

OMB Comments/NIST Responses

OMB COMMENT: Can you have NIST provide some additional background on how it staffs its fellowship programs and how it utilizes OPM products and services for background investigations on fellowship candidates? I've forwarded your materials to the Federal Investigative Service folks for additional review. But on their face the forms raise some questions.

The designation "NIST Associate" is intended to cover a wide range of individuals that come to NIST for various reasons. Listed below are the 14 types of NIST Associate (NA). Assignment of the appropriate NA type is based on a number of factors including, citizenship, the type of work the NA will perform at NIST, and participation in special programs. The selection of a specific NA is done through standard procedures (e.g., contracts, Postdoc programs) prior to the start of the NAIS process and is outside of the scope of NAIS.

NA Types:

Domestic Guest Researcher - Research and Science

A United States citizen who is technically qualified, collaborates with NIST on research projects of mutual interest, and/or works under a federal funding agreement with a U.S. university or U.S. company.

Domestic Guest Researcher – Technical

A United States citizen who is technically qualified, collaborates with NIST on technical activities of mutual interest, and/or works under a federal funding agreement with a U.S. university, U.S. company, or another government agency. This category includes those individuals who provide on-site technical computer services (e.g. programming, network or systems administration) or conduct market research, strategic planning, and other consulting services.

Domestic Guest Researcher - Special Programs

A United States citizen who is a technically qualified student who participates in the Summer Undergraduate Research Fellowships Program (SURF), Student Volunteer Program (SVP), Summer High School Intern Program (SHIP), the Professional Research Experience Program (PREP), the Postdoc - Department of Homeland Security (PD-DHS), Postdoc-National Institute of Health (PD-NIH), or ARRA (American Recovery and Reinvestment Act) Fellowship Program.

Foreign Guest Researcher - Research and Science

A non-United States citizen who is technically qualified, collaborates with NIST on research projects of mutual interest, and/or works under a federal funding agreement with a U.S. university or U.S. company.

Foreign Guest Researcher Technical

A non-United States citizen who is technically qualified, collaborates with NIST on technical activities of mutual interest, and/or works under a federal funding agreement with a U.S.

university or U.S. company. This category includes those individuals who provide on-site technical computer services (e.g. programming, network or systems administration) or conduct market research, strategic planning, and other consulting services.

Foreign Guest Researcher - Special Programs

A non-United States citizen who is a technically qualified student who participates in the Summer Undergraduate Research Fellowships Program (SURF), Student Volunteer Program (SVP), the Professional Research Experience Program (PREP), the Postdoc -Department of Homeland Security (PD-DHS), Postdoc - National Institute of Health (PD-NIH), or ARRA (American Recovery and Reinvestment Act) Fellowship Program.

Research Associate

A non-federal employee of an organization that has a Cooperative Research and Development Agreement (CRADA) with NIST and is engaged in CRADA-related tasks on the NIST campus. Note: Non-Federal employees working under an agreement other than a CRADA cannot be RAs. Guest Researchers (GRs) cannot work on NIST CRADA teams unless approved by the OU Director.

Sole Proprietor Contractor

A contract with a specific individual who provides a service to NIST.

Non-Technical Support Personnel

Any individual who is performing services of a non-R&D/non-technical nature, who is employed by a U.S. organization, and whose organization is working under a federal funding agreement. Examples include temporary clerical support staff, healthcare workers, equipment installation personnel, and construction workers.

Intergovernmental Agency Personnel Act

A technically qualified individual working at NIST under an IPA agreement, and who is employed by an agency of the federal, state or local governments, universities, federally funded R&D centers, Indian tribal governments, or other non-profit organizations.

Facility User

Any individual who is permitted to use designated NIST facilities under a NIST Facility Use Agreement. Designated NIST facilities include: NCNR - NIST Center for Neutron Research, and CNST - Center for Nanoscale Science and Technology

Volunteer Student

Any high school student working at NIST on a voluntary basis, i.e., in a non-paid status, who does not work in a laboratory.

Off-site Collaborator

Any individual who collaborates with NIST and does not work on the NIST campus, but requires access to NIST IT resources.

Other

Any NIST Associate not covered by the categories above and who works on the NIST campus without a federal funding agreement, e.g., DOC employees, NIST childcare staff, cafeteria workers, Comstar Credit Union staff, and SEBA staff.

Upon initial selection of an individual as an NA, they would complete the appropriate collection instrument and return it to NIST. The process for completing the selection and onboarding of an NA is discussed on pages 3-4 of the supporting statement. This process includes the approval by the Organizational Unit Director, the Technology Partnerships Office (TPO) or the International and Academic Affairs Office (IAAO), sending the information to the Finance Division, and for information technology and telecommunications access. The processes for background checks, see discussion of e-QIP below, and badging, see the discussion of USAccess on page 5 of the supporting statement, occur outside the NAIS process. The intention of the NAIS collection is to allow a single point of collection for information so that the respondent is not asked to complete multiple information collection forms that are asking for the same or similar information. This will reduce the time burden on the respondent and will increase consistency in the information provided.

OMB COMMENT: First, it is apparent from the justification statement, and the routine uses, that these forms will be used to establish eligibility for an identity credential for long-term access to federally-controlled facilities and information systems under HSPD-12. Under NIST standards (FIPS 201-1) and OMB standards (OMB memo. 05-24), this kind of identity credential requires, at a minimum, a “national agency check with inquiries (NACI)” or equivalent. Yet the form used to conduct the NACI – the SF 85, 85P, or 86, as appropriate – is not referenced anywhere in the NIST forms. It’s not clear how the NIST form is to be used in conjunction with the SF 85, 85P, or 86.

NIST uses Electronic Questionnaires for Investigations Processing (e-QIP) to collect information required by Forms SF-85, SF-85P, and SF-86. e-QIP is an OPM automated system that facilitates the processing of standard investigative forms for background processing. This process occurs outside of the NAIS process and NIST uses the NAIS information only to register the NA in e-QIP. The NA is invited into e-QIP only after their process has been approved in NAIS and only when an investigation is necessary. Using e-QIP allows NAs to transmit their personal information in a private and secure manner. Data exclusive to the SF-85, SF-85P, or SF-86 forms is intentionally excluded from collection in NAIS since it is not required as part of the NAIS process.

OMB COMMENT: Second, NIST states that it will use the draft form to collect data that will then repopulate numerous other forms. Yet those other forms (e.g., the OF 306) have their own statements of authority and purpose, their own statements of the consequences of not completing the form, their own OMB control numbers and public burden statements, and so on. None of this information percolates up to the individual who is filling out the NIST form. This raises some PRA and Privacy Act concerns for OMB.

NAIS is a single collection point for data that is required on multiple forms. NAIS collects data for the following forms (also listed on page 2 and 3 of the Supporting Statement):

- NIST 1296 - Domestic Guest Researcher Agreement
- NIST 1291 - Foreign Guest Researcher Agreement
- NIST-1085 - Request for Security Assurance
- NIST-1260 - Report of Foreign Visitor, Guest, and Conference Attendee
- NIST-351 - Request for Federal Credential or NIST Site Badge
- Release - Fair Credit Reporting Act of 1970
- OFI-86C - Special Agreement checks (SAC)
- Authorization for Release of Information
- OF-306 - Declaration for Federal Employment

The Authorization and Release form attached to the NAIS collection instruments provides statements of authority and release information, consequences of not completing the form, and a burden statement. The appropriate forms listed above are printed and given to the NA for signature once he/she arrives at NIST. The NA has full access to the printed forms including the statements specific to that form and has the opportunity to review prior to signature.

OMB COMMENT: Third, as a technical matter, some of the required elements for an information collection under 5 U.S.C. 552a(e)(3) seem to be missing.

The Authorization and Release form attached to the NAIS collection instruments includes the authority for collection, purpose of collection, routine uses, and consequences of not providing information as required by 5 U.S.C. 552a(e)(3).