



Office of Export Controls

University of Missouri-Columbia

Standard Operating Procedure

Recordkeeping

Recordkeeping

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Approved By: Michele Kennett
Associate Vice Chancellor for Research

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1.0 Purpose

To outline the processes and procedures—and regulations governing—the Office of Export Compliance (OEC) record keeping requirements.

2.0 Scope

The SOP applies to all activities conducted by the OEC.

3.0 Policy/Procedure

General Information

The OEC shall maintain export-related records on a project basis. Records in eCompliance (an electronic, web-based submission and record keeping system) are generally kept indefinitely as a paperless system. Unless otherwise indicated, all records will be maintained in accordance with the UM record retention policy, and/or shall be maintained consistent with the requirements of the regulation applying to a specific transaction or activity.

The ITAR, the EAR and OFAC regulations all set forth recordkeeping requirements for regulated export activities. Under each of these sets of regulations, records must be retained for five years after the completion of the activity and made available to the regulating authority upon request. Records that should be retained include all memoranda, notes, correspondence (including email), financial records, shipping documentation, as well as any other information related to the export activities. Additionally, when a license exception (EAR) or license exemption (ITAR) is used,

additional records documenting the applicability of the exception/exemption¹ may be required and in some cases there may be additional reporting requirements.

ITAR

If an ITAR-controlled defense service or defense article (including technical data) is exported under an exemption, certain records of the transaction must be kept even beyond the five-year retention period (see 22 CFR §123.26). Those records include:

1. A description of the defense service, defense article/technical data;
2. The name and contact information of the recipient/end-user;
3. The stated end-use of the defense article or defense service;
4. The date/time of the export;
5. The method of transmission (e.g., email, fax, telephone, postal carrier, etc.); and
6. The exemption under which the export took place.

NOTE: Additional recordkeeping requirements may be imposed by each exemption.

EAR

The Bureau of Industry and Security (BIS) has specific recordkeeping requirements (see 15 CFR §762.6). Generally, the EAR requires that records must be kept for a period of five years from the latest date of export from the U.S. Because most of the exports that occur at the University of Missouri are deemed exports relating to participation on a sponsored research project by an international student, postdoctoral associate, or faculty member, records will be retained for a period of five years past the project's termination date.

However, if at any time the BIS or any other government agency requests—formally or informally—records of transactions subject to the EAR, or that relate to any voluntary disclosure filed by the University, those records cannot be destroyed or otherwise disposed of without written authorization from the requesting agency.

FACR

The economic and trade sanctions regulations administered and enforced by the Office of Foreign Assets Control (OFAC) contain recordkeeping requirements similar to those imposed by the ITAR and the EAR. The FACR recordkeeping requirements apply to any economic sanctions programs whose implementation and administration have been delegated to OFAC. This includes the OFAC Sanctions Lists² as well as any comprehensive or selective sanctions programs in place to accomplish foreign policy and/or national security goals.³ Regardless of whether MU engages in any transactions regulated by OFAC through a general license or after application and receipt of a specific license, the recordkeeping requirements mandate that records be kept of every such transaction for at least five years after the date of the transaction (See 31 CFR §501.601).

¹ Information meeting the criteria of being in the public domain, being educational information, or resulting from Fundamental Research is not subject to export controls under the ITAR or the EAR. Therefore, the special requirement for recordkeeping when using an exclusion, exemption, or exception may not apply.

² OFAC publishes lists of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country-specific. These lists include the Specially Designated Nationals List (SDN), the Consolidated Sanctions List, and other lists.

³ Detailed information about OFAC sanctions and lists is available at <https://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>