

GAO

Report to the Subcommittee on
Commerce, Justice, Science, and
Related Agencies, Committee on
Appropriations, House of
Representatives

October 2010

INTRAGOVERNMENTAL REVOLVING FUNDS

NIST's Interagency Agreements and Workload Require Management Attention



GAO

Accountability * Integrity * Reliability

Highlights of [GAO-11-41](#), a report to the Subcommittee on Commerce, Justice, Science, and Related Agencies, Committee on Appropriations, House of Representatives

Why GAO Did This Study

GAO previously found that a significant portion of the National Institute of Standards and Technology's (NIST) working capital fund contained a growing carryover balance. Almost all of the fund's resources come from appropriations advanced from federal clients for NIST's technical services through interagency agreements. Monitoring and tracking key information about agreements and the funds advanced for them is critical for both NIST and its clients to make well-informed budget decisions, comply with applicable fiscal laws and internal controls, and ensure the proper use of federal funds. GAO was asked to review (1) the factors contributing to the working capital fund's carryover balance and (2) NIST's processes for managing its interagency agreements and workload. To do so, GAO reviewed laws and fiscal requirements, analyzed NIST budget data and policies related to its interagency agreements, analyzed a random sample of agreements, and interviewed NIST officials.

What GAO Recommends

GAO is making 5 recommendations to improve NIST's management of its interagency agreements, including holding senior managers responsible for strategic workload management, improving internal monitoring and reporting, ensuring compliance with applicable fiscal laws, and communicating key information to clients on its agreement status. NIST agreed with all 5 recommendations and is taking action to implement them by the end of this fiscal year.

[View GAO-11-41 or key components.](#)
For more information, contact Denise M. Fantone at (202) 512-6806 or fantoned@gao.gov.

October 2010

INTRAGOVERNMENTAL REVOLVING FUNDS

NIST's Interagency Agreements and Workload Require Management Attention

What GAO Found

NIST's working capital fund carryover balance is largely driven by appropriations advanced from federal clients to support interagency agreements. Most agreements cross fiscal years and because more than half were accepted in the second half of the fiscal year, some carryover of funds and work is expected.

NIST's processes for managing agreements are insufficient to help ensure compliance with applicable fiscal laws.

- NIST does not monitor the period of availability of appropriations advanced from client agencies and therefore cannot be sure that funds are legally available when it bills against them. If NIST were to use funds after an account closes, its clients could be exposed to possible Antideficiency Act violations. GAO found two reasons for this. First, NIST treats these funds as being available without fiscal year limitation. Second, NIST does not manage agreements in a way that would allow it to monitor the availability of client advances.
- NIST does not ensure that it starts work on its agreements within a reasonable amount of time after client agencies advance funds to NIST. Long delays in starting work may lead to the improper use of appropriated funds. There is no governmentwide standard for a reasonable time in which to begin work. NIST has not considered such a standard for itself, but some agencies use 90 days as a general guide. NIST took, on average, an estimated 125 days to start work. Further, GAO estimates that NIST began work about 7 months after receiving funds advanced from clients for about half of its agreements. In some cases the delay was 1–2 years. There were several reasons for this, including that NIST does not record or monitor the date it begins work on agreements, and does not consider whether it has the appropriate resources agencywide before accepting new work.

NIST lacks a high-level, senior management focus on managing its interagency agreement workload. Strategic workforce planning requires the effective deployment of staff to achieve agency goals. NIST places a high priority on its interagency agreements; however, senior managers play no role in determining whether appropriate resources are available agencywide to support its workload. Further, although NIST shares responsibility with its federal clients for ensuring the proper use of appropriated funds, it does not sufficiently communicate important information to clients—such as when work is expected to begin on agreements—that would better inform client decisions about how to best use their funds. Absent strategic workload management and improved client communications, NIST cannot meet the needs of this high-priority area. As a result of our review, NIST began revising its interagency agreement process. Because NIST did not provide this information to GAO until after the review was complete, GAO was unable to determine the effect of those changes.

Contents

Letter		1
	Background	3
	Unfinished Interagency Agreements Significantly Contribute to NIST's Working Capital Fund Carryover Balance	7
	NIST's Management Practices Related to Interagency Agreements Do Not Ensure Compliance with Applicable Fiscal Laws	10
	NIST Lacks Strategic Workload Management and Client Focus for Its Interagency Agreements	18
	Conclusions	19
	Recommendations for Executive Action	20
	Agency Comments and Our Evaluation	21
Appendix I	Proposed Changes to NIST's Interagency Agreement Process	23
Appendix II	Simple Random Sample of Interagency Agreements	24
Appendix III	Comments from the National Institute of Standards and Technology	25
Appendix IV	GAO Contact and Staff Acknowledgments	30
Tables		
	Table 1: NIST's Working Capital Fund Serves Four Primary Functions	5
	Table 2: The Carryover Balance Is a Significant Portion of NIST's Working Capital Fund	7
	Table 3: Interagency Agreements Constitute a Large Portion of NIST's Carryover Balance	8
	Table 4: NIST Accepted Most of Its Agreements in the Second Half of the Fiscal Year	10
	Table 5: NIST Took at Least 90 Days to Begin Work for Almost Half of All Agreements	15

Figures

Figure 1: NIST Is Comprised of 12 Operating Units	4
Figure 2: Use of the Working Capital Fund in Fiscal Year 2009	6
Figure 3: Unfinished Work Contributes to the Working Capital Fund's Carryover Balance	9
Figure 4: NIST Manages by Project, Which Can Include Multiple Agreements	13

Abbreviation

Commerce	Department of Commerce
NIST	National Institute of Standards and Technology
SRM	Standard Reference Material®
TAS	Treasury Account Symbol

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.



United States Government Accountability Office
Washington, DC 20548

October 20, 2010

The Honorable Alan B. Mollohan
Chairman
The Honorable Frank R. Wolf
Ranking Member
Subcommittee on Commerce, Justice, Science, and Related Agencies
Committee on Appropriations
House of Representatives

As the leading scientific research agency of the federal government, the National Institute of Standards and Technology (NIST) plays a key role in supporting new technologies that will shape life in the 21st century. In line with the President's recent emphasis on scientific discovery, technological breakthroughs, and innovation, NIST enhances the nation's capacity for strengthening cybersecurity, developing clean energy technologies, revitalizing the manufacturing base, as well as helping to ensure air and water quality. Additionally, NIST's staff—almost 3,000 scientists, including three Nobel Laureates—perform technical work for other federal agencies, as well as state and local governments and the private sector.

In our review of the President's fiscal year 2009 budget request for NIST, we identified a generally increasing carryover balance in its working capital fund. Carryover is the reported dollar value of work that has been ordered and funded (obligated) by clients but not completed by the end of the fiscal year. Carryover consists of both the unfinished portion of work started but not completed, as well as accepted work that has not yet begun. The working capital fund largely comprises appropriations advanced from other federal agencies to reimburse NIST for its technical services. The payment terms for these services are generally documented in interagency agreements between NIST and its federal clients. Managing and monitoring key information associated with interagency agreements between federal agencies and the funds advanced to support these agreements is critical for both NIST and client agencies.¹ This information supports NIST's ability to make well-informed budget decisions as well as helps to ensure its compliance with applicable fiscal laws and federal internal controls. You asked us to provide information on (1) what factors

¹We refer to federal agencies entering into interagency agreements with NIST as client agencies.

have contributed to the carryover balance in NIST's working capital fund and (2) the processes by which NIST manages its interagency agreements and workload.

For the first objective, we reviewed relevant legislation and statutory authorities that govern the working capital fund, as well as analyzed budget, financial, and workload data. We examined NIST data on interagency agreements, documents, guidance, and policies related to its working capital fund, as well as relevant budget documents from fiscal years 2000 to 2010. We also referred to our prior work on intragovernmental revolving funds and to related Department of Commerce (Commerce) Inspector General reports.

To evaluate NIST's processes for managing interagency agreements, we identified and reviewed NIST's responsibilities as the performing agency entrusted with the client agency's appropriated funds as described in relevant fiscal laws as well as U.S. Comptroller General decisions and opinions. We also reviewed aspects of the financial management system that NIST uses to track and manage these agreements. In August 2010, NIST officials told us that they began changing the processes for managing interagency agreements. The processes we discuss in this letter were in effect for the agreements in our review time frames. See appendix I for a description of draft changes to NIST's processes.

To assess NIST's processes for managing its workload, we analyzed NIST's interagency agreement data and identified 354 interagency agreements with performance periods of 1 or more fiscal years that began after October 1, 2004 and ended on or before September 30, 2009.² Because the NIST financial system does not include when NIST started work on its agreements, we drew a random sample of 76 agreements from the population of 354 agreements to determine when NIST began work.³ To do so, we reviewed and verified all transactions associated with 76 agreements to identify the time and amount of NIST's first charge—reflecting the beginning of NIST work—in support of each of these agreements. We also conducted case-file reviews for a nongeneralizable

²We excluded all agreements that had an order amount of \$0. Unless otherwise noted, figures about interagency agreements cited in this report pertain to our analysis of these 354 agreements.

³NIST uses the Commerce Business System, the official Commerce accounting system.

sample of 11 out of the 76 agreements.⁴ See appendix II for more information on the design and analysis of the random sample.

We interviewed senior staff from NIST's budget and finance divisions as well as those from selected NIST laboratories, including Operating Unit Directors, Administrative Officers, and Senior Management Advisors. Finally, to assess the reliability of interagency agreement data from NIST's financial system, we (1) performed electronic testing of data elements, (2) reviewed existing information about the data and the system that produced them, and (3) interviewed agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for the purposes of this report.

We conducted our review between July 2009 and October 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

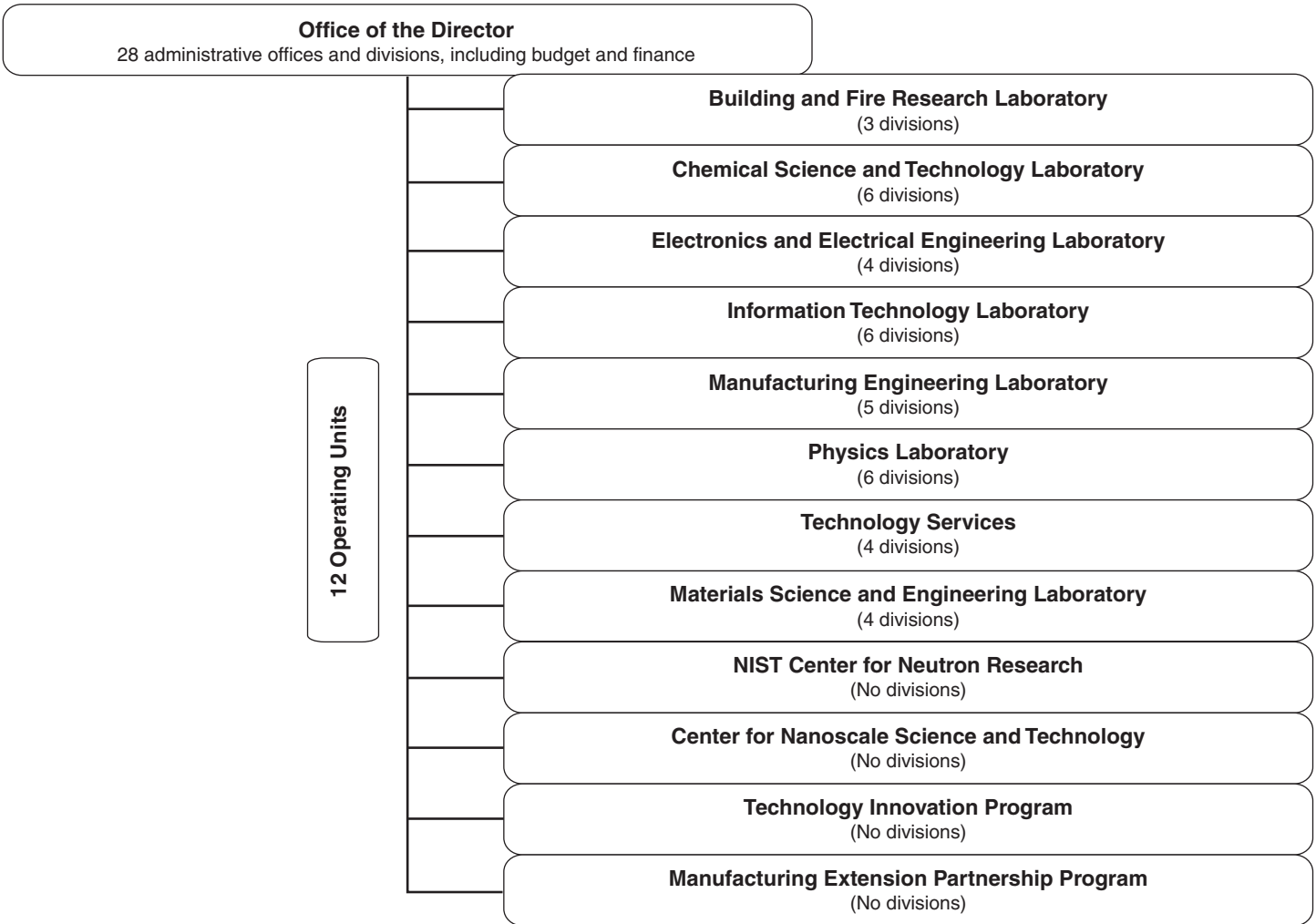
Background

NIST's Mission, Organization, and Working Capital Fund

NIST serves as the focal point for conducting scientific research and developing measurements, standards, and related technologies in the federal government. NIST carries out its mission through 12 research and development laboratories (also known as Operating Units). See figure 1 for NIST's organizational chart. In 1950, Congress established NIST's working capital fund, giving it broad statutory authority to use the fund to support any activities NIST is authorized to undertake as an agency.

⁴We selected 11 agreements that did not begin in the fiscal year in which the agreement was accepted and (1) for which work began more than 268 days after the agreement was signed (which represents the average time it took for NIST to start work on agreements that did not begin in the fiscal year during which NIST accepted them) or (2) that had a carryover balance greater than \$1.

Figure 1: NIST Is Comprised of 12 Operating Units



Source: GAO analysis based on NIST document.

Note: NIST has a different organizational structure, effective October 1, 2010.

NIST's working capital fund is a type of intragovernmental revolving fund. These funds—which include franchise, supply, and working capital funds—finance business-like operations. An intragovernmental revolving fund charges for the sale of products or services it provides and uses the proceeds to finance its operations. See table 1 for the NIST working capital fund's four purposes and the funding sources that support those uses.

Table 1: NIST's Working Capital Fund Serves Four Primary Functions

Working capital fund purpose	Funding
Receiving advances in support of interagency agreements	Funds appropriated to client agencies and advanced to NIST pursuant to interagency agreements
Supporting calibrations and testing services as well as the sales of Standard Reference Material [®] provided to the public and private institutions ^a	Service fees
Supporting agency equipment investments	Transfer of NIST appropriations authorized for this purpose into the working capital fund
Supporting NIST administrative and overhead costs ^b	Amounts charged to NIST's various internal project accounts

Source: GAO analysis of NIST working capital fund documents.

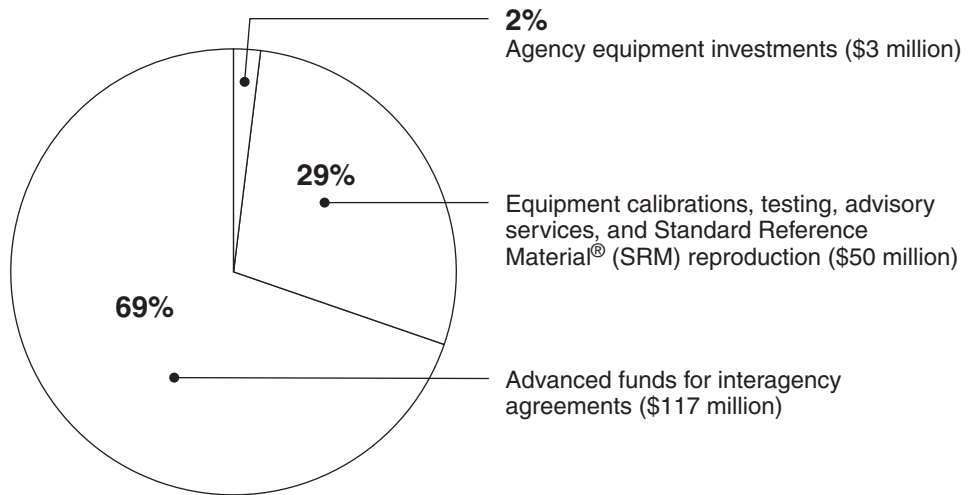
^aNIST supports accurate and compatible measurements by certifying and providing over 1,300 Standard Reference Materials[®] (SRM) with well-characterized composition or properties, or both. SRMs are used to perform instrument calibrations in units as part of overall quality assurance programs, to verify the accuracy of specific measurements, and to support the development of new measurement methods. Industry, government, and academia use SRMs in areas such as industrial materials production and analysis, environmental analysis, health measurements, and basic measurements in science and metrology.

^bAccording to officials, NIST uses intraagency surcharges to distribute administrative and overhead costs.

In fiscal year 2009, nearly 70 percent of NIST's working capital fund was related to interagency agreements (see fig. 2). Almost all of NIST's federal clients advanced funds to NIST for those agreements. Client agency advances to the working capital fund cannot be earned until NIST begins work on the agreement and retain the period of availability from the

original appropriation.⁵ Once NIST earns those amounts, receipts and collections are available to NIST without fiscal year limitation.

Figure 2: Use of the Working Capital Fund in Fiscal Year 2009



Source: GAO analysis of NIST data.

Note: These are the major uses associated with the working capital fund as identified in NIST's budget documents. NIST administrative and overhead cost distribution among laboratories is not included in this figure.

NIST's Interagency Agreement Acceptance Process

NIST's interagency agreements with federal clients originate in many ways, including through congressional mandates and client requests. NIST has established criteria for accepting requests for work from client agencies, which include: (1) the need for traceability of measurements to national standards; (2) the need for work that cannot or will not be addressed by the private sector; (3) work supported by legislation that authorizes or mandates certain services; and (4) work that would result in an unavoidable conflict of interest if carried out by the private sector or regulatory agencies. Operating Unit Directors commit NIST to providing services to client agencies, while the Deputy Chief Finance Officer accepts the order. Upon acceptance, the finance division and NIST's Office of

⁵An appropriation's period of availability refers to the period of time in which those funds are available for new obligations. Appropriations may be time-limited and therefore only available for 1, 2, or more years, or they can be available for obligation without fiscal year limitation.

General Counsel takes steps to process, monitor, and close-out each agreement.⁶

Unfinished Interagency Agreements Significantly Contribute to NIST's Working Capital Fund Carryover Balance

The Working Capital Fund's Carryover Balance Is Largely Driven by Pending and Ongoing Work Associated with Interagency Agreements

The carryover balance in NIST's working capital fund is largely driven by pending and ongoing work associated with interagency agreements as well as work for which NIST has accepted advanced funds but not yet started. In fiscal year 2009, NIST carried forward \$120 million to fiscal year 2010. This amounts to 41 percent of the working capital fund's total resources, down from a high of 51 percent (see table 2). However, because NIST does not monitor its interagency agreement workload it was unsure what factors have led to a decline in the last two years.

Table 2: The Carryover Balance Is a Significant Portion of NIST's Working Capital Fund

Dollars in millions

	Fiscal year 2004	Fiscal year 2005	Fiscal year 2006	Fiscal year 2007	Fiscal year 2008	Fiscal year 2009
Carryover balance	\$125	\$155	\$132	\$141	\$124	\$120
Total working capital fund resources	291	305	321	310	296	291
Carryover as a percentage of total working capital fund resources	43%	51%	41%	45%	42%	41%

Source: GAO analysis of NIST and Office of Management and Budget data.

Specifically, funds from interagency agreements constituted between 71 to 89 percent of the working capital fund's carryover balance from fiscal

⁶As a result of our review, and as discussed more fully in app. I, Commerce is working with NIST to revise interagency agreement processes and reviews in the Administrative Manual.

years 2004 to 2009; in fiscal year 2009, it was 71 percent—the lowest over the 6-year period (see table 3). Again, NIST officials were unsure about the reasons for the decline in this balance.

Table 3: Interagency Agreements Constitute a Large Portion of NIST’s Carryover Balance

Dollars in millions

	Fiscal year 2004	Fiscal year 2005	Fiscal year 2006	Fiscal year 2007	Fiscal year 2008	Fiscal year 2009
Carryover from interagency agreement advances	\$95	\$128	\$118	\$117	\$97	\$85
Total working capital fund carryover balance	125	155	132	141	124	120
Interagency agreement carryover as a percentage of total working capital fund carryover	76%	83%	89%	83%	78%	71%

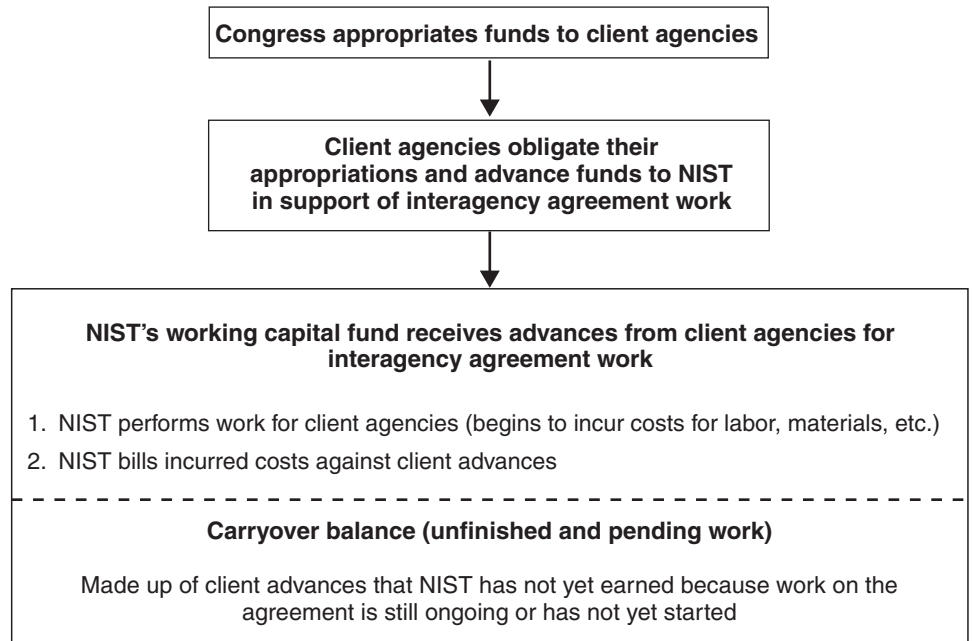
Source: GAO analysis of NIST budget data.

NIST’s budget documents refer to the interagency agreement carryover balance as unobligated because it is for unfinished work that NIST has not yet earned.⁷ However, client agencies are to record an obligation against their own appropriation when they entered into the agreement with NIST. Therefore, that balance is only available to NIST for work on that agreement.⁸ See figure 3 for an illustration of how unfinished work on interagency agreements contributes to the working capital fund carryover balance.

⁷Earned receipts and collections reimburse the working capital fund for the cost of its operations, which include labor, materials, and so on for the interagency agreement.

⁸In this report, carryover balances refer to client advances to NIST for technical work that NIST has not yet started or work that was started but not finished.

Figure 3: Unfinished Work Contributes to the Working Capital Fund's Carryover Balance



Source: GAO.

Some Carryover Is Expected Because Most Interagency Agreements Cross Fiscal Years

Some carryover in the working capital fund can be expected given the basic characteristics of NIST's interagency agreements. Ninety-three percent of all NIST agreements had a period of performance of more than 1 fiscal year between fiscal years 2004 to 2009. Accordingly, work associated with those agreements will not be completed within a single fiscal year. By definition, unearned amounts associated with these agreements would be carried over to the next fiscal year. As such, 82 percent of the active agreements in fiscal year 2009 generated carryover balances.

The timing of when NIST accepts new work also affects the carryover balances in the working capital fund. NIST accepts most of its agreements in the second half of the fiscal year. Further, since most agreements cross fiscal years, many are also likely to extend into the next fiscal year. Table 4 shows that 63 percent of all new agreements between fiscal years 2004 to 2009 were accepted during the second half of the fiscal year.

Table 4: NIST Accepted Most of Its Agreements in the Second Half of the Fiscal Year

	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total
Number of agreements	65	69	91	130	355
Percentage of total	18%	19%	26%	37%	100%

Source: GAO analysis of NIST data on interagency agreements from fiscal years 2004 to 2009.

NIST’s Management Practices Related to Interagency Agreements Do Not Ensure Compliance with Applicable Fiscal Laws

NIST Lacks Processes to Ensure It Complies with the Time Limitations of Advanced Funds

Our previous work has established that a high carryover in working capital funds may indicate poor workload planning, which could lead to inefficient use of agency resources and missed opportunities to use those funds for other needs.⁹ Significant carryover balances may also reflect a situation in which the performing agency is using appropriations advanced in prior years to support an interagency agreement when the funds are no longer legally available.

NIST does not monitor the period of availability of appropriations advanced from client agencies; therefore, it cannot ensure that funds are legally available for obligation when it bills against them.¹⁰ Client advances to the working capital fund that have not yet been earned retain the period of availability from the original appropriation. Those advances are available to NIST for covering costs of performance under the agreement during the appropriation’s period of availability plus 5 fiscal years, regardless of the specified period of performance for an agreement.¹¹ After

⁹See, for example, GAO, *Navy Working Capital Fund: Management Action Needed to Improve Reliability of the Naval Air Warfare Center’s Reported Carryover Amounts*, [GAO-07-643](#) (Washington, D.C.: June 26, 2007).

¹⁰See [B-319349](#) (June 4, 2010).

¹¹31 U.S.C. § 1552.

this time, those amounts are cancelled by operation of law and are no longer available to cover NIST's costs.¹² In other words, NIST cannot liquidate, or bill against, these funds after the account closes.¹³ If NIST were to use funds after the account closes, the client agency would be required to transfer currently available funds to NIST. If the client does not have such funds available, they could be exposed to possible Antideficiency Act violations.¹⁴

In our case-file review of 11 agreements, we found instances where NIST could potentially be billing against closed accounts because it does not monitor the dates that funds expire and become cancelled. Ten of these agreements remain open and active in NIST's financial system.¹⁵ NIST officials told us that the system prevents an agreement from being closed and deemed inactive if there are any outstanding transactions. Further, they said that some of those agreements may have outstanding undelivered orders that need to be resolved. However, if the funds advanced in support of these agreements are time-limited, it is possible that they are legally unavailable to NIST for further billing. We found the expiration date of funds advanced to NIST in the paper files of 3 agreements and were therefore able to determine their legal availability. For the other 8 agreements, however, NIST lacked the necessary information to allow it to determine the legal availability of funds without requesting specific appropriation information from NIST's client agencies—agencies that were not included in the scope of our review.

NIST shares responsibility with its client agencies to ensure the proper use of federal funds when entering into interagency agreements. NIST finance officials told us that expiration and account closing dates of appropriations were not available to them. However, NIST's policies require that all interagency agreements state the Treasury Account Symbol (TAS), from which the period of availability of appropriated funds could

¹²As mentioned previously, appropriations may be time-limited and therefore only available for 1, 2, or more years, or available for obligation without fiscal year limitation.

¹³See [B-319349](#).

¹⁴The Antideficiency Act prohibits, among other things, the making or authorizing of an obligation or expenditure from any appropriation in excess of the amount available in the appropriation. Obligating parties—in this case NIST's client agencies—are responsible for complying with this act.

¹⁵As previously noted, the period of performance for all interagency agreements in our review ended on or before September 30, 2009.

be determined.¹⁶ We found that most of the hard-copy agreement files we reviewed included such an appropriation code.

We found three reasons why NIST does not electronically record or monitor the period of availability of appropriations advanced from client agencies. First, NIST treats all client advances as if they are free from the original appropriation's period of availability. Second, NIST manages agreements by period of performance, which can be different from the client appropriation's period of availability. Third, NIST does not manage at the agreement level—the legal level of control. Rather, it manages at the project level, which can include multiple agreements.

NIST officials treat funds advanced for agreements accepted under NIST's statutory authority as no-year funds; that is, free from the time period of availability associated with the original appropriation. This policy is contained in NIST's Administrative Manual and is based on an interpretation of Commerce policy described in a 1983 legal memo. When we sought clarification on this policy in January 2010, Commerce's Office of General Counsel clarified the interpretation of the legal memo and responded that it is revising its policy and working with NIST to revise the Administrative Manual in response to our inquiry. As we will discuss, NIST officials provided additional details on these efforts in August 2010. Further, NIST manages agreements by period of performance, which can be different from the client appropriation's period of availability. The period of performance is defined by the start and end dates of the agreement. However, appropriations acts determine the period of availability of appropriations.

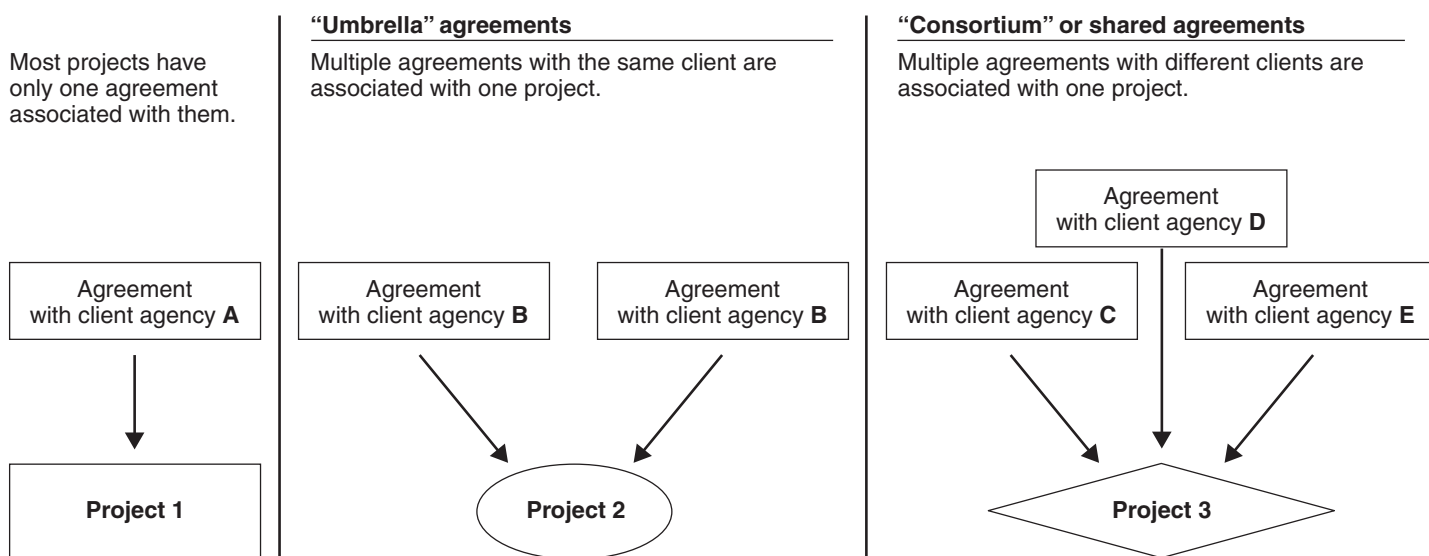
Lastly, NIST manages the technical work it performs for client agencies and bills and records transactions through projects.¹⁷ NIST officials explained that they manage by project because it allows them to track and monitor related agreements together. However, client agencies advance funds to NIST based on the terms and amounts specified in interagency agreements, which is the legal level of control. Although most projects

¹⁶The TAS is a code assigned by the Department of the Treasury, in collaboration with the Office of Management and Budget and the owner agency, to an individual appropriation, receipt, or other fund account. All financial transactions of the federal government are classified by TAS for reporting purposes.

¹⁷Projects are the building blocks of NIST's financial system and the lowest level at which costs are systematically recorded.

relate to a single agreement, some projects comprise multiple agreements (see fig. 4). For example, related agreements from a client agency are sometimes grouped together under an umbrella project. Occasionally, NIST combines several related agreements from different clients under a consortium project.

Figure 4: NIST Manages by Project, Which Can Include Multiple Agreements



Source: GAO.

As a result of our review, Commerce is working with NIST to review and revise policies described in the Administrative Manual and processes related to interagency agreements. In August 2010, NIST officials told us that they have begun to identify and resolve issues related to the interagency agreement process, including drafting templates and checklists for interagency agreements. The Commerce Office of General Counsel has begun communicating these changes to NIST staff through training sessions and town hall meetings. However, because we did not receive this information until after we completed our review, we were unable to determine what effect the changes may have on NIST’s interagency agreement process. See appendix I for more information about these changes.

NIST Does Not Monitor Interagency Agreements to Ensure that Work Begins within a Reasonable Time

NIST does not record or monitor whether it begins working on agreements within a reasonable amount of time after it received funds advanced by client agencies. Performing agencies should begin work within a reasonable period of time to ensure that the use of a client agency's funds fulfill a *bona fide* need of the client arising during the fund's period of availability.¹⁹ That is, appropriations may be obligated only to meet a legitimate need, arising in—or in some cases, arising prior to but continuing to exist in—the fiscal years for which the appropriation was made. Long delays between when an agency accepts funds advanced from clients and when it begins work on its agreements may lead to the improper use of appropriated funds. Although client agencies bear ultimate responsibility for proper use of their funds, performing agencies share responsibility as well. Because NIST, as the performing agency, does not record or monitor when work begins on its agreements, it would be difficult for it to carry out this responsibility.

There is no governmentwide standard for a reasonable time period for performing work under an interagency agreement as it relates to a client agency's *bona fide* need. A reasonable time frame depends on the nature of the work to be performed and any associated requirements such as hiring a subcontractor or developing a specialized tool or machinery. Although neither Commerce nor NIST has established such a standard, other federal agencies have done so. For example, both the General Services Administration and the Department of Defense consider 90 days as a reasonable period of time for starting work.²⁰ Because NIST has not considered what a reasonable standard for starting its work might be, we use 90 days as a point of reference for the purposes of this report. We recognize that if NIST were to consider a standard time frame for starting work, it may not necessarily select 90 days.

¹⁹The *bona fide* needs rule is a fundamental principle of fiscal law. It dictates that if the performing agency does not use the client's funds within a reasonable time of their receipt, the agreement may not reflect a *bona fide* need of the client agency. See [B-308944](#) (July 17, 2007). For this review, we consider the date a client agency advances its appropriations for an interagency agreement as the date NIST received those funds.

²⁰See GAO, *Defense Working Capital Fund: Military Services Did Not Calculate and Report Carryover Amounts Correctly*, [GAO-06-530](#) (Washington, D.C.: June 27, 2006); *Improper Use of Industrial Funds by Defense Extended the Life of Appropriations Which Otherwise Would Have Expired*, [GAO/AFMD-84-34](#) (Washington, D.C.: June 5, 1984); and General Services Administration, *Interagency Agreements—Acceptance and Obligation of Funds*—General Services Administration Acquisition Letter V-08-04 (Washington, D.C.: June 10, 2008).

We estimate that NIST took, on average, 125 days to begin work on its interagency agreements in fiscal years 2004 through 2009.²⁰ We also estimate that work began for almost half of all agreements at least 90 days after NIST received funds advanced from client agencies. For these agreements, NIST waited an average of 226 days—or over 7 months—before beginning work (see table 5). We also found some agreements that were delayed for as long as 301, 464, 669, and 707 days.²¹

Table 5: NIST Took at Least 90 Days to Begin Work for Almost Half of All Agreements

	Percentage of agreements	Average number of days it took NIST to begin work
Work began 90 days or less after funds were advanced to NIST	58	51 ^a
Work began more than 90 days after NIST received advanced funds	42	226 ^b
All agreements	100	125 ^c

Source: GAO analysis of NIST billing data for interagency agreements.

Note: The figures in this table are estimates. Unless otherwise indicated, the margin of error for percent estimates based on this survey cited in the report are within ±12 percentage points at the 95 percentage point confidence level.

^aThe 95 percent confidence interval for this estimate is within ±7 days.

^bThe 95 percent confidence interval for this estimate is within ±52 days.

^cThe 95 percent confidence interval for this estimate is within ±30 days.

Failure to begin work in a reasonable period of time raises legitimate questions about whether the client’s order fulfills a *bona fide* need of the client agency. Long gaps between when NIST accepts advanced funds and when it begins work on agreements may lead to NIST using funds that are no longer legally available. Further, client agencies may incur opportunity costs associated with funds advanced to NIST that remain untapped for a prolonged period of time.

²⁰The 95 percent confidence interval for this estimate is ±30 days. This analysis is based on a statistically representative sample of the 354 multiyear agreements between NIST and federal clients that began in fiscal year 2004 and ended by the end of fiscal year 2009.

²¹Our case-file review indicated that the client agency was notified about the delays for only one of these agreements.

Because determining whether work began within a reasonable period of time depends on specific facts, we reviewed 11 agreements in more depth to better understand why work was delayed in some instances. In one case, NIST did not begin work on an agreement it entered into in December 2006 until October 2007—over 300 days later. NIST officials explained that staff who could perform the work could not start earlier because they were working on other projects. This suggests that NIST did not assess whether it had appropriate resources available before accepting the agreement. In another case, NIST said that it took over 260 days to establish a relationship with the National Cancer Institute and coordinate work plans with nine NIST divisions before work could begin for an agreement. Assessing whether it has appropriate resources available before accepting an agreement is critical, because long gaps between when NIST accepts advanced funds from clients and when it begins work raises concerns about whether an agreement reflects a *bona fide* need of the client agency, and may lead to an improper use of appropriated funds and, as such, noncompliance with fiscal law.

We found two reasons why NIST does not know whether it begins work within a reasonable period of time. First, the start date in NIST's financial system—the system NIST uses to track its interagency agreements—does not reflect when work actually begins on an agreement. According to finance division officials, NIST tracks the date that it enters into an agreement with a client agency; however, we found that this is usually not the date that work actually begins. NIST also does not electronically track or monitor the date it received funds advanced from client agencies. Without monitoring the amount of time that elapsed between when funds were advanced and when work actually began, NIST cannot know whether it is starting work within a reasonable period of time.

Second, because NIST manages by project instead of by agreement, it does not record information about agreements that is important for knowing whether work begins within a reasonable period of time. For example, billing information is only tracked at the project level and cumulatively by fiscal year. When we requested the individual charges for each agreement to analyze when work began, NIST said it does not manage or review billing information that way and had to create a special report. Accordingly, NIST could not provide any billing data for umbrella projects (see fig. 4 above). Each agreement is funded by different appropriations and may be conducted under unique authorities and circumstances. Absent information on billed costs at the agreement level, NIST cannot determine whether it is starting work within a reasonable period of time given the facts of each particular agreement.

Some Interagency Agreement Files Were Incomplete or Contained Incorrect Information

In our case file review, we found that some of NIST's interagency agreements were incomplete or included incorrect information. Federal internal control standards require that transactions be properly authorized and executed, recorded timely, and documented appropriately.²² Absent these types of robust internal controls, NIST cannot provide reasonable assurance that it is efficiently using its resources and complying with applicable fiscal laws.

Some agreement files we reviewed lacked documentation of information needed to provide a complete and accurate record of the agreement as well as transactions between NIST and client agencies. For example, we found instances where required documents were not included in the agreement files. One agreement file we reviewed did not include a statement of work. At the time NIST and the client agency enter into an interagency agreement, the client incurs an obligation for the costs of the work to be performed. However, to properly record an obligation, the client must have documentary evidence of a binding agreement between the 2 agencies for specific goods and services.²³ In another example, only one of the agreements we reviewed documented how NIST handled unused funds that had been advanced in support of an agreement. Federal internal control standards require clear documentation of all transactions and significant events.²⁴ Moreover, NIST's processes for closing out completed agreements require it to return unused funds if they are greater than \$1,000 to the client.²⁵ Absent clear authority, NIST may not write off any amount of unearned funds to the working capital fund.

We also found agreement files that incorrectly recorded the dates of when funds were advanced to NIST from client agencies. One file showed that NIST accepted advanced funds before a formal interagency agreement with the agency was in place. Federal agencies are prohibited from transferring funds for an interagency transaction like orders placed with NIST without a binding legal agreement. When we asked NIST finance officials to explain this, they said that the date was recorded in error and

²²GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

²³See 31 U.S.C. § 1501(a) and [B-308944](#).

²⁴See [GAO/AIMD-00-21.3.1](#).

²⁵Finance division officials also told us that they return unused amounts less than \$1,000 upon a client agency's request.

should be 1 year after the date indicated in the file. The corrected date would indicate that NIST accepted advanced funds after a binding agreement was in place; however, the error reflects an inaccurate record of this transaction. Federal internal control standards require an accurate recording of transactions to maintain their relevance to managers in controlling operations and making decisions.²⁶ In another example, the file incorrectly recorded an advance as having been made 10 months later than the actual transaction date.

NIST's Deputy Chief Financial Officer told us that NIST does not maintain a single consolidated file of all pertinent documents related to each agreement, and that such information is generally spread among files maintained by other Operating Units across the agency. Finance division officials explained that legal and financial documents are kept separately from program files, which are managed by scientists in the Operating Unit that accepted the agreement. While we recognize that program managers may also have a need to maintain separate files for their own purposes, absent complete, easily accessible agreement files, NIST will have difficulty monitoring and managing agreements in a manner consistent with applicable fiscal laws and federal internal control standards.

NIST Lacks Strategic Workload Management and Client Focus for Its Interagency Agreements

NIST lacks a high-level, senior management focus on managing its interagency agreement workload. Effective workforce planning strategies help address an agency's mission and goals by making the best use of the government's most important resource—its people. A key principle of strategic workforce planning is the effective deployment of staff to achieve the agency's mission and goals.²⁷ NIST places a high priority on its interagency agreements. However, NIST senior managers play no role in determining whether the appropriate resources are available agencywide to support its interagency agreement workload.

NIST's decentralized workload acceptance process may contribute to NIST's having more work than it has the resources to handle. Division Chiefs—the officials generally responsible for accepting new work—do not fully consider resource constraints agencywide or include an assessment of whether NIST has the resources available to begin work

²⁶See [GAO/AIMD-00-21.3.1](#).

²⁷GAO, *Human Capital: Key Principles for Effective Strategic Workforce Planning*, [GAO-04-39](#) (Washington, D.C.: Dec. 11, 2003).

within a reasonable period of time. Even though more than one division contributes staff or resources to over half of all agreements, Division Chiefs do not consult with other parts of NIST before accepting work. Therefore, even if the accepting division or Operating Unit has adequate resources to begin work within a reasonable time frame, NIST lacks assurance that the necessary resources are available agencywide. As previously mentioned, we found several instances where NIST delayed starting work on agreements because it did not have the available staff or resources to do the work. Poor use of NIST's staff and resources may also have potential legal implications for NIST and its clients, as previously discussed. Without strategically managing its workload, NIST cannot be sure that it is effectively managing this high-priority area.

Although NIST shares responsibility with its federal clients for ensuring the proper use of appropriated funds, it does not sufficiently communicate to clients important information about the status of work and the use of these funds—information that would help its clients know whether their funds are being properly used. For example, it does not provide its clients with estimated work start dates for each agreement. Agencies strive to become high-performing service organizations by focusing on client satisfaction through sustaining high-quality and timely service.²⁸ Although NIST's Administrative Manual discusses the need for a coordinator to serve as the principal contact with each client agency, officials told us this position does not exist nor does anyone currently perform those duties. Such a coordinator could communicate important information—including when NIST expects to begin work on agreements—that would better inform client decisions about how best to use their appropriated funds.

Conclusions

Funds advanced in support of interagency agreements are the biggest driver of the carryover balance in NIST's working capital fund. Although some carryover is to be expected, insufficient management of interagency agreements can lead to inefficient use of federal resources. NIST does not monitor the period of availability of appropriations advanced from client agencies and therefore cannot ensure that funds are legally available when it bills against them. If NIST were to use funds after the account closes, the client agency would be required to transfer currently available funds to

²⁸GAO, *Highlights of a GAO Forum: High-Performing Organizations: Metrics, Means, and Mechanisms for Achieving High Performance in the 21st Century Public Management Environment*, [GAO-04-343SP](#) (Washington, D.C.: Feb. 13, 2004).

NIST. Additionally, NIST does not track or monitor when it actually begins work on agreements, nor does it have a standard for what it considers a reasonable time frame for starting work. NIST's decentralized approach to accepting agreements results in no consideration given to whether the necessary resources exist agencywide to start work within a reasonable time frame. Further, our case-file review found agreements that were incomplete or included incorrect information. As such, NIST will have difficulty ensuring that it has entered into binding legal agreements and is managing them in a manner consistent with applicable fiscal laws and federal internal control standards. NIST and its client agencies have joint responsibility for ensuring that amounts advanced to NIST in support of NIST's technical service to federal clients are used in accordance with fiscal requirements; however, we found weaknesses in NIST's processes in these areas. For example, NIST lacks an identified legal basis for NIST's policy of writing off unearned funds less than \$1,000. Absent improvements in how NIST tracks and monitors its interagency agreements, client agencies and the Congress will lack assurance that these requirements are being met.

Although NIST designates interagency agreements as an agency priority, it lacks a strategic focus and oversight for how its resources are deployed in support of this important work. Further, NIST shares responsibility with its client agencies for ensuring the proper use of federal funds advanced to it. Because NIST does not monitor and communicate clearly and consistently the status and progress of its interagency agreements, both parties lack important information that would help ensure compliance with applicable fiscal requirements.

Recommendations for Executive Action

To improve the management of NIST interagency agreements and provide reasonable assurance that NIST is efficiently using its resources and complying with applicable fiscal laws, we recommend that the Secretary of Commerce direct the NIST Director to take the following five actions:

(1) To help ensure efficient, effective deployment of NIST's workforce and be a responsible steward of federal resources, hold senior management accountable for strategically managing its interagency agreements. This includes periodic senior management involvement in reviewing whether NIST has the appropriate resources to begin and perform new and existing work.

(2) To meet its responsibilities in ensuring the proper use of federal funds, (a) develop, implement, and communicate to its clients policies regarding

reasonable time frames for beginning work on interagency agreements; (b) track and monitor the work start date for each agreement; and (c) monitor and report internally, and periodically inform federal clients about, the amount of time elapsed between when funds were advanced to it from client agencies and when it actually began billing against an agreement. For example, NIST could provide estimated work start dates for each agreement based on agencywide resource considerations; devise a notification system that would indicate when work has not begun within a certain time frame and provide the date work actually began; or periodically provide clients with a report detailing the balance of unbilled funds as the account closing date approaches.

(3) To help guard against the use of cancelled appropriations, electronically record and monitor key information about the period of availability of appropriations advanced to NIST from client agencies.

(4) To provide reasonable assurance that its interagency agreements are complete, accurate, and constitute a binding legal agreement, create, document, and implement a robust fiscal and legal review process for interagency agreements. This could include (a) developing and delivering periodic training to staff involved in accepting, processing, managing, and overseeing interagency agreements on how to appropriately accept, process, review, and monitor its interagency agreements and (b) maintaining complete, accurate, and easily accessible files for all agreements.

(5) To comply with fiscal law, NIST should review its close-out policies regarding returning unearned funds to client agencies and adjust its accounts accordingly.

Agency Comments and Our Evaluation

We provided a draft of this report to the Director of NIST. The agency provided us with written comments which are summarized below and reprinted in appendix III.

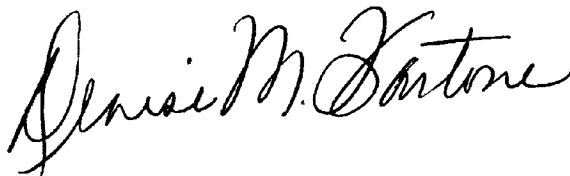
NIST concurred with our findings and all five of our recommendations. For each recommendation NIST described corrective actions it is taking. NIST expects to fully implement these actions by September 30, 2011. NIST also provided technical comments which we incorporated in the report as appropriate.

In its comments, NIST stated that it immediately began revising its interagency agreement operating procedures and related financial

management policies and practices in response to Commerce's clarification of the policy on which these procedures were based. NIST said that it provided documentation on these policies and procedures for our review but that we did not examine them as a part of our audit. We note that Commerce clarified its policy in February 2010 and that NIST provided us with information about its proposed changes in August 2010 at the exit conference for this engagement. We responded that we would include the existence of the new policies in our report (see appendix I for a summary of these changes) but since NIST chose not to provide this information until the end of our review, we would be unable to determine what effect the new policies may have.

NIST also stated that the 1983 legal opinion upon which the operating and financial policies of its interagency agreement were based has not been disputed until recently and that the propriety of its treatment of interagency agreement funding has never been in question. We note that a 2004 Commerce Office of Inspector General review of NIST questioned the 1983 Commerce opinion and raised numerous concerns regarding the agency's management of interagency agreements.

We are sending copies of this report to the Secretary of Commerce, the NIST Director, and other interested parties. The report is available at no charge on the GAO Web site at <http://www.gao.gov>. If you or your staff have any questions regarding this report, please contact me at (202) 512-6806 or by e-mail at fantoned@gao.gov. Contact points for our Congressional Relations and Public Affairs may be found on the last page of this report. Major contributors to this report are listed in appendix IV.



Denise M. Fantone
Director
Strategic Issues

Appendix I: Proposed Changes to NIST's Interagency Agreement Process

In August 2010, the National Institute of Standards and Technology (NIST) provided information about the steps it is taking to improve the overall internal control of interagency agreements and funding it receives, as a result of our review. From March to May 2010, the Department of Commerce's (Commerce) Office of General Counsel, General Law Division, and NIST's Office of General Counsel reviewed all of NIST's interagency agreements. They conducted a legal review of all agreements, evaluated existing processes, and created new procedures through the development of checklists and interagency agreement templates. Further, NIST began to communicate these changes through town hall meetings and trainings with Operating Unit staff.

NIST officials told us that Commerce is still reviewing these changes and they have not yet approved or finalized these processes. Nevertheless, our review of the interim trainings and draft documents indicate that NIST is taking steps to help ensure its interagency agreements comply with fiscal laws. Some changes include the following:

- **Documenting time limitations on the use of federal funds.** NIST agreements are required to include the Treasury Account Symbol (TAS) code, which indicates the period of availability of appropriations. Draft agreement templates include a placeholder for both the TAS code and the date of expiration. Additionally, the review checklists specifically ask for the inclusion of this information. The expiration date should also be included in NIST's financial management system for tracking purposes.
- **Documenting NIST criteria for accepting work.** NIST agreements are required to cite the specific authorization or criteria for entering into interagency agreements, as required by the agency's Administrative Manual. The draft review checklist also requires the inclusion of this justification in agreement files.
- **Clarifying the *bona fide* needs rule and its accounting implications.** Commerce's trainings discuss the *bona fide* needs rule and how it applies to the different types of services that NIST provides. The training also provides information about the accounting implications of the *bona fide* needs rule as well as obligation requirements as it relates to this rule.
- **Clarifying the legal review process.** The training materials preview a legal review process as well as specific roles and responsibilities for administering interagency agreements. Commerce's General Law Division is to document legal clearance for certain agreements through a concurrence memo that includes such information as the period of availability of funds advanced to NIST and programmatic authorities. Finance division and Operating Unit staff are also involved in the legal review process.

Appendix II: Simple Random Sample of Interagency Agreements

Because the National Institute of Standards and Technology (NIST) does not record when it began work on its interagency agreements, we determined the start date for a sample of its agreements. We drew an initial simple random sample of 80 agreements from NIST's 354 interagency agreements with federal clients spanning more than 1 fiscal year that began after October 1, 2003, and were completed by September 30, 2009.¹ From this initial sample, cost information was not available for 16 records. We drew an additional sample of 15 agreements and achieved a target sample of 76 agreements. Three of the additional 15 records did not have cost information associated with them and therefore we did not include them in our analysis.

We assessed the reliability of NIST's interagency agreement data by performing electronic testing of the data for missing data, outliers, and obvious errors; reviewing documentation from the system, such as screen shots and training materials; and interviewing knowledgeable agency officials about how primary users enter data into the system and the internal control steps taken by NIST to ensure data reliability. Given this information, we determined that the data were sufficiently reliable for the purposes of this report.

For in-depth case-file reviews, we selected 11 agreements that did not begin in the fiscal year in which the agreement was accepted and work that (1) began more than 268 days after the agreement was signed (which represents the average time it took for NIST to begin work on agreements that did not begin in the fiscal year during which NIST accepted them); or (2) had a carryover balance greater than \$1.

¹We excluded all agreements that had an order amount of \$0. We selected agreements beginning in fiscal year 2004 because NIST upgraded to a new financial system that fiscal year.

Appendix III: Comments from the National Institute of Standards and Technology

OCT 06 2010



UNITED STATES DEPARTMENT OF COMMERCE
National Institute of Standards and Technology
Gaithersburg, Maryland 20899-0001
OFFICE OF THE DIRECTOR

Ms. Denise M. Fantone
Director, Strategic Issues
United States Government Accountability Office
Washington, D.C. 20548

Dear Ms. Fantone:

Thank you for the opportunity to comment on the draft report from the U.S. Government Accountability Office (GAO) entitled *Intragovernmental Revolving Funds: NIST's Interagency Agreements and Workload Require Management Attention (GAO-11-41)*.

It should be noted that NIST's interagency agreement operating procedures and related financial management policies and practices were based on a 1983 legal opinion which, until recently, has not been disputed. In addition, NIST has received unqualified audit opinions on its financial statements since the mid-1990s and the propriety of the bureau's treatment of interagency agreement funding has never been in question.

Immediately upon learning that the 1983 opinion was no longer valid, NIST developed new policies and procedures for handling interagency agreements in collaboration with the Office of the Chief Counsel for NIST (OCC NIST) and the Department of Commerce's (DoC) General Law Division. Documentation of these policies and procedures were provided to the GAO team for review; however, they were not examined as a part of this audit.

In addition to developing new procedures for interagency agreements, NIST, OCC NIST, and the DoC General Law Division provided training to all organizational units at NIST in order to inform and reinforce the new procedures for interagency agreements including acceptance, review and financial management operations.

Additional detailed comments are provided regarding the enclosed document including three recommendations to add clarity and context to the facts presented in the report and specific comments regarding the five identified findings.

We are looking forward to receiving your final report. Please contact Rachel Kinney on (301) 957-8707 should you have any questions regarding this response.

We look forward to further communication with GAO regarding its conclusions.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Gallagher".

Patrick Gallagher
Director

Enclosure

NIST

**Department of Commerce
National Institute of Standards and Technology (NIST) Comments on the Draft
Government Accountability Office Report Entitled “Intragovernmental Revolving Funds:
NIST’s Management of Interagency Agreements and Workload Require Management
Attention” (GAO-11-41, October 2010)**

Recommended Additions for Clarity

Page 3, first paragraph:

We recommend stating that NIST is using the Commerce Business System (CBS), which is the official DoC accounting system of record. This statement clarifies that it was not an intentional act on NIST’s part to exclude the start work date in the system.

Page 8, the paragraph preceding Table 2:

We recommend amplifying the last sentence to indicate that while the fiscal year 2009 carryover balance represents 41 percent of the working capital fund’s total resources, the balance has been declining and represents a decrease from the fiscal year 2007 balance by four percent and a 10 percent decline since fiscal year 2005.

Page 9, the paragraph below Table 3:

Similarly, we recommend that an amplifying statement be added indicating that from fiscal years 2006-2009 NIST interagency agreement carryover as a percent of total working capital fund carryover has dropped by 18 percent.

Page 13, Second Full Paragraph

We recommend the following editorial changes:

- 1) the second sentence in the paragraph should be rewritten to say: “This policy is contained in NIST’s Administrative Manual and is based on an interpretation of a 1983 legal memorandum.”
- 2) the fifth sentence should be changed to read: “When we sought clarification on this policy in January 2010, Commerce clarified the interpretation of the legal memorandum and NIST is in the process of revising the Administrative Manual in response to our inquiry”

NIST Response to GAO Recommendations

Recommendation 1: *“To help ensure efficient, effective deployment of NIST workforce and be a responsible steward of federal resources, hold senior management accountable for strategically managing its interagency agreements. This includes periodic senior management involvement in reviewing whether NIST has the appropriate resources to begin and perform new and existing work.”*

NIST Response: NIST concurs with this recommendation. NIST will continue to refine and improve its policies and operating procedures regarding the management of interagency agreements. These refined policies and procedures will facilitate compliance, provide a benchmark for process improvement, and ensure that senior management of the bureau are actively involved in and can be held accountable for management of NIST interagency agreements.

This corrective action will be implemented by March 31, 2011.

Recommendation 2: *“To meet its responsibilities in ensuring the proper use of federal funds: a) develop, implement and communicate to its clients policies regarding reasonable timeframes for beginning work; b) track and monitor the work start date for each agreement; c) monitor and report internally and periodically inform clients about the amount of time elapsed between when funds were advanced and when it actually began billing against an agreement. For example, NIST could provide estimated work start dates for each agreement based on agency wide resource considerations; devise a notification system that would indicate when work has not begun within a certain timeframe; provide the date work actually began; and/or periodically provide clients with a report detailing the balance of unbilled funds as the account closing date approaches.”*

NIST Response: NIST concurs with this recommendation. NIST will develop new policy to guide allowable time frames between agreement execution and work start dates. NIST, in consultation with legal counsel, will determine how best to include reasonable work time frames within already executed reimbursable agreements to clearly communicate expectations to all parties. NIST policy will include processes for reporting exceptions, such as unreasonable gaps between agreement execution and work start date, expected work start dates and actual work start dates, or gaps between when advances are received and when costs are billed to the agreement.

NIST will establish a process for independently tracking and monitoring the work start date of each agreement and monitoring the time lapse between receipt of advance and cost billing. In addition, NIST will develop a process to report significant exceptions to senior management and will document this process within the NIST policy. NIST will maintain evidence of senior manager review and acknowledgement of monitoring results with appropriate levels of approval established within the NIST policy.

NIST will develop and implement a process for periodically informing clients regarding the time elapsed between when funds are advanced to when billings actually occur on interagency agreements.

These corrective actions will be implemented by March 31, 2011.

Recommendation 3: *“To help guard against the use of cancelled appropriations, electronically record and monitor key information about the period of availability of appropriations advanced to NIST from client agencies.”*

NIST Response: NIST concurs with this recommendation. NIST has begun and will continue to develop electronic means by which to record and monitor this information. Upon learning that this was a concern, NIST staff began working on a new database that will capture the appropriate information on appropriation availability and other critical interagency agreement information. This database and the revised procedures included in the NIST Administrative Manual subchapter on interagency agreements are being designed to incorporate the new standard interagency agreement templates soon to be prescribed by the Office of Management and Budget (OMB). In addition, NIST staff participated in training sessions regarding the new OMB requirements and will ensure that these requirements are included in revised training held for program offices handling new agreements.

These corrective actions will be implemented by September 30, 2011.

Recommendation 4: *“To provide reasonable assurance that its interagency agreements are complete, accurate, and constitute a binding legal agreement; create, document, and implement a robust fiscal and legal review process for interagency agreements. This include a) developing and delivering periodic training to staff involved in accepting, processing, managing, and overseeing interagency agreements on how to appropriately accept, process, review, and monitor its interagency agreements and b) maintaining complete, accurate, and easily accessible files for all agreements.”*

NIST Response: NIST concurs with this recommendation. Immediately upon learning of this concern, the NIST Chief Financial Officer, OCC NIST, and staff from the laboratory and program offices collaborated with DoC General Law Division to address this issue. After examining the operating procedures in place at the time, NIST changed them to include a requirement for a complete legal review of all interagency agreements prior to acceptance. NIST policy has since been changed to reflect this new practice.

In addition, training and educational meetings for NIST staff and other sponsoring federal agencies have been conducted on the new interpretation of agreement authorities, on new policies and procedures, on the use of new monitoring tools that were developed including interagency agreement checklists and templates, and on requirements for maintain appropriate records for interagency agreements. Training sessions will continue to be held on a periodic basis and as needed to update staff on refined processes. And as mentioned previously, NIST also developed a tracking data base to monitor the status of all interagency agreements and to ensure that those determined to be “urgent” were addressed in a timely manner.

These corrective actions were largely completed on September 30, 2010 and will be fully implemented by March 31, 2011.

Recommendation 5: *“To comply with fiscal law, NIST should review its close-out policies regarding returning unearned funds to client agencies and adjust its accounting accordingly.”*

NIST Response: NIST concurs with this recommendation. In the past, NIST determined that it was not cost effective to return funds in amounts less than \$1,000 and client agencies have

**Appendix III: Comments from the National
Institute of Standards and Technology**

concluded with this determination. Over the past three years, the total amount of unearned funds not returned to client agencies resulting from this policy has only amounted to \$64,000, an amount immaterial to our financial statements. NIST will reexamine its policies and procedures for returning unused funds to client agencies to ensure they meet legal requirements.

This corrective action will be performed by March 31, 2011.

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Denise M. Fantone, (202) 512-6806 or fantoned@gao.gov

Staff Acknowledgments

In addition to the contact named above, Jacqueline M. Nowicki, Assistant Director, and Shirley Hwang, Analyst-in-Charge, managed this assignment. Jeffrey Heit, Travis Hill, Felicia Lopez, Julia Matta, Leah Q. Nash, Rebecca Rose, and Kan Wang made major contributions. Sheila Rajabiun provided legal assistance. Susan Baker, Jean McSween, and Dae Park provided sample design and methodological assistance.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's Web site (www.gao.gov). Each weekday afternoon, GAO posts on its Web site newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to www.gao.gov and select "E-mail Updates."

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's Web site, <http://www.gao.gov/ordering.htm>.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Ralph Dawn, Managing Director, dawnr@gao.gov, (202) 512-4400
U.S. Government Accountability Office, 441 G Street NW, Room 7125
Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548

