

ITS JPO Source Code Licensing Policy

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I. Introduction:

Assigning the proper license to source code is critical to enforcing and achieving public access and reuse for a project to maximize the ITS JPO's return on investment. Project teams must assign open licenses to federally-funded custom-developed source code. Open licenses ensure there are no restrictions on the use, disclosure, reproduction, preparation of derivative works, distribution of copies to the public, performance publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.¹

II. Creative Commons Zero (CC0 1.0 Universal)

The ITS JPO requires the assignment of the [Creative Commons Zero \(CC0 1.0 Universal\)](#)² to all ITS JPO-funded custom-developed source code. The CC0 license waives any copyrights that may apply to the work and places it in the public domain. This license was selected due to its applicability to source code authored by both federal government employees³ and non-federal government employees, its wide and accepted usage and lack of requirements and restrictions that would impede reuse. The assignment of a license encourages reuse by placing prospective users on notice as to how they may use the source code.

Other open licenses, such as [Apache 2.0](#), [MIT](#), or [GNU General Public License](#) (GNU GPL) are not the ITS JPO's top choices for licenses as they place restrictions on reuse and are not suitable for use by U.S. government employees since they require the author to grant a copyright license to users. Under Section 105 of the Copyright Act, when source code is authored by federal government employees, the government cannot claim a copyright to the work and by extension grant a copyright license.

Proprietary licenses where the owner reserves and restricts all rights, commonly requiring a fee for usage, should be avoided due to their terms or restrictions. A project team considering the use of data or software assigned a proprietary license should consult their legal counsel.

These aforementioned licenses (Apache 2.0, MIT, GNU GLP, and proprietary licenses) place restrictions on reuse, including requiring that users provide attribution to the original author or requiring the assignment of the same license on copied or modified works. Restrictive open licenses reduce the ability of the public to freely use the work and accordingly, are not preferred over CC0 for works created by non-U.S. government employees (e.g. works created by contractors or grantees).

In the event that a project team objects to assigning the CC0 license, the ITS JPO may permit the assignment of the Apache 2.0 or MIT licenses on a case-by-case basis. These licenses, while not preferred over the CC0 license, include limited restrictions on reuse and are widely used and accepted as open licenses.

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Project teams will retain existing licenses for any pre-existing software integrated into project solutions. In the event pre-existing software is used, the ITS JPO only requires that project teams assign CC0 to new JPO-funded , custom-developed source code. Project teams must make all licensing relationships with pre-existing software clear in applications and documentation, including README and LICENSE files for associated source code.

If there is a license not found on this list that a project team would like to use and appears to be compatible with the provisions found within the [ITS JPO Source Code Guidelines](#), please reach out to the ITS JPO at data.itsjpo@dot.gov

III. Assigning the License

Once a license is chosen, the project team - **NOT the ITS JPO** - is responsible for assigning the license. The open license should be assigned prior to or simultaneously with making source code available to the public (ex. creating a repository on GitHub).⁴ The ITS JPO obtains rights to the source code, either via FAR 52.227-14 or 2 C.F.R. 200.315, then requires the project team to assign an open license once the project is made public. What license a project team will use should be agreed upon in the project contract, grant, or other funding agreement. The government must then hold the project team accountable for following through on this and other terms after award. Per this guide and the standard acquisition language used to implement the Source Code Guidelines, CC0 should be included in solicitation language by default, though an alternative license may be proposed and accepted in negotiation and final award.

When project teams place their source code in a source code storage system or repository, a corresponding [LICENSE file](#) must also be included with the full text of the open license along with a link to where the license is officially maintained (ex. [CC0](#)). While project teams may include licensing information in their README, a full separate [LICENSE file](#) must also be created and maintained. If a project uses pre-existing software with existing licenses, the ITS JPO requires that project teams note this in the README and LICENSE file.

If a project maintains multiple repositories, all repositories must use the same license. If a project has a large number of sub-repositories linked to a master repository, project teams may include the full text of the license in the master repository and link to the master LICENSE file in sub-repository LICENSE files.

Most source code storage systems, including GitHub, have an option to automatically include licenses when creating a new repository. If your project is using or planning to use GitHub, see their guide to [licensing a repository](#).

While CC0 does not require users of the source code to give attribution, it does not preclude authors from requesting attribution in copied, modified, or derivative works. As such, the ITS JPO recommends that project teams ask users for attribution in the [README file](#), including a link to the original source code and reference to the original source code's Digital Object Identifier to easily track reuse.