

# **AUTM 2011**

## **Material Transfer Agreement Survey Report**



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# **Section 1**

## **Introduction and Survey Overview**

## Letter from the Chair

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Dear AUTM Member:

AUTM is pleased to provide the results of its first survey that looks specifically at material transfer agreements (MTAs) and how institutions manage them. Most academic institutions execute MTAs to exchange specialized, one-of-a-kind reagents and research tools between other academic research institutions or industry. This survey attempted to identify institutional resources used in the execution of MTAs, when these agreements are used, terms found in them, and potential problems and stumbling blocks during negotiations.

I would like to thank the MTA Survey Committee members (see page 5 for the individual names) for their hard work and congratulate them on a job well-done. They did an outstanding job in drafting and conducting the survey, analyzing and summarizing the data, and pulling together a quality publication.

I hope you find the information in this summary beneficial and encourage you to direct any questions or comments regarding the survey to Chrys Gwellem at AUTM headquarters at [cgwellem@autm.net](mailto:cgwellem@autm.net).



Shawn A. Hawkins  
AUTM Vice President for Metrics and Surveys

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## Acknowledgements

We thank all members of the MTA Survey Committee for their creative input, hard work and many hours of time into the creation, design, implementation and review of the first *AUTM MTA Survey*. We also are grateful to the many administrators, technology transfer offices, university-affiliated offices and organizations that provided feedback and participated in this survey. We would also like to thank AUTM for its support of this effort and for making this survey a reality.

Allyson Best, Stephen Harsy and Laurie Tzodikov

## MTA Survey Committee

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Stephen Harsy, *University of Wisconsin-Madison* (Co-chair)

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Michelle Wilson, *University of Texas Southwestern Medical Center*

# Survey Overview

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## GOAL

Utilizing a self-administered Web-based questionnaire, the survey characterized the current operational and contextual aspects of the negotiation and maintenance of material transfer agreements (MTAs) within AUTM's academic-based membership (U.S. and Canadian institutions) for the years 2006-2008.

## OUTCOMES

The outcomes of the survey, as addressed in the three sections of the survey instrument, consist of (1) defining how MTAs are managed within respondents' institutions, (2) quantifying the number and transaction times for the execution of MTAs, and (3) identifying key terms and conditions within the agreements that generate the most discussion in negotiations, as well as accepted positions on those terms.

## REPORTING

Data are reported in aggregate form only. All individual responses will remain confidential.

## METHODOLOGY

The MTA Survey Committee developed the survey after a series of meetings, beginning in 2007. This was followed by an open-ended questionnaire to 16 MTA Survey Committee members, sent by email in January 2008. A pilot survey was administered to 15 MTA Survey Committee members in February and March 2008. The final survey, containing 54 questions, was open to 387 U.S. and Canadian AUTM academic members in August 2009, with an initial close date of September 23, 2009. This date was extended to December 21, 2009, to increase the response rate. The final response rate was 21 percent, and the completion rate for those responding was 86 percent.

# **Section 2**

## **General Instructions Sent to Respondents**

The survey was administered using SurveyMonkey, an online survey instrument. See the Appendix for a complete version of the survey.

The instructions accompanying the survey are presented below. References to sections in the instructions refer to divisions within the survey.

### **SECTION I: INSTRUCTIONS AND DEFINITIONS**

Welcome to the 2009 AUTM Material Transfer Agreement Survey. Please take the time to carefully read these instructions, notes about the questions and term definitions. If you have any questions, please do not hesitate to contact Steve Harsy (harsy@wisc.edu), Allyson Best (amilhous@olemiss.edu) or Laurie Tzodikov (tzodikov@princeton.edu).

This survey is the first attempt to characterize what early research has shown to be a complex, non-standardized operation that usually varies from campus to campus. Understanding that institutions handle these operations differently, this survey provides definitions and situation-specific scenarios that will enable you to represent how your institution manages MTAs.

### **SECTION II: HOW YOUR INSTITUTION MANAGES MTAs**

#### **SECTION III: INCOMING MTAs**

The following questions are about all INCOMING MTAs. These are situations when your institution is the recipient of another organization's materials. If your institution does not execute MTAs for INCOMING materials then please hit "NEXT PAGE" at the bottom of the screen.

#### **SECTION IV: OUTGOING MTAs**

The questions on this page ask about all OUTGOING MTAs for your institution. These are situations when YOUR institution is the PROVIDER of materials to another institution. If your institution DOES NOT execute MTAs for OUTGOING materials then please hit "NEXT PAGE" at the bottom of the screen and you will move to next section.

### **SECTION V: NEGOTIATING A MATERIAL TRANSFER AGREEMENT: TERMS AND CONDITIONS**

The remainder of the survey addresses the negotiation of terms and conditions of an agreement and should be answered under the following scenario:

Your institution is negotiating an INCOMING material transfer agreement. Your institution is the RECIPIENT of another institution's materials.

You will be presented with different terms and conditions and asked to rate the frequency, importance and difficulty of the term or condition in your negotiations. These questions will be asked under the scenarios of negotiating with an academic or nonprofit as well as negotiating with a company or for-profit. You will also be asked to rate how frequently you accept certain terms and conditions in an agreement. Each of the seven pages will cover a general topic that is commonly negotiated with individual questions covering specific terms and conditions:

- Control over Publications
- Confidentiality of Information
- Provider's (Their) Rights to Recipient's (Your) Data and Results
- Intellectual Property Terms
- Indemnification and Liability
- Jurisdiction and Choice of Law
- Signatories

If your institution DOES NOT executes INCOMING MTAs, you will have an opportunity to exit the survey.

**DEFINITIONS:**

**Material Transfer Agreement (MTA):** Agreement, between two institutions, that governs the physical transfer of tangible research materials. This includes compound transfer agreements (CTAs) and uniform biological material transfer agreements (UBMTAs). This does not include confidential disclosure agreements (CDAs), nondisclosure agreements (NDAs), Cooperative Research and Development Agreements CRADAs, sponsored research agreements or license agreements.

**Incoming Academic MTA:** Transfer of materials INTO your institution from an academic/ non-profit institution or governmental agency, also abbreviated as “In: Academic and Nonprofit”

**Outgoing Academic MTA:** Transfer of materials OUT OF your institution to an academic/ non-profit institution or governmental agency, also abbreviated as “Out: Academic and Nonprofit”

**Incoming Industry MTA:** Transfer of materials INTO your institution from a company/for-profit, also abbreviated as “In: Industry and For-Profit”

**Outgoing Industry MTA:** Transfer of materials OUT OF your institution to a company/for-profit, also abbreviated as “Out: Industry and For-Profit”

**Routine MTA:** An agreement that has been negotiated possibly modified and executed within YOUR INSTITUTION’S normally accepted terms and conditions.

# **Section 3**

## **Institutional Practices for Management of MTAs**

## Summary

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This part of the survey probed administrative policies and practices related to the management of MTAs. Questions addressed requirements for use of MTAs, who reviewed and signed MTAs, full-time equivalents (FTEs) involved in the activity, and the use of standard agreements.

### ADMINISTRATION OF MTAS

Approximately 80 percent of the responding institutions reported that their patent and licensing office was involved in the negotiation and management of MTAs. Twenty-five percent reported that the office of research administration and sponsored programs was involved (note that more than one office could be reported as being involved). (See question 1 in this section). Only one institution reported that the principal investigator named on the agreement could serve as the institution's authorized signatory.

### USE OF STANDARD AGREEMENTS

About 74 percent of institutions required an MTA for incoming materials, and about 85 percent required an MTA for outgoing materials. (See question 1 in this section.) For academic-to-academic transfers, only 31 percent reported frequently receiving the uniform biological material transfer agreement (UBMTA) as the proposed agreement, and only 15 percent reported frequently receiving the National Institutes of Health (NIH) simple letter agreement. (See question 11 in this section.)

### STAFFING LEVELS

In 2008, about 78 percent of responding institutions have two or fewer FTEs dedicated to the negotiation and management of MTAs. This level of staffing did not appreciably change over the period from 2006 to 2008. (See question 9 in this section.)

### SURVEY RESPONSES

- 1. What offices within the institution negotiate and manage MTAs? Check all that apply. (84 respondents)**

	In: Nonprofit	Out: Nonprofit	In: For Profit	Out: For Profit
Institution wide office of research administration and sponsored programs	28 (33%)	23 (27%)	24 (29%)	16 (19%)
Office responsible for patenting and licensing such as the technology transfer office	63 (75%)	71 (85%)	62 (74%)	71 (85%)
Office within an institutional division or department	1 (1%)	1 (1%)	1 (1%)	1 (1%)
Legal office or institution general counsel	3 (4%)	2 (2%)	3 (4%)	2 (2%)
Other	5 (6%)	5 (6%)	5 (6%)	5 (6%)

**2. Do multiple offices negotiate and manage MTAs? (84 respondents)**

	In: Nonprofit	Out: Nonprofit	In: For Profit	Out: For Profit
Percentage of respondents with only one office negotiating and managing MTAs	85%	86%	85%	83%
Percentage of respondents with two or more offices negotiating and managing MTAs	15%	14%	15%	17%

**3. Does the institution require that an agreement be in place for the following transfers (exclude purchasing situations)?**

	In: Nonprofit	Out: Nonprofit	In: For Profit	Out: For Profit
Yes	59	72	63	75
No	24	11	19	7
n	83	83	82	82

**4. Does the institution designate a different primary negotiator for intellectual property (IP) terms in the MTA other than the person who has primary responsibility for the MTA negotiation?**

	In: Nonprofit	Out: Nonprofit	In: For Profit	Out: For Profit
Yes	9	6	12	9
No	75	78	70	71
n	84	84	82	80

**5. If a different person negotiates the IP terms, in what office does that person reside? (57 respondents)**

	In: Nonprofit	Out: Nonprofit	In: For Profit	Out: For Profit
Office responsible for patenting and licensing such as the technology transfer office	12	11	13	13
Legal office or institution general counsel	2	2	1	2
Other (named as “varies depending on the campus”)	1	1	1	1
Institution wide office of research administration and sponsored programs	1	1	0	0
Office within an institutional division or department	0	0	0	0

**6. What levels of review/approval are required before a routine MTA can be signed by the institution? Check all that apply. (82 respondents)**

	In: Nonprofit	Out: Nonprofit	In: For Profit	Out: For Profit
No approval needed	3	3	1	1
Department	3	3	4	1
Division (school or college)	3	1	3	0
Institution wide office of research or sponsored programs	22	18	21	16
Office responsible for patenting and licensing such as the technology transfer office	57	63	58	65
Legal office or institution general counsel	9	9	9	9
Other	8	8	8	8

**7. Who can sign as the institution’s authorized signatory agent on an MTA? Check all that apply. (83 respondents)**

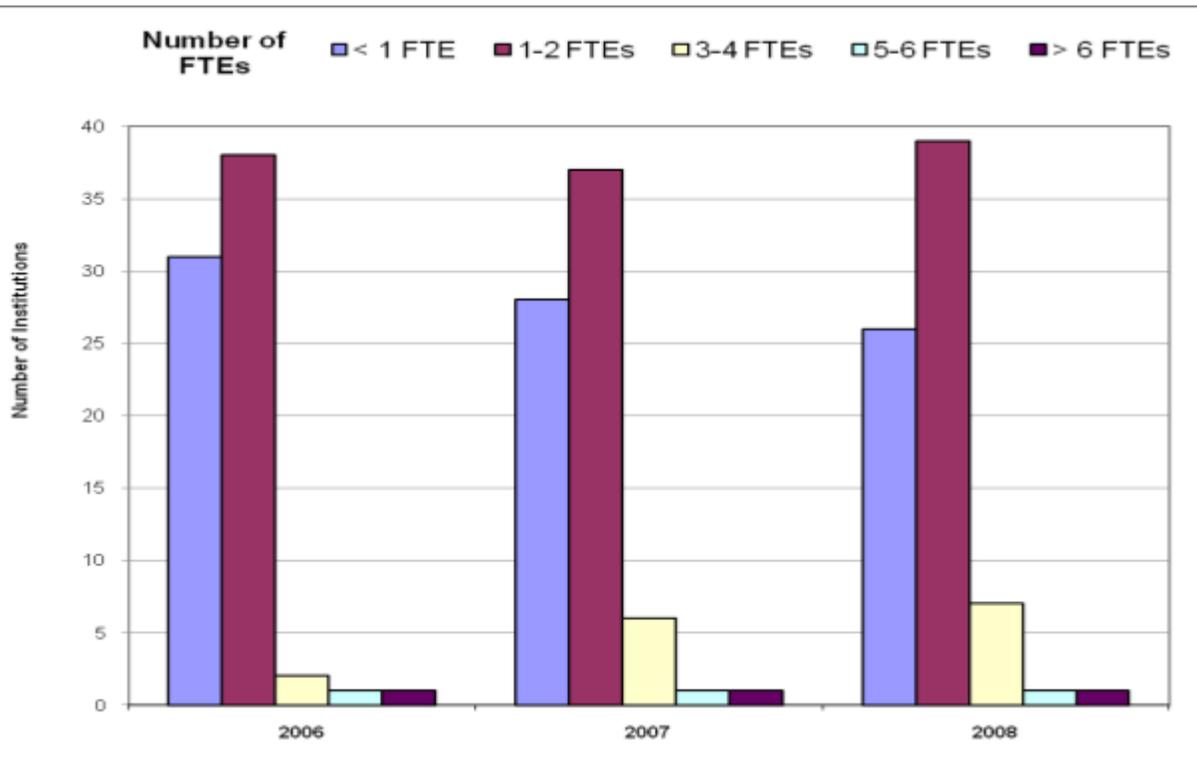
	In: Nonprofit	Out: Nonprofit	In: For Profit	Out: For Profit
Senior official in the technology transfer office	55	61	54	61
Staff-level person in the technology transfer office	4	5	3	4
Senior official in institution’s office of research or sponsored programs	36	32	34	29
Staff-level person in the institution’s office of research or sponsored programs	3	2	3	1
Senior official in an institutional division	13	14	13	14
Staff-level person in an institutional division	0	0	0	0
Legal office or institution general counsel	10	10	9	9
Principal investigator named on the MTA	1	1	0	0
Other	8	8	8	8

**8. How frequently do institutions have multiple signatory agents? (83 respondents)**

Number of institutions that have only one signatory agent, regardless of agreement type	40 (48%)
Number of institutions that have two signatory agents, regardless of agreement type	28 (34%)
Number of institutions that have three or more signatory agents, regardless of agreement type	15 (18%)

**9. How many full-time equivalent employees (FTEs) do institutions dedicate to the management and negotiation of MTAs? (83 respondents)**

	Less than 1 FTE	1-2 FTEs	3-4 FTEs	5-6 FTEs	> 6 FTEs
2006	31 (37%)	38 (46%)	2 (2%)	1 (1%)	1 (1%)
2007	28 (34%)	37 (45%)	6 (7%)	1 (1%)	1 (1%)
2008	26 (31%)	39 (47%)	7 (8%)	1 (1%)	1 (1%)



**10. What are the trends in FTEs dedicated to the management and negotiation of MTAs from 2006 to 2008? (83 respondents)**

Number of institutions that reported the addition of one or more FTEs	9 (11%)
Number of institutions that reported the reduction of one or more FTEs	2 (2%)
Number of institutions that reported no change in FTEs	72 (87%)

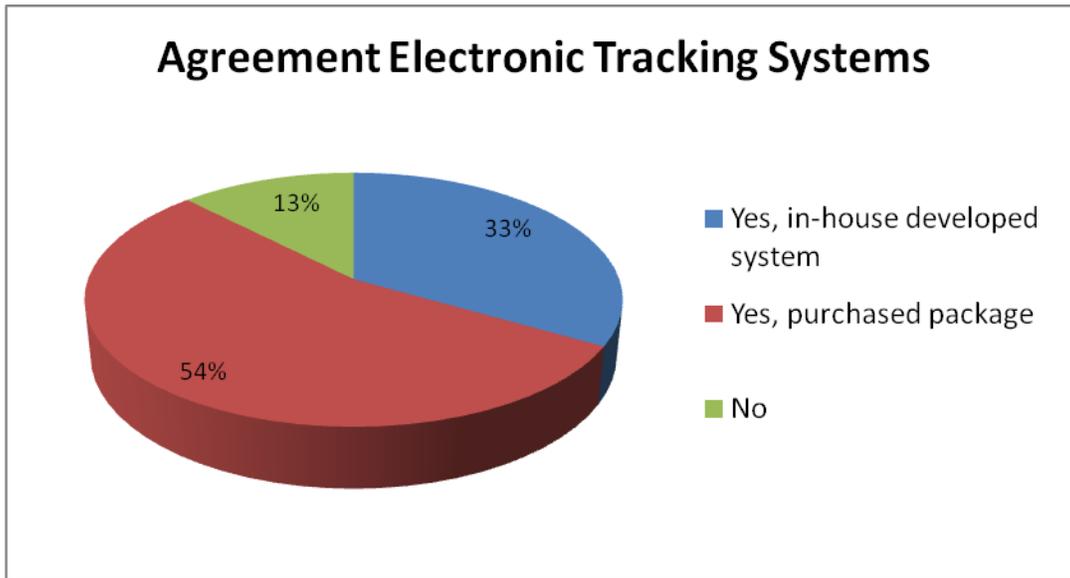
**11. How frequently do institutions start with template agreements in material transfers with other academics/nonprofit institutions? (83 respondents)**

	Always	Frequently	Sometimes	Rarely	Never
For INCOMING MTAs, how often do respondents initially receive the following from the provider?					
The UBMTA and/or the UBMTA implementing letter as published by the NIH in March 1995	1%	31%	50%	16%	2%
The NIH simple letter agreement	0%	15%	46%	37%	2%
Its template agreement	8%	63%	17%	10%	1%
Other	0%	17%	17%	37%	30%
For OUTGOING MTAs, how often do respondents initially propose use of the following?					
The UBMTA and/or the UBMTA implementing letter as published by the NIH in March 1995	14%	37%	22%	12%	15%
The NIH simple letter agreement	1%	10%	26%	26%	36%
Its template agreement	3%	7%	8%	31%	52%
Other	32%	43%	11%	4%	11%

**12. How frequently does an institution execute template agreements with other academics/nonprofit institutions? (83 respondents)**

	Always	Frequently	Sometimes	Rarely	Never
The UBMTA and/or the UBMTA implementing letter as published by the NIH in March 1995	7%	47%	35%	7%	4%
The NIH simple letter agreement	6%	16%	45%	29%	4%

**13. Does the institution use an electronic tracking system that can monitor MTA negotiations and management? This includes any data management system (flat file or relational database) where an office can electronically monitor any or all of the agreement details (total number, frequency, collaborating organizations, etc.). (81 respondents)**



**14. Has the institution reviewed or revised a policy or policies regarding the requirements for an MTA in the past 12 months? (82 respondents)**

EXPANDED the requirements for an MTA (For example: Requiring an MTA for ALL transfers in and out of the university instead of transfers only INTO the university)	0 (0%)
LIMITED the requirements for an MTA (For example: Requiring an MTA for transfers only INTO the university instead of ALL transfers in and out of the university)	6 (7%)
Other changes in policy but the requirements for an MTA are the same	9 (11%)
No changes in MTA policy in the past 12 months	67 (82%)

**15. Is the institution considering a review or revision of a policy or policies regarding the requirements for an MTA? (81 respondents)**

EXPANDING the requirements for an MTA (For example: Requiring an MTA for ALL transfers in and out of the university instead of transfers only INTO the university)	5 (6%)
LIMITING the requirements for an MTA (For example: Requiring an MTA for transfers only INTO the university instead of ALL transfers in and out of the university)	6 (7%)
Other changes in policy but the requirements for an MTA will be the same	5 (6%)
No changes in the MTA policy are planned	65 (80%)

# Section 4

## MTA Metrics

## Summary

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This section of the survey generated quantitative information about the volume of MTAs being managed and time it takes to complete MTAs.

### NUMBERS OF MTAS

Sixty-five percent of institutional respondents indicated that they received and executed 100 or more MTAs in 2008, and 25 percent reported executing more than 300 incoming MTAs in 2008. Excluded from these counts are 4 percent that did not track numbers of incoming MTAs in 2008. (See question 1 in this section). More MTAs received from academic institutions were executed than from companies, with 53 percent of institutions reporting more than 50 MTAs from academics in 2008 compared to 25 percent with more than 50 MTAs from companies (approximately 20 percent did not track the split). Thirty-six percent of institutions reported executing 100 or more outgoing MTAs in 2008. Increasing numbers of executed MTAs were reported over the 2006 to 2008 time frame for all categories except incoming academic MTAs, which remained about the same.

### TIME TO COMPLETE MTAS

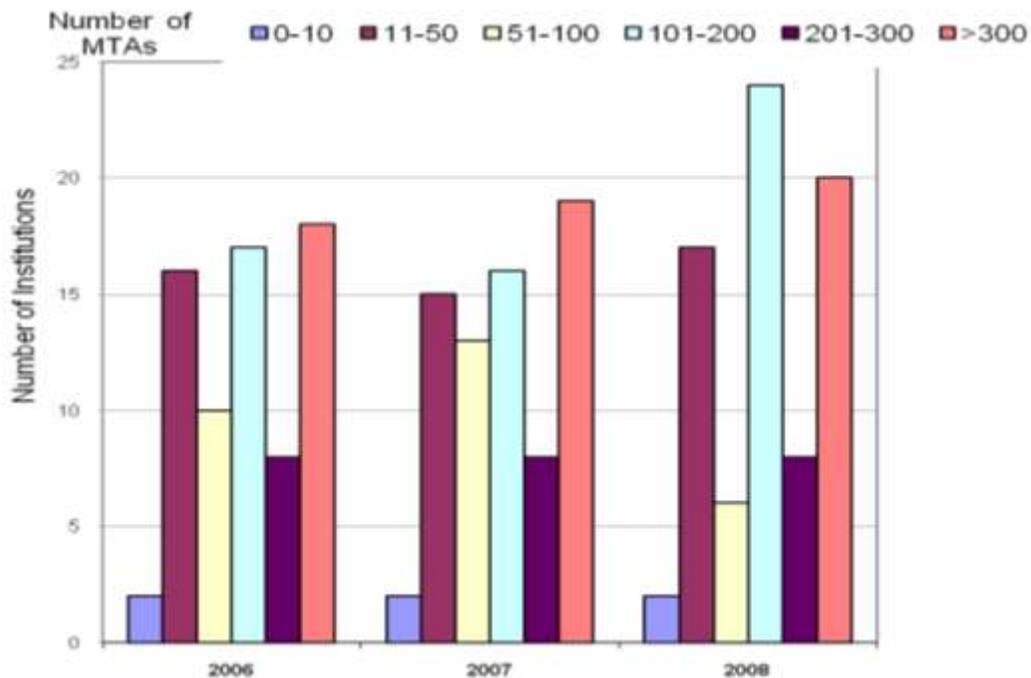
The majority (79 percent) of MTAs institutions received from companies in 2008 were executed in three months or less; 45 percent were completed in one month or less. For MTAs received from academic and nonprofit institutions, 92 percent were completed in three months or less, and 71 percent were completed in one month or less. (See questions 9 and 10 in this section.)

# Survey Responses

## INCOMING MATERIAL TRANSFER AGREEMENTS

1. How many TOTAL MTAs did the institution execute for INCOMING materials?  
(80 respondents)

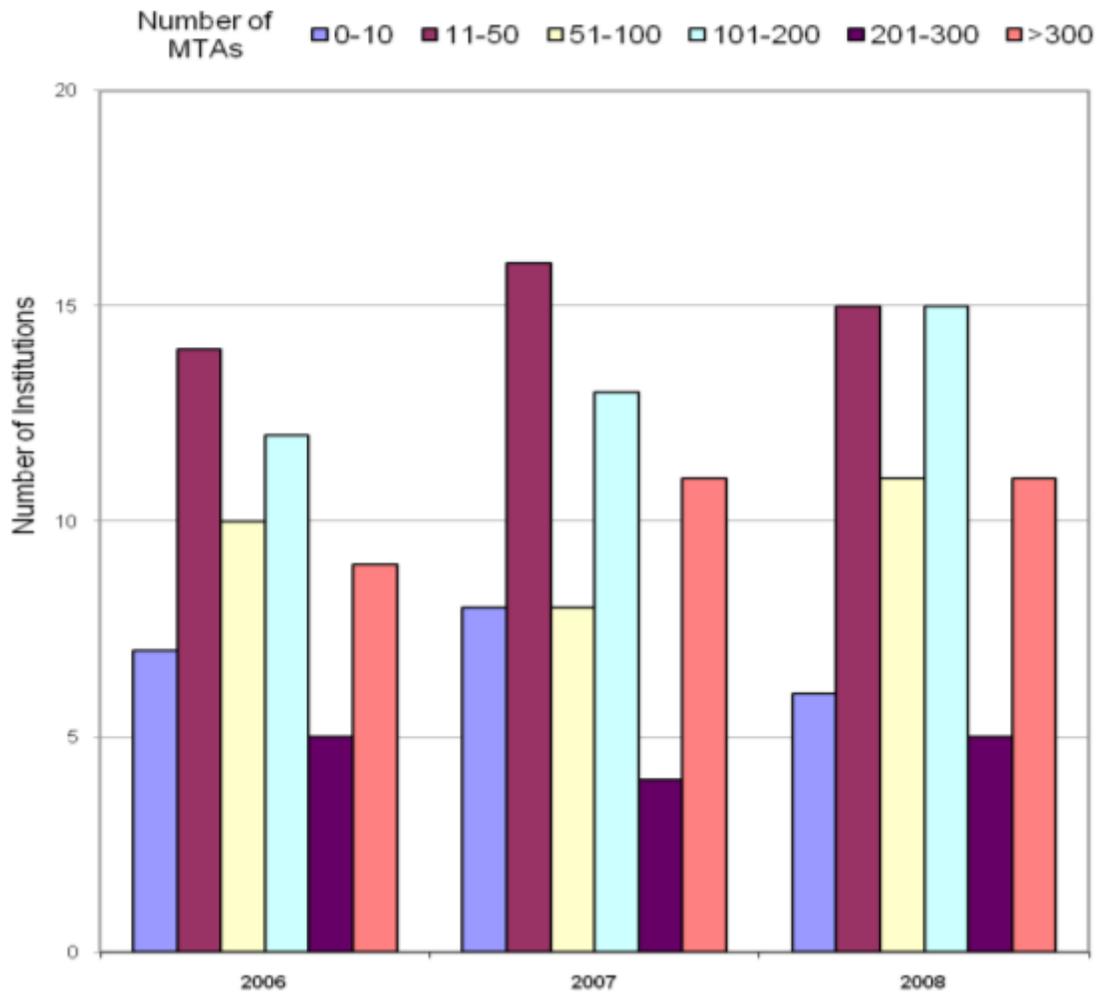
	0-10	11-50	51-100	101-200	201-300	>300	Do Not Track
2006	2 (3%)	16 (20%)	10 (13%)	17 (21%)	8 (10%)	18 (23%)	9 (11%)
2007	2 (3%)	15 (19%)	13 (16%)	16 (20%)	8 (10%)	19 (24%)	7 (9%)
2008	2 (3%)	17 (21%)	6 (8%)	24 (30%)	8 (10%)	20 (25%)	3 (4%)



2. What is the trend in number of MTAs executed for INCOMING materials from 2006 to 2008?  
(80 respondents)

Institutions that reported an INCREASE in the number of executed MTAs	50%
Institutions that reported a DECREASE in the number of executed MTAs	8%
Institutions that reported NO CHANGE in the number of executed MTAs	42%

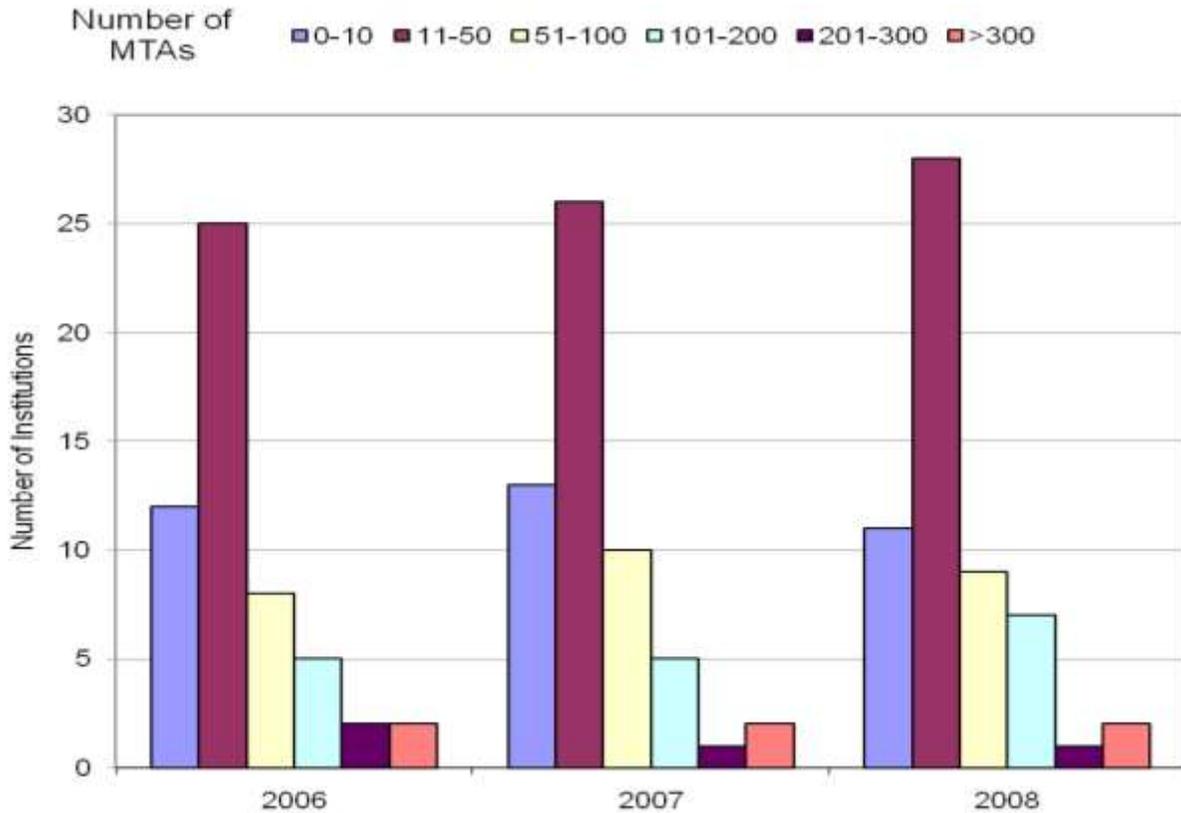
**3. How many MTAs did the institution execute with NONPROFITS for INCOMING materials? (79 respondents)**



**4. What is the trend in number of MTAs executed with NONPROFITS for INCOMING materials from 2006 to 2008? (79 respondents)**

Institutions that reported an INCREASE in the number of executed MTAs	47%
Institutions that reported a DECREASE in the number of executed MTA	4%
Institutions that reported NO CHANGE in the number of executed MTAs	49%

5. How many MTAs did the institution execute with FOR-PROFITS for INCOMING materials? (77 respondents)



6. What was the trend in number of MTAs executed with FOR-PROFITS for INCOMING materials from 2006 to 2008? (77 respondents)

Institutions that reported an INCREASE in the number of executed MTAS	12%
Institutions that reported a DECREASE in the number of executed MTAS	8%
Institutions that reported NO CHANGE in the number of executed MTAS	80%

7. What percentage of MTAs for INCOMING materials with nonprofits did the institution start, but abandon or never execute? (79 respondents)

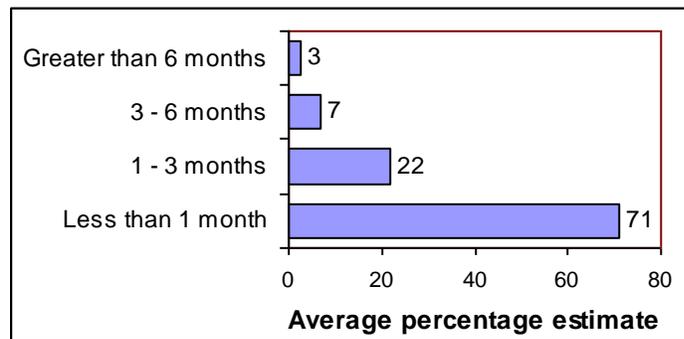
	<5%	5-10%	11-15%	16-25%	26-50%	>50%	Do Not Track
2006	36	8	4	0	0	0	31
2007	39	10	1	2	0	0	27
2008	42	11	3	0	0	0	23

**8. What percentage of MTAs for INCOMING materials with for-profits did the institution start but abandon or never execute? (79 respondents)**

	<5%	5-10%	11-15%	16-25%	26-50%	>50%	Do Not Track
2006	34	5	3	2	4	0	31
2007	34	7	2	3	3	1	28
2008	36	8	4	3	4	1	23

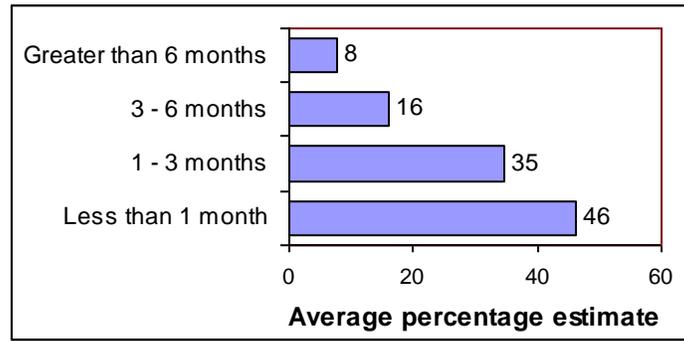
**9. What percentage of an institution’s INCOMING MTAs with nonprofits were negotiated in the following time frames in 2008? (73 respondents)**

Answer Options	Response Total	Percentage Negotiated
Less than 1 month	5,193	71%
1 - 3 months	1,553	21%
3 - 6 months	405	6%
Greater than 6 months	149	2%



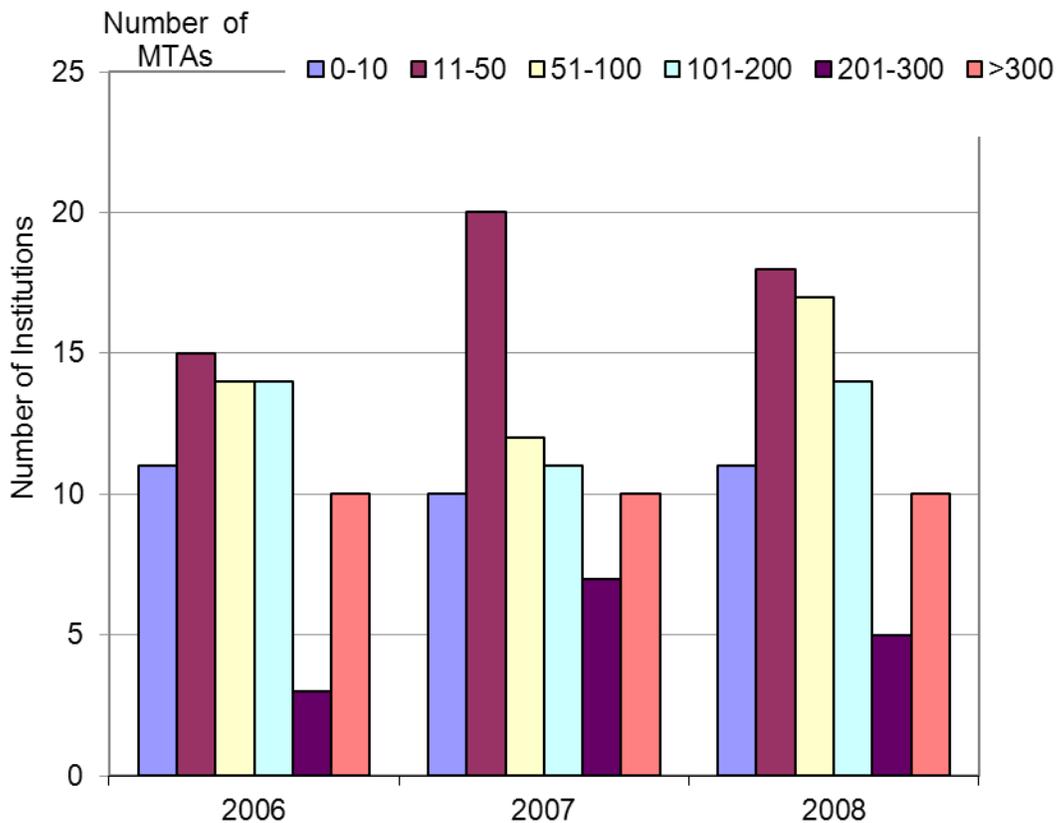
**10. What percentage of the institution’s INCOMING MTAs with for-profits were negotiated in the following time frames in 2008? (72 respondents)**

Answer Options	Response Total	Percentage Negotiated
Less than 1 month	3,270	45%
1 - 3 months	2,457	34%
3 - 6 months	1,059	15%
Greater than 6 months	414	6%



## OUTGOING MATERIAL TRANSFER AGREEMENTS

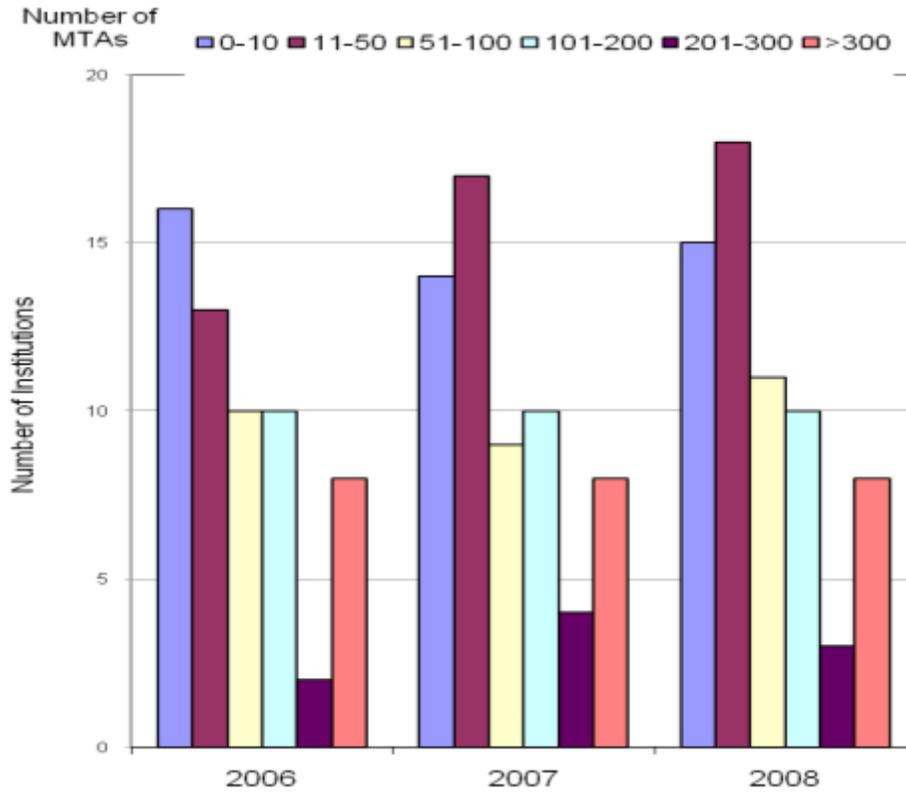
11. How many TOTAL MTAs did the institution execute for OUTGOING materials?  
(80 respondents)



12. What was the trend in number of MTAs executed for OUTGOING materials from 2006 to 2008?  
(80 respondents)

Institutions that reported an INCREASE in the number of executed MTAs	49%
Institutions that reported a DECREASE in the number of executed MTAs	4%
Institutions that reported NO CHANGE in the number of executed MTAs	47%

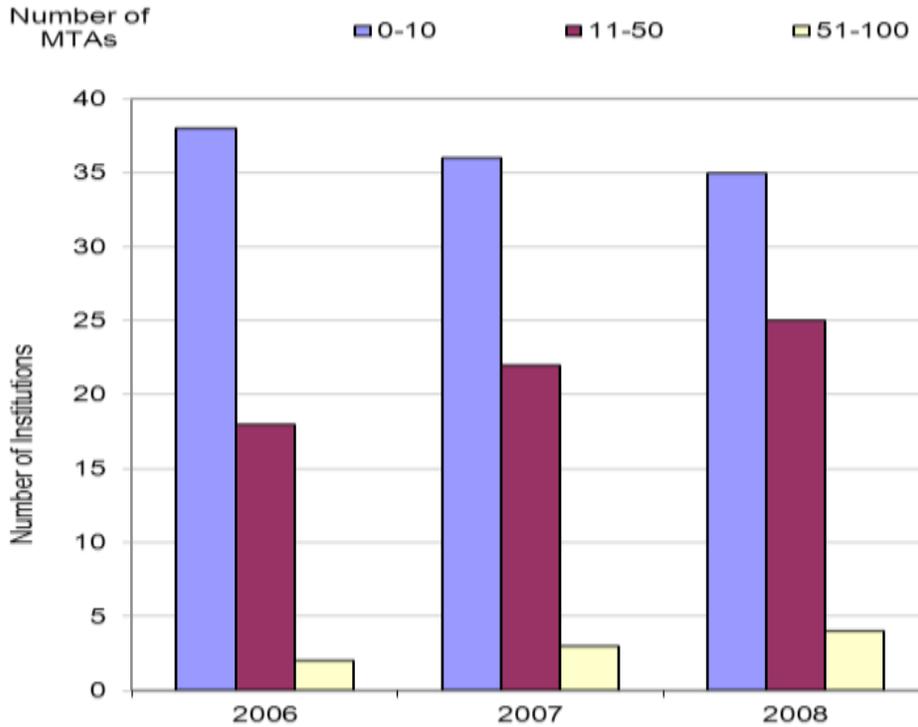
**13. How many MTAs did the institution execute with NONPROFITS for OUTGOING materials? (80 respondents)**



**14. What was the trend in number of MTAs executed with NONPROFITS for OUTGOING materials from 2006 to 2008? (80 respondents)**

Institutions that reported an INCREASE in the number of executed MTAs	53%
Institutions that reported an DECREASE in the number of executed MTAs	7%
Institutions that reported NO CHANGE in the number of executed MTAs	40%

**15. How many MTAs did the institution execute with FOR-PROFITS for OUTGOING materials? (80 respondents)**



**16. What was the trend in number of MTAs executed with FOR-PROFITS for OUTGOING materials from 2006 to 2008? (80 respondents)**

Institutions that reported an INCREASE in the number of executed MTAs	72%
Institutions that reported a DECREASE in the number of executed MTAs	3%
Institutions that reported NO CHANGE in the number of executed MTAs	25%

**17. What percentage of MTAs for OUTGOING materials with NONPROFITS did the institution start, but abandon or never execute? (79 respondents)**

	<5%	5-10%	11-15%	16-25%	26-50%	>50%	Do Not Track
2006	30	7	3	3	1	0	36
2007	33	5	6	1	2	0	33
2008	35	13	2	3	0	0	27

**18. What percentage of MTAs for OUTGOING materials with FOR-PROFITS did the institution start, but abandon or never execute? (79 respondents)**

	<5%	5-10%	11-15%	16-25%	26-50%	>50%	Do Not Track
2006	28	6	2	2	2	2	38
2007	30	5	2	2	4	2	35
2008	34	6	2	2	5	1	28

# **Section 5**

## **Negotiating MTAs: Terms and Conditions**

# Summary

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## OVERVIEW OF QUESTIONNAIRE SECTION V DESIGN

This section of the MTA survey addressed terms negotiated in MTAs. These terms covered seven general areas:

1. Rights to intellectual property arising under the MTA
2. Rights to data and use of results generated by work under the MTA
3. Publication rights
4. Indemnification and liability
5. Jurisdiction for legal disputes
6. Governing law for legal disputes
7. Signatories to the MTA

The first set of questions in each general area asked the respondent, as the recipient of materials under an MTA, to score a set of issues (terms appearing in an MTA) according to the frequency with which they arose, the difficulty in resolving the issue and the importance of obtaining a satisfactory resolution of the issue. The survey collected data about industry material providers as well as academic material providers. The survey included 22 questions about industry MTA terms and 13 questions about academic MTAs.

Issues that present the greatest barriers to successful negotiation of MTAs would be those that are scored as most frequently occurring, most difficult to resolve and most important to resolve satisfactorily. The responses can therefore be ranked and examined to identify those rising to the top in each category. Issues in rank order, according to weighted averages of the responses, are presented in Tables 1-6. Weighted averages were calculated using the formula:

$$[(\% \text{ scoring "very important"}) (5) + (\% \text{ scoring "important"}) (4) + (\% \text{ scoring "moderately important"}) (3) + (\% \text{ scoring "of little importance"}) (2) + (\% \text{ scoring "unimportant"}) (1)]/100$$

The second set of questions in each general area asked the respondent to describe the institutional position with respect to the acceptability of certain terms appearing in an MTA. Again, weighted average responses were calculated, using the following formula:

$$[(\% \text{ scoring "always"}) (5) + (\% \text{ scoring "frequently"}) (4) + (\% \text{ scoring "sometimes"}) (3) + (\% \text{ scoring "rarely"}) (2) + (\% \text{ scoring "never"}) (1)]/100$$

Table 7 presents the data, sorted by topic.

Note that respondent counts remained high for all questions. No question was answered by fewer than 91 percent of respondents, and an average 95 percent of respondents answered questions in this section.

## GREATEST BARRIERS IN NEGOTIATING INDUSTRY MTAs

An examination of the frequency/difficulty/importance data for MTAs in which industry is the provider (questions 1, 3 and 5 in this section) showed that while certain issues ranked highly in both difficulty and importance, those same issues did not rank near the top in frequency. This is a measure of good news, in that the most difficult and important issues are not the ones that come up most frequently. Intellectual property issues dominate the high-difficulty/importance terms, with rights to data and results next in significance.

Three issues ranked among the top five in both difficulty and importance:

- Intellectual property: Provider seeks ownership of IP
- Intellectual property: Provider seeks a royalty-free exclusive license to IP
- Rights to data and results: Provider seeks to own data and results of recipient's results using the material

The respondents' positions on these terms show little flexibility, as would be expected due to Bayh-Dole constraints. Eighty-six percent of respondents said they rarely or never accepted terms providing ownership rights to providers, and 88 percent rarely or never agreed to royalty-free commercial licenses. (See row 2 and row 3 of question 24 in this section.) Responding institutions indicated that approximately 71 percent rarely or never allowed the provider to own data and results, even if the respondent retained a right to use them for academic purposes. (See question 16.)

Next in line, there were four other issues that ranked in the top third in difficulty and the top half in importance:

- Intellectual property: Provider seeks a royalty-free nonexclusive sublicensable commercial license to IP
- Intellectual property: License fees and/or royalty rates (either specific, ranges or caps) are specified in the agreement
- Rights to data and results: Provider seeks to use, for any purpose, results of recipient's research using the material
- Confidentiality: Provider seeks to maintain recipient's research results as confidential information

Seventy-two percent rarely or never gave the providing company a sublicensable commercial nonexclusive royalty-free license. However, when the requirement that the license be sublicensable is removed, the number finding this unacceptable significantly decreased, with about half of the responding institutions indicating a willingness to grant a commercial, nonsublicensable, nonexclusive royalty-free license. Eighty-five percent said they rarely or never agree to include license fees and royalty rates in MTAs.

## ADDITIONAL RESULTS

**Publication:** Respondents reported that the requirement to delay publication for industry review occurred frequently or always for 82 percent, but they rated it as relatively easy to resolve. (See row 6 of question 1.) More problematic was that 76 percent of respondents reported that industry providers sometimes, frequently or always seek to prevent publication or require company approval to publish and that this was moderately difficult to resolve. (See the last row of question 1.) Seventy-nine percent of respondents reported that they rarely or never permit a provider to approve publications or require that provider’s revisions be incorporated, and 82 percent reported that they rarely or never allow a provider to delete patentable information from a publication. (See row 1 and row 4 of question 4.)

**Confidentiality of provider’s information:** Respondents were generally willing to keep company information confidential for up to five years, but disfavored longer terms.

**Intellectual property:** One result in addition to those reported above stood out. Fifty-nine percent of respondents sometimes or always or routinely accept a term requiring the right of first refusal for licensing of arising IP if it is limited to one year or less from a standard trigger date, but 87 percent reported that they rarely or never accept this term if it exceeds one year. (See row 2 and row 3 of question 25). Thus, one year seems to be the tipping point for this term.

## GREATEST BARRIERS IN NEGOTIATING ACADEMIC MTAs

The use of template agreements made available by NIH (such as the simple letter agreement (SLA) and universal biological MTA (UBMTA)) and managed by AUTM (the UBMTA) would reduce barriers for transfer of many types of materials between nonprofit institutions, and the survey therefore probed their use. They were found to be in routine use by a minority of responding institutions: Thirty-one percent of the respondents reported frequently receiving the UBMTA from an academic provider, and 15 percent reported frequently receiving the SLA. In contrast, 72 percent reported frequently receiving the academic provider’s template. (See question 11 in section 3.)

A review of the frequency/difficulty/importance data for academic-to-academic MTAs shows similar patterns as the industry MTAs did: While certain issues ranked highly in both difficulty and importance, those same issues did not rank near the top in frequency.

Three issues ranked highly in both difficulty and importance:

- Intellectual property: Provider seeks rights to IP for commercial purposes or to license IP for commercial use
- Rights to data and results: Provider seeks to own data and results of recipient’s research using the material
- Confidentiality: Provider seeks to maintain recipient’s research results as confidential information

The problematic position identified for intellectual property, is, in effect, reach-through rights sought by an academic provider. Thirty percent of respondents reported that it arises sometimes or frequently or always when they are recipients. (See row 2 of question 17 in this section.) Most institutions reported policies that prohibit accepting terms giving providers ownership of data and results, and requiring that the recipients’ results be kept confidential.. Twenty-five percent of respondents reported that these issues arise sometimes or frequently or always. Clearly these three issues must be slowing or derailing many attempts to affect academic-to-academic transfers.

Overall, these findings are somewhat surprising in that the number of issues rated as arising frequently is significant, however the findings show that MTAs for incoming materials from industry take on average longer to execute than MTAs for incoming materials from academic institutions. This suggests overall that the issues in academic-to-academic MTAs are easier to resolve.

## ADDITIONAL RESULTS

**Publication:** Sixty-five percent of nonprofit respondents indicated that they sometimes, frequently or always were asked by academic providers to delay publication. (See row 1 of question 1 in this section.) Fifty-five percent of nonprofit respondents reported that sometimes or frequently or always an academic provider asked to have the provider scientist named as a co-author on a resulting publication, a practice discouraged, for example, by NIH guidelines for transfer of materials derived under NIH funding. (See row 2 of question 1 in this section).

## SURVEY RESPONSES

### CONTROL OVER PUBLICATIONS

1.

		Always	Frequently	Sometimes	Rarely	Never	Response
How frequently does this issue arise with a NONPROFIT?							
	Provider requires delay of publication or prepublication review required	6	20	27	27	2	82
	Publications and/or presentations must name provider scientist as co-author	7	13	25	33	4	82
How frequently does this issue arise with a FOR-PROFIT?							
	Provider requires delay of publication or prepublication review required	31	36	9	5	1	82
	Recipient may only publish with provider's approval or may not publish	2	24	36	20	0	82

2.

		Very Difficult	Quite Difficult	Fairly Difficult	Slightly Difficult	Not at All Difficult	Response
How difficult is this issue to resolve with a NONPROFIT?							
	Provider requires delay of publication or prepublication review required	1	2	4	29	44	80
	Publications and/or presentations must name provider scientist as co-author	3	3	7	34	32	79
How difficult is this issue to resolve with a FOR PROFIT?							
	Provider requires delay of publication or prepublication review required	1	5	17	35	23	81
	Recipient may only publish with provider's approval or may not publish	10	8	33	20	11	82

**3.**

	Very Important	Important	Moderately Important	Of Little Importance	Unimportant	Response
How important is it to resolve this issue satisfactorily with a NONPROFIT?						
Provider requires delay of publication or prepublication review required	47	22	9	2	0	80
Publications and/or presentations must name provider scientist as co-author	33	27	10	9	1	80
How difficult is this issue to resolve with a FOR PROFIT?						
Provider requires delay of publication or prepublication review required	58	17	3	2	0	80
Recipient may only publish with provider's approval or may not publish	74	4	0	3	0	81

**4. What is the institution's position, as a recipient, on the following terms:**

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted	Response
Publication is permitted only with provider's approval or with provider's revisions incorporated	1	10	6	21	43	81
Publications and/or presentations must name provider scientist as co-author	2	16	26	29	7	80
Provider can require deletion of provider's confidential information	29	39	12	1	0	81
Provider can require deletion of recipient's results that are patentable, regardless of whether a patent has been filed	1	5	8	16	49	79
Recipient will permit the provider to review publications, prior to submission, for a given period	41	34	6	0	0	81
If patentable results are identified, recipient will accept an additional delay extending the initial review period	31	39	10	1	0	81

## CONFIDENTIALITY OF RECIPIENT INSTITUTION'S RESULTS

5.

		Always	Frequently	Sometimes	Rarely	Never	Response
How frequently does this issue arise with a NONPROFIT?							
	Provider seeks to maintain recipient's research results as confidential information	2	5	14	48	12	81
How frequently does this issue arise with a FOR PROFIT?							
	Provider seeks to maintain recipient's research results as confidential information	3	27	34	14	3	81

6.

		Very Difficult	Quite Difficult	Fairly Difficult	Slightly Difficult	Not at All Difficult	Response
How difficult is this issue to resolve with a NONPROFIT?							
	Provider seeks to maintain recipient's research results as confidential information	4	8	13	26	23	74
How difficult is this issue to resolve with a FOR PROFIT?							
	Provider seeks to maintain recipient's research results as confidential information	9	17	31	15	7	79

7.

		Very Important	Important	Moderately Important	Of Little Importance	Unimportant	Response
How important is it to resolve this issue satisfactorily with a NONPROFIT?							
	Provider seeks to maintain recipient's research results as confidential information	63	7	3	2	0	75
How important is it to resolve this issue satisfactorily with a FOR PROFIT?							
	Provider seeks to maintain recipient's research results as confidential information	71	6	1	1	0	79

8. What is the institution's position, as a recipient, on the following terms? Separately and in addition to the process defined in the publication clause, the disclosure of results of the recipient's research using the materials is limited to:

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted	Response
Researchers directly involved in the research using the material	11	23	8	14	22	78
Recipient institution's employees and students	13	20	11	13	19	76

## CONFIDENTIALITY OF PROVIDER'S INFORMATION

9.

	Always	Frequently	Sometimes	Rarely	Never	Response
How frequently does this issue arise with a NONPROFIT?						
Institution must keep provider's information confidential	12	25	25	17	2	81
How frequently does this issue arise with a FOR PROFIT?						
Institution must keep provider's information confidential	33	43	3	1	2	82

10.

	Very Difficult	Quite Difficult	Fairly Difficult	Slightly Difficult	Not at All Difficult	Response
How difficult is this issue to resolve with a NONPROFIT?						
Provider seeks to maintain recipient's research results as confidential information	1	1	8	29	42	81
How difficult is this issue to resolve with a FOR PROFIT?						
Provider seeks to maintain recipient's research results as confidential information	2	4	21	26	29	82

11.

	Very Important	Important	Moderately Important	Of Little Importance	Unimportant	Response
How important is it to resolve this issue satisfactorily with a NONPROFIT?						
Institution must keep provider's information confidential	32	27	12	7	3	81
How important is it to resolve this issue satisfactorily with a FOR PROFIT?						
Institution must keep provider's information confidential	45	21	7	8	1	82

**12. What is the institution’s position, as a recipient, on the following terms?  
Provider’s confidential information will be maintained as confidential for:**

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted	Response
Less than or equal to one year	49	24	4	3	2	82
Less than or equal to three years	42	32	6	0	2	82
Less than or equal to five years	23	34	21	2	2	82
Greater than five years	1	2	20	48	11	82

**PROVIDER’S RIGHTS TO RECIPIENT INSTITUTION’S DATA AND RESULTS**

**13.**

	Always	Frequently	Sometimes	Rarely	Never	Response
How frequently does this issue arise with a NONPROFIT?						
Provider seeks to own data and results of recipient’s research using the material	0	5	18	45	14	82
Provider seeks to use, for any purpose, results of recipient’s research using the material	0	16	32	30	4	82
How frequently does this issue arise with a FOR-PROFIT?						
Provider seeks to own data and results of recipient’s research using the material	6	43	26	1	2	82
Provider seeks to use, for any purpose, results of recipient’s research using the material	12	51	12	7	0	82

**14.**

	Very Difficult	Quite Difficult	Fairly Difficult	Slightly Difficult	Not at All Difficult	Response
How difficult is this issue to resolve with a NONPROFIT?						
Provider seeks to own data and results of recipient’s research using the material	7	5	17	25	19	73
Provider seeks to use, for any purpose, results of recipient’s research using the material	4	6	17	29	23	79
How difficult is this issue to resolve with a FOR-PROFIT?						
Provider seeks to own data and results of recipient’s research using the material	19	18	35	9	1	82
Provider seeks to use, for any purpose, results of recipient’s research using the material	18	21	31	9	3	82

15.

		Very Important	Important	Moderately Important	Of Little Importance	Unimportant	Response
How important is it to resolve this issue satisfactorily with a NONPROFIT?							
	Provider seeks to own data and results of recipient's research using the material	63	8	3	1	0	75
	Provider seeks to use, for any purpose, results of recipient's research using the material	48	19	11	2	0	80
How important is it to resolve this issue satisfactorily with a FOR PROFIT?							
	Provider seeks to own data and results of recipient's research using the material	70	10	1	1	0	82
	Provider seeks to use, for any purpose, results of recipient's research using the material	56	20	4	2	0	82

16. What is the institution's position, as a recipient, on the following terms?

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted	Response
Provider owns recipient's data and/or results, as long as recipient retains rights to use them for academic purposes	6	4	14	34	24	82
Provider may use recipient's data and unpatented results for any purpose	1	11	32	26	12	82

## RIGHTS TO ARISING INTELLECTUAL PROPERTY

17. Rate the following issues when your institution is the recipient and the provider is a NONPROFIT. IP as used in this question refers to patentable inventions made solely by recipient researchers arising under the MTA and during the course of the research as outlined in the MTA or arising from use of the materials.

		Always	Frequently	Sometimes	Rarely	Never	Response
How frequently does this issue arise?							
	Provider seeks rights to use IP for internal research purposes only	9	32	27	12	1	82
	Provider seeks rights to use IP for commercial purposes or license IP for commercial use	1	11	18	47	4	81

**18.**

		Very Difficult	Quite Difficult	Fairly Difficult	Slightly Difficult	Not at All Difficult	Response
How difficult is this issue to resolve?							
	Provider seeks rights to use IP for internal research purposes only	1	0	5	22	53	81
	Provider seeks rights to use IP for commercial purposes or license IP for commercial use	8	11	23	18	19	79

**19.**

		Very Important	Important	Moderately Important	Of Little Importance	Unimportant	Response
How important is it to resolve this issue satisfactorily?							
	Provider seeks rights to use IP for internal research purposes only	26	24	12	15	4	81
	Provider seeks rights to use IP for commercial purposes or license IP for commercial use	53	19	6	1	0	79

**20. Rate the following issues when your institution is the recipient and the provider is a FOR-PROFIT. IP as used in this question refers to patentable inventions made solely by recipient researchers arising under the MTA and during the course of the research as outlined in the MTA or arising from the use of the materials.**

		Always	Frequently	Sometimes	Rarely	Never	Response
How frequently does this issue arise?							
	Defining the inventions that are subject to rights under the agreement	23	29	16	8	2	78
	Who will pay for costs of patenting	3	19	29	22	5	78
	Provider seeks to control patent filing and prosecution	2	19	39	16	2	78
	Provider seeks ownership of IP	9	23	35	10	1	78
	Provider seeks royalty-free, exclusive commercial license to IP	1	20	41	14	2	78
	Provider seeks royalty-free, nonexclusive sublicensable commercial license to IP	5	36	26	9	2	78
	Provider seeks royalty-free, nonexclusive nonsublicensable commercial license to IP	9	21	31	16	1	78
	Provider seeks option to a royalty-bearing commercial license to IP	10	33	22	10	3	78
	Provider seeks royalty-free license to IP for internal use only	11	23	20	22	2	78
	Provider seeks a royalty-free nonexclusive license for research purposes	11	24	23	19	1	78
	License fees and/or royalty rates (either specific, ranges or caps) are specified in agreement	0	2	9	53	14	78

**21.**

		Very Difficult	Quite Difficult	Fairly Difficult	Slightly Difficult	Not at All Difficult	Response
How difficult is this issue to resolve?							
	Defining the inventions that are subject to rights under the agreement	6	17	23	20	9	75
	Who will pay for costs of patenting	2	7	17	28	20	74
	Provider seeks to control patent filing and prosecution	3	11	21	28	12	75
	Provider seeks ownership of IP	25	24	18	6	3	76
	Provider seeks royalty-free, exclusive commercial license to IP	22	18	24	6	5	75
	Provider seeks royalty-free, nonexclusive sublicensable commercial license to IP	18	21	26	7	3	75
	Provider seeks royalty-free, nonexclusive nonsublicensable commercial license to IP	11	13	22	18	12	76
	Provider seeks option to a royalty-bearing commercial license to IP	3	4	17	16	34	74
	Provider seeks royalty-free license to IP for internal use only	1	3	10	16	47	77
	Provider seeks a royalty-free nonexclusive license for research purposes	1	3	6	20	47	77
	License fees and/or royalty rates (either specific, ranges or caps) are specified in agreement	15	20	12	16	8	71

**22.**

		Very Important	Important	Moderately Important	Of Little Importance	Unimportant	Response
How important is it to resolve this issue satisfactorily?							
	Defining the inventions that are subject to rights under the agreement	57	15	3	1	0	76
	Who will pay for costs of patenting	35	23	7	8	2	75
	Provider seeks to control patent filing and prosecution	37	20	9	9	1	76
	Provider seeks ownership of IP	70	5	1	0	0	76
	Provider seeks royalty-free, exclusive commercial license to IP	63	11	1	0	0	75
	Provider seeks royalty-free, nonexclusive sublicensable commercial license to IP	50	22	3	0	0	75
	Provider seeks royalty-free, non-exclusive nonsublicensable commercial license to IP	43	24	8	1	0	76
	Provider seeks option to a royalty-bearing commercial license to IP	39	21	8	4	3	75
	Provider seeks a royalty-free license to IP for internal use only	27	23	13	8	6	77
	Provider seeks a royalty-free nonexclusive license for research purposes	28	24	12	6	7	77
	License fees and/or royalty rates (either specific, ranges or caps) are specified	51	15	6	0	0	72

**23. What is the institution's position, as a recipient, on the following terms?**

**Material is defined as:**

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted	Response
Original material plus progeny and unmodified derivatives (UBMTA definitions)	61	18	2	0	0	81
Original material plus modifications or derivatives made by recipient without further definition of those terms	0	10	24	38	8	80

**24. What is the institution's position, as a recipient, on the following terms? Provider will have the following rights to IP that arise from permitted uses and is created solely by recipient inventors:**

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted	Response
Provider will control patent filing and prosecution	0	5	28	32	13	78
Provider will own IP	0	1	10	31	36	78
Provider will receive a royalty-free, exclusive commercial license to IP	0	1	8	38	31	78
Provider will receive a royalty-free, nonexclusive sublicensable commercial license to IP	0	4	18	44	12	78
Provider will receive a royalty-free, nonexclusive nonsublicensable commercial license to IP	3	14	23	33	5	78
Provider will receive an option to a royalty-bearing commercial license to IP	27	27	16	6	2	78
Provider will receive a royalty-free license to IP for internal use only	23	33	14	8	0	78
License fees and/or royalty rates (either specific, ranges or caps) are specified	1	4	7	38	28	78

**25. What is the institution's position, as a recipient, on the following terms?**

**Recipient may not offer better licensing terms to someone other than the provider, without first offering them to the provider:**

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted	Response
Less than or equal to 30 days from a trigger date, such as the invention disclosure or offer to the provider	14	20	17	17	10	78
Thirty-one days to one year from a trigger date, such as the invention disclosure or offer to the provider	2	16	29	20	13	80
Greater than one year from a trigger date, such as the invention disclosure or offer to the provider	0	3	7	36	33	79

## INDEMNIFICATION AND LIABILITY

26.

		Always	Frequently	Sometimes	Rarely	Never	Response
How frequently does this issue arise with a NONPROFIT?							
	Provider requires that recipient indemnify provider	12	32	28	7	1	80
	Provider requires that recipient accept liability for recipient acts	29	41	6	3	1	80
How frequently does this issue arise with a FOR PROFIT?							
	Provider requires that recipient indemnify provider	20	47	9	4	0	80
	Provider requires that recipient accept liability for recipient acts	31	37	8	3	1	80

27.

		Very Difficult	Quite Difficult	Fairly Difficult	Slightly Difficult	Not at All Difficult	Response
How difficult is this issue to resolve with a NONPROFIT?							
	Provider requires that recipient indemnify provider	3	4	19	31	23	80
	Provider requires that recipient accept liability for recipient acts	0	2	6	22	49	79
How difficult is this issue to resolve with a FOR PROFIT?							
	Provider requires that recipient indemnify provider	8	6	26	23	17	80
	Provider requires that recipient accept liability for recipient acts	4	3	9	23	40	79

28.

		Very Important	Important	Moderately Important	Of Little Importance	Unimportant	Response
How important is it to resolve this issue satisfactorily with a NONPROFIT?							
	Provider requires that recipient indemnify provider	47	18	11	1	3	80
	Provider requires that recipient accept liability for recipient acts	33	21	16	4	6	80
How important is it to resolve this issue satisfactorily with a FOR PROFIT?							
	Provider requires that recipient indemnify provider	51	18	8	1	2	80
	Provider requires that recipient accept liability for recipient acts	36	21	15	4	3	79

## JURISDICTION AND CHOICE OF LAW

29.

	Always	Frequently	Sometimes	Rarely	Never	Response
How frequently does this issue arise with a NONPROFIT?						
Jurisdiction for disputes	7	31	35	7	1	81
Choice of governing law for disputes	11	33	28	7	1	80
How frequently does this issue arise with a FOR PROFIT?						
Jurisdiction for disputes	14	48	18	0	1	81
Choice of governing law for disputes	20	40	19	1	1	81

30.

	Very Difficult	Quite Difficult	Fairly Difficult	Slightly Difficult	Not at All Difficult	Response
How difficult is this issue to resolve with a NONPROFIT?						
Jurisdiction for disputes	1	4	14	32	30	81
Choice of governing law for disputes	0	4	11	35	31	81
How difficult is this issue to resolve with a FOR PROFIT?						
Jurisdiction for disputes	1	7	27	31	15	81
Choice of governing law for disputes	0	7	28	31	15	81

31.

	Very Important	Important	Moderately Important	Of Little Importance	Unimportant	Response
How important is it to resolve this issue satisfactorily with a NONPROFIT?						
Jurisdiction for disputes	42	16	16	6	1	81
Choice of governing law for disputes	40	18	15	6	2	81
How important is it to resolve this issue satisfactorily with a FOR PROFIT?						
Jurisdiction for disputes	48	12	17	4	0	81
Choice of governing law for disputes	41	16	18	5	0	80

32. What is the institution's position, as a recipient, on the following terms?

Jurisdiction is:

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted	Response
Specified as the courts of a country other than your own	0	6	15	34	24	79
Specified as the courts of a state other than your own	0	9	24	27	19	79
Not specified (contract is silent on jurisdiction)	39	34	4	1	1	79

**33. What is the institution's position, as a recipient, on the following terms?**

**Governing law is:**

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted	Response
Specified as the courts of a country other than your own	0	7	18	34	22	81
Specified as the courts of a state other than your own	1	8	30	26	16	81
Not specified (contract is silent on jurisdiction)	38	34	4	3	1	80

**SIGNATORIES TO THE MTA**

**34.**

	Always	Frequently	Sometimes	Rarely	Never	Response
How frequently does this issue arise with a NONPROFIT?						
Requirement that the investigator sign the MTA (in any capacity) in addition to the institution	16	33	17	13	2	81
How frequently does this issue arise with a FOR PROFIT?						
Requirement that the investigator sign the MTA (in any capacity) in addition to the institution	16	30	23	10	2	81

**35. The survey included 22 questions about industry MTA terms and 13 questions about academic MTAs.**

	Very Difficult	Quite Difficult	Fairly Difficult	Slightly Difficult	Not at All Difficult	Response
How difficult is this issue to resolve with a NONPROFIT?						
Requirement that the investigator sign the MTA (in any capacity) in addition to the institution	0	0	1	12	67	80
How difficult is this issue to resolve with a FOR PROFIT?						
Requirement that the investigator sign the MTA (in any capacity) in addition to the institution	0	0	1	14	65	80

**36.**

	Very Important	Important	Moderately Important	Of Little Importance	Unimportant	Response
How important is it to resolve this issue satisfactorily with a NONPROFIT?						
Requirement that the investigator sign the MTA (in any capacity) in addition to the institution	16	16	13	23	12	80
How important is it to resolve this issue satisfactorily with a FOR PROFIT?						
Requirement that the investigator sign the MTA (in any capacity) in addition to the institution	17	16	16	18	12	79

**37. What is the institution's position, as a recipient, on the following terms?**

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted	Response
Investigator must sign as a party to the agreement	11	7	7	14	41	80
Investigator must sign as having acknowledged, read or understood the terms, but not as a party to the agreement	53	26	1	0	0	80

**Table 1: Ranking of Level of Importance of Satisfactorily Addressing Terms in MTAs with an Industry Provider**

Question Number	Topic	Question	Weighted Average	Rank
Q41d	IP	Provider seeks ownership of IP	4.9	1
Q32	Confidentiality	Provider seeks to maintain recipient's research results as confidential information	4.9	2
Q29b	Publication	Recipient (you) may only publish with provider's approval or may not publish	4.8	3
Q41e	IP	Provider seeks royalty-free, exclusive commercial license to IP	4.8	4
Q38a	Rights to Data	Provider seeks to own data and results of recipient's research using the material	4.8	5
Q41a	IP	Defining the inventions that are subject to rights under the agreement	4.7	6
Q29a	Publication	Provider requires delay of publication or prepublication review required	4.6	7
Q41f	IP	Provider seeks royalty-free, nonexclusive sublicensable commercial license to IP	4.6	8
Q41k	IP	License fees and/or royalty rates (either specific, ranges or caps) are specified in the agreement	4.6	9
Q38b	Rights to Data	Provider seeks to use, for any purpose, results of recipient's research using the material	4.6	10
Q46a	Indemnification	Requirement that recipient indemnify provider	4.4	11
Q41g	IP	Provider seeks royalty-free, nonexclusive nonsublicensable commercial license to IP	4.4	12
Q48a	Jurisdiction	Jurisdiction for disputes	4.3	13
Q35	Confidentiality	Institution must keep provider's information confidential	4.2	14
Q41h	IP	Provider seeks option to a royalty-bearing commercial license to IP	4.2	15
Q48b	Governing Law	Choice of governing law for disputes	4.2	16
Q41c	IP	Provider seeks to control patent filing and prosecution	4.1	17
Q41b	IP	Who will pay for costs of patenting	4.1	18
Q46b	Indemnification	Requirement that recipient accept liability for recipient acts	4.1	19
Q41j	IP	Provider seeks a royalty-free nonexclusive license for research purposes	3.8	20
Q41i	IP	Provider seeks a royalty-free license to IP for internal use only	3.7	21
Q52	Signatory	Requirement that the investigator sign the MTA (in any capacity) in addition to the institution	3.1	22

**Table 2: Ranking of Level of Importance of Satisfactorily Addressing  
Terms in MTAs with an Academic/Nonprofit Provider**

<b>Question Number</b>	<b>Topic</b>	<b>Question</b>	<b>Weighted Average</b>	<b>Rank</b>
Q37a	Rights to Data	Provider seeks to own data and results of recipient's research using the material	4.8	1
Q31	Confidentiality	Provider seeks to maintain recipient's research results as confidential information	4.7	2
Q40b	IP	Provider seeks rights to use IP for commercial purposes or license IP for commercial use	4.6	3
Q28a	Publication	Provider requires delay of publication or prepublication review required	4.4	4
Q37b	Rights to Data	Provider seeks to use, for any purpose, results of recipient's research using the material	4.4	5
Q45a	Indemnification	Provider requires that recipient indemnify provider	4.3	6
Q47a	Jurisdiction	Jurisdiction for disputes	4.1	7
Q47b	Governing Law	Choice of governing law for disputes	4.1	8
Q28b	Publication	Publications and/or presentations must name provider scientist as co-author	4.0	9
Q34	Confidentiality	Institution must keep provider's information confidential	4.0	10
Q45b	Indemnification	Provider requires that recipient accept liability for recipient acts	3.9	11
Q40a	IP	Provider seeks rights to use IP for internal research purposes only	3.7	12
Q51	Signatory	Requirement that the investigator sign the MTA (in any capacity) in addition to the institution	3.0	13

**Table 3: Ranking of Level of Difficulty of Satisfactorily Addressing Terms  
in MTAs with an Industry Provider**

Question Number	Topic	Question	Weighted Average	Rank
Q41d	IP	Provider seeks ownership of IP	3.8	1
Q41e	IP	Provider seeks royalty-free, exclusive commercial license to IP	3.6	2
Q41f	IP	Provider seeks royalty-free, nonexclusive sublicensable commercial license to IP	3.6	3
Q38a	Rights to Data	Provider seeks to own data and results of recipient's research using the material	3.5	4
Q38b	Rights to Data	Provider seeks to use, for any purpose, results of recipient's research using the material	3.5	5
Q41k	IP	License fees and/or royalty rates (either specific, ranges or caps) are specified in the agreement	3.3	6
Q32	Confidentiality	Provider seeks to maintain recipient's research results as confidential information	3.1	7
Q41g	IP	Provider seeks royalty-free, nonexclusive nonsublicensable commercial license to IP	2.9	8
Q41h	IP	Provider seeks option to a royalty-bearing commercial license to IP	2.9	9
Q41a	IP	Defining the inventions which are subject to rights under the agreement	2.9	10
Q29b	Publication	Recipient (you) may only publish with provider's approval or may not publish	2.8	11
Q46a	Indemnification	Requirement that recipient indemnify provider	2.6	12
Q41c	IP	Provider seeks to control patent filing and prosecution	2.5	13
Q48a	jurisdiction	Jurisdiction for disputes	2.4	14
Q48b	Governing Law	Choice of governing law for disputes	2.3	15
Q41b	IP	Who will pay for costs of patenting	2.2	16
Q29a	Publication	Provider requires delay of publication or prepublication review required	2.1	17
Q35	Confidentiality	Institution must keep provider's information confidential	2.1	18
Q46b	Indemnification	Requirement that recipient accept liability for recipient acts	1.8	19
Q41i	IP	Provider seeks a royalty-free license to IP for internal use only	1.6	20
Q41j	IP	Provider seeks a royalty-free nonexclusive license for research purposes	1.6	21
Q52	Signatory	Requirement that the investigator sign the MTA (in any capacity) in addition to the institution	1.2	22

**Table 4: Ranking of Level of Difficulty of Satisfactorily Addressing Terms  
in MTAs with an Academic/Nonprofit Provider**

<b>Question Number</b>	<b>Topic</b>	<b>Question</b>	<b>Weighted Average</b>	<b>Rank</b>
Q40a	IP	Provider seeks rights to use IP for internal research purposes only	3.4	1
Q40b	IP	Provider seeks rights to use IP for commercial purposes or license IP for commercial use	2.5	2
Q37a	Rights to Data	Provider seeks to own data and results of recipient's research using the material	2.4	3
Q31	Confidentiality	Provider seeks to maintain recipient's research results as confidential information	2.2	4
Q37b	Rights to Data	Provider seeks to use, for any purpose, results of recipient's research using the material	2.2	5
Q45a	Indemnification	Provider requires that recipient indemnify provider	2.2	6
Q47a	jurisdictions	Jurisdiction for disputes	1.9	7
Q28b	Publication	Publications and/or presentations must name provider scientist as co-author	1.9	8
Q47b	Governing Law	Choice of governing law for disputes	1.9	9
Q34	Confidentiality	Institution must keep provider's information confidential	1.6	10
Q28a	Publication	Provider requires delay of publication or prepublication review required	1.6	11
Q45b	Indemnification	Provider requires that recipient accept liability for recipient acts	1.5	12
Q51	Signatory	Requirement that the investigator sign the MTA (in any capacity) in addition to the institution	1.2	13

**Table 5: Ranking of Frequency with Which Issues Arise in Negotiating MTAs  
with an Industry Provider**

Question Number	Topic	Question	Weighted Average	Rank for Provider
Q35	Confidentiality	Institution must keep provider's information confidential	4.3	1
Q46b	Indemnification	Requirement that recipient accept liability for recipient acts	4.2	2
Q29a	Publication	Provider requires delay of publication or prepublication review required	4.1	3
Q46a	Indemnification	Requirement that recipient indemnify provider	4.0	4
Q48b	Governing Law	Choice of governing law for disputes	4.0	5
Q48a	jurisdiction	Jurisdiction for disputes	3.9	6
Q38b	Rights to Data	Provider seeks to use, for any purpose, results of recipient's research using the material	3.8	7
Q41a	IP	Defining the inventions that are subject to rights under the agreement	3.8	8
Q52	Signatory	Requirement that the investigator sign the MTA (in any capacity) in addition to the institution	3.6	9
Q38a	Rights to Data	Provider seeks to own data and results of recipient's research using the material	3.6	10
Q41h	IP	Provider seeks option to a royalty-bearing commercial license to IP	3.5	11
Q41f	IP	Provider seeks royalty-free, nonexclusive sublicensable commercial license to IP	3.4	12
Q41d	IP	Provider seeks ownership of IP	3.4	13
Q41j	IP	Provider seeks a royalty-free nonexclusive license for research purposes	3.3	14
Q41g	IP	Provider seeks royalty-free, nonexclusive nonsublicensable commercial license to IP	3.3	15
Q41i	IP	Provider seeks a royalty-free license to IP for internal use only	3.2	16
Q32	Confidentiality	Provider seeks to maintain recipient's research results as confidential information	3.2	17
Q29b	Publication	Recipient (you) may only publish with provider's approval or may not publish	3.1	18
Q41e	IP	Provider seeks royalty-free, exclusive commercial license to IP	3.1	19
Q41c	IP	Provider seeks to control patent filing and prosecution	3.0	20
Q41b	IP	Who will pay for costs of patenting	2.9	21
Q41k	IP	License fees and/or royalty rates (either specific, ranges or caps) are specified in the agreement	2.0	22

**Table 6: Ranking of Frequency with Which Issues Arise in Negotiating MTAs  
with an Academic/Nonprofit Provider**

<b>Question Number</b>	<b>Topic</b>	<b>Question</b>	<b>Weighted Average</b>	<b>Rank</b>
Q45b	Indemnification	Provider requires that recipient accept liability for recipient acts	4.2	1
Q51	Signatory	Requirement that the investigator sign the MTA (in any capacity) in addition to the institution	3.6	2
Q45a	Indemnification	Provider requires that recipient indemnify provider	3.6	3
Q47b	Governing Law	Choice of governing law for disputes	3.6	4
Q40a	IP	Provider seeks rights to use IP for internal research purposes only	3.4	5
Q47a	jurisdiction	Jurisdiction for disputes	3.4	6
Q34	Confidentiality	Institution must keep provider's information confidential	3.3	7
Q28a	Publication	Provider requires delay of publication or prepublication review required	3.0	8
Q28b	Publication	Publications and/or presentations must name provider scientist as co-author	2.8	9
Q37b	Rights to Data	Provider seeks to use, for any purpose, results of recipient's research using the material	2.7	10
Q40b	IP	Provider seeks rights to use IP for commercial purposes or license IP for commercial use	2.5	11
Q31	Confidentiality	Provider seeks to maintain recipient's research results as confidential information	2.2	12
Q37a	Rights to Data	Provider seeks to own data and results of recipient's research using the material	2.2	13

**Table 7: Acceptability of Terms in Incoming MTAs (Higher Values Are More Acceptable)**

Question Number	Topic	Term	Weighted Average
Q30	Publication	Please indicate your institution's position, as a recipient, on the following terms when negotiating an agreement:	
Q30e	Publication	Recipient will permit the provider to review publications, prior to submission, for a given period	4.4
Q30f	Publication	If patentable results are identified, recipient will accept an additional delay extending the initial review period	4.2
Q30c	Publication	Provider can require deletion of provider's confidential information	4.2
Q30b	Publication	Publications and/or presentations must name provider scientist as co-author	2.7
Q30a	Publication	Publication is permitted only with provider's approval or with provider's revisions incorporated	1.8
Q30d	Publication	Provider can require deletion of recipient's results that are patentable, regardless of whether a patent has been filed	1.6
Q33	Confidentiality	Separately and in addition to the process defined in the publication clause, the disclosure of results of the recipient's research using the materials is limited to:	
Q33a	Confidentiality	Recipient institution's employees and students	2.9
Q33a	Confidentiality	Separately and in addition to the process defined in the publication clause, the disclosure of results of the recipient's research using the materials is limited to researchers directly involved in the research using the material	2.8
Q36	Confidentiality	Providers confidential information will be maintained as confidential for	
Q36a	Confidentiality	Less than or equal to one year	4.4
Q36b	Confidentiality	Less than or equal to three years	4.4
Q36c	Confidentiality	Less than or equal to five years	3.9
Q36d	Confidentiality	Greater than five years	2.2
Q39b	Rights to Data	Provider may use recipient's data and unpatented results for any purpose	2.5
Q39a	Rights to Data	Provider owns recipient's data and/or results, as long as recipient retains rights to use them for academic purposes	2.2
Q42	IP	Definition of material as	
Q42a	IP	Original material plus progeny and unmodified derivatives (UBMTA definitions)	4.7
Q42b	IP	Original material plus modifications or derivatives made by recipient without further definition of those terms	2.5
Q43	IP	Provider will have the following rights to IP that arise from permitted uses and is created solely by recipient inventors	
Q43f	IP	Provider will receive an option to a royalty-bearing commercial license to IP	3.9
Q43g	IP	Provider will receive a royalty-free license to IP for internal use only	3.9
Q43e	IP	Provider will receive a royalty-free, nonexclusive nonsublicensable commercial license to IP	2.7
Q43a	IP	Provider will control patent filing and prosecution	2.3

Q43d	IP	Provider will receive a royalty-free, nonexclusive sublicensable commercial license to IP	2.2
Q43h	IP	License fees and/or royalty rates (either specific, ranges or caps) are specified in the agreement	1.9
Q43c	IP	Provider will receive a royalty-free, exclusive commercial license to IP	1.7
Q43b	IP	Provider will own IP	1.7
Q44	IP	Recipient (you) may not offer better licensing terms to someone other than the provider, without first offering them to the provider	
Q44a	IP	Less than or equal to 30 days from a trigger date, such as the invention disclosure or offer to the provider	3.1
Q44b	IP	Thirty-one days to one year from a trigger date, such as the invention disclosure or offer to the provider	2.7
Q44c	IP	Greater than one year from a trigger date, such as the invention disclosure or offer to the provider	1.7
Q49	Jurisdiction	Jurisdiction is	
Q49c	Jurisdiction	Not specified (contract is silent on jurisdiction)	4.4
Q49b	Jurisdiction	Specified as the courts of a state other than your own	2.3
Q49a	Jurisdiction	Specified as the courts of a country other than your own	2.0
Q50	Governing Law	Governing law is	
Q50c	Governing Law	Not specified (contract is silent on governing law)	4.3
Q50b	Governing Law	Specified as the courts of a state other than your own	2.4
Q50a	Governing Law	Specified as the courts of a country other than your own	2.1
Q53b	Signatory	Investigator must sign as having acknowledged, read or understood the terms, but not as a party to the agreement	4.7
Q53a	Signatory	Investigator must sign as a party to the agreement	2.2

# Appendix

## 1. 2009 AUTM Material Transfer Agreement Survey

Welcome to the 2009 AUTM Material Transfer Agreement Survey. Please take the time to carefully read these instructions, notes about the questions and term definitions. If you have any questions, please do not hesitate to contact any of the Survey Administrators. They are Steve Harsy at [harsy@wisc.edu](mailto:harsy@wisc.edu), Allyson Best at [amilhou@olemiss.edu](mailto:amilhou@olemiss.edu) and Laurie Tzodikov at [tzodikov@princeton.edu](mailto:tzodikov@princeton.edu) about survey questions and related issues.

### **GOAL:**

Utilizing a self-administered web based questionnaire, the survey will characterize the current operational and contextual aspects of the negotiation and maintenance of Material Transfer Agreements (MTAs) within AUTM's academic based membership.

### **OUTCOMES:**

- (1) define how MTAs are managed within their institutions,
- (2) quantify the number and transaction times for the execution of MTAs and
- (3) identify key terms and conditions within the agreements that generate the most discussion in negotiations.

### **REPORTING:**

Data will be collected without any identifying information and will be reported in aggregate form only. All individual responses will remain confidential.

## 2. INSTRUCTIONS AND DEFINITIONS:

This survey is the first attempt to characterize what early research has shown to be a complex, non standardized operation that usually varies from campus to campus. Understanding that institutions handle these operations differently, definitions and situation specific scenarios have been provided that will enable you to represent how your institution manages MTAs.

### INSTRUCTIONS:

This survey is divided into four general sections:

- I. How your institution manages the negotiation and maintenance of MTAs.
- II. Incoming MTAs. Characterizing those situations where your institution is the recipient of materials.
- III. Outgoing MTAs. Characterizing those situations where your institution is the provider of materials.
- IV. Terms and Conditions of MTAs : Characterizing how your institution negotiates specific terms and conditions of a MTA

### DEFINITIONS:

**MATERIAL TRANSFER AGREEMENT (MTA):** Agreement between two institutions that governs the physical transfer of tangible research materials. This includes Compound Transfer Agreements (CTAs) and Uniform Biological Material Transfer Agreement (UBMTAs). This does not include Confidential Disclosure Agreements (CDAs), Nondisclosure Agreements (NDAs), CRADAs, Sponsored Research Agreements or License Agreements.

**INCOMING ACADEMIC MTA:** Transfer of materials INTO your institution from an academic/nonprofit institution or governmental agency, also abbreviated as "In: Academic and Nonprofit"

**OUTGOING ACADEMIC MTA:** Transfer of materials OUT OF your institution to an academic/nonprofit institution or governmental agency, also abbreviated as "Out: Academic and Nonprofit"

**INCOMING INDUSTRY MTA:** Transfer of materials INTO your institution from a company/for-profit, also abbreviated as "In: Industry and For-profit"

**OUTGOING INDUSTRY MTA:** Transfer of materials OUT OF your institution to a company/for-profit, also abbreviated as "Out: Industry and For-profit"

**ROUTINE MTA:** An agreement that has been negotiated, possibly modified, and executed within YOUR INSTITUTION's normally accepted terms and conditions.

### 3. DISCUSSION OF THE QUESTIONS

The four sections of the survey are described as follows:

#### **Section I: How your institution manages MTAs**

#### **Section II: Incoming MTAs**

The questions in this section are about all Incoming MTAs. These are situations when YOUR INSTITUTION is the RECIPIENT of another organization's materials. If your institution DOES NOT execute MTAs for INCOMING materials then please hit "NEXT PAGE" at the bottom of the screen.

#### **Section III: Outgoing MTAs**

The questions in this section ask about all OUTGOING MTAs for your institution. These are situations when YOUR institution is the PROVIDER of materials to another institution. If your institution DOES NOT execute MTAs for OUTGOING materials then please hit "NEXT PAGE" at the bottom of the screen and you will move to next section..

#### **Section IV: Negotiating an MTA: Terms & Conditions**

The remainder of the survey addresses the negotiation of terms and conditions of an agreement and should be answered under the following scenario:

*Your institution is negotiating an INCOMING Material Transfer Agreement. Your institution is the RECIPIENT of another institution's materials.*

You will be presented with different terms and conditions and asked to rate the frequency, importance, and difficulty of the term or condition in your negotiations. These questions will be asked under the scenarios of negotiating with an Academic or Nonprofit as well as negotiating with a Company or For-profit. You will be asked to rate how frequently you accept certain terms and conditions in an agreement. Each of the seven pages will cover a general topic that is commonly negotiated with individual questions covering specific terms and conditions:

- Control Over Publications
- Confidentiality Of Information
- Provider's (Their) Rights To Recipient's (Your) Data And Results
- Intellectual Property Terms
- Indemnification And Liability
- Jurisdiction And Choice Of Law
- Signatories

**If your institution DOES NOT execute INCOMING MTAs, you will have an opportunity to exit the survey**

## 4. Section I: How your institution manages MTAs

### 1. Institution Name and Location:

Name:

Company:

City/Town:

State:

Country:

Email Address:

Phone Number:

### 2. What offices within your institution negotiate and manage MTAs? Check all that apply.

	In: Academic and NonProfit	Out: Academic and NonProfit	In: Industry and ForProfit	Out: Industry and ForProfit
Institution-wide office of research administration and sponsored programs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Office responsible for patenting and licensing such as the technology transfer office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Office within an institutional division or department	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legal Office or Institution General Counsel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If Other, then please specify

### 3. Does your institution require that an agreement be in place for the following transfers? Note this excludes any purchasing situations.

	Yes	No
In: Academic and NonProfit: Transfer of materials INTO your institution from an academic/nonprofit institution or governmental agency.	<input type="radio"/>	<input type="radio"/>
Out: Academic and NonProfit: Transfer of materials OUT OF your institution to an academic/nonprofit institution or governmental agency.	<input type="radio"/>	<input type="radio"/>
In: Industry and ForProfit: Transfer of materials INTO your institution from a company/forprofit.	<input type="radio"/>	<input type="radio"/>
Out: Industry and ForProfit: Transfer of materials OUT OF your institution to a company/forprofit.	<input type="radio"/>	<input type="radio"/>

### 4. Does your institution designate a different primary negotiator for Intellectual Property (IP) terms in the MTA other than the person who has primary responsibility for the MTA negotiation?

	In: Academic and NonProfit	Out: Academic and NonProfit	In: Industry and ForProfit	Out: Industry and ForProfit
Yes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Does not apply. My institution does not enter into this type of MTA.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**5. If a different person negotiates the IP terms, in what office does that person reside?**

	In: Academic and NonProfit	Out: Academic and NonProfit	In: Industry and ForProfit	Out: Industry ar ForProfit
My institution does not designate a different person for IP terms	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Institution-wide office of research administration and sponsored programs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Office responsible for patenting and licensing such as the technology transfer office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Office within an institutional division or department	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legal office or Institution General Counsel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If Other (please specify)

**6. What levels of review/approval are REQUIRED before a routine MTA can be signed your institution? Check all that apply**

	In: Academic and NonProfit	Out: Academic and NonProfit	In: Industry and ForProfit	Out: Industry ar ForProfit
No approval needed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Department	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Division (School or College)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Institution-wide office of research or sponsored programs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Office responsible for patenting and licensing such as the technology transfer office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legal office or Institution General Counsel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If Other (please specify)

**7. Who can sign as your institution's authorized signatory agent on a MTA? Check all that apply.**

	In: Academic and NonProfit	Out: Academic and NonProfit	In: Industry and ForProfit	Out: Industry and ForProfit
Senior official in the technology transfer office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Staff-level person in the technology transfer office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senior official in institution's office of research or sponsored programs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Staff-level person in the institution's office of research or sponsored programs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senior official in an institutional division	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Staff-level person in an institutional division	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legal office or Institution General Counsel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Principal investigator named on the MTA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If Other (please specify)

**8. Over the past 3 years, how many FTEs (full time equivalent) per year have been dedicated to the negotiation and management of all of your MTAs?**

	< 1 FTE	1-2 FTEs	3-4 FTEs	5-6 FTEs	> 6 FTEs	Do not track
Calendar Year 2006	<input type="radio"/>					
Calendar Year 2007	<input type="radio"/>					
Calendar Year 2008	<input type="radio"/>					

**9. For INCOMING MTAs with Academic/NonProfits, how often do you initially receive the following from the provider?**

	Always	Frequently	Sometimes	Rarely	Never
The UBMTA and/or the UBMTA Implementing Letter as published by the NIH in March 1995	<input type="radio"/>				
The NIH Simple Letter Agreement	<input type="radio"/>				
Their template agreement	<input type="radio"/>				
Other	<input type="radio"/>				

If Other (please specify)

**10. For OUTGOING MTAs with Academic/NonProfits, how often do you initially propose use of the following?**

	Always	Frequently	Sometimes	Rarely	Never
The UBMTA and/or the UBMTA Implementing Letter as published by the NIH in March 1995	<input type="radio"/>				
The NIH Simple Letter Agreement	<input type="radio"/>				
Their template agreement	<input type="radio"/>				
Other	<input type="radio"/>				

If Other (please specify)

**11. For OUTGOING MTAs with Academic / NonProfits if you do not initially propose use of the UBMTA or NIH Simple Letter, why not?**

**12. How frequently do you EXECUTE the following for transfer of materials with an Academic/NonProfit?**

	Always	Frequently	Sometimes	Rarely	Never
The UBMTA and/or the UBMTA Implementing Letter as published by the NIH in March 1995	<input type="radio"/>				
The NIH Simple Letter Agreement	<input type="radio"/>				

**13. Does your institution have an electronic tracking system that can monitor MTA negotiations and management? This includes any data management system (flat file or relational database) where your office can electronically monitor any or all of the agreement details (total number, frequency, collaborating organizations, etc).**

- Yes, in-house developed system
- Yes, purchased package
- No

**14. Has your institution reviewed or rewritten your policy regarding the requirements for a MTA in the past 12 months?**

- yes: EXPANDED the requirements for a MTA (FOR EXAMPLE: requiring a MTA for ALL transfers in and out of the university instead of transfers only INTO the university)
- yes: LIMITED the requirements for a MTA (FOR EXAMPLE: requiring a MTA for transfers only INTO the university instead of ALL transfers in and out of the university)
- yes: other changes in policy but the requirements for a MTA are the same
- no changes in our MTA policy in the past 12 months

Other (please specify)

**15. Is your institution considering a revision to your policy regarding the requirements for a MTA?**

- yes: EXPANDING the requirements for a MTA (FOR EXAMPLE: requiring a MTA for ALL transfers in and out of the university instead of transfers only INTO the university)
- yes: LIMITING the requirements for a MTA (FOR EXAMPLE: requiring a MTA for transfers only INTO the university instead of ALL transfers in and out of the university)
- yes: other change in policy but the requirements for a MTA will be the same
- no changes in our MTA policy are planned

Other (please specify)

## 5. Section II: Incoming MTAs

The following questions are about all INCOMING Material Transfer Agreements.

These are situations when YOUR INSTITUTION is the RECIPIENT of another organization's materials.

If your institution DOES NOT execute MTAs for INCOMING materials then please hit "NEXT PAGE" at the bottom of the screen.

### 16. Over the past 3 years, how many TOTAL MTAs have been executed for INCOMING materials each year?

	0-10	11-50	51-100	101-200	201-300	>300	Do Not Track
Calendar Year 2006	<input type="radio"/>						
Calendar Year 2007	<input type="radio"/>						
Calendar Year 2008	<input type="radio"/>						

### 17. Over the past 3 years, how many MTAs have been executed with Academics/NonProfits for INCOMING materials each year?

	0-10	11-50	51-100	101-200	201-300	>300	Do Not Track
Calendar Year 2006	<input type="radio"/>						
Calendar Year 2007	<input type="radio"/>						
Calendar Year 2008	<input type="radio"/>						

### 18. Over the past 3 years, how many MTAs have been executed with Companies/ForProfits for INCOMING materials each year?

	0-10	11-50	51-100	101-200	201-300	>300	Do Not Track
Calendar Year 2006	<input type="radio"/>						
Calendar Year 2007	<input type="radio"/>						
Calendar Year 2008	<input type="radio"/>						

### 19. Over the past 3 years, what percentage of MTAs for INCOMING materials with Academics/NonProfits were started, but were abandoned or never executed?

	<5%	5-10%	11-15%	16%-25%	26%-50%	>50%	Do Not Track
Calendar Year 2006	<input type="radio"/>						
Calendar Year 2007	<input type="radio"/>						
Calendar Year 2008	<input type="radio"/>						

### 20. Over the past 3 years, what percentage of MTAs for INCOMING materials with Companies/ForProfits were started, but were abandoned or never executed?

	<5%	5-10%	11-15%	16%-25%	26%-50%	>50%	Do Not Track
Calendar Year 2006	<input type="radio"/>						
Calendar Year 2007	<input type="radio"/>						
Calendar Year 2008	<input type="radio"/>						

**21. In Calender Year 2008, what percentage of your INCOMING MTAs with Academics/NonProfits would you estimate were initiated, negotiated, AND executed in the following time periods? Please provide a number in percentages and your total should equal 100%.**

Less than 1 month	<input type="text"/>
1 - 3 months	<input type="text"/>
3 - 6 months	<input type="text"/>
Greater than 6 months	<input type="text"/>

**22. In Calender Year 2008, what percentage of your INCOMING MTAs with Companies / ForProfits would you estimate were initiated, negotiated, AND executed in the following time period? Please provide a number in percentages and your total should equal 100%.**

Less than 1 month	<input type="text"/>
1 - 3 months	<input type="text"/>
3 - 6 months	<input type="text"/>
Greater than 6 months	<input type="text"/>

## 6. Section III: Outgoing MTAs

The following questions are about all OUTGOING Material Transfer Agreements for your institution.

These are situations when YOUR INSTITUTION is the PROVIDER of materials to another organization.

If your institution DOES NOT execute MTAs for OUTGOING materials then please hit "NEXT PAGE" at the bottom of the screen.

### 23. Over the past 3 years, how many TOTAL MTAs have been executed for OUTGOING materials each year?

	0-10	11-50	51-100	101-200	201-300	>300	Do Not Track
Calendar Year 2006	<input type="radio"/>						
Calendar Year 2007	<input type="radio"/>						
Calendar Year 2008	<input type="radio"/>						

### 24. Over the past 3 years, how many MTAs have been executed with Academics/NonProfits for OUTGOING materials each year?

	0-10	11-50	51-100	101-200	201-300	>300	Do Not Track
Calendar Year 2006	<input type="radio"/>						
Calendar Year 2007	<input type="radio"/>						
Calendar Year 2008	<input type="radio"/>						

### 25. Over the past 3 years, how many MTAs have been executed with Companies/ForProfits for OUTGOING materials each year?

	0-10	11-50	51-100	101-200	201-300	>300	Do Not Track
Calendar Year 2006	<input type="radio"/>						
Calendar Year 2007	<input type="radio"/>						
Calendar Year 2008	<input type="radio"/>						

### 26. Over the past 3 years, what percentage of MTAs for OUTGOING materials with Academics/NonProfits were started, but were abandoned or never executed?

	<5%	5-10%	11-15%	16-25%	26-50%	>50%	Do Not Track
Calendar Year 2006	<input type="radio"/>						
Calendar Year 2007	<input type="radio"/>						
Calendar Year 2008	<input type="radio"/>						

### 27. Over the past 3 years, what percentage of MTAs for OUTGOING materials with Companies/ForProfits were started, but were abandoned or never executed?

	<5%	5-10%	11-15%	16-25%	26-50%	>50%	Do Not Track
Calendar Year 2006	<input type="radio"/>						
Calendar Year 2007	<input type="radio"/>						
Calendar Year 2008	<input type="radio"/>						

## 7. Section IV: Negotiating an MTA: Terms & Conditions

The remainder of the survey addresses the negotiation of terms and conditions of an agreement and should be answered under the following scenario:

Your institution is negotiating an INCOMING Material Transfer Agreement. Your institution is the RECIPIENT of another organization's materials.

You will be presented with different terms and conditions and asked to rate the frequency, importance, and difficulty of the term or condition in your negotiations.

These questions will be asked under the scenarios of negotiating with an Academic or NonProfit as well as negotiating with a Company or ForProfit.

If your institution DOES NOT execute INCOMING MTAs, then please go to the last page and click "submit".

## 8. Negotiating an MTA: Control over Publications

The following set of questions should be answered under the following scenario:

Your institution is negotiating an INCOMING Material Transfer Agreement where a provider is sending Materials TO YOU. YOUR INSTITUTION is the RECIPIENT of another institution's materials.

Each of the following questions addresses different terms and conditions of the agreement.

### 28. Control over Publications: Working with an Academic/NonProfit

	How frequently does this issue arise?	How difficult is this issue to resolve?	How important is it to resolve this issue satisfactorily?
Provider requires delay of publication or prepublication review required	<input type="text"/>	<input type="text"/>	<input type="text"/>
Publications and/or presentations must name provider scientist as co-author	<input type="text"/>	<input type="text"/>	<input type="text"/>

### 29. Control over Publications: Working with a Company/ForProfit

	How frequently does this issue arise?	How difficult is this issue to resolve?	How important is it to resolve this issue satisfactorily?
Provider requires delay of publication or prepublication review required	<input type="text"/>	<input type="text"/>	<input type="text"/>
Recipient (you) may only publish with provider's approval or may not publish	<input type="text"/>	<input type="text"/>	<input type="text"/>

### 30. Please indicate your institution's position, as a recipient, on the following terms when negotiating an agreement

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted
Publication is permitted only with provider's approval, or with provider's revisions incorporated	<input type="radio"/>				
Publications and/or presentations must name provider scientist as co-author	<input type="radio"/>				
Provider can require deletion of provider's confidential information	<input type="radio"/>				
Provider can require deletion of recipient's results that are patentable, regardless of whether a patent has been filed	<input type="radio"/>				
Recipient will permit the provider to review publications, prior to submission, for a given period	<input type="radio"/>				
If patentable results are identified, recipient will accept an additional delay extending the initial review period.	<input type="radio"/>				

## 9. Negotiating an MTA: Confidentiality of Information

The following set of questions should be answered under the following scenario:

Your institution is negotiating an INCOMING Material Transfer Agreement where a Provider is sending Materials TO YOU.

YOUR INSTITUTION is the RECIPIENT of another institution's materials.

Each of the following questions addresses different terms and conditions of the agreement.

### 31. CONFIDENTIALITY OF YOUR RESULTS: Working with an Academic/NonProfit

	How frequently does this issue arise?	How difficult is this issue to resolve?	How important is it to resolve this issue satisfactorily?
Provider seeks to maintain recipient's research results as confidential information	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>

### 32. CONFIDENTIALITY OF YOUR RESULTS: Working with a Company/ForProfit

	How frequently does this issue arise?	How difficult is this issue to resolve?	How important is it to resolve this issue satisfactorily?
Provider seeks to maintain recipient's research results as confidential information	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>

### 33. Please indicate your institution's position, as a recipient, on the following terms when negotiating an agreement:

**Separately and in addition to the process defined in the publication clause, the disclosure of results of the recipient's research using the materials is limited to:**

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted
Researchers directly involved in the research using the material	<input type="radio"/>				
Recipient institution's employees and students	<input type="radio"/>				

### 34. CONFIDENTIALITY OF THEIR INFORMATION: Working with an Academic/NonProfit

	How frequently does this issue arise?	How difficult is this issue to resolve?	How important is it to resolve this issue satisfactorily?
Institution must keep Provider's information confidential	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>

### 35. CONFIDENTIALITY OF THEIR INFORMATION: Working with a Company / ForProfit

	How frequently does this issue arise?	How difficult is this issue to resolve?	How important is it to resolve this issue satisfactorily?
Institution must keep Provider's information confidential	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>

**36. Please indicate your institution's position, as a recipient, on the following terms when negotiating an agreement:**

**Providers confidential information will be maintained as confidential for**

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted
Less than or equal to one year	<input type="radio"/>				
Less than or equal to three years	<input type="radio"/>				
Less than or equal to 5 years	<input type="radio"/>				
Greater than 5 years	<input type="radio"/>				

## 10. Negotiating an MTA: Provider's (Their) Rights to Recipient's (Your) Data a...

The following set of questions should be answered under the following scenario:

Your institution is negotiating an INCOMING Material Transfer Agreement where a Provider is sending Materials TO YOU.

YOUR INSTITUTION is the RECIPIENT of another institution's materials.

Each of the following questions addresses different terms and conditions of the agreement.

### 37. Their Rights to Your Data and Results: Working with an Academic/NonProfit

	How frequently does this issue arise?	How difficult is this issue to resolve?	How important is it to resolve this issue satisfactorily?
Provider seeks to own data and results of recipient's research using the material	<input type="text"/>	<input type="text"/>	<input type="text"/>
Provider seeks to use, for any purpose, results of recipient's research using the material	<input type="text"/>	<input type="text"/>	<input type="text"/>

### 38. Their Rights to Your Data and Results: Working with a Company/NonProfit

	How frequently does this issue arise?	How difficult is this issue to resolve?	How important is it to resolve this issue satisfactorily?
Provider seeks to own data and results of recipient's research using the material	<input type="text"/>	<input type="text"/>	<input type="text"/>
Provider seeks to use, for any purpose, results of recipient's research using the material	<input type="text"/>	<input type="text"/>	<input type="text"/>

### 39. Please indicate your institution's position, as a recipient, on the following terms when negotiating an agreement:

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted
Provider owns recipient's data and/or results, as long as recipient retains rights to use them for academic purposes	<input type="radio"/>				
Provider may use recipient's data and unpatented results for any purpose	<input type="radio"/>				

## 11. Negotiating an MTA: Intellectual Property Terms

The following set of questions should be answered under the following scenario:

Your institution is negotiating an INCOMING Material Transfer Agreement where a Supplier is sending Materials TO YOU.

YOUR INSTITUTION is the RECIPIENT of another institution's materials.

Each of the following questions addresses different terms and conditions of the agreement.

### 40. IP Terms: Working with an Academic/NonProfit Provider

**Please rate the following issues when YOUR organization is the RECIPIENT. IP as used in this question refers to patentable inventions made solely by recipient researchers arising under the MTA and during the course of the research as outlined in the MTA, or arising from use of the materials.**

	How frequently does this issue arise?	How difficult is this issue to resolve?	How important is it to resolve this issue satisfactorily?
Provider seeks rights to use IP for internal research purposes only	<input type="text"/>	<input type="text"/>	<input type="text"/>
Provider seeks rights to use IP for commercial purposes or license IP for commercial use	<input type="text"/>	<input type="text"/>	<input type="text"/>

## 41. IP Terms: Working with a Company/ForProfit Provider

Please rate the following issues when YOUR organization is the RECIPIENT. IP as used in this question refers to patentable inventions made solely by recipient researchers arising under the MTA and during the course of the research as outlined in the MTA, or arising from the use of the materials.

	How frequently does this issue arise?	How difficult is this issue to resolve?	How important is it to resolve this issue satisfactorily?
Defining the inventions which are subject to rights under the agreement	<input type="text"/>	<input type="text"/>	<input type="text"/>
Who will pay for costs of patenting	<input type="text"/>	<input type="text"/>	<input type="text"/>
Provider seeks to control patent filing and prosecution	<input type="text"/>	<input type="text"/>	<input type="text"/>
Provider seeks ownership of IP	<input type="text"/>	<input type="text"/>	<input type="text"/>
Provider seeks royalty-free, exclusive commercial license to IP	<input type="text"/>	<input type="text"/>	<input type="text"/>
Provider seeks royalty-free, non-exclusive sublicensable commercial license to IP	<input type="text"/>	<input type="text"/>	<input type="text"/>
Provider seeks royalty-free, non-exclusive non-sublicensable commercial license to IP	<input type="text"/>	<input type="text"/>	<input type="text"/>
Provider seeks option to a royalty-bearing commercial license to IP	<input type="text"/>	<input type="text"/>	<input type="text"/>
Provider seeks a royalty-free license to IP for internal use only	<input type="text"/>	<input type="text"/>	<input type="text"/>
Provider seeks a royalty-free nonexclusive license for research purposes	<input type="text"/>	<input type="text"/>	<input type="text"/>
License fees and/or royalty rates (either specific, ranges, or caps) are specified in the agreement	<input type="text"/>	<input type="text"/>	<input type="text"/>

42. Please indicate your institution's position, as a recipient, on the following terms when negotiating an agreement:

### Definition of Material as

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted
Original material plus progeny and unmodified derivatives (UBMTA definitions)	<input type="radio"/>				
Original material plus modifications or derivatives made by recipient without further definition of those terms	<input type="radio"/>				

**43. Please indicate your institution's position, as a recipient, on the following terms when negotiating an agreement:**

**Provider will have the following rights to IP which arises from permitted uses and is created solely by recipient inventors**

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted
Provider will control patent filing and prosecution	<input type="radio"/>				
Provider will own IP	<input type="radio"/>				
Provider will receive a royalty-free, exclusive commercial license to IP	<input type="radio"/>				
Provider will receive a royalty-free, non-exclusive sublicensable commercial license to IP	<input type="radio"/>				
Provider will receive a royalty-free, non-exclusive non-sublicensable commercial license to IP	<input type="radio"/>				
Provider will receive an option to a royalty-bearing commercial license to IP	<input type="radio"/>				
Provider will receive a royalty-free license to IP for internal use only	<input type="radio"/>				
License fees and/or royalty rates (either specific, ranges, or caps) are specified in the agreement	<input type="radio"/>				

**44. Please indicate your institution's position, as a recipient, on the following terms when negotiating an agreement:**

**Recipient (you) may not offer better licensing terms to someone other than the provider, without first offering them to the provider.**

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted
Less than or equal to 30 days from a trigger date, such as the invention disclosure or offer to the provider.	<input type="radio"/>				
31 days to one year from a trigger date, such as the invention disclosure or offer to the provider.	<input type="radio"/>				
Greater than one year from a trigger date, such as the invention disclosure or offer to the provider.	<input type="radio"/>				

## 12. Negotiating an MTA: Indemnification and Liability

The following set of questions should be answered under the following scenario:

Your institution is negotiating an INCOMING Material Transfer Agreement where a Provider is sending Materials TO YOU.

YOUR INSTITUTION is the RECIPIENT of another institution's materials.

Each of the following questions addresses different terms and conditions of the agreement.

### 45. Indemnification and Liability: Working with an Academic/NonProfit

	How frequently does this issue arise?	How difficult is this issue to resolve?	How important is it to resolve this issue satisfactorily?
Provider requires that recipient indemnify provider	<input type="text"/>	<input type="text"/>	<input type="text"/>
Provider requires that recipient accept liability for recipient acts	<input type="text"/>	<input type="text"/>	<input type="text"/>

### 46. Indemnification and Liability: Working with a Company / ForProfit

	How frequently does this issue arise?	How difficult is this issue to resolve?	How important is it to resolve this issue satisfactorily?
Requirement that recipient indemnify provider	<input type="text"/>	<input type="text"/>	<input type="text"/>
Requirement that recipient accept liability for recipient acts	<input type="text"/>	<input type="text"/>	<input type="text"/>

### 13. Negotiating an MTA: Jurisdiction and Choice of Law

The following set of questions should be answered under the following scenario:

Your institution is negotiating an INCOMING Material Transfer Agreement where a Provider is sending Materials TO YOU.

YOUR INSTITUTION is the RECIPIENT of another institution's materials.

Each of the following questions addresses different terms and conditions of the agreement.

#### 47. Jurisdiction and Choice of Law: Working with an Academic/NonProfit

	How frequently does this issue arise?	How difficult is this issue to resolve?	How important is it to resolve this issue satisfactorily?
Jurisdiction for disputes	<input type="text"/>	<input type="text"/>	<input type="text"/>
Choice of governing law for disputes	<input type="text"/>	<input type="text"/>	<input type="text"/>

#### 48. Jurisdiction and Choice of Law: Working with a Company /ForProfit

	How frequently does this issue arise?	How difficult is this issue to resolve?	How important is it to resolve this issue satisfactorily?
Jurisdiction for disputes	<input type="text"/>	<input type="text"/>	<input type="text"/>
Choice of governing law for disputes	<input type="text"/>	<input type="text"/>	<input type="text"/>

#### 49. Please indicate your institution's position, as a recipient, on the following terms when negotiating an agreement:

##### Jurisdiction is

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted
specified as the courts of a country other than your own	<input type="radio"/>				
specified as the courts of a state other than your own	<input type="radio"/>				
not specified (contract is silent on jurisdiction)	<input type="radio"/>				

#### 50. Please indicate your institution's position, as a recipient, on the following terms when negotiating an agreement:

##### Governing law is:

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted
specified as the courts of a country other than your own	<input type="radio"/>				
specified as the courts of a state other than your own	<input type="radio"/>				
not specified (contract is silent on governing law)	<input type="radio"/>				

## 14. Negotiating an MTA: Signatories

The following set of questions should be answered under the following scenario:

Your institution is negotiating an INCOMING Material Transfer Agreement where a Provider is sending Materials TO YOU.

YOUR INSTITUTION is the RECIPIENT of another institution's materials.

Each of the following questions addresses different terms and conditions of the agreement.

### 51. Signatories: Working with an Academic/NonProfit

	How frequently does this issue arise?	How difficult is this issue to resolve?	How important is it to resolve this issue satisfactorily?
Requirement that the investigator sign the MTA (in any capacity) in addition to the institution	<input type="text"/>	<input type="text"/>	<input type="text"/>

### 52. Signatories: Working with a Company / ForProfit

	How frequently does this issue arise?	How difficult is this issue to resolve?	How important is it to resolve this issue satisfactorily?
Requirement that the investigator sign the MTA (in any capacity) in addition to the institution	<input type="text"/>	<input type="text"/>	<input type="text"/>

### 53. Please indicate your institution's position, as a recipient, on the following terms when negotiating an agreement:

	Always Accepted	Routinely Accepted	Sometimes Accepted	Rarely Accepted	Never Accepted
Investigator must sign as a party to the agreement	<input type="radio"/>				
Investigator must sign as having acknowledged, read, or understood the terms, but not as a party to the agreement	<input type="radio"/>				

## Publication Availability

For information about the *AUTM 2011 MTA Survey Report*, contact AUTM, 111 Deer Lake Road, Suite 100, Deerfield, IL 60015, Phone: +1-847-559-0846, Fax: +1-847-480-9282, info@autm.net or see the AUTM Web site, www.autm.net.

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