

Information for Faculty Proposing DoD-Funded Research

The Office of Export Controls (OEC) reviews all sponsored agreements funded by the Department of Defense (DoD) because of the likelihood that those agreements will intersect with export control laws such as the International Traffic in Arms Regulations (ITAR). This document contains guidance from the OEC on steps that can be taken at the proposal stage that may reduce the possibility of a project being subject to, or minimize the impact of, export control restrictions contained in an award.

Before submitting a research proposal to a DoD agency, or any DoD-funded research proposal in which Missouri S&T will participate as a subcontractor, the OEC recommends the solicitation be reviewed for references to export controls, security, fundamental research, and/or restricted research. Clauses in DoD contracts may automatically restrict publication of research results or impose onerous information security requirements *unless* OSP has “scoped and negotiated” the project as fundamental research with the sponsor. Fundamental research is defined in the ITAR at 22 CFR 120.11(8):

Fundamental research is defined to mean basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community, as distinguished from research the results of which are restricted for proprietary reasons or specific U.S. Government access and dissemination controls. University research will not be considered fundamental research if:

- (i) The University or its researchers accept other restrictions on publication of scientific and technical information resulting from the project or activity, or
- (ii) The research is funded by the U.S. Government and specific access and dissemination controls protecting information resulting from the research are applicable.

If Missouri S&T accepts restrictions on either publication or access by foreign nationals, a project will not meet the definition of fundamental research. Engaging in non-fundamental (“restricted”) research potentially prevents members of Missouri S&T’s international community from participating in the project and endangers graduate students’ theses or dissertations (and thus their ability to graduate). In addition, accepting a restricted research project requires that compliance procedures be established to prevent the unauthorized disclosure of research results: these can include implementation of a technology control plan (TCP) and/or System Security Plan (SSP), which can apply an application of burdensome information security protocols.

If a principal investigator believes his or her proposed research meets the definition of fundamental research, a statement to that effect should be included in the cover sheet and/or proposal document to notify DoD sponsors early in the award process and to assist OSP with award negotiations.

Missouri S&T as a prime contractor:

The DoD Policy Memo on Fundamental Research dated May 24, 2010 emphasizes DoD support for open scientific exchanges and provides guidance to ensure that DoD personnel will not restrict disclosure of the results of fundamental research. Missouri University of Science and Technology asserts that the research proposed in the scope of work should be considered fundamental research and anticipates there will be no restrictions on publication or the involvement of foreign researchers, or other requirements in the award that would limit disclosure of the research results.



The DoD does document in the Research General Terms and Conditions and in the ONR Addendum to the DoD R&D General Terms and Conditions and ONR Programmatic Requirements that awards are considered fundamental research, “however, if in conducting the activities supported under the award, the principal investigator or co-principal investigator is concerned that any of the project results involve potentially classifiable information that may warrant Government restrictions on the dissemination of the results, the principle investigator should promptly notify the Technical Representative listed in the ONR Award Form.”

Missouri S&T as a subcontractor:

The DoD Policy Memo on Fundamental Research dated May 24, 2010 emphasizes DoD support for open scientific exchanges and provides guidance to ensure that DoD personnel will not restrict disclosure of the results of fundamental research. Missouri University of Science and Technology is submitting this proposal and participating in this project based on the condition that the research can be conducted as fundamental research. Missouri University of Science and Technology requests that the offeror/prime contractor use its best efforts to negotiate provisions in the prime contract to accommodate this subcontract as fundamental research or obtain such certification by DoD contracting personnel that allows Missouri University of Science and Technology to perform their effort as fundamental research, ensuring that any DoD restrictions on access or dissemination in the prime contract do not flow down to the University of Missouri.

Additional information about export controls and fundamental research is available at the Office of Export Controls website (http://research.missouri.edu/compliance/export_controls/). If you have questions, please contact the OEC directly at mstexportcontrols@mst.edu.