



# Export Control Policy

POLICY 10.09.01

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Date Last Revised:

The following are responsible for the accuracy of the information contained in this document

**Responsible Policy Administrator**

Vice Chancellor for Administration and Finance

**Responsible Department**

Office of the Vice Chancellor for Administration and Finance

**Contact** (508) 856-3892

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## Policy Statement

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For reasons of foreign policy and national security, export controls are United States laws that regulate and restrict the release of critical technologies, technical data, software code, equipment, chemical and biological materials, and other materials, information and services to foreign nationals and foreign countries.

An export is:

- Shipment of a controlled commodity, equipment, material, or software outside of the U.S.
- Disclosing controlled technology or technical data to a foreign national, whether in the U.S. or abroad.
- Performing technical assistance or defense services for or on behalf of a foreign national, whether in the U.S. or abroad
- Exports made to foreign nationals within the U.S. are referred to as “deemed exports”

An export license may be required before initiating any of the exports identified above.

The University of Massachusetts Policy on University Research Projects expresses the university’s institutional commitment to "undertake only those research projects in which the purpose, scope, methods, and results can be fully and freely disclosed." Preserving a culture of openness is a fundamental tenet of University of Massachusetts Medical School (UMMS) research.

Although export controls may impose access, dissemination, and participation restrictions on the conduct of UMMS research, export controls apply to all UMMS activities, not just

sponsored research. Note that export control regulations are complex and constantly evolving.

The federal agencies responsible for administering export controls include the US State Department, Commerce Department and Treasury Department.

UMMS relies on proper documentation in order to make use of exclusions and exemptions from licensing requirements. Recordkeeping is important if you are involved in research efforts where it may be necessary to:

1. ship research articles outside the U.S. or
2. share export-controlled information provided by third parties, such as vendors, subcontractors, or government collaborators

A decision tree is provided in the Export Control Compliance Program Manual to assist in determining the applicability of these regulations in the case of shipments outside US borders.

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## **Reason for Policy**

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University awareness of export control laws and requirements is critical and there are now significant civil and criminal penalties for violations of these regulations.

UMMS is committed to complying with export control and trade sanctions laws and regulations. Compliance is important, as willful disregard or even accidental or innocent violations can result in significant institutional and individual penalties.

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## **Entities Affected By This Policy**

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All UMMS faculty, administrators, staff, volunteers, contingent workers, post-docs and students need to be aware of and comply with U.S export control laws and regulations and UMMS' Export Control Compliance Program. Under no circumstances shall employees or other persons acting on behalf of UMMS engage in activities that violate U.S. export control laws.

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## **Related Documents**

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UMMS Export Control Compliance Program Manual

University of Massachusetts Policy on University Research Projects

For the most current information on export control and trade sanction regulations, see

U.S. Department of Commerce Bureau of Industry and Security: [www.bis.doc.gov](http://www.bis.doc.gov)

U.S. Department of Commerce Export Administration Regulations Database Lists of controlled items: [http://www.access.gpo.gov/bis/ear/ear\\_data.html#ccl](http://www.access.gpo.gov/bis/ear/ear_data.html#ccl).

U.S. Department of Commerce Lists to Check to Avoid Export Control Violations: <http://www.bis.doc.gov/complianceand enforcement/liststocheck.htm>

U.S. Department of Commerce FAQs on shipments: <http://www.bis.doc.gov/exportlicensingqanda.htm>

U.S. Department of State Directorate of Defense Trade Controls: <http://www.pmddtc.state.gov/>

U.S. Department of Treasury OFAC: <http://www.treas.gov/offices/enforcement/ofac/>

U.S. Department of Treasury OFAC Sanctions Programs: <http://www.treas.gov/offices/enforcement/ofac/programs/index.shtml>

Ensuring any physical good or material being shipped or transferred to a foreign country does not require a license according to the Commerce Control List (CCL) of the Export Administration Regulations (EAR), see [http://www.access.gpo.gov/bis/ear/ear\\_data.html#ccl](http://www.access.gpo.gov/bis/ear/ear_data.html#ccl)

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## Scope

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Important questions in considering whether items or technologies are subject to export control laws include what is being sent, where it is being sent and to whom they are going. Common items or technologies at UMMS that may be subject to export control laws include certain chemicals, biological agents and equipment (including laptops with encryption technology). Lists of controlled items are available at [http://www.access.gpo.gov/bis/ear/ear\\_data.html#ccl](http://www.access.gpo.gov/bis/ear/ear_data.html#ccl).

Trade sanctions laws and regulations prohibit activities such as financial transactions with or exports to embargoed countries, prohibited entities or denied persons. Department of Commerce provides information on “Lists to Check” to avoid these violations. See <http://www.bis.doc.gov/complianceand enforcement/liststocheck.htm> For example, all travel to OFAC countries requires a license or other exemption. See <http://www.treas.gov/offices/enforcement/ofac/programs/index.shtml>.

For the most current information on export control and trade sanctions regulations, see [www.bis.doc.gov](http://www.bis.doc.gov) (EAR), <http://www.pmddtc.state.gov/> (ITAR) and <http://www.treas.gov/offices/enforcement/ofac/> (OFAC).

While the University places a high priority on compliance with export regulations, it is also the mission and policy of UMMS to conduct instruction and research openly and without prohibitions on the dissemination of learning or research results. As a result, in most instances the requirements of U.S. export control laws can be satisfied through reliance on available exclusions, such as exclusions for educational information and information that is publicly available or in the public domain.

Key among these exceptions is the fundamental research exclusion (FRE). Fundamental research is basic or applied research in science and engineering, the results of which are ordinarily published and shared broadly within the scientific community. Restrictions on the publication of research results and personnel access restrictions can invalidate the fundamental research exclusion. Also, it is important to understand that the FRE does not provide exclusion for the physical export of goods or materials (even where FRE applies to the research).

Export controls may also apply to the disclosure of certain kinds of information or technology to foreign nationals\* inside the United States, because these are "deemed exports" under the regulations. An export license may be required before initiating these activities.

\*Foreign nationals are persons who are not US citizens, permanent residents or political asylees.

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## **Responsibilities**

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Responsibilities of faculty, administrators, staff, volunteers, contingent workers, post-docs and students include:

1. Securing research and technology, chemicals and biological materials, and proprietary and Government articles entrusted to the faculty member against unauthorized use or theft.
2. Screening any potential foreign research collaborators and foreign visitors against "Lists to Check" to ensure said person is not embargoed or sanctioned and to ensure the proposed end use is appropriate.
3. Ensuring any physical good or material being shipped or transferred to a foreign country does not require a license according to the Commerce Control List (CCL) of the Export Administration Regulations (EAR), see [http://www.access.gpo.gov/bis/ear/ear\\_data.html#ccl](http://www.access.gpo.gov/bis/ear/ear_data.html#ccl).

4. Contacting the Responsible Policy Administrator should they have any questions about the application of U.S. export controls or trade sanctions to their research or other activities and reporting any potential violations or concerns directly to the Responsible Policy Administrator.
5. Reporting Suspicious Activities and Possible Violations  
To help ensure compliance with export control laws and regulations, members of the UMMS community are encouraged to report suspected violations. To report any suspicious activities or suspected violations, please contact the applicable Responsible Policy Administrator. No employee will be retaliated against in the terms and conditions of their employment or other status at the Institution solely on the basis that the employee reported what was reasonably believed to be an act of wrongdoing or a violation of the export control laws. Reports will be promptly and responsibly investigated. All documents and records relating to any suspected violation must be immediately secured and maintained in accordance with the applicable record keeping requirements.
6. Voluntary Disclosure / Export Licenses  
The Responsible Policy Administrator is the Medical School senior management official with authority to communicate with the United States Department of Commerce, the Department of State, the Treasury Department, the Department of Justice, or Department of Homeland Security with respect to any suspected or known violation of any export control laws or regulations. Likewise, the Responsible Policy Administrator is the UMMS official with authority to submit an export license application to the United States Department of Commerce, the Department of State or the Treasury Department. Titles and offices of Responsible Policy Administrators appear at the end of this policy.
7. Government Subpoenas or Document Requests  
In the event any subpoena or other request for documents relating to any export control or trade sanctions violation is received from any Federal agency, immediately contact the Office of the General Counsel for appropriate and timely response. Likewise, if a Federal agency representative arrives to conduct any outreach, inquiry or investigation relating to an export control or trade sanctions matter, immediately contact the Office of the General Counsel. Employees shall not interfere with or obstruct any Federal agent or law enforcement officer in the performance of the officer's duties.

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## Procedures

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Please see UMMS Export Control Compliance Program Manual

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## Definitions

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### Administrators to Contact for Assistance:

The UMMS Export Control Responsible Policy Administrator is the person with authority for export control compliance within their areas of responsibility. The following is a list of responsible persons by subject area:

Chemicals and Biological Materials: Sr. Director, Environmental Health and Safety

Shipments Inbound (other than Chemical and Biological Materials): Purchasing Director

Shipments Outbound (other than Chemical and Biological Materials): Director of Auxiliary Services

Radioactive Material or Equipment with Radioactive Sources: Director, Radiation Safety

International Programs / Global Health Projects / Foreign Travel: Associate Provost for Global Health

Research Grants and Contract Proposals: Assistant Vice Provost for Research Funding Services

Materials Transfer Agreements: Executive Director, Office of Technology Management

Immigration Sponsor Letters and Visa Applications: Sr. Manager for Compliance and Immigration Services

Accounts Payable: (Vendor Screens): Manager Accounts Payable

Information Security: Information Security Officer

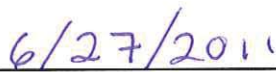
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## Approvals

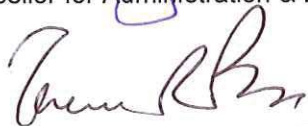
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Vice Chancellor for Administration & Finance



Date



Dean, Provost and Executive Deputy Chancellor



Date