



OASIS Intellectual Property Rights (IPR) Transition Policy Frequently Asked Questions (FAQ)

4 February 2005

This document addresses transitional issues related to the OASIS IPR Policy as revised by the OASIS Board of Directors, January 2005. It is offered as a non-normative, supplemental resource only. For comprehensive information, the normative [OASIS IPR Policy](#) and the [OASIS IPR Transition Policy](#) should be referenced. Additional information may also be found in the [OASIS IPR Policy FAQ](#) document. If inconsistencies between any of these documents are found, the official policies take precedence over these FAQs.

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1. *Why has the OASIS IPR Policy been updated?*

The previous OASIS IPR Policy was based on the regulations and practices of similar, international standards bodies in the 1990's. At that time, copyright and patent license disputes were relatively rare, and standards were most often developed under the assumption that no claims would be made. Today, the legal landscape is much more complex. Intellectual property matters in general have become a key issue for standard development worldwide. OASIS has updated its IPR policy to address the evolving intellectual property rights environment. Revisions aim to protect the interests of members and help ensure that OASIS Standards can continue to be adopted with confidence.

2. *How does the current OASIS IPR Policy differ from previous versions?*

The OASIS IPR Policy has been revised to reflect best current practices for standards organizations. The most significant changes include:

- [Declaration of IPR mode](#): Under the new IPR Policy, each Committee chooses to work under one of three IPR options which control the minimum license participants are obligated to provide: RAND; RF on RAND Terms; or RF on Limited Terms. Members of existing Committees select the licensing terms that are most appropriate for their work through a balloting process. Proposals for new OASIS Committees specify an IPR mode. It is important to note that the OASIS IPR Policy defines baseline terms under which licenses must be granted to implementers upon request. Alternative terms may be substituted, if agreed to by both the patent holder and the implementer.

- [Obligation to grant licenses](#): All those who make a contribution (upon submission) and all TC Participants (following a 60-day grace period) are obligated to grant licenses to patents having essential claims that are within the scope of the charter and would be infringed by an implementation of a particular approved Committee Specification or OASIS Standard. These new obligation requirements clarify responsibilities for patent holders, and provide license availability assurances for implementers. Under the previous policy, patent holders were not expressly required to grant licenses.

- [Implementation license](#): A new, limited covenant automatically allows members of a Committee to implement a specification during its development (until final approval), without having to seek a separate license, in order to facilitate participation, testing and refinement.

- [Membership Agreement](#): While the Consortium has always required members to accept Consortium policies upon joining, now Organizational (Foundational Sponsors, Sponsors, Contributors, and Associates) and Individual Members will each signify acceptance by signing the OASIS Membership Agreement, which more clearly expresses obligations and accountability. This explicit, written agreement offers greater assurance that obligations can be enforced, enabling members and the public to work with and adopt OASIS Standards with awareness and confidence.

Additional changes include the following:

- **Membership Categories for Individuals**: A person who participates in OASIS as a representative of an organization, or who may contribute Intellectual Property (IP) owned by an organization to OASIS work, will be required to join through that organization. Thus, any person who has assigned his or her IP ownership to another (for example, by signing a typical employment contract) is no longer eligible to hold Individual membership in OASIS. This measure will help to assure that organizations are aware of and bound by all licensing obligations incurred on their behalf.

Those who are no longer eligible for Individual status are encouraged to maintain membership in OASIS through their employers. To ensure cost is not a barrier to participation, OASIS has added a new Associate membership category, which provides a limited benefit package for organizations unable to join at the full Sponsor or Contributor level. Individuals should contact member-services@oasis-open.org with specific questions on eligibility and transitioning.

- **Contributions**: The method for making contributions to an OASIS Committee and the obligations that result are now clearly defined, along with the time when such obligations arise.

- **Disclosure obligations**: Better-defined disclosure obligations for Committee members and other parties increase the information available to potential implementers.

- **Feedback License**: Parties that are not TC Participants may provide input under a new Feedback License. This reduces the risk of an unexpected claim arising from a public contribution.

3. *Will all OASIS members be affected by the IPR Policy?*

While all member organizations and individual members will be required to sign the OASIS Membership Agreement, only TC Participants and those who submit contributions of work to a Committee will incur patent license obligations. Members who merely monitor OASIS work as TC Observers do not incur licensing obligations under the revised policy.

4. *How and when does an existing Committee transition to the new IPR Policy?*

All existing OASIS Committees must select one of the approved IPR modes within two years of the effective date of the OASIS IPR Policy. The transition process is as follows:

Step 1: At least fifty percent of the represented Organizations and Individual Members serving as TC Participants sign the new OASIS Membership Agreement. (Members will have access to information on which TC Participants have completed the agreement, so that everyone involved is aware of the upcoming mode selection.)

- Step 2: Committee members choose the IPR mode best suited to their work and request that the OASIS TC Administrator opens a transition ballot.
- Step 3: No sooner than 30 days later (in order to give all other members the opportunity to sign the Membership Agreement), the OASIS TC Administrator opens the Transition Ballot.
- Step 4: Votes are cast by the Primary Contacts of the organizations that have employees as TC Participants (so that there is one vote per organization), and Individual Members who are TC Participants, but in each case only those who have signed the OASIS Membership Agreement. Balloting remains open for 14 days.
- Step 5: If the ballot passes, results of the transition vote are announced by the OASIS TC Administrator, and the Committee begins operation under the [OASIS IPR Policy](#) 14 days later. The vote to approve an IPR mode must be unanimous. This ensures that Committees are able to complete their work, make use of necessary Contributions, and retain the support of all TC Participants.

If the ballot fails, the Committee may try again, specifying the same or an alternative mode. In the event that TC Participants do not agree on a new IPR Mode (or if Participants choose not to undertake a transition ballot) a Committee can continue to operate under the terms of its existing charter and previous OASIS IPR Policy for up to two years in order to complete its work.

5. *Who is required to sign an OASIS Membership Agreement?*

The Primary Contact of each Organizational Member (Sponsor, Contributor, or Associate) is responsible for having the OASIS Membership Agreement signed by a person with signature authority for his or her organization. Additional employees (of a Sponsor or Contributor) participate through this single Agreement. Each Individual-level Member is responsible for completing an OASIS Membership Agreement on his or her personal behalf.

6. *Why do the OASIS Primary Contacts cast Committee transition ballots instead of the TC Participants themselves?*

An organization's OASIS Primary Contact is responsible for overseeing its participation in the Consortium and is the designated person for approving actions that may create new IPR obligations on its behalf.

7. *After a Committee completes its transition, can members still participate if they have not signed the Membership Agreement?*

Once a Committee transitions to the new IPR Policy, only those covered by signed Membership Agreements may continue as TC Participants. This applies to all Committees, regardless of which IPR mode has been selected.

8. *Will licensing obligations change for a contribution made prior to the time a Committee transitions to a selected IPR mode?*

The OASIS IPR Policy has no retroactive effect on contributions made before a Committee transitions. If a contribution is re-submitted after the transition, the patent holder immediately incurs an obligation (provided the technical work is actually used in an approved Committee Specification or OASIS Standard).

If a contribution is not re-submitted in the transitioned TC, patent holders may, nevertheless, become obligated through a Participation Obligation. For existing Technical Committees, where the contributor (and patent holder) continues to participate, the patent holder will incur a Participation Obligation on either of (1) the conclusion of a 60-day grace period, which begins on the effective date of the OASIS IPR Policy (15 April 2005), or (2) the Committee's transition date, whichever is later.

9. *What will happen to Committees with charters that already specify RF terms for their work?*

Existing Committees that already have OASIS Board-approved RF declarations in their charters may transition to either the RF on RAND Terms or RF on Limited Terms mode, using the voting methods described above. These Committees may not elect to operate in the RAND mode.

10. *If an Individual Member does not meet the new eligibility requirements, what are his or her options?*

Individual Members who are no longer eligible for this category should encourage their employers to join the Consortium. OASIS values the contributions of all members, and every effort will be made by staff to work with those affected by this change to facilitate smooth transfer to an appropriate category of membership. To ensure cost is not a barrier to participation, OASIS has added a new Associate membership category, which provides a limited benefit package for organizations unable to join at the full Sponsor or Contributor level. Residual dues credit will be applied as appropriate.

Ineligible individuals will only be able to participate in Committees that have not transitioned to the new IPR Policy, and only until their current membership expires.

11. *Why have the eligibility requirements for Individual Membership changed?*

For IPR rules to be effective and the resulting licenses meaningful, the actual owners of essential patent claims must clearly confirm their agreement to the OASIS IPR Policy. The OASIS Membership Agreement, therefore, must be signed by a person with sufficient authority to make that commitment on behalf of the owner of a Participant's IPR. Many employment agreements (or similar arrangements) require individuals to assign their IPR to their employers. When that is the case, these employees or contractors may be unable to make IPR commitments on behalf of their employers. Persons who are either self-employed, unemployed, or otherwise unencumbered by that kind of assignment, obviously, are able to make IPR commitments on their own behalf; they remain eligible for OASIS Individual Membership.