

**DEPARTMENT OF COMMERCE****National Institute of Standards and Technology****[Docket Number: 090401620–9621–01]****Professional Research Experience Program (PREP); Availability of Funds****AGENCY:** National Institute of Standards and Technology, Commerce.**ACTION:** Notice.

**SUMMARY:** The National Institute of Standards and Technology (NIST) announces that the Professional Research Experience Program (PREP) is soliciting applications for financial assistance from accredited colleges and universities to enable those institutions to provide laboratory experiences and financial assistance to undergraduate and graduate students and post-doctoral associates at the NIST, Boulder Laboratories in Boulder, Colorado.

**DATES:** All applications, paper and electronic, must be received no later than 5 p.m. Mountain Daylight Time (MDT) on May 28, 2009. Applications received after this deadline will not be reviewed or considered.

**Important:** All applicants, both electronic and paper, should be aware that adequate time must be factored into applicants' schedules for delivery of the proposal. Electronic applicants are advised that volume on Grants.gov is currently extremely heavy, and if Grants.gov is unable to accept proposals electronically in a timely fashion, applicants are encouraged to exercise their option to submit proposals in paper format. Paper applicants should allow adequate time to ensure a paper proposal will be received on time, taking into account that guaranteed overnight carriers are not always able to fulfill their guarantees.

**ADDRESSES:** Proposals may be submitted to PREP as follows:

For electronic submission—Electronic proposals may be uploaded to <http://www.grants.gov>.

For paper submission—Send to Ms. Rosemary O'Connor, Administrative Coordinator for PREP, National Institute of Standards and Technology, Division 104.01, 325 Broadway, Boulder, CO 80305–3328.

**FOR FURTHER INFORMATION CONTACT:** For complete information about this program and instructions for applying by paper or electronically, read the Federal Funding Opportunity Notice (FFO) at <http://www.grants.gov>. A paper copy of the FFO may be obtained by calling (301) 975–5718. Program questions should be addressed to Ms. Rosemary O'Connor, Administrative Coordinator for PREP, National Institute of Standards and Technology, Division

104.01, 325 Broadway, Boulder, CO 80305–3328, Tel: (303) 497–5238, E-mail:

[rosemary.oconnor@boulder.nist.gov](mailto:rosemary.oconnor@boulder.nist.gov). The PREP Web site is: <http://www.boulder.nist.gov/bdprepo.htm>. All grants related administration questions concerning this program should be directed to Hope Snowden, NIST Grants and Agreements Management Division at (301) 975–6002 or [hope.snowden@nist.gov](mailto:hope.snowden@nist.gov), or for assistance with using Grants.gov, contact [support@grants.gov](mailto:support@grants.gov).

**SUPPLEMENTARY INFORMATION:**

*Catalog of Federal Domestic Assistance Name and Number:* Measurement and Engineering Research and Standards—11.609.

*Program Description:* The National Institute of Standards and Technology (NIST) announces that the *Professional Research Experience Program (PREP)* is soliciting applications for financial assistance from accredited colleges and universities to enable those institutions to provide laboratory experiences and financial assistance to undergraduate and graduate students and post-doctoral associates at the NIST, Boulder Laboratories in Boulder, Colorado. In Boulder, NIST carries out programs in five laboratories—Electronics and Electrical Laboratory (EEEL), Chemical Science and Technology Laboratory (CSTL), Physics Laboratory (PL), Materials Science and Engineering Laboratory (MSEL), and the Office of the Chief Information Officer (OCIO). Please see the Federal Funding Opportunity for further details.

The objectives of the PREP are to encourage the growth and progress of science and engineering in the United States by providing research opportunities for students and post-doctoral associates, enabling them to collaborate with internationally known NIST scientists, exposing them to cutting-edge research. The PREP will promote students' pursuit of degrees in science and engineering, and post-doctoral associates' professional development in science and engineering. The NIST PREP Coordinator and NIST scientists will coordinate with appropriate department chairs, outreach coordinators, and directors of multi-disciplinary academic organizations to identify students and programs that would benefit from the PREP experience. Applicants must be able to ensure the availability of students for on site collaborative research experiences at the NIST Laboratories in Boulder, Colorado, concurrent with their university studies. Any participating student must also be

enrolled in an academic program acceptable to both the sponsoring institution and NIST.

*Funding Availability:* NIST anticipates awarding one or more cooperative agreements to eligible institution(s). In FY 2004, seven cooperative agreements were awarded to four institutions. Since their inception on August 1, 2004, these awards have provided approximately \$12.884 million in PREP fellowship support to 170 individuals. For the most recent year of the PREP, FY 2008, NIST supported 114 PREP fellowships (some students received more than one fellowship) totaling approximately \$2.805 million.

Funding for the PREP will be provided as fellows are identified by the successful applicant and approved by NIST. Fellowship support from NIST under the PREP is contingent upon the availability of NIST program funds, NIST program objectives, and the discretion of NIST advisors.

**Statutory Authority:** The authority for the PREP is 15 U.S.C. 278g–1, which authorizes NIST to fund “awards of research fellowships and other forms of financial assistance to students at institutions of higher learning within the United States who show promise as present or future contributors to the mission of the Institute, and to United States citizens for research and technical activities on Institute programs.”

*Eligibility:* Eligible applicants are accredited institutions of higher education in the United States and its territories that offer undergraduate and graduate degrees in physics, chemistry, mathematics, computer science, or engineering. Undergraduate and graduate students who receive fellowships under the PREP must show evidence of a 3.0 or higher grade point average in a curriculum acceptable to the sponsoring educational institution and NIST and must be enrolled full-time at a sponsoring institution. Post-doctoral associates must be affiliated with a sponsoring institution of higher education.

*Review and Selection Process:* Screening of Applications: All PREP proposals must be submitted to the NIST PREP Administrative Coordinator. Each proposal is examined for completeness and responsiveness to the scope of the stated objectives of the PREP as described above. Substantially incomplete or non-responsive proposals will not be reviewed for technical merit nor considered for funding, and the applicant will be notified. The NIST PREP Administrative Coordinator will retain one copy of each non-responsive application for three years for record-keeping purposes. The remaining copies will be destroyed.

Each complete and responsive PREP application packet will be reviewed by at least three independent, objective NIST scientists, all of whom are Federal employees, who are knowledgeable in the subject matter of this announcement and its objectives and who are able to conduct a review based on the Evaluation Criteria for the PREP as described in this notice.

The merit review ratings shall provide a rank order to a Selecting Official for final funding recommendations. The Selecting Official will be the Director of the NIST Laboratories in Boulder, Colorado. A Federal Program Officer may first make recommendations to the Selecting Official, applying the selection factors below. The Selecting Official shall award in the rank order unless the proposal is justified to be selected out of rank order. Justification for award order different from the rank order shall be based upon one or more of the following factors:

1. Availability of funds.
2. Ability to ensure that undergraduate and graduate students are available for on-site collaborative research experiences at the NIST Boulder, CO, laboratories concurrent with their full-time University studies.
3. Ability to ensure post-doctoral associates are available for full time on-site collaborative research experiences at the NIST Boulder, CO, laboratories.
4. Applicant's prior award performance.

The final selection of institutions and award of cooperative agreements will be made by the NIST Grants Officer in Gaithersburg, Maryland, based on compliance with application requirements as published in this notice, compliance with applicable legal and regulatory requirements, and whether the recommended applicants appear to be responsible. Unsatisfactory performance on any previous Federal award may result in an application not being considered for funding. Applicants may be asked to modify objectives, work plans, or budgets, and provide supplemental information required by the agency prior to award. The decision of the Grants Officer is final. Applicants should allow up to 90 days processing time.

**Evaluation Criteria:** The applications will be evaluated and scored on the basis of the following evaluation criteria:

(A) Soundness of the applicant's academic program, proposed project objectives, and appropriateness of proposed student work assignments in light of ongoing research at NIST/ Boulder and the students' academic programs. (30 points)

(B) Experience in providing students pursuing degrees in physics, chemistry, mathematics, computer science, or engineering with work experiences in laboratories or other settings consistent with furthering the students' education. (30 points)

(C) Adequacy and reasonableness of plans for administering the project and coordinating with the NIST PREP Administrative Coordinator in Boulder. (20 points)

(D) Costs of the proposed project budget (proposed fellowships and other proposed costs) in light of the activities proposed and the objectives of the sponsoring institution and NIST. Voluntary cost sharing may include, but is not limited to, cash contributions for direct costs, contributions of indirect costs, or in-kind contributions. While cost sharing is not required, any cost share contribution will be taken into consideration in reviewing the competitiveness of the proposed project budget. (20 points).

**The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements:** The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in 73 FR 7696 (February 11, 2008) apply to this notice. On the form SF-424, the applicant's 9-digit Dun and Bradstreet Data Universal Numbering System (DUNS) number must be entered in item 8.c. Organizational DUNS. The DUNS number provided MUST be the DUNS number for the entity within the applying institution that will be responsible for drawing down funds from the Automated Standard Application for Payment System (ASAP). Institutions that provide incorrect DUNS numbers may experience significant delays in receiving funds.

**Collaborations with NIST Employees:** Collaboration with NIST is presumed in PREP. If any applicant proposes any activities involving specific NIST employees, the statement of work should include a statement of this intention, a description of the collaboration, and prominently identify the NIST employee(s) involved. Any collaboration by a NIST employee must be approved by appropriate NIST management and is at the sole discretion of NIST. Prior to beginning the merit review process, NIST will verify the approval of the proposed collaboration. Any unapproved collaboration will be stricken from the proposal prior to the merit review.

**Use of NIST Intellectual Property:** If the applicant anticipates using any NIST-owned intellectual property to

carry out the work proposed, the applicant should identify such intellectual property. This information will be used to ensure that no NIST employee involved in the development of the intellectual property will participate in the review process for that competition. In addition, if the applicant intends to use NIST-owned intellectual property, the applicant must comply with all statutes and regulations governing the licensing of Federal government patents and inventions, described at 35 U.S.C. 200–212, 37 CFR part 401, 15 CFR 14.36, and in Section B.21 of the Department of Commerce Pre-Award Notification Requirements, 73 FR 7696 (February 11, 2008). Questions about these requirements may be directed to the Chief Counsel for NIST, 301–975–2803.

Any use of NIST-owned intellectual property by a proposer is at the sole discretion of NIST and will be negotiated on a case-by-case basis if a project is deemed meritorious. The applicant should indicate within the statement of work whether it already has a license to use such intellectual property or whether it intends to seek one.

If any inventions made in whole or in part by a NIST employee arise in the course of an award made pursuant to this notice, the United States government may retain its ownership rights in any such invention. Disposition of NIST's retained rights in such inventions will be determined solely by NIST, and may include, but is not limited to, the grant of a license(s) to parties other than the applicant to practice such invention, or placing NIST's retained rights into the public domain.

**Research Projects Involving Human Subjects, Human Tissue, Data or Recordings Involving Human Subjects:** Any proposal that includes research involving human subjects, human tissue, data or recordings involving human subjects must meet the requirements of the Common Rule for the Protection of Human Subjects, codified for the Department of Commerce at 15 CFR part 27. In addition, any proposal that includes research on these topics must be in compliance with any statutory requirements imposed upon the Department of Health and Human Services (DHHS) and other federal agencies regarding these topics, all regulatory policies and guidance adopted by DHHS, the Food and Drug Administration, and other Federal agencies on these topics, and all Presidential statements of policy on these topics.

NIST will accept the submission of proposals containing research activities involving human subjects. The human subjects research activities in a proposal will require approval by Institutional Review Boards (IRBs) possessing a current registration filed with DHHS and to be performed by institutions possessing a current, valid Federal-wide Assurance (FWA) from DHHS that is linked to the cognizant IRB. In addition, NIST as an institution requires that IRB approval documentation go through a NIST administrative review; therefore, research activities involving human subjects are not authorized to start within an award until approval for the activity is issued in writing from the NIST Grants Officer. NIST will not issue a single project assurance (SPA) for any IRB reviewing any human subjects protocol proposed to NIST.

President Obama has issued Exec. Order No. 13,505, 74 FR 10667 (March 9, 2009), revoking previous executive orders and Presidential statements regarding the use of human embryonic stem cells in research. NIST will follow any guidance issued by the National Institutes of Health (NIH) pursuant to the executive order and will develop its own procedures based on the NIH guidance before funding research using human embryonic stem cells. NIST will follow any additional policies or guidance issued by the current Administration on this topic.

**Research Projects Involving Vertebrate Animals:** Any proposal that includes research involving vertebrate animals must be in compliance with the National Research Council's "Guide for the Care and Use of Laboratory Animals" which can be obtained from National Academy Press, 2101 Constitution Avenue, NW., Washington, DC 20055. In addition, such proposals must meet the requirements of the Animal Welfare Act (7 U.S.C. 2131 *et seq.*), 9 CFR parts 1, 2, and 3, and if appropriate, 21 CFR part 58. These regulations do not apply to proposed research using pre-existing images of animals or to research plans that do not include live animals that are being cared for, euthanized, or used by the project participants to accomplish research goals, teaching, or testing. These regulations also do not apply to obtaining animal materials from commercial processors of animal products or to animal cell lines or tissues from tissue banks.

**Reporting Requirements:** Reporting requirements are described in the Department of Commerce Financial Assistance Standard Terms and Conditions dated March, 2008, found on the Internet at: <http://>

[oamweb.osec.doc.gov/docs/GRANTS/DOC%20STCsMAR08Rev.pdf](http://oamweb.osec.doc.gov/docs/GRANTS/DOC%20STCsMAR08Rev.pdf).

The references in Sections A.01 and B.01 of the Department of Commerce Financial Assistance Standard Terms and Conditions, dated March, 2008, to "Federal Financial Report (SF-269)" and "SF-269" are hereby replaced with "Federal Financial Report (SF-425)" and "SF-425," respectively, as required by the Office of Management and Budget (OMB) (73 FR 61175, October 15, 2008). As authorized under 15 CFR 14.52 and 24.41, the OMB approved SF-425 shall be used in the place of the SF-269 and SF-272 under the uniform administrative requirements and elsewhere under awards in this program where such forms are referenced.

**Limitation of Liability:** NIST anticipates making awards for the program listed in this notice. In no event will NIST or the Department of Commerce be responsible for proposal preparation cost if these programs(s) fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not obligate NIST or the Department of Commerce to award any specific project or to obligate any available funds.

**Executive Order 12866:** This funding notice was determined to be not significant for purposes of Executive Order 12866.

**Executive Order 13132 (Federalism):** It has been determined that this notice does not contain policies with federalism implications as that term is defined in Executive Order 13132.

**Executive Order 12372:** Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

**Paperwork Reduction Act:** The standard forms in the application kit involve a collection of information subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, SF-LLL, and CD-346 has been approved by OMB under the respective Control Numbers 0348-0043, 0348-0044, 0348-0040, 0348-0046, and 0605-0001.

**Administrative Procedure Act/Regulatory Flexibility Act:** Notice and comment are not required under the Administrative Procedure Act (5 U.S.C. 553) or any other law, for rules relating to public property, loans, grants, benefits or contracts (5 U.S.C. 553(a)). Because notice and comment are not required under 5 U.S.C. 553, or any other law, for rules relating to public property, loans, grants, benefits or contracts (5 U.S.C. 553(a)), a Regulatory Flexibility Analysis is not required and

has not been prepared for this notice, 5 U.S.C. 601 *et seq.*

Dated: April 21, 2009.

**Patrick Gallagher,**

*Deputy Director, NIST.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XO87

#### Taking of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Training Operations Conducted within the Gulf of Mexico Range Complex

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; receipt of an application for regulations and a letter of authorization; request for comments and information.

**SUMMARY:** NMFS has received a request from the U.S. Navy (Navy) for authorizations for the take of marine mammals incidental to training and operational activities conducted by the Navy Atlantic Fleet within Gulf of Mexico (GOMEX) Range Complex for the period beginning December 3, 2009 and ending December 2, 2014. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is announcing our receipt of the Navy request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the Navy application and request.

**DATES:** Comments and information must be received no later than May 28, 2009.

**ADDRESSES:** Comments on the applications should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. The mailbox address for providing email comments is [PR1.0648-XO87@noaa.gov](mailto:PR1.0648-XO87@noaa.gov). NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size. Copies of the Navy application may be obtained by writing to the address specified above (See **ADDRESSES**), telephoning the