



Information for Faculty Proposing NASA-Funded Research

Fundamental Research

The Office of Export Controls (OEC) reviews all sponsored agreements funded by the National Aeronautics and Space Administration (NASA) 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 NASA, or any NASA-funded research proposal in which Missouri S&T will participate as a subcontractor, the OEC recommends faculty and staff involved in proposal preparation and submission review the solicitation carefully for references to export controls, security, fundamental research, and/or restricted research.

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 the establishment of a technology control plan (TCP) and/or System Security Plan (SSP), and export control training for all project personnel.

Clauses in NASA contracts do have provisions that allow for a project to be awarded as fundamental research. 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 NASA early in the award process and to assist OSP with award negotiations. *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 constraints on the involvement of foreign researchers, publication restrictions, or other requirements in the award that would limit disclosure of the research results.*

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.

Restrictions on Funding Activities with China ("The China Rule")

Public Laws 112-10, Section 1340(a) and 112-55, Section 539 issued in 2012 restrict NASA funds. The funding statute states that none of the funds appropriated may be used by NASA to develop, design, plan, promulgate, implements, or execute a bilateral policy, program, order, or contract of any kind to participate, collaborate, or coordinate, bilaterally in any way with China or any Chinese-owned company unless such activities are specially authorized by law.

Note that this funding restriction is a policy decision about how funds coming to Missouri S&T can be used and it not *necessarily* an export control that restricts a Chinese citizen from participating on a NASA-funded project. Below is general guidance regarding NASA funds and China; this information comes from the law itself and NASA's interpretations of the law.

1. Any person—regardless of his/her citizenship, nationality, or visa status—who maintains an affiliation with a Chinese institution may not work on a NASA project.
2. The statute does not restrict individual involvement based on citizenship or nationality. Rather, individuals are subjected to the restriction if they are affiliated with institutions of the People's Republic of China or Chinese-owned companies incorporated under the laws of China. Thus, a team member who is a Chinese citizen may work on a NASA project, but an individual affiliated with an institution of the Chinese state will be subject to the statutory restriction.
3. Commercial items (i.e., supplies) can be procured in or from China using NASA funds because this would not involve "participation, collaboration, or coordination," but subcontracts to China for research or consulting services are not allowed.
4. Travel or other costs related to direct collaboration between an investigator and any person affiliated with a Chinese institution are not allowed. Costs for travel to conferences in China using NASA funds may be allowed.

NASA's proposal forms may ask you about your intent to collaborate with Chinese persons or organizations, or any plans to travel to/perform work in China to accomplish your proposed project. Additionally, by submitting your proposal, the University is certifying compliance with this restriction. NASA has posted a series of FAQs regarding this funding restriction at <http://science.nasa.gov/researchers/sara/faqs/prc-faq-roses/>. If you have specific questions about how your project may be impacted, please contact the OEC directly at mstexportcontrols@mst.edu.