

# Research Policies

## Materials Transfers (SC-330)

### Scope

This policy applies to transfers of biological and other research materials to or from HHMI laboratories, including laboratories and shared resource facilities at Janelia Farm Research Campus (“Janelia”).

HHMI laboratory heads referred to in this policy include Investigators and, at Janelia, Group Leaders and Fellows.

### Policy

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#### In General

The sharing of biological and other research materials among laboratories is an essential aspect of scientific citizenship. In that spirit, HHMI expects its laboratory heads, and all members of the academic research community, to make such materials available for research use by other scientists, and to handle related requests expeditiously.

Materials, data, and software that are integral to a research publication of an HHMI laboratory head must be made available in a way that is consistent with HHMI’s policy on [Sharing of Publication-Related Materials, Data, and Software](#). Research tools developed in HHMI laboratories are expected to be made available in a way that is consistent with HHMI’s policy on [Research Tools](#).

#### Transfers by HHMI Laboratories to Scientists at Non-Profit Organizations

**General Rule - No MTA Required:** HHMI does not require the use of a written materials transfer agreement (MTA) where an HHMI laboratory is transferring materials to a scientist at a non-profit organization for research use if:

- The materials are not hazardous;
- The materials are not of human origin;
- The materials will not be used by the recipient in humans; and
- The host institution also does not require a written MTA for the transfer (this is not relevant for laboratories at Janelia, where there is no host institution).

**Expectations where no MTA is Used:** Even if no written agreement is signed for a transfer of materials from an HHMI laboratory, the recipient is expected to use the materials only for research purposes, not use the materials in humans, obtain consent from the original provider of the materials before passing the materials on to others, and acknowledge the source of the materials in resulting publications and presentations.

**Foreign Transfers:** Where an HHMI laboratory at a host institution is transferring materials to a scientist at an institution outside of the U.S., the laboratory head is responsible for following host institution policies regarding export control compliance. For example, the laboratory head may need to check with the host institution office that is responsible for export control compliance to make sure there is no need for a license or other government approval. At Janelia, transfers of materials to scientists at institutions outside of the U.S. are reviewed by the Office of Environmental Health and Safety/Compliance (EH&S/C) for export control compliance.

**Acceptable Forms if an MTA is Required:** If a written MTA is required for a transfer to a non-profit, the following forms of MTA are acceptable to HHMI for most transfers (exceptions are noted below):

- HHMI's one-page [outbound materials transfer agreement](#), a copy of which may be sent out with the requested materials.
- The Uniform Biological Materials Transfer Agreement (UBMTA) developed by the NIH in 1995. In addition, where all institutions that are party to a transfer of materials have signed the UBMTA, the materials can be transferred under the terms of the UBMTA upon execution of an Implementing Letter for the particular transfer.
- The one-page Simple Letter Agreement developed by the NIH in 1999.
- The Materials Transfer Agreement for the Transfer of Organisms (MTA-TO) developed by the NIH in 2008.

For an HHMI laboratory located at a host institution, the host institution also needs to approve the form of MTA used for transfers to non-profits, if a written MTA is required. If the host institution does not permit use of the forms listed above, the host institution may negotiate an alternative, joint MTA with HHMI for HHMI laboratories at that host to use. Once an alternative MTA has been agreed to by HHMI and the host, it may be used for materials transfers by HHMI laboratories at that host subject to the exceptions below.

**Exception – Hazardous Materials:** When transferring hazardous materials, an HHMI laboratory at a host institution must use a written MTA specifically approved for the particular materials by both HHMI and the host institution. Generally, hazardous materials include:

- Any chemical that is on the CDC list of hazardous chemical agents (<http://www.bt.cdc.gov/agent/agentlistchem.asp>);
- Any material that is on the CDC list of select agents and toxins (<http://www.selectagents.gov/Select%20Agents%20and%20Toxins%20List.html>); and
- Any other potential pathogens, including viral vectors such as vesicular stomatitis virus and vaccinia virus.

Laboratory heads at host institutions should consult with their host institution's biosafety office if they have questions about whether specific materials should be considered hazardous. Similarly, if a Janelia laboratory proposes to transfer hazardous materials, the transferring laboratory must use a written MTA specifically approved for the particular materials by HHMI. Janelia researchers should consult with EH&S/C if they have questions about whether specific materials should be considered hazardous.

**Exception - Materials of Human Origin or to be Used in Humans:** When transferring materials that are of human origin or that will be used by the requesting laboratory in humans, HHMI

laboratories at host institutions must use a written MTA specifically approved for the particular materials by both HHMI and the host institution. If a Janelia laboratory proposes to transfer materials that will be used by the requesting laboratory in humans, the transferring laboratory must use a written MTA specifically approved for the particular materials by HHMI, and the transfer must be approved by both the Janelia Executive Director and the Chief Administrative Officer.

**Exception – Third-Party Restrictions on Transfer:** If the transfer of specific materials is subject to restrictions imposed by a third party, a special agreement to transfer those materials to others may be needed. In this situation, HHMI laboratory heads at host institutions should consult with the host institution technology transfer office or the [HHMI attorney responsible for the site](#); Janelia laboratory heads should consult with the Chief Administrative Officer.

**Questions:** Questions for HHMI about transfers of materials from HHMI laboratories should be directed to the [HHMI attorney responsible for the site](#) or, at Janelia, to the Chief Administrative Officer. Questions for host institutions about transfers of materials from HHMI laboratories are ordinarily handled by the host institution technology transfer office.

## Deposits by HHMI Laboratories in Non-Profit Repositories

HHMI encourages laboratory heads to deposit research materials developed in their laboratories with non-profit repositories for distribution to the scientific community. Absent unusual circumstances, HHMI does not require the use of any MTA for such deposits. However, because host institutions may require MTAs or other agreements, HHMI laboratories at host institutions should consult with their host institution technology transfer office before depositing materials in a repository for distribution. A Janelia laboratory head who has questions about depositing research materials in a non-profit repository should consult with the Chief Administrative Officer.

## Transfers by HHMI Laboratories to Scientists at For-Profit Organizations

Transfers to for-profit companies are normally handled as licenses; they may also be documented with an MTA. An HHMI laboratory head at a host institution who receives a request from a company for materials should consult with the host institution technology transfer office about the request before sending the requested materials; the HHMI attorney responsible for the site can also serve as a resource if the laboratory head has questions. A Janelia laboratory head receiving such a request should consult with the Chief Administrative Officer about the request before sending the requested materials.

Under HHMI's arrangements with its host institutions, HHMI reviews and comments on close-to-final drafts of licenses of reagents or other technology developed by its laboratories at the host to ensure that the licenses are consistent with HHMI's policy on [Licensing by Host Institutions](#).

## Sharing Software

HHMI encourages its laboratory heads to share on an open-source basis any software programs and tools they develop, while respecting and accommodating the rights of other institutions who may hold copyrights in, for example, subroutines or other components of the code to be distributed.

## Transfers to HHMI Laboratories

**General Rule – No MTA Required:** HHMI does not require that transfers of biological or other research materials to HHMI laboratories be documented by a written agreement.

**Expectations where no MTA is Used:** When HHMI laboratories receive materials without a written agreement, they are expected to use the materials only for research purposes, obtain consent from the original provider of the materials before passing the materials on to others, and acknowledge the source of the materials in resulting publications and presentations.

**If MTA is Required by Provider - Concerns:** Where a provider requires a written agreement for a transfer of materials to an HHMI laboratory, HHMI's primary concerns are to ensure that the provider of the materials (1) cannot control the content of or unduly restrict or delay publication of the research results, and (2) does not obtain inappropriate access to or control over HHMI research or intellectual property in return for the materials.

**If MTA is Required by Provider - Procedures:** HHMI's Office of the General Counsel negotiates terms of agreements for HHMI laboratories to get materials from companies or non-profit organizations. For an HHMI laboratory at a host institution, these negotiations are conducted jointly with the host institution's technology transfer office.

HHMI laboratory heads and directors or managers of Janelia shared resources facilities should send all MTAs for incoming materials to the [HHMI Contracts Counsel responsible for the site](#). HHMI laboratory heads at host institutions may also wish to send these agreements to their host institution technology transfer office for concurrent review, but HHMI will in any event coordinate its review with the host office.

**Questions:** Questions for HHMI about transfers of materials into HHMI laboratories should be directed to the [HHMI Contracts Counsel responsible for the site](#) or, at Janelia, to the Chief Administrative Officer. Questions for host institutions about transfers of materials to HHMI laboratories are ordinarily handled by the host institution technology transfer office.

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