

NSLS-II Proprietary Research Policy and Procedure

Users of the National Synchrotron Light Source II (NSLS-II) facility includes researchers from academic, industrial, and government institutions. While the vast majority of research is done in the public domain and is disseminated by publication in the open literature, there is access for proprietary research that utilizes these unique facilities to benefit the national economy and interest. For this reason, NSLS-II offers a portion of the available beam time for proprietary access.

Proprietary research is defined as that for which users request confidentiality of proposal, data, and results. It is conducted under a Class Waiver for Proprietary Users of the National Synchrotron Light Source II Designated User Facilities, as defined in DOE Pricing Order 522.1A *“Pricing of Departmental Materials and Services.”* Such research may be conducted by entities including private individuals, representatives from educational institutions, nonprofit organizations, or industry and for-profit organizations.

Prior to commencing work, any institution conducting proprietary research is required to complete and sign a Statement of Work (SOW) and a Proprietary Use Agreement (PUA) with Brookhaven National Laboratory. Under the terms of the DOE Class Waiver, the user is obligated to pay the full-cost recovery rate as determined by the Class Waiver for NSLS-II usage. In return, the user has the option to take title to any inventions made during the proprietary research program and to treat as proprietary all technical data generated during the proprietary research program that is covered by the PUA.

In addition to completing the SOW and PUA, the user group must submit a proprietary beam time proposal via the online Proposal Allocation Safety and Scheduling (PASS) system that clearly outlines the type of work to be conducted and the amount of beam time needed at each beamline proposed for the work. More details on the SOW, PUA, and proposal submission processes can be found below.

1. Statement of Work

Requests for proprietary research must be accompanied by a Statement of Work (SOW). The SOW can cover one experiment or an entire research program (up to five years and describing individual experiments under the program). SOWs should contain a complete description of the work being proposed and sufficient details about the open data or proprietary experiment(s) and/or research program(s) to justify a request for facility time without disclosing proprietary information. SOWs can be modified if the scope of the experiment or program changes.

The SOW should specifically indicate the total number of beam time cycles and the total number of hours per cycle required to perform the research project. The SOW will determine the total amount of advanced payment required for this project (see guidance on advanced payments below).

The SOW is generated by the BNL Guest User and Visitor (GUV) Center. Requests for the SOW can be made by contacting the GUV Center, 631-344-3333. All SOWs must be approved by the Department of Energy's BNL site office and NSLS-II Director.

2. Proprietary User Agreement

The terms and conditions under which proprietary research may be conducted at NSLS-II are set forth in the NSLS-II Proprietary User's Agreement (PUA), which must be in place before any experiments can commence.

Such an Agreement is between the legal entity sponsoring the research (i.e., the private individual, university, or corporation) and Brookhaven Science Associates (BSA), LLC, operator of Brookhaven National Laboratory. A single PUA can cover numerous beam time proposals over a 5-year period and can be renewed unless either party terminates it sooner. The Agreement is prepared by the BNL Guest, User, and Visitor Center staff in consultation with the BNL Intellectual Property Legal Group. Requests for a prepared copy of the Agreement and any questions pertaining to negotiating such an agreement should be directed to the Guest, User, and Visitor (GUV) Center at (631) 344-3333.

3. Proprietary Research Beam Time Calculation, Rates, and Accounts

Proprietary research is charged based on actual beam time used plus a specified amount of time agreed upon with NSLS-II for start-up and close-out. Actual beam time used will be determined based on the elapsed contiguous time between when the beamline is enabled and disabled for the experiment. Any fractions of an hour will be charged as a full hour.

All beam time assigned under a proprietary proposal will be charged unless the storage ring or beamline is not available to the user. A spokesperson for the experiment has two business days after the receipt of the e-mail record of proprietary beam time to request that the NSLS-II amend its use records for either of the above-mentioned reasons. The request is made via e-mail to the NSLS-II Users Office and must provide the basis for the request.

Any beam time used for proprietary research purposes will be charged the full cost recovery rate as determined by the Class Waiver. The rate for FY 2024 is \$456 per hour. The rate will be reviewed and revised annually to coincide with the start of each fiscal year.

Accounts

Proprietary users must have an account in place with Brookhaven National Laboratory prior to the commencement of beam time. If the work has an estimated cost of \$25,000 or less, or if the work will be completed in 60 days or less, a 100 percent advance of the estimated usage is required to be in the account before proprietary work can begin. The advanced payment will be liquidated by charging costs incurred during that period against the advanced payment. Payment is due 60 days before the scheduled beamtime.

If the work has an estimated cost greater than \$25,000, an advance payment must be received to cover the anticipated work that will be performed during the first 4-month beam time cycle. During the cycle, the advanced payment will be liquidated by charging costs incurred during that period. Billing will occur monthly. For subsequent cycles, the proprietary user must maintain a balance equivalent to the anticipated work for one 4-month beam time cycle until the work is complete. Payment for every beam time cycle is due 60 days before the cycle begins. Beam time will not be allocated until payment is received.

This policy is in accordance with the U.S. Department of Energy Financial Management Handbook (DOE Financial Management Handbook (2022)). The pre-funded amount must include the estimated total cost (including overheads) of materials, supplies, and services that the user expects from NSLS-II for use during the period of proprietary work.

Invoicing

All proprietary users are required to report proprietary usage and confirm non-usage, each month. Proprietary users are contacted via email by the NSLS-II Users Office to verify run dates and times against experiments ran in the previous 30-day period. Proprietary time will be invoiced monthly.

It is typical that a 2-hour charge is added to each experimental run (1 hour for setup and 1 hour for take down) but this can vary based on the experiment. There is no minimum other than the 2 hours for set up and take down. Please note that more than 5 minutes into an hour is considered to be one full hour.

4. Proprietary Beam Time Proposals

After completion of the SOW and PUA, proprietary research requires the submission of a proprietary beam time proposal through the online Proposal, Allocation, Safety and Scheduling (PASS) system that clearly outlines the type of work to be conducted, the amount of beam time needed, and the beamline(s) involved in the proposed work.

Proprietary beam time proposals are reviewed by the NSLS-II Director or his/her designee, who makes an approved/denied decision based on the value of the proposed research and beamline availability. Once approval is given to a proprietary beam time proposal, this proposal is given priority for allocation of beam time. The Principal Investigator (PI) will receive an email notification with information pertaining to the beam time allocation.

Proprietary beam time proposals and requests for additional beam time can be submitted at any time during a given beam time cycle (January–April, May–August, and September–December). Only one beam time request may be submitted per cycle but beam time shifts may be allocated non-contiguously.

Further instructions for proposal submission and a proprietary beam time proposal template can be found in the NSLS-II User Guide.

5. Beam Time Cancellation Policy

If a user needs to cancel beam time, he/she must inform the NSLS-II Users Office at least one week prior to the first day of the allocated beam time. Failure to comply by this policy will result in the allocated beam time being charged and may result in the decline of future beam time requests.

6. Corporate Impact Statement

For all proprietary beam time proposals that are allocated beam time, the principal investigator is required to submit a short corporate impact statement at the end of the fiscal year (September 30th) to the NSLS-II User Administration Office. These statements will help substantiate the need for the enhanced access to the facility and will also be used to assist in proposal review.

The statement must include:

1. Proposal number(s), investigators, and affiliation(s).
2. Title of experiment.
3. Name of beamline and experimental method.
4. A brief summary of the results of the work.
5. A statement of the importance of this work to the company, can be any format to justify the impact.

The PI will have the choice of submitting either a confidential or an open impact statement, or both. If the PI chooses open, then the NSLS-II will have the freedom to use the information for publicity (e.g., on the Industrial Research Program website, DOE highlights) or other appropriate metrics. If the statement is confidential, then in the event that NSLS-II wishes to use any part of the statement, it will seek approval in writing.