



Federation of American Societies for Experimental Biology

— Quality Life Through Research —

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and Molecular Biology

American Society for Pharmacology
and Experimental Therapeutics

American Society for Investigative
Pathology

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Sciences

The American Association of
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The Protein Society

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Investigation

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Genetics

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Investigation

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International Society for
Computational Biology

Association of American Physicians

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October 12, 2005

Ms. Amy Williams
Defense Acquisitions Regulation Council
OUSD (AT&L) DPAP (DAR)
IMD 3C132
3062 Defense Pentagon
Washington, D.C. 20301-3062

Re: **DFARS 2004-D010**

Dear Ms. Williams:

The Federation of American Societies for Experimental Biology (FASEB), representing 23 scientific societies and more than 65,000 biomedical researchers, appreciates the opportunity to comment on the Department of Defense's (DOD) proposed rule to amend the Defense Federal Acquisition Regulations Supplement (DFARS), as published in the *Federal Register* on July 12, 2005. We agree completely with our colleagues at the Association of American Universities (AAU) that any rulemaking in this area is premature in light of the continuing discussions with the Department of Commerce Bureau of Industry and Security (BIS) regarding their consideration of changes to the Export Administration Regulations (EAR) related to "deemed exports." Our July 6, 2005 comments to the Department of Commerce are attached for your review.

It is the view of FASEB that fundamental research thrives in an environment of free exchange of ideas, spontaneous changes of research direction, and open collaboration among colleagues in different laboratories or disciplines. Our nation's research universities have always fostered a culture in which the free exchange of ideas and open collaboration were encouraged and welcomed. It is through this culture of openness that U.S. institutions have served as a forum where innovative and cutting-edge ideas prosper and research progress is achieved. The proposed rule as written runs contrary to the open and innovative atmosphere of our research laboratories. For research that poses a concern to national security, we wholeheartedly support the use of National Security Decision Directive (NSDD) 189. First approved by President Ronald Reagan in 1985 and reaffirmed by the President George W. Bush Administration, NSDD 189 states: "It is the policy of this Administration that, to the maximum extent possible, the products of fundamental research remain unrestricted. It is also the policy of this Administration that, where national security requires control, the mechanism for control of information generated during federally funded fundamental research in science, technology and engineering at colleges, universities and laboratories is classification...."

As AAU contends, the impact of the DOD proposed rule will remain unknowable until the Commerce Department decides to respond to the recommendations of its own Inspector General concerning the definition of "use technology" and its application to equipment necessary for the conduct of fundamental research. FASEB strongly urges DOD to adopt the recommendations for action proposed by AAU and the Council on Government Relations (see: URL). Thank you for your consideration.

Sincerely,

Bruce R. Bistrain

Bruce R. Bistrain, M.D., Ph.D.
FASEB President