

SPECIAL AWARD CONDITIONS
ADVANCED TECHNOLOGY PROGRAM – SINGLE RECIPIENT or JOINT VENTURE
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
COOPERATIVE AGREEMENT NO. 70NANBXHXXX

1. REFERENCED REQUIREMENTS

The ATP Statute, 15 U.S.C. Sec. 278n; the ATP Rule, 15 C.F.R. Part 295; the ATP Notice of Availability of Funds and Announcement of Public Meetings (Proposers' Conferences), *Federal Register* Volume 72, Number 68, pages 17838-17841 (April 10, 2007); ATP: Extension of Due Date for Proposals, *Federal Register* Volume 72, Number 101, page 29304 (May 25, 2007); the *Notice of Federal Funding Opportunity* (April 4, 2007, and as revised on April 16, 2007 and May 21, 2007); the ATP Proposal Preparation Kit (April 2007); "*Guidelines and Documentation Requirements for Research Involving Human and Animal Subject*" (April 2007); and the Recipients proposal and subsequent revisions thereafter, are hereby incorporated into the award by reference.

2. RECIPIENT ADMINISTRATOR CONTACT

The Recipient Administrator Contact's name, title, address, and telephone number are:

(Technical) XXXXXXXXXXXXXXXXXXXXXXXXXXXX
(XXX) XXX-XXXX
(Administrative) XXXXXXXXXXXXXXXXXXXXXXX (XXX) XXX-XXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXX, XX XXXXX-XXXX

3. JOINT VENTURE PARTICIPANTS (if Joint Venture)

The organizations named below have been approved as Joint Venture (JV) participants to conduct research described in the Recipient's proposal or any approved amendment thereto, which is incorporated into this award:

- 1) Name, City, State
- 2) Name, City, State

Any changes to the composition of a JV, including the addition, substitution or deletion of a JV participant, must be approved in writing by the Grants Officer. No costs may be incurred by any new JV participant(s) prior to the NIST Grants Officer's written approval of the new JV and the revised JV agreement.

4. GRANT OFFICER

The Grant Officer's name, address, and telephone number are:

Melinda Chukran
National Institute of Standards and Technology
100 Bureau Drive, Bldg. 411, Room A-143, Mail Stop 1650
Gaithersburg, MD 20899-1650
(301) 975-5266

5. GRANT SPECIALIST

The Grant Specialist's name, address, and telephone number are:

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
National Institute of Standards and Technology
100 Bureau Drive, Bldg. 411, Room A-143, Mail Stop 1650
Gaithersburg, MD 20899-1650
(301) 975-XXXX

6. PROGRAM OFFICERS

a. The Project Manager's and *technical or business specialist* name, address, and telephone number are:

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
National Institute of Standards and Technology

100 Bureau Drive, Mail Stop _____
Gaithersburg, MD 20899-XXXX
(301) 975-XXXX

b. The *Technical or Business Specialist (alternate from Project Manager)* Specialist's name, address, and telephone number are:

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
National Institute of Standards and Technology
100 Bureau Drive, Mail Stop _____
Gaithersburg, MD 20899-XXXX
(301) 975-XXXX

7. PROJECT DESCRIPTION

All research shall be conducted in accordance with the Recipient's proposal dated XX/XX/XX, and all revisions/late documentation dated XX/XX/XX, including revised budget dated XX/XX/XX.

8. FUNDING LIMITATIONS (DO NOT USE FOR FULLY FUNDED PROJECTS)

The scope of work and budget incorporated into this award covers a xxxxxx-year period (referred to as the "project period") for a total amount of \$xxxxxxxxxxxxxx in Federal funds. However, Federal funding available at this time is limited to \$xxxxxxx for the first year period from xx/xx/xx through xx/xx/xx (referred to as the "budget period"). Receipt of any funding beyond the first year up to the level projected under this award is contingent upon the availability of funds, satisfactory performance, continued relevance to program objectives, and will be at the sole discretion of the National Institute of Standards and Technology (NIST). The Recipient may not obligate, incur any expenditure, nor engage in any activity that involves a commitment of Federal funds under this Agreement in excess of the Federal amount presently available. No legal liability exists or will result on the part of the Federal Government for payment of any portion of the remaining funds, which have not been made available under the award. If additional funds are not made available, any expenses incurred related to closeout activities must be funded from the amount already made available under this award. The notice of availability or non-availability of additional funding for the subsequent year(s) will be

made in writing **by the Grant Officer**. Only the Grant Officer is authorized to obligate funds. No other verbal or written notice should be relied upon by the Recipient. In the absence of a written notice, no assumption should be made by the Recipient that subsequent year (s) funds will be authorized.

Year 3: \$000,000 (XX%) \$000,000 (XX%)
 Year 4: \$000,000 (XX%) \$000,000 (XX%)
 Year 5: \$000,000 (XX%) \$000,000 (XX%)

Annual budget amounts and periods:

Year 1: \$000,000 (From XX/XX/XX to XX/XX/XX)
 Year 2: \$000,000 (From XX/XX/XX to XX/XX/XX)
 Year 3: \$000,000 (From XX/XX/XX to XX/XX/XX)
 Year 4: \$000,000 (From XX/XX/XX to XX/XX/XX)
 Year 5: \$000,000 (From XX/XX/XX to XX/XX/XX)

9. COST SHARE

(For Small or Medium-sized Single Company)

For the first year period, the cost sharing ratio (direct costs only) applicable to this award is the Recipient's contribution of XX.XX% (\$XXX) and NIST's contribution of XX.XX% (\$XXX).

Annual cost share amounts and percentages:

	Nonfederal	Federal
Year 1:	\$000,000 (XX%)	\$000,000 (XX%)
Year 2:	\$000,000 (XX%)	\$000,000 (XX%)
Year 3:	\$000,000 (XX%)	\$000,000 (XX%)

(For Large-sized Single Co with 60% cost sharing requirements)

For the first year period, the cost sharing ratio (direct plus indirect) applicable to this award is the Recipient's contribution of XX.XX% (\$XXX) and NIST's contribution of XX.XX% (\$XXX).

The Recipient must ensure that its cost share requirement is met each year throughout the award.

Annual cost share amounts and percentages:

	Nonfederal	Federal
Year 1:	\$000,000 (XX%)	\$000,000 (XX%)
Year 2:	\$000,000 (XX%)	\$000,000 (XX%)
Year 3:	\$000,000 (XX%)	\$000,000 (XX%)

(For JV)

For the first year period, the cost sharing ratio (direct plus indirect) applicable to this award is the Recipient's contribution of XX.XX% (\$XXX) and NIST's contribution of XX.XX% (\$XXX).

The JV Administrator must ensure that JV's overall cost share requirements are met each year throughout the award. Each JV participant is responsible for meeting or exceeding its cost share requirements in accordance with its approved budget.

Annual cost share amounts and percentages:

	Nonfederal	Federal
Year 1:	\$000,000 (XX%)	\$000,000 (XX%)
Year 2:	\$000,000 (XX%)	\$000,000 (XX%)

10. Award Payments (Supplements Department of Commerce, Financial Assistance Standard Terms and Conditions, dated May 2007, Section A.02, Award Payments)

- a. The advance method of payment shall be authorized unless otherwise specified in a special award condition.
- b. Payments will be made through electronic funds transfers, using the Department of Treasury's, Automated Standard Application for Payment (ASAP) system, and in accordance with the requirements of the Debt Collection Improvement Act of 1996. The following information is required when making withdraws for this award: (1) ASAP account identification (id) = award number found on the cover sheet of this award;(2) Agency Location Code (ALC) = 13060001; and (3) Region Code = 01. Recipients do not need to submit a "Request for Advance or Reimbursement" (SF-270) for payments relating to this award. If you are not currently enrolled in the ASAP system you must provide the Federal Awarding Agency with a Point of Contact name, e-mail address, mailing address, telephone number, EIN and DUNS numbers of your organization in order for the Federal Awarding Agency Enrollment Initiator (EI) to begin the on-line enrollment. If you have questions concerning this requirement please contact the Grant Specialist responsible for this award. If you have questions on the electronic process' step-by-step instructions you may contact your responsible Regional Finance Center.
- c. Advances taken through the ASAP shall be limited to the minimum amounts necessary to meet immediate disbursement needs. Advanced funds not disbursed in a timely manner must be promptly returned, via an ASAP credit, to the account from which the advanced funding was withdrawn. Advances shall be for periods not to exceed 30 days.
- d. This award has the following control or withdraw limits set in ASAP:

- None
- Agency Review required for all withdrawals (see explanation below)
- Agency Review required for all withdrawal requests over \$_____ (see explanation below)
- Maximum Draw Amount controls (see explanation below):
 - \$_____ each month
 - \$_____ each quarter
 - \$_____ each year

e. Funds that have been withdrawn through ASAP may be returned to ASAP via the Automated Clearing House (ACH) or via FEDWIRE. The ACH or FEDWIRE transaction can only be done by the Recipient's financial institution. Full or partial amounts of payments

received by a Payment Requestor/Recipient Organization may be returned to ASAP. All funds returned to the ASAP system will be credited to the ASAP Suspense Account. The Suspense Account allows the Regional Financial Center to monitor returned items and ensure that funds are properly credited to the correct ASAP account. Returned funds that cannot be identified and classified to an ASAP account will be dishonored and returned to the originating depository financial institution (ODFI).

f. It is essential that the Payment Requestor/Recipient Organization provide its financial institution with ASAP account information (ALC, Recipient ID and Account ID) to which the return is to be credited. Additional detailed information can be found at

<http://www.fms.treas.gov/asap/pay-return2.pdf>.

(Below is for JV only):

xx. FEDERAL TRADE COMMISSION (FTC) AND DEPARTMENT OF JUSTICE (DOJ) NOTIFICATION

Within thirty (30) calendar days of the date of this agreement, the Recipient shall provide notification to the FTC and DOJ of the formation of a JV. The Recipient shall provide the NIST Grants Officer with a copy of this notification prior to release of funds under this cooperative agreement, as prescribed by 15 CFR Sec. 295.24. (A sample notification letter is attached.)

xx. GO/NO-GO DECISION POINT (will be inserted as needed)

The Recipient must provide to the ATP Project Manager in writing within 60 days of project start date, the key decision points for the project which evaluate technical progress made and link the project scope to the commercialization objectives.

xx. REQUIREMENT FOR INDIRECT COST RATE [if no indirect cost rate agreement was already provided]

Recipients, including large business single company and JV participants who will be charging indirect costs or applying indirect costs as matching funds must have an approved indirect cost rate from a cognizant Federal Agency. An indirect cost rate has not been established by a cognizant Federal Agency for _____ *[insert company name(s)]*. Therefore, an indirect cost rate proposal must be submitted **within 90 days** from the date of this award.

Please refer to the May 2007 Department of Commerce Financial Assistance Standard Terms and Conditions, Section A.05 for the indirect cost rate requirements.

(Specialists: The following three SACs should follow SAC number 9, Award Payments”, when applicable. Make sure that Agency Review is checked in SAC no. 9 when using one of the following three.)

xx. REQUIREMENT OF ACCOUNTING SYSTEM CERTIFICATION (if a new recipient)

The Recipient, whether receiving Federal Funds or only providing matching funds, must have a functioning financial management system that meets the provisions of 15 CFR 14.21 to ensure proper accountability of funds. Therefore, _____ *[insert company name(s)]*, must submit an Accounting System Certification, issued by

an Independent Certified Public Accountant (CPA), to the NIST Grants Officer within 60 days from the date of this award. (A sample Accounting System Certification is attached.)

Pursuant to 15 CFR Part 14.22 (e), “Payment,” the Recipient, will be place on reimbursement only. Copies of supporting documentation to validate all costs contained in each request for reimbursement must be provided to the NIST Grants Officer until such time as the NIST Grants Officer amends this award to remove this condition.

(Specialists: The following two SACs are to be used mainly for post-award administration.)

XX. Special Condition for Corrective Action [INSERT THE FOLLOWING If the awardee performs poorly, is financially unstable, or otherwise meets requirements for corrective action under 15 CFR 14.14. Include a Special Award Condition that states the nature of the additional requirements, the reason why the additional requirements are being imposed, the nature of the corrective action needed, the time allowed for completing the corrective actions and the method for requesting reconsideration of the additional requirements imposed.]

The above control limits have been established pursuant to the information contained in SAC *[insert Corrective Action SAC number]* of this award. The Grant Officer upon the Recipient's demonstration of taking corrective action to *[insert action recipient needs to take in order to have the payment restrictions lifted]* may lift these restrictive controls.

XX. Enforcement Action [INSERT THE FOLLOWING AS PART OF AN ENFORCEMENT ACTION PURSUANT TO 15 CFR 14.62 OR 15 CFR 24.43]

The above control limits have been established because the recipient has failed to comply with corrective action notice from the Grant Officer dated *[insert date that the Recipient was put on notice of non-compliance with terms and/or conditions of the award]*. The Grant Officer upon the Recipient's demonstration of taking corrective action to *[insert action recipient needs to take in order to have the payment restrictions lifted]* may lift these restrictive controls.

INCLUSION OF ADDITIONAL SPECIAL AWARD CONDITIONS ONLY AS REQUIRED:

xx. RESTRICTION ON USE OF VERTEBRATE ANIMALS

Based upon information submitted by the Recipient and reviewed by the appropriate NIST officials, NIST has determined that the proposed research complies, as applicable, with the Animal Welfare Act as amended, and implementing regulations found at 7 USC 2131-2157, 9 CFR parts 1, 2, and 3. Therefore, the proposed research involving vertebrate animals is approved for

- Facility 1 - (company/vendor (Species))
- Facility 2 - (company/vendor (Species))
- Facility 3 - (company/vendor (Species))

which is (are) the only facility(ies) authorized to conduct research involving vertebrate animals under this award.

In order to continue research involving vertebrate animals, the Recipient must maintain the following valid, current approvals, and certifications.

Facility 1:

(Required)

Protocol # _____ (Protocol title and animal species)

Expiration date XX/XX/XX

(Select one of the following)

Animal Welfare Assurance # _____

Expiration Date XX/XX/XX

OR

USDA # _____

Expiration date XX/XX/XX

(Required)

AND/OR

(For research projects that only involve rodents, birds or fish)

AAALAC Certification # _____

Expiration date XX/XX/XX

Facility 2:

(Required)

Protocol# _____ (Protocol title and animal species)

Expiration date XX/XX/XX

(Select one of the following)

Animal Welfare Assurance # _____

Expiration Date XX/XX/XX

USDA # _____

Expiration date XX/XX/XX

OR

(For research projects that only involve rodents, birds or fish)

AAALAC Certification # _____ (species)

Expiration date XX/XX/XX

(Below is for all projects involving animal research)

To be consistent with federal-wide practice, NIST is now accepting documentation identifying the assurance designation (e.g. OLAW animal welfare assurance number, USDA certificate number, or stipulation of AAALAC accreditation) in lieu of submitting an actual copy of applicable institutional credentials (e.g OLAW animal welfare assurance designation, USDA certificate, or AAALAC letter of accreditation). Since verification that assurances are valid and current can be made through official websites, generally only documentation of the applicable credential's identifier linked to the institution performing the animal studies is needed. NIST reserves the right to request a copy of the applicable institutional credentials (e.g OLAW animal welfare assurance designation, USDA

certificate, or AAALAC letter of accreditation), as warranted. The Recipient shall provide NIST with documentation identifying each institution's identifier linked to the applicable credentials when applying for the renewal or amendment to any animal study approvals, along with signed and dated documentation from the IACUC and/or the cognizant certifying body of IACUC approval, including any interim or renewal reporting requirements, no later than the expiration date shown above. The Recipient shall provide information on continuing review of the ASP as it occurs. The Recipient shall immediately inform the ATP Project Manager and NIST Grants Officer in writing of any proposed deviations from the procedures involving vertebrate animals approved by NIST during the project period, and submit evidence of approval of the revised animal study proposal by the IACUC for NIST review. For further information, please refer to the booklet entitled, "Guidelines and Documentation Requirements for Research Involving Human and Animal Subjects," available on the ATP website at <http://www.atp.nist.gov/atp/2007has.pdf>.

For DEFERRAL Research at (Insert name of facility) involving (Insert type of animal) is proposed for (Specify anticipated timeframe). No work at this facility may be undertaken, conducted, or costs incurred and charged to this project, until the required has been submitted by the Recipient and approved in writing by the NIST Grants Officer. Documentation requirements are identified in Term #20 of the August 2007 ATP General Terms and Conditions entitled "Care and Use of Vertebrate Animals" and are set forth in the booklet entitled, "Guidelines and Documentation Requirements for Research Involving Human and Animal Subjects," available on the ATP website at <http://www.atp.nist.gov/atp/2007has.pdf>.

XX HUMAN SUBJECT RESEARCH [Language and regulation references are indicated in memo to Grants Officer included in the award package, but will generally be one of the following]

XX. HUMAN SUBJECT RESEARCH EXEMPTION

Based upon a review of the proposal and documentation dated XX/XX/XX and ____ XX, 2007, NIST has determined that the involvement of human subjects in research identified in this project meets the criteria to qualify for an exemption under 15 CFR 27.101() (), Protection of Human Subjects, which states:

" _____

_____."

(for subcontracting research, use following clause:)
This exemption applies exclusively to the use of (cell, blood, Cadaver...) in the approved research tasks undertaken by (name of the sub) under this cooperative agreement as referenced in the correspondence dated ____ XX, 2007 and ____ XX, 2007.

(for vendors, use the following clause:)
This exemption applies exclusively to the use of (cells, blood, cadaver...) obtained from (name of the vendor(s)) as referenced in the correspondence dated ____ XX, 2007 and ____ XX, 2007

No other involvement of human subjects in research is authorized by NIST within this project.

If the conditions upon which this exemption is based change in any way, the Recipient must notify the Grants Office immediately in writing and obtain prior written approval from the Grants Officer before proceeding with any further research involving human subjects.

By accepting this award, the Recipient certifies to the accuracy of the documentation cited above.

For DEFERRAL

XX. DEFERRAL OF REVIEW OF USE OF HUMAN SUBJECTS

Based upon a review of the proposal and documentation dated _____ XX, 2007 and _____ XX, 2007, NIST has determined that the involvement of human subjects in research identified herein meets the criteria to qualify for a deferred review. This award is made in accordance with 15 CFR 27.118, which permits research that does not involve human subjects to proceed even though human subjects may be involved at a later stage during the project period. In accordance with the August 2007 ATP General Terms and Conditions #19, the Recipient must submit the following documentation prior to the _____ (yr/mo) of the project and prior to any research that may involve human subjects, to the ATP Project Manager for review and approval by appropriate NIST officials:

- a) Documentation establishing approval of the project by an Institutional Review Board qualified under 15 CFR 27.103, OR
- b) Documentation to support an exemption for the project pursuant to 15 CFR 27.101(b).

The documentation requirements are available on the ATP website <http://www.atp.nist.gov/atp/2007has.pdf> outlined in the ATP booklet titled "Guidelines and Documentation Requirements for Research Involving Human and Animal Subjects." No involvement of human subjects in research may be undertaken or conducted, or costs involving human subjects research incurred or charged to the project, until the NIST Grants Officer's approval of the above documentation is obtained in writing.

FOR FULL IRB REVIEW

XX. PROTECTION OF HUMAN SUBJECTS

The Recipient has satisfied the requirements set forth in the August 2007 ATP General Terms and Conditions, #19, related to the Protection of Human Subjects in research. Based upon the proposal and the Recipient's information dated _____ X, 2007, the following specific involvement of human subjects in research is hereby approved by the Grants Officer.

Facility 1 (name of the company or university, hospital etc. if different from the Recipient, i.e. name of the facility where

the IRB is located is different from the Facility where the research is taking place, which is often the case! Otherwise delete this line.)

- a) (Title and/or number of protocol approved by the IRB)
- b) IRB approval date: _____ X, 2007
- c) Assurance of compliance no. _____ for the IRB that approved the protocol

By accepting this award, the Recipient certifies to the accuracy of the documentation cited above.

An updated IRB approval is required each year per the renewal date assigned by the IRB and must be submitted to NIST for review and approval until the project is completed.

No other involvement of human subjects in research may be undertaken or conducted, or costs involving human subjects research incurred or charged to the project, except as specified in the study plan and the informed consent forms that were received and approved by the IRB.

If the conditions upon which the IRB approval is based should change in any way, the Recipient shall immediately notify the NIST Grants Officer in writing of the specific change, including the IRB's written approval of the change, and shall obtain prior written approval from the NIST Grants Officer before proceeding with implementing any change.

Common example of sac for conflict of interest involving university subcontractor:

XXX RESTRICTIONS ON UNIVERSITY SUBCONTRACT

The Recipient has indicated its need to use the services of the University of *(Insert Name)* as a subcontractor under this cooperative agreement. The Recipient has also indicated that Dr. *(Insert Name)* who is designated to serve as a consultant to the project under that subcontract, *(Indicate the nature of the conflict):* holds an ownership interest in *(Insert Recipient company name)*, serves on the board of directors of the company, and/or was an officer of the company when the contract to the University of *(Insert Name)* was awarded. In order to avoid any real or apparent conflict of interest in violation of Section J of the DOC Financial Assistance Terms and Conditions, as well as 15 CFR Parts 14.42, 14.43, and 14.44, and the Recipient's Assurance provided in Paragraph 3 of SF-424B, the Recipient shall include no profit or fee in its payment to the University of *(Insert Name)* under this subcontract. In addition, Dr. *(Insert Name)* shall receive no compensation above his or her normal university salary as a result of participation in the project other than reimbursement for reasonable expenses associated with this work.

XXX USE OF BLENDED LABOR RATE AGREEMENT IN LIEU OF ACTUAL SALARIES

The Recipient or one or more of its JV participants, if a JV, has identified the use of "blended labor rates" in its proposal in lieu of actual salaries. *(Include the following if we don't already have it...)* The Recipient must provide the NIST Grants Officer with a copy of

its current federally audited and federally approved pricing or rates agreement. For accounting and auditing purposes, the Recipient must, throughout the project period of this award, (1) maintain contemporaneous records of the actual labor hours expended and claimed on the ATP project; and (2) ensure that the appropriate labor schedule and category is used.