. § 3710(e)(4). The legislative history makes clear that the intent was to assist the FLC by giving it a predictable source of funding and a "permanent connection" with NIST as a host agency. See H. Conf. Rep. No. 99-953, *reprinted in* 1986 U.S.C.C.A.N. 3457 at. 3459.

However, there is no corresponding legal requirement imposed on the FLC to request services only from NIST. The legislative history even anticipated that the FLC might obtain services in the form of office space for its Washington, D.C. liaison office on a no-cost or a cost-reimbursement basis from other agencies. See S. Rep. 99-283, *reprinted in* 1986 U.S.C.C.A.N. 3442 at 3451. Hence, we see nothing in the FTTA that would prevent the FLC from obtaining services from other agencies. However, as a practical matter, because the FLC's funds are currently maintained by NIST, if the FLC wishes to obtain services from another agency, NIST must enter into an interagency agreement with that agency to obtain services for the FLC. NIST could do this under the Economy Act (31 U.S.C. § 1535) or under an agency's specific funds transfer authority.

As stated above, so long as NIST maintains the FLC's funds, it may only obtain services for the FLC from the private sector by procurement contract. Hence, the FLC may not seek services from the private sector using NIST without using Federal procurement procedures.

We were also asked whether the FLC could obtain legal services from the private sector, instead of from NIST. Because the FLC's funds originate as appropriated funds, and they do not lose their Federal character when they are transferred to and maintained by NIST, NIST is still subject to statutory restrictions on the ability to obtain private legal services for the FLC. This includes 5 U.S.C. § 3106 which provides that, unless otherwise provided for by law, Federal agencies may not employ attorneys for the conduct of litigation in which the United States is a party or has an interest and, instead, must refer such cases to the Department of Justice.

Moreover, while appropriated funds may be used to enter into a procurement contract to hire non-litigating attorneys as "experts and consultants" under 5 U.S.C. § 3109 (see 61 Comp. Gen. 69 (1981)), this requires a determination that the work could not be performed by regular Federal employees. See 5 C.F.R. § 304.103(b)(4).

This determination must be made by the Department of Commerce General Counsel. Department Organization Order 10-6 provides, at § 4.04, that all personnel actions involving legal positions in the Department of Commerce will be coordinated by the Department's General Counsel. This would include personnel actions that are undertaken pursuant to procurement contract for personal services. Hence, before NIST could rely on the authority provided in 5 U.S.C. § 3109 to hire attorneys for the FLC through a contract, it must seek the required determination from the General Counsel.

Whether NIST could transfer funds directly to Federal Laboratories under the Economy Act or other authority.

Historically, NIST has not transferred funds directly to the FLC because the FLC does not have an account into which NIST could deposit the funds. Instead, it responds to FLC's requests for services by entering into procurement contracts with outside entities to obtain services on the FLC's behalf. The FTTA does not authorize direct transfers of funds to the FLC. We note that § 3710(e)(7)(A) provides that the FLC's funds "shall be provided by the Institute to the Consortium for the purpose of carrying out activities of the Consortium under this subsection." We read this language to specify that NIST cannot use the funds for its own needs but, instead, must use the funds for the benefit of the FLC. It does not provide the explicit authority needed for NIST to operate outside of established funds transfer mechanisms (with built-in fiscal controls) such as procurement contracts or interagency agreements.

The question then arose whether NIST could transfer the FLC's funds to the Federal laboratories where FLC representatives work to enable those laboratories to provide services (such as reimbursement for the representatives' travel) to assist the FLC. In some cases, it can. We have reviewed and cleared interagency agreements (including those falling under the Economy Act) between operating units of the Department and Government-Owned, Contractor-Operated laboratories in cases where this has been permitted by the agency that funds the laboratory. We could envision NIST entering into such agreements with laboratories on behalf of their sponsoring agencies to support the FLC. To streamline this process, we have crafted the attached template Economy Act agreement which may be used as a starting point with laboratories sponsored by other agencies.

Whether the FLC may establish itself as a non-profit organization.

If the FLC were to incorporate itself as a non-profit organization, no Federal official could assist the FLC or play any role in that activity. The Government Corporation Control Act (GCCA) provides that agencies may not establish corporations absent specific statutory authority. See 31 U.S.C. § 9102. If the FLC wishes to be a corporation, either NIST or the FLC would need to seek a legislative solution whereby Congress could designate the FLC to be a Government corporation and authorize Government officials to assist in establishing it.

The FTTA does not provide the necessary specific authority. In fact, the legislative history points to the contrary. The Senate Report states that the Senate Committee did not intend to change the decentralized nature of the Consortium. See S. Rep. No. 99-283, *reprinted in* 1986 U.S.C.C.A.N. 3442, at 3450-51. Similarly, the House Conference Report states that the FLC was to remain a networking organization of Federal laboratories and the technology transfer offices. See H. Conf. Rep. No. 99-953, *reprinted in* 1986 U.S.C.C.A.N. 3457 at 3459. This emphasis on keeping the FLC as it was prior to the FTTA demonstrates that Congress did not intend the FLC to alter its organization other than as specified in the FTTA. Moreover,

- Congress could have organized the FLC as a Federally-chartered corporation (as it did the NAS in 1863) but chose not to.

Although the FLC is not an agency, the Federal representatives of the FLC are employees of agencies and their activities (in the form of salaries and expenses) are paid from appropriated funds. Federal appropriations are only available to agencies for purposes "as provided for by law." See 31 U.S.C. § 1301(a). Because the GCCA prohibits establishment of corporations absent statutory authority, and nothing in the FTTA confers upon any agency the specific authority necessary to overcome the GCCA's prohibition, appropriated funds are not available to pay Federal employees to establish a Government corporation for the FLC. Hence, any efforts to establish such a corporation would need to be undertaken by the non-Federal representatives to the FLC.

Whether the FLC is subject to the Freedom of Information Act

We have also considered whether the FLC is subject to the Freedom of Information Act (FOIA) (5 U.S.C. § 552) and have concluded that it is not.

Case law provides that, regardless of how an organization is labeled, it is not subject to the FOIA if it is not controlled or supervised by the Federal government. See Irwin Memorial Blood Bank of the San Francisco Medical Society v. American Red Cross, 640 F.2d 1051 (9th Cir. 1981). We have established above that the FLC is not a Government agency because the FLC's members and officers are not appointed by the Government and the Federal officials do not control the FLC's operations.[17] Because the FLC is not controlled or supervised by the Government, it is not subject to the FOIA as a matter of law.[18]

However, the Federal agencies that participate in FLC activities are subject to the FOIA, and any records that are in the custody and control of a Federal representative to the FLC would be subject to processing under the FOIA by the representative's agency. For example, NIST maintains certain records about the FLC as a function of its role as "host agency" to the FLC, while all Federal agencies participating in the FLC have custody and control of records about the FLC within their organizations or within the laboratories that they fund. If a Federal FLC representative official receives a FOIA request for FLC records, that person should forward the request to his or her agency's servicing FOIA office.

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[17] While not determinative of Federal agency status, we note that the FLC is not included in the Office of Personnel Management's Federal Agencies List (see https://www.opm.gov/Open/Apps/Agencies), and it was not among an extensive list of entities characterized in a recent Congressional Research Service report as "Organizations Independent of, But Dependent Upon, Agencies." See The Quasi Government: Hybrid Organizations with both Government and Private Sector Legal Characteristics, (June 22, 2011). The FLC is listed as a board or commission of the Government established by Congressional or presidential action. See U.S. Government Manual, 2012 ed., "Boards, Commissions, and Committees." However, as set forth above, Congressional establishment is one of four factors to be considered in determining an entities' status as a Federal agency, and the FLC does not meet two of the four.

[18] Moreover, as a practical matter, the FLC does not have its own offices where records would be maintained and to which a FOIA request could be sent. While the FLC's website identifies particular individuals who occupy leadership roles, including the Washington, D.C. representative, the contact information is to those individuals directly and not to any FLC offices. The FOIA does not apply to individuals. See Few v. Liberty Mutual Insurance Co., 498 F. Supp. 2d 441, 452 (D.N.H. 2007).

We expect that additional questions about the FLC and the rules to which it is subject will arise as these matters are discussed further within NIST and with the FLC. Please contact me at 202 482-5384 or Alice McKenna of my staff at 202 482-5234 for further advice on such matters.

cc: Henry Wixon

Attachment

UNITED STATES DEPARTMENT OF COMMERCE
Office of the General Counsel
Washington, D.C. 20230

NOV 1 8 2013

MEMORANDUM FOR: Paul Zielinski
Director, Technology Partnerships Office
National Institute of Standards and Technology

FROM: Barbara S. Fredericks BSF
Assistant General Counsel
for Administration

SUBJECT: Applicability of the Federal Advisory Committee Act to Committees Established by the Federal Laboratory Consortium

This responds to your request for legal advice concerning whether the Federal Advisory Committee Act (FACA) applies to committees established by the Federal Laboratory Consortium for Technology Transfer (FLC). As discussed below, so long as FLC committees serve to assist the FLC in its activities, advise only the FLC, and do not advise any Federal agency, they do not trigger the FACA.

Background

The FLC was formally established under the 1986 amendments to the Stevenson-Wydler Technology Transfer Act. See 15 U.S.C. § 3710. On January 2, 2013, we opined that the FLC was not an "executive agency" under 5 U.S.C. § 105 because, even though it was created by Congress to further Federal objectives, the Government does not appoint its officers or control its operations. Instead, the FLC was determined to be a "quasi-Government organization," much like the National Academy of Sciences (NAS).

The FLC's "members" include each Federally-funded laboratory that has 200 or more employees, and each agency that funds one or more laboratories. See 15 U.S.C. 3710(e)(2). These members are represented on the FLC by senior staff from each organization. The representatives need not be Federal officials; many Federally-funded laboratories are operated by contractors or private organizations and would not have representatives who were Federal officials.

The FLC's by-laws provide for the establishment of various types of committees to carry out the work of the FLC. As part of the FLC's governance structure, Article V, § 4a established a National Advisory Committee (NAC) comprised of individuals from the FLC's user communities including, but not limited to, industry, academia, state and local governments, and Federal laboratories. The FLC website currently lists eleven individuals on the national advisory committee who come from Government, academia, and the private sector. Thus, the NAC includes people who are not Federal employees.

Article IX, § 1 established two "Consortium committees" for: (1) financial management, and (2) planning and policy. Article IX, § 4 also provides for six "standing committees" on (1) awards, (2) educational institutions and training, (3) legal issues, (4) marketing and public relations, (5) program issues, and (6) state and local government. These committees may also include individuals who are not Federal employees.

Discussion

The FACA governs the organization and operations of "any committee, board, commission, council, conference, panel, task force or other similar group . . . which is . . . established or utilized by one or more agencies in the interest of obtaining advice or recommendations." 5 U.S.C. App. 2, § 3 (emphases added). A primary exclusion from the FACA involves any committee that is composed wholly of full-time, or permanent part-time, officers or employees of the Federal Government. See id at § 3(2)(C)(i). Therefore, the FACA is potentially triggered any time a Federal agency obtains consensus advice or recommendations from a group that includes at least one individual who is not a Federal employee. See Association of American Physicians & Surgeons v. Hillary Rodham Clinton, 813 F. Supp. 82 (D.D.C.1993).

The FLC is not subject to the FACA when it receives consensus advice from groups, even where those groups include individuals who are not Federal employees. This is because the FLC is not an "agency" for the purposes of the FACA. Section 3(3) of the FACA incorporates by reference the definition of "agency" found at 5 U.S.C. § 551(1) which provides that an agency is an "authority of the Government of the United States, whether or not it is within or subject to review by another agency."

The NAS, to which the FLC has been closely compared, has been held not to be an "agency" subject to 5 U.S.C. § 551(1) and, therefore, the FACA, because it possesses none of the characteristic functions of an agency such as rule-making, adjudication or licensing; received no appropriations; and has no vested authority, no power to implement its own advice, or authority to impose any sanctions. See Lombardo v. Handler, 397 F.Supp. 792, 794 (D.D.C. 1975). The FLC is substantially similar to the NAS in these respects because it also lacks power to regulate, control, or proscribe non-Governmental activities, and it does not receive its own appropriations but, instead, relies on funds from other agencies transferred to its account with NIST. For the same reasons, it is not an "agency" under the FACA and is therefore not subject to the Act's procedural requirements as the recipient of advice from its committees.

However, Lombardo was sharply limited with respect to the NAS in Animal Legal Defense Fund v. Shalala, 104 F.3d 424 (D.C. Cir. 1997) (ALDF), where a committee that reported to the NAS to assist that organization in developing advice for a Federal agency was found to be subject to the FACA.[1] The D.C. Circuit found that the NAS's committee was "utilized" by a Federal agency and, therefore, subject to the FACA, because the NAS, even though it wasn't an agency, was a "quasi-public" organization "permeated by the Federal government." Id. at 428, *quoting* Public Citizen at 463 (1989). As a result, any group that is created and managed by a quasi-government organization for the purpose of providing advice to Federal agencies is subject to the FACA and its procedural requirements, including chartering the group, providing advance notice of meetings, holding open meetings, and providing access to committee records. See 5 U.S.C. App. §§ 9 and 10.[2]

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[1] This was not because the NAS had become an agency under 5 U.S.C. § 551(1), and the holding in that regard in the Lombardo case was not overruled. Rather, in the intervening 22 years since the Lombardo case, the Supreme Court had occasion to define what constituted a "utilized committee" under the FACA and determined that that term included committees formed by quasi-government organizations such as (by way of example) the NAS. See Public Citizen v. Dep't of Justice, 491 U.S. 440 (2989).

[2] Since (and in response to) the ALDF case, Congress has amended the FACA to develop alternate requirements for committees formed by the NAS. See Pub. L. 105–153, §2(a), (b), Dec. 17, 1997, *codified in principle part at* 5 U.S.C. App. 2, § 15.

In light of the strong similarities between the NAS and the FLC, it would seem that the FLC committees should be subject to the FACA under the holding in the ALDF case. However, in this matter, the organizations are dissimilar because each uses its committees for different purposes. For example, much of the FLC committees' work focuses on internal management matters and any advice that is provided goes to the FLC Executive Board for the Board's use in governing FLC activities, and is not provided to Federal agencies.[3] In contrast, the NAS does not create committees for its own internal use but, instead, uses them to obtain advice for Federal agencies.[4] While the organizations are very similar, the way they use their committees is different, and this difference warrants a different outcome than that set forth in the ALDF case.

Therefore, the FLC is not subject to the FACA because it is not a Federal agency under that statute. Moreover, even though the FLC may be a quasi-government organization like the NAS, it is still not subject to the FACA so long as its committees report only to it, and the FLC does not use them to obtain advice for Federal agencies.

If you have any questions regarding this matter, please contact Alice McKenna of my staff at 202 482-5234.

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[3] The NAC provides the FLC Executive Board with user community views and advice related to the operation of the FLC. The Financial Management Committee monitors funding, drafts the annual budget, keeps books for the cash accounts, prepares financial reports, calls for and oversees audits, and advises the Executive Board on changes in available funds. The Planning and Policy Committee makes recommendations to the Executive Board regarding plans, goals, policies and positions to support the strategic plan of the FLC. The six standing committees are responsible for FLC functions such as advertising, promotion, and public relations; education and training of user communities; and development and testing of appropriate technology transfer processes, and report on these matters to the Executive Board.

[4] According to its website, the NAS creates peer-reviewed consensus reports, primarily for the Federal government, that are developed by study committees of scientists, engineers, and health professionals.

From: Lee, Helen (Federal) <HLee@doc.gov>
Sent: Thursday, May 16, 2019 5:37 PM
To: Silverthorn, Courtney (Fed) <courtney.silverthorn@nist.gov>
Cc: Schiffer, Jeremy A. (Fed) <jeremy.schiffer@nist.gov>; Lieberman, Melissa J. (Fed) <melissa.lieberman@nist.gov>; Zielinski, Paul R. (Fed) <paul.zielinski@nist.gov>
Subject: re Use of Cooperative Agreement to Support the Federal Laboratory Consortium Courtney,
You asked our office whether NIST may enter into a cooperative agreement on behalf of the Federal Laboratory Consortium (FLC) for the performance of FLC duties provided in 15 U.S.C. § 3710(e)(1). We see no legal problem with such an approach.

NIST receives funds from participating Federal agencies pursuant to 15 U.S.C. § 3710(e)(7), which requires participating Federal agencies to transfer a set percentage of its budget each year to NIST to enable the FLC to carry out activities laid out in 15 U.S.C. § 3710(e)(1). These activities include development and administration of techniques and training courses to increase awareness of the commercial potential of laboratory technology, furnishing advice and assistance on agencies' technology transfer programs, providing a clearinghouse for requests for technical assistance, facilitating the use of Federal laboratories, and establishing programs to stimulate research and to encourage technology transfer among other things.

Pursuant to 15 U.S.C. § 3710(e)(4), NIST is charged with providing the FLC with administrative services such as office space, personnel, and support services, on a reimbursable basis, upon request by the FLC. One such administrative service that NIST provides is the management of FLC funds to enable the fulfillment of the FLC's duties under 15 U.S.C. § 3710(e)(1). Currently, upon FLC's request, NIST procures the services of a contractor to perform activities authorized under section 3710(e)(1). NIST proposes that it instead award a cooperative agreement.

By memorandum dated January 2, 2013, our office addressed various issues regarding the status of the FLC. In that opinion, we stated that ". . . so long as NIST maintains the FLC's funds, it may only obtain services for the FLC from the private sector by procurement contract. Hence the FLC may not seek services from the private sector using NIST without using Federal procurement procedures." It contains no discussion of whether a cooperative agreement would or would not be acceptable, as this question was, as you note, not posed at the time.

There is no inherent authority for an executive agency to award financial assistance, so an agency must have specific authority to do so. Agencies choosing to award financial assistance are also subject to the Federal Grant and Cooperative Agreement Act of 1977 (FGCA), 31 U.S.C. §§ 6301-6308, which establishes standards that agencies are to use in selecting the most appropriate funding vehicle as between a procurement contract, grant, or cooperative agreement. Moreover, an agency cannot have another agency

undertake activities on its behalf that it would not have authority to do on its own. *See* 5 Comp. Gen. 757 (March 24, 1926).

In our January 2, 2013 memorandum, we concluded that the FLC is not an executive agency for purposes of 5 U.S.C. § 105. For the same reasons, the FLC is not an executive agency for purposes of the FGCA and is therefore not subject to the FGCA. Although NIST will award the cooperative agreement at issue here on FLC's behalf, it is not doing what cannot be done indirectly because the FLC is not an executive agency for whom statutory authority is required to award financial assistance. As the FLC otherwise is mandated to perform activities listed in 15 U.S.C. § 3710(e)(1), NIST is required to provide support to the FLC, NIST maintains the FLC's funds, NIST otherwise has authority to award a cooperative agreement for the subject activities at issue here, and a cooperative agreement appears to be an appropriate instrument for the type of activities contemplated, we do not see an issue with NIST awarding a cooperative agreement on FLC's behalf to enable the execution of FLC's mission.

Hea Lyun (Helen) Lee
Senior Counsel, General Law Division Office of the General Counsel Department of Commerce 202.482.3116 / 202.482.2888 (f)
HLee@doc.gov

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APPENDIX E – POLICIES

FLC Policy: Committee Chair Elections

Federal Laboratory Consortium for Technology Transfer

Approved by the FLC Executive Board on April 6, 2022. This FLC policy was amended by the FLC Executive Board on October 19, 2023.

1. COMMITTEE CHAIRS
   Committee Chairs representing the three pillars: Promote, Educate, and Facilitate are members of the Executive Board (EB) of the Federal Laboratory Consortium for Technology Transfer (FLC).
   a. Consortium Participants are eligible to be Committee Chairs.
   b. Committee Chairs are voting members of the Executive Board.

2. ELECTION BY EB
   a. As defined in the FLC bylaws (Article IX, Section 3.a.), "the Executive Board shall elect the Chairs for the
      Promote Committee, Educate Committee, and Facilitate Committee for a renewable two-year term."
   b. As a nomination and election process, the Nominating Committee Chair used for the national and regional elections will oversee the process.
   c. If the Nominating Committee Chair is a candidate for a Committee Chair position, the FLC Chair will appoint a separate Nominating Committee Chair for the Committee Chair election.

3. PROCESS AND TIMELINE TO ELECT COMMITTEE CHAIRS
   a. To meet the intent of the Bylaws, a three-step process will occur:
      i. The Nominating Committee Chair will confirm interest of the current Committee Chairs in extending their term.
      ii. If at least one Committee Chair confirms that they will not serve an additional two-year term, a full election will be held for all three Committee Chair positions with a final vote at the summer EB meeting.
      iii. If all three Committee Chairs confirm that they want to extend their term for an additional two years, the EB will vote to renew the current Committee Chairs for another two-year term at the Spring EB meeting.
         1. If the majority of the EB voting members choose to confirm all three current Committee Chairs, then the chairs will start their new two-year term on October 1.
         2. If the majority of the EB voting members choose NOT to confirm all three current Committee Chairs, then:
            a. an open call for nominations for candidates for all three Committee Chair positions will occur; and,
            b. a formal election will happen at the summer EB meeting.
   b. The two-year term for the Committee Chairs will commence on October 1 of the same year as the renewal or election by the EB.

4. MID-TERM VACANCY OF A COMMITTEE CHAIR
    a. As stated in the Bylaws (Article VI, Section 4.e.), the Executive Board shall fill vacancies of any Committee Chair with eligible Consortium Participants. Such appointments are to be made no later than sixty (60) days from the occurrence of the vacancy.
    b. To support leadership succession planning and development, a Committee Chair will first ask each of that Committee's subcommittee chairs if they are interested in moving into the Committee Chair role. If more than one subcommittee chair is interested in the Committee Chair position, an election will be held by the Executive Board to determine which individual will serve the remainder of the Committee Chair's term. If the Committee does not have Subcommittees or the Subcommittee Chairs are not interested, committee members will be asked. If no committee member is interested in the position, the Nominating Committee will seek candidates for the Committee Chair role.
    c. The appointee will complete the remainder of the two-year term of the previous Committee Chair.

Printed copies are for reference only. Please refer to the electronic copy for the latest version.

FLC Policy: Financial

Approved by Executive Board July 2022

FLC
Federal Laboratory Consortium for Technology Transfer

1. FINANCIAL MANAGEMENT

FLC Financial Management will follow FLC Bylaws Article VII Financial Management. NIST, acting as the Host Agency, will collect and is responsible for the management of Consortium funds and has primary responsibility for compliance with federal finance and accounting rules. The Host Agency will maintain the overall budget within the government financial system based on the government's fiscal year. The FLC annual budget will be planned to use the federal fiscal year, from October 1 through September 30.

2. BUDGET PREPARATION AND APPROVAL

The Executive Director (ED), in conjunction with the Host Agency Representative (HAR), will develop a comprehensive annual budget covering all FLC activities. The Executive Board (EB) will review and approve the proposed annual budget at the July EB Meeting. The Executive Committee (EC) will present the approved annual budget to the Agency Representatives (AR) at next AR meeting after the July EB meeting.

Ratification of the annual budget and approval of any changes will be coordinated by the Host Agency such that the ratification of the budget represents approval by the Host Agency's Federal Project Officer for work to be performed under the Cooperative Agreement (CA).

3. AUTHORITY TO SIGN CONTRACTS

Expenditure of funds provided to the Host Agency for Consortium use shall be in accordance with the annual budget approved by the EB. Funds shall be expended or transferred in conformance with Host Agency operating procedures.

For funds transferred to the CA partner, the Consortium agrees to grant the CA partner executive or the FLC Executive Director authority to sign specific subawards involving (a) approved, budgeted expenses or (b) new, supplemental (unbudgeted) funding as authorized in writing as described in this policy without further authorization.

Any binding agreement for expenses beyond the current budget year must be approved by the Host Agency Federal Project Officer, the FLC Chair, and the FLC ED.

4. FINANCIAL RESERVES

The FLC seeks to operate with sufficient financial reserves to enable the organization to develop new programs, respond to promising opportunities, and withstand unanticipated emergencies and setbacks. As such, the FLC's goal under non-extraordinary circumstances is to maintain the organization's total unrestricted net assets at the Host Agency between 60% and 200% of its total current budgeted annual operating expenses at the Host Agency.

5. SUPPLEMENTAL FUNDING REQUESTS

The FLC will plan budgets within the normal budgeting process to the extent possible and feasible. When unbudgeted program needs are identified or there is a need to reduce financial reserves as set forth above, the following processes will be used. A flow chart of the process is included as Attachment A and a supplemental funding request form is included as Attachment B.

5.1 Supplemental Funding Requests and Approval Processes

i. The HAR will present the amount of FLC financial reserves available for supplemental funding requests to the EB at each quarterly meeting.

ii. Supplemental funding requests can be initiated at any time.

iii. Supplemental funding requests can be initiated by any FLC EB member using the development and approval processes defined below for the amount requested.

iv. The EC and pillar committee Chairs will review and vet supplemental funding requests during their joint monthly call to align requests with statutory authorities, FLC goals, and current initiatives.

v. Approved supplemental funding requests may require a change request through the Host Agency to make the funds available to the CA partner.

5.2 Supplemental Funding Requests up to $100,000

i. All requests for unbudgeted, supplemental funding shall be submitted in writing to the EC using the Supplemental Funding Request form (Attachment B).

ii. Supplemental funding requests up to the Host Agency micro purchase limit (currently $10,000), may be approved by the FLC Chair or HAR.

iii. Supplemental funding requests greater than the micro purchase limit and up to $50,000 shall be approved by the EC.

iv. Supplemental funding requests over $50,000 require review and approval by the EB at its next meeting.

v. All supplemental funding requests of $50,000 or less each may not exceed a total of $100,000 in a fiscal year unless approved by the EB.

5.3 Supplemental Funding Requests exceeding $100,000

i. Supplemental funding requests exceeding $100,000 shall be initiated and developed in pillar committees.

ii. Each pillar committee will prepare no more than two such supplemental funding requests annually.

iii. Pillar committee Chairs will submit a Supplemental Funding Request Form (Attachment B) and an associated proposal to the EC.

iv. The pillar committee Chair will present the committee's supplemental funding request and proposal to the EC and other committee chairs at their monthly meeting for vetting and constructive feedback.

v. The pillar committee Chair makes any requested updates and submits the documents for inclusion in the next EB meeting.

5.4 Supplemental Funding Requests Requiring EB Approval

i. Initiating EB member presents supplemental funding request and associated proposal for requests greater than $50,000 and up to $100,000

ii. Pillar committee Chair presents supplemental funding request and associated proposal for supplemental funding requests greater than $100,000

iii. The EB will discuss the merits and applicability of each request and vote to approve or deny the request.

6. EXPENSE REIMBURSEMENT

All reimbursements will follow applicable guidelines under the federal CA grant award. Whenever possible, the Host Agency will cover travel expenses and reimbursements directly. Any reimbursement by the CA partner for expenses will be documented, agreed upon in advance, and follow approved policies. These policies will be appended to the Financial Policy and provided to the EB and other participants as appropriate. The policies will be reviewed on an annual basis and may be revised by the EC from time to time.

7. CHECK SIGNING

A policy and process for signing checks and wire transfers will be established by the CA partner. (Policy: Check Disbursement).

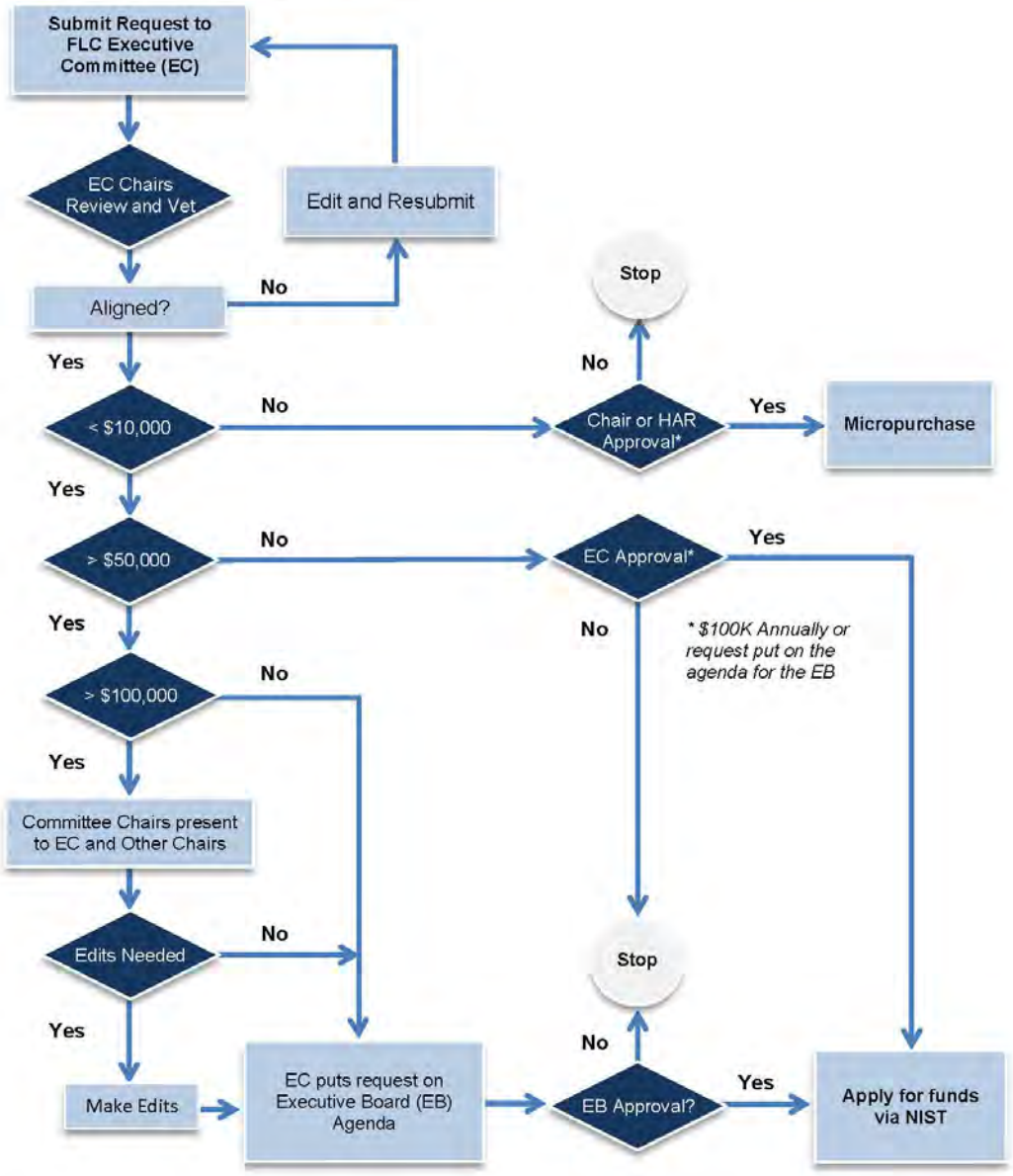
FLC Policy: Financial

Approved by Executive Board July 2022

FLC
Federal Laboratory Consortium for Technology Transfer

FLC Financial Policy Flowchart

Attachment A



Printed copies are for reference only. Please refer to the electronic copy for the latest version.

Page 3 of 4

Attachment B

FLC Supplemental Funding Request

Submitted By *(Name of Submitter)*

Date Submitted/FY Funds Requested
(Date Submitted and Fiscal Year when funding is needed)

FLC Strategic Goal Alignment *(Identify which FLC SP goal(s) addressed)*

Request Title

Total Amount Requested
(Note dollar total and any annual distribution if a multi-year proposal)

Implementation Timeline

Statutory Authorization
(Reference from 15 USC 3710(e)(1)(A-K)):

Projected Funding Mechanism
(e.g., Contract, Grant, Cooperative Agreement, Interagency Agreement, Prize Competition, Credit Card, etc.)

Background/Purpose (*Provide any background about why the proposal is needed)*	
Project Description (*Briefly describe what is proposed to be done)*	
Performers/Partners (*Note any proposed participants with roles defined, e.g., who is doing what)*	
Expected Outcomes (*Tie to Strategic Goals/value proposition)*:	

FLC Policy: Volunteers

Approved by the FLC Executive Board on October 18, 2023

Federal Laboratory Consortium for Technology Transfer

1. FLC OPERATIONS

   The Federal Laboratory Consortium for Technology Transfer (FLC) operates through the combined effort of paid Support Partner staff and unpaid volunteers. Volunteers are key to successful operation of the FLC. This policy describes the roles and responsibilities of FLC volunteers, and an engagement framework for their participation in FLC sponsored activities.

2. FLC COMMITTEES AND VOLUNTEER OPPORTUNITIES

   For the purposes of this Policy, all committees, subcommittees, and working groups will be referred to collectively as Committees unless otherwise specified.

   a. The FLC Executive Board is comprised of volunteer Laboratory Representatives, Agency Representatives, and Consortium Participants who are either elected or appointed according to FLC Bylaws and Policies.
   b. FLC has three Standing committees with elected Chairs: Promote, Educate, and Facilitate.
      i. Each Standing committee has subcommittees which may be permanent or temporary, dependent upon current FLC needs as documented in each committee's annual charter.
   c. FLC has Functional committees established periodically for specific purposes with limited durations, such as the Nominating, Validation, and Special committees.
   d. Occasionally, informal Working Groups are formed to address specific requirements for FLC, such as updating the FLC Green Book.
   e. Each Committee will have two Volunteer roles, Chair and Members, both of which are described in Section 5.
   f. Committees will have at least three (3) and no more than twenty-one (21) Members, including the Chair.
   g. Committees meet at least monthly and may convene in-person, virtually, or via teleconference. If another meeting schedule is preferred or required, it may require more time and would be at the agreement and sole discretion of Committee Members.

3. VOLUNTEER ELIGIBILITY

   Volunteers provide their time and talent to help guide and implement FLC programs.

   a. Only US citizens may serve as FLC volunteers.
   b. Volunteers can be Consortium Representatives, Consortium Participants, or other interested stakeholders from industry, academia, and state and local government.
   c. Volunteer positions include those positions defined and governed by the FLC Bylaws and other roles as described in Section 2.e.
   d. Individuals serving in positions described in the Bylaws may also serve as volunteers in other areas.
   e. Persons barred from serving or working with the US Federal Government may not serve as FLC volunteers.

4. VOLUNTEER ASSIGNMENTS

   a. Only Consortium Representatives and Consortium Participants may serve as Committee Chairs, or in other equivalent titles that may be used to designate a leading role.

b. Prospective volunteer Members will be reviewed, and accepted or referred to other FLC volunteer opportunities, by Committee Chairs.
c. Volunteer Members may serve on multiple Committees.
d. Committee Chairs reserve the right to limit Membership on their Committees to comply with FLC policies and ensure broad representation of Consortium Members.
e. However interest is expressed to FLC, prospective volunteers will be connected with the requested Committee Chair for consideration. If no specific Committee is requested, the volunteer will be referred to the Executive Committee for a Committee assignment recommendation.

5. VOLUNTEER REQUIREMENTS AND EXPECTATIONS
   a. Volunteers serve on FLC Committees to help the FLC achieve its documented goals and are required to follow FLC Bylaws and policies.
   b. Volunteers strive to be available for all FLC calls, meetings, and activities for which they volunteer.
   c. The two FLC volunteer roles are Committee Chair and Committee Member. All requirements and expectations for Members also apply to Chairs, with Chairs having additional responsibilities. Chair terms are two years and Member terms are one year, both starting on October 1
   d. **Members.** Members are the Committee participants and serve renewable one-year terms in collaboration with the Committee Chairs. Members are expected to:
      i. Participate in at least 75% of Committee meetings in each fiscal year;
      ii. Devote at least four (4) hours a month to Committee activities;
      iii. Work with other Members and the Chair to accomplish Committee efforts; and
      iv. Attend the National Meeting, if possible.
   e. **Chairs.** Chairs are the Committee leaders and serve two year terms. Chairs approve initial participation and annually confirm continuation of, Committee Members. Chairs may develop internal policies that complement and do not conflict with, FLC Bylaws and any FLC policies.
      i. Appointments
         1. The Executive Board approves Standing Committee Chairs as defined in the Bylaws
            a. Standing Committee Chairs are FLC Executive Board members as defined in the Bylaws.
            b. Standing Committee Chairs appoint their Standing Committee's Subcommittee Chairs, if any.
         2. The FLC Chair or FLC Executive Committee appoint Functional Committee Chairs as defined in the Bylaws.
         3. The FLC Chair, Executive Committee, or Standing Committee Chair appoint Working Group Chairs, as appropriate for each situation.
      ii. Responsibilities
         1. Lead the Committee in alignment with the FLC Strategic Plan and the Committee Charter;
         2. Drive the Committee to plan and achieve its specific goals;
         3. Provide quarterly updates on Committee activities to the Executive Board;
         4. Meet monthly with Support Partner staff to develop monthly meeting agendas and coordinate Committee activities;

5. Lead monthly Committee meetings;
6. Participate in at least 90% of Committee meetings in each fiscal year;
7. Devote at least eight (8) hours monthly to Committee efforts;
8. Update this Charter annually with Support Partner staff;
9. Attend the National Meeting, if possible.

6. FLC SUPPORT PARTNER STAFF EXPECTATIONS AND REQUIREMENTS

The FLC Support Partner lead staff member for each Committee is expected to:

a. Organize and support monthly Committee meetings in coordination with the Committee Chair, including but not limited to, scheduling, organizing, arranging meeting platforms, developing agendas, recording minutes, and publishing minutes.
b. Attend all Committee meetings.
c. Implement the activities of the Committee with volunteers and other FLC staff.
d. Meet with the Committee Chairs monthly outside the Committee meeting for planning purposes.
e. Provide guidance and perspective to the Committee regarding its current and projected annual tactics, strategies, and other activities.
f. Coordinate with the FLC Executive Director and Committee Chair to develop an annual Committee budget.
g. Present quarterly Committee updates at FLC Executive Board meetings in coordination with the Committee Chair.

7. SEPARATION OF VOLUNTEERS FROM FLC

a. Volunteers may resign from FLC service as a Committee Member for any reason and at any time by providing written notification to the Committee Chair.
b. Volunteers may resign from FLC service as a Committee Chair for any reason with a minimum of 30 days written notice to the Executive Committee.
c. Committee Chairs may remove volunteers that are in violation of this or any FLC policy if deemed necessary to protect the values and vitality of the FLC.
d. The Committee Charters are renewed annually, as such subcommittees may change or be dissolved completely dependent on FLC needs.
e. All volunteers are reviewed annually for continuation of service by the Committee Chairs.
f. Repeated absence exceeding the minimum required participation may result in separation from service.
    i. FLC Representatives or Participants may appeal separation to the FLC Chair for reconsideration. The FLC Chair and the Committee Chair will meet to discuss the reasons for separation and next steps.
    ii. Volunteers who are not FLC Representatives or Participants do not have an appeal option available.

8. CONFLICTS OF INTEREST

a. A conflict of interest arises when a volunteer may benefit financially from a decision he or she could influence in their FLC volunteer capacity, including but not limited to, indirect benefits to family

members, third parties, or businesses with which the person is closely associated. This policy is focused upon material financial interest of, or benefit to, such persons.

b. At all times, FLC Volunteers must act in the best interests of the FLC, and not for personal or third-party gain or financial enrichment.

c. Volunteers are expected to disclose potential conflicts of interest. When encountering potential conflicts of interest, volunteers shall identify the potential conflict to the Committee Chair or to the FLC Chair, and remove themselves from any discussions and votes on any matters for which they have identified conflicts of interest.

9. PARTICIPATION AS A VENDOR TO THE FLC OR FEDERAL LABORATORIES

a. Volunteers who are not FLC Representatives or Participants can participate in an FLC Request for Proposal (RFP) process and otherwise offer goods or services to the FLC for a fee, only in the event of full compliance with this policy.

b. If a volunteer has an interest in a proposed transaction with the FLC in the form of a direct or indirect personal financial interest or other personal interest in the transaction, he or she must make full disclosure of such interest before any discussion or negotiation of such opportunity or subsequent transaction in any Committee meeting or other FLC communication.

c. The volunteer prospective FLC vendor must have an existing business entity currently providing the goods or services that the volunteer seeks to provide to the FLC.

d. Any volunteer who has such an interest in a proposed transaction shall not be present at any meeting in which there is any discussion or vote related to the proposed transaction.

e. Any such volunteer must not participate, directly or indirectly, as an advocate on his or her own behalf, either formally at meetings or informally through private contact, communication, and discussion, except to the extent permitted for non-Member vendors to the association.

f. An FLC volunteer that becomes an FLC vendor is immediately separated from FLC volunteer service and is no longer eligible for FLC volunteer service.

g. In such cases, Committees need to evaluate:

   i. Is the FLC paying more or getting less than it would from a non-interest seller or buyer or comparable goods or services?

   ii. What efforts have been made to develop "comparables" to help establish "fairness" (e.g., surveys, competitive bids)?

   iii. Will the vendor provide the best quality goods or services at the most competitive price?

h. Volunteers who are not FLC Representatives or Participants may not use FLC distribution or mailing lists for promotion of their business interests or activities.

i.

10. DISCRIMINATION

a. FLC prohibits discrimination or harassment on the basis of race, color, religion, sex (including sexual harassment), sexual orientation, gender identity or expression, pregnancy, ancestry, age, physical or mental disability, marital status, veteran status, military status, or other protected category under federal law, such as opposing discrimination or participating in any complaint process at the EEOC or other human rights agencies.

b. FLC will not tolerate discrimination of any sort, and this is a grounds for removal or other action permitted by law.

11. HARASSMENT

a. FLC prohibits and will not tolerate harassment or derision of any sort directed by or at Members, staff, volunteers, or at others who may work with FLC or attend its functions. This includes but is not limited to:
    i. Spreading malicious gossip and/or rumors;
    ii. Using obscene or abusive language, or engaging in disorderly, antagonistic conduct; and
    iii. Threatening, intimidating, or coercing others.

b. Individuals have differing perceptions of what is offensive. All volunteers need to be sensitive to these differences in their dealings with others and strive to create a safe environment in which everyone can participate fully to develop and execute successful events and activities for FLC.

c. Sexual harassment will be grounds for separation and potentially other actions as allowed by law.
    i. Sexual harassment is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature when, for example:
        1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or continued participation in FLC activities.
        2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions or other professional opportunities affecting such individual.
        3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
    ii. Sexual harassment may encompass a range of subtle and not-so-subtle behaviors, including, but not limited to:
        1. Physical and verbal sexual advances or repeated demands for dates;
        2. Sexually derogatory or demeaning remarks or names;
        3. Off-color jokes, vulgar comments, offensive language, and teasing about sexual preferences;
        4. Unwelcome touching, such as hugging, kissing, pinching or patting;
        5. Displaying, storing or transmitting pornographic or sexually oriented materials using FLC equipment or resources; and
        6. Creating a hostile environment by the use of inflammatory and patently offensive epithets and slurs.

FLC Policy: Wire Transfer Disbursement

Approved by the FLC Executive Board on April 27, 2021

FLC
Federal Laboratory Consortium for Technology Transfer

All wire transfers from the FLC under the Cooperative Agreement with AUTM will be disbursed from AUTM according to the following steps:

- Purchases are initiated by the staff team based on the approved budget.
- Once the service is provided or the asset received, a voucher is prepared indicating verification of vendor performance (quality & timeliness) and price.
- The voucher is coded to the appropriate general ledger budget account by the expense originator (Meeting Manager, Marketing Director, Administrator, etc.).
- The voucher is then provided to the Administrative Director for approval.
- Once approved, a description of each wire transfer (amount, payee, and purpose) will be provided to both the Treasurer and Chief Executive Officer for their approval prior to initiating the wire transfer.
- Once approved, the voucher is sent to Accounts Payable for independent review, including vendor, coding, accounting treatment (pre-paid accrual or capitalization etc.) and math/price extensions.
- Once approved, the Accounting and Finance Administrator initiates a wire transfer in U.S. dollars only. Policy: U.S. Funds
- AUTM's Controller releases the wire.

Also see Policy: Check Disbursement

FLC Policy: National Advisory Council

Approved by the FLC Executive Board on April 27, 2021

Federal Laboratory Consortium for Technology Transfer

1. NATIONAL ADVISORY COUNCIL

   The FLC National Advisory Council (NAC) will be chartered and operate in accordance with FLC Bylaw Article V Governance, Section 4 Other Consortium Agents, a.) National Advisory Council.

2. FUNCTIONS OF THE COUNCIL

   A. The NAC is tasked to provide the Executive Board (EB) with user community views and suggestions related to the operations of the Consortium, as well as independent advice on any other topics mutually agreed to by the EB and the NAC.

   B. The FLC Chair in conjunction with the Executive Committee (EC) and the NAC Chair (described below) will develop an annual Charter for the NAC that will be approved by the EB. The Charter will detail the specific areas of interest that the EB is requesting that the NAC address in the year. Tasks may continue across successive years on approval of the EB; they need not be accomplished completely within a single year.

3. MEMBERSHIP

   A. The composition of the NAC will consist of between six and twelve representatives from a broad user community and may include representatives with experience in industry, academia, state and local governments, federal laboratories, and other entities in the technology transfer ecosystem. NAC members may also include representatives with experience in areas of special interest to the FLC such as marketing, education and training, and other targeted skills. In general, active federal employees of agencies or laboratories that are FLC members should not be NAC members.

   B. The primary emphasis will be on industry representatives that include small businesses, medium to large businesses, industry-related consortia, and the investment community (e.g., venture, angel, and other investors). As a goal, members with industry experience will comprise no less than half the NAC members.

   C. Retired members from a user community or communities will be considered as representatives from that community based on their background and expertise.

   D. The NAC Chair shall be recommended by the FLC Chair and approved by vote of the EB.

   E. Other members shall be nominated by EB and/or NAC members. All members shall be approved by vote of the EB as part of approving or amending the NAC Charter.

   F. All members of the NAC will be elected for a 3-year term. This term may be extended for additional 3-year terms without limit by vote of the EB.

   G. The NAC may determine if other officers are needed and elect such officer. Any such officers or other representatives will be elected for a term that coincides with the NAC Chair's term. At any time a new Chair is selected, the NAC will review and re-elect any other officers or representatives.

   H. Members of the NAC will serve on a volunteer basis without compensation from the FLC.

   I. Members of the NAC may resign at any time.

   J. Members of the NAC may be removed by vote of the EB at its discretion.

4. GOVERNANACE

A. The NAC Chair will be accountable to the FLC Chair and Executive Committee. These entities will work with the NAC Chair to develop a Charter approved by vote of the EB. The Charter will be updated at least annually, or more frequently if appropriate.
B. The NAC Chair will hold regular calls with the FLC Chair and Executive Director, and will work with the Executive Director on a day-to-day basis to ensure the NAC is responsive to the EB and in alignment with the FLC Strategic Plan.
C. The NAC may hold in person or virtual meetings to conduct business.
    a. Travel support for the NAC will be provided directly by the Host Agency in accordance with Host Agency Travel Policies.
    b. The Cooperative Partner will support the NAC by arranging for virtual sessions upon request and other administrative support as appropriate. The Cooperative Partner and Host Agency will work collaboratively on in-person meeting support.
    c. The NAC and EB will make best efforts to have a joint meeting at least annually. This meeting may be held in conjunction with an EB meeting or may be held independently at the discretion of the FLC Chair in consultation with the NAC Chair. When possible, a joint meeting between the EB and NAC will be held in conjunction with in-person National Meetings.
D. Members of the NAC are "Other FLC Agents" and may not bind the FLC to any action or expend FLC funds without approval as described in the Finance Policy.
E. Members of the NAC may not represent an official position of the FLC.
F. Members of the NAC must reveal any lobbying interests to the EB before selection or at any time there is a change in status regarding lobbying.

5. DUTIES

A. The NAC Charter will delineate specific tasks that the NAC will address per the desires of the EB. Such tasks will be negotiated between the FLC Chair and NAC Chair, with the NAC Chair's role being primarily to validate the NAC has the requisite talent and resources to satisfy the task. Prior to the NAC's planning and execution cycle for a given task, the FLC Chair (in coordination with other appropriate FLC principals) will provide a short Terms of Reference regarding the nature of the advice requested, the approximate end date the advice is desired, and a description of reporting or any products.
B. The NAC will provide informal advice in response to short-notice requests by the FLC Chair for topics that could not be anticipated for inclusion in the Charter. Such advice will typically be via phone calls or virtual meetings and shall be summarized in an e-mail report.
C. Individual NAC members may serve on standing or ad-hoc committees, task forces, etc. if invited to do so the FLC chairs/leaders of these entities, and to the extent that individual NAC members wish to participate.
D. The NAC will continue to sponsor the FLC Lab Director of the Year Award in conjunction with the Awards Subcommittee, Promote Committee, and to facilitate the Lab Directors Forum at the National Meeting in conjunction with the Program Subcommittee, Education Committee.

FLC Policy: National Advisory Council

Approved by the FLC Executive Board on April 27, 2021

Federal Laboratory Consortium for Technology Transfer

6. CONFLICT OF INTEREST

A. Individuals serving on the NAC must act at all times in the best interests of the FLC and not for personal or third-party gain or financial enrichment. Prior to participating in a specific study or committee deliberation, NAC members are expected to disclose actual or potential conflicts of interest to the NAC Chair. Should it be determined that an actual conflict, or appearance thereof, exists, the NAC member will remove him or herself from that specific activity. If the NAC Chair is uncertain about whether a conflict exists, he/she will consult with the FLC Chair for a final determination.

B. A conflict of interest arises when a NAC member may benefit financially from a decision he or she could influence in that capacity, including indirect benefits such as to family members or third parties or businesses with which the person is closely associated. This policy is focused upon material financial interest of, or benefit to, such persons.

FLC Policy: Strategic Partnerships

Reviewed and approved by the FLC Executive Board October 23, 2024

FLC
Federal Laboratory Consortium for Technology Transfer

1. STRATEGIC PARTNERSHIPS
   The FLC will identify and establish strategically aligned relationships with intermediary partners that connect relevant communities of interest (technical, geographical, market, State & local governments, etc.) with Federal labs for interactions. This policy will be maintained by the FLC Facilitate Committee.

2. BASIC POLICY
   - The FLC will identify strategic partners at the national and regional levels that will help advance and accelerate the mission of the FLC.
   - All partnerships must be consistent with the strategic plan, mission, vision and goals, benefit FLC members, and be economically sound.
   - All partnerships must be consistent with and follow Federal laws, policies, provisions, and other legal obligations, and must reflect positively on the federal government.,
   - International partnerships will be reviewed by the Host Agency legal counsel prior to approval and may be submitted by the Host Agency to the U.S. Trade Representative.

3. CONSIDERATION AND DECISION-MAKING PROCESS:
   Requests received by FLC leaders and/or members may be submitted to info@federallabs.org.

   National Partnerships:
   - The FLC Facilitate Committee will review the request to ensure partnership meets basic policies.
   - Once reviewed, to be forwarded to the FLC Executive Board for approval.
   - The FLC staff will advise on the organization of the partnership decision, coordinate arrangements, and manage the administrative process.

   Regional Partnerships:
   - Regional Coordinator will review the request to ensure partnership meets basic policies.
   - Once reviewed, to be forwarded to the FLC Facilitate Committee for approval.
   - The FLC staff will advise on the organization of the partnership decision, coordinate arrangements and manage the administrative process.,

   Decisions are to be logged by the Cooperative Agreement Partner and posted on the FLC website, www.federallabs.org.

FLC Policy: Strategic Partnerships

Reviewed and approved by the FLC Executive Board October 23, 2024

Federal Laboratory Consortium for Technology Transfer

4. COMPLIANCE

The FLC Facilitate Committee may determine compliance of Partnering Organizations under this Strategic Partnership Policy. The Facilitate Committee, after notification of any relevant committee or region in the agreement, has the right to modify or suspend its Strategic Partnership Policy and withdraw any permission granted under this agreement if the provisions stated below are not followed.

Any questions concerning this Strategic Partnership Policy should be directed to the Cooperative Agreement Partner Executive Director.

When the FLC enters strategic relations with an organization, the FLC staff will provide a partnership template.

- The agreement must describe the scope of the relationship and expectations of each party.
- The parties may agree to mutually promote the partnership(s) on their websites. The FLC is a quasi-governmental organization focused on its members and does not endorse any specific company, product, service, publisher or conference provider. For this reason, the FLC may be listed on promotional materials as a "partner" or "participating organization" — not as a "supporting organization," "official association," "sponsor," "co-sponsor," "endorser" or any other description that implies commercial endorsement or approval.
- The agreement must be signed by the FLC Facilitate Chair and the requesting partner.
- An annual evaluation of the partnership will be conducted and reported out to the EB.

FLC Policy: U.S. Funds

Approved by the FLC Executive Board on July 22, 2020

Federal Laboratory Consortium for Technology Transfer

All payments from FLC will be by either check or wire transfer, and only in U.S. funds.
Expenses incurred in other than U.S. funds are to be converted to the U.S. dollar equivalent and paid as such.

Policy: Check Disbursement
Policy: Wire Transfer Disbursement