



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

THE GENERAL COUNSEL

September 26, 2019

L. Rafael Reif, President  
Massachusetts Institute of Technology  
77 Massachusetts Avenue  
Room 3-208  
Cambridge, MA 02139-4307

Re: Notice of 20 U.S.C. § 1011f Investigation and Record Request/Massachusetts  
Institute of Technology

Dear President Reif:

Section 117 of the Higher Education Act of 1965, codified at 20 U.S.C. § 1011f, requires the Massachusetts Institute of Technology to report statutorily defined gifts from and contracts with a foreign source to the U.S. Department of Education. These reports are posted at <https://studentaid.ed.gov/sa/about/data-center/school/foreign-gifts>.

The Department is concerned that your reporting may not fully capture all gifts, contracts, and/or restricted and conditional gifts or contracts from or with all foreign sources to the Massachusetts Institute of Technology and/or its affiliated entities operating substantially under the auspices of your institution or for its benefit (*e.g.*, laboratories, schools, centers, foundations, global “collaborations” and/or non-profit organizations such as the “Industrial Liaison Program”, “Masdar Institute”, the “Skolkovo Institute of Science and Technology”, or the “MIT Campus, China”, their employees, faculty, lecturers, researchers, and fellows) (collectively “MIT”) as required by law. *See, e.g.* <http://news.mit.edu/2019/remarks-president-reif-institute-faculty-meeting-0918> (reporting flaws in donor and gift agreement “process and practices”); <https://www.pogo.org/investigation/2019/02/universities-on-the-foreign-payroll/> (“Lester’s report stated that, ‘over the last three years, sponsored research projects funded by Saudi organizations accounted for 52% of all Saudi-funded expenditures at MIT.’ *Yet most of the research sponsors listed in the report are not included as sources of monetary gifts or contracts in the federal data reviewed by POGO*”) (emphasis added).

Section 117(f), 20 U.S.C. § 1011f(f), provides that whenever it appears an institution has failed to comply with the law, the Secretary of Education may request the Attorney General commence an enforcement action to compel compliance and to recover the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement. To meet our statutory duty, the Department has opened an administrative investigation of MIT and now requests that you produce the following records within thirty days:

400 MARYLAND AVE. SW, WASHINGTON, DC 20202-2100  
[www.ed.gov](http://www.ed.gov)

*The Department of Education’s mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

1. All records of, regarding, or referencing gifts, contracts, and/or restricted or conditional gifts or contracts from or with a foreign source to your Institution. The time frame for this request is January 1, 2014, to the present.
2. All records of, regarding, or referencing gifts, contracts, and/or restricted or conditional gifts or contracts from or with (i) the government of Saudi Arabia, Mohammed Abdul Latif Jameel, Saudi Aramco, the King Abdulaziz City for Science and Technology, SABIC, the King Fahd University of Petroleum and Minerals, the MiSK Foundation, the Olayan Financing Group, other Saudi nationals, and their agents; (ii) the government of People's Republic of China, the Central Committee of the Communist Party of China, Huawei Technologies Co. Ltd., Huawei Technologies USA, Inc., ZTE Corp, Peking University, China University of Petroleum, Beijing Kaiwen Educational Technology Co. and their agents; (iii) the government of Qatar (including those persons known as the Qatar Foundation for Education, Science and Community Development *aka* the Qatar Foundation *aka* the Qatar National Research Fund), and its agents; and (iv) the government of Russia, the Skolkovo Foundation, Kaspersky Lab and Kaspersky Lab US, and their agents, to your Institution. The time frame for this request is January 1, 2012, to the present.
3. All records of, regarding, or referencing "Hanban" or the Office of Chinese Language Council International and its agents to your Institution. The time frame for this request is January 1, 2014, to the present.
4. All records of, regarding, or referencing gifts, contracts, and/or restricted or conditional gifts or contracts from or with the Confucius Institute and its agents to your Institution. The time frame for this request is January 1, 2010, to the present.
5. All records of, regarding, or referencing the audit and accounting practices and/or other institutional controls used to capture, track, report, and verify gifts, contracts, and/or restricted or conditional gifts or contracts from or with a foreign source to your Institution. The time frame for this request is January 1, 2014, to the present.
6. A list of all gifts, contracts, and/or restricted or conditional gifts or contracts from or with a foreign source to your Institution that were not properly reported to the Department of Education. For each such gift, contract, and/or restricted or conditional gift or contract from or with a foreign source to your Institution, please explain your Institution's failure to report. The time frame for this request is January 1, 2014, to the present.
7. All records of, regarding, or referencing solicitation by your Institution of gifts, contracts, and/or restricted or conditional gifts or contracts with or from a foreign source. The time frame for this request is January 1, 2014, to the present.
8. All records of, regarding, or referencing compliance by your Institution with 20 U.S.C. §§ 1011f(a), (b), (c), and (e). The time frame for this request is January 1, 2014, to the present.

9. All communications between your Institution and a foreign source listed as or a resident of a country requiring cooperation with an international boycott pursuant to 26 U.S.C. § 999(a)(3). The time frame for this request is January 1, 2014, to the present.
10. All records of, regarding, or referencing actions taken and institutional controls created by your Institution to confirm (a) each foreign source has not violated 18 U.S.C. §§ 2339, 2339A, 2339B, 2339C, and 2339D; and (b) each gift, contract, and/or restricted or conditional gift or contract from or with a foreign source complies with Executive Order 13224. The time frame for this request is January 1, 2014, to the present.
11. Your Institution's IRS Form 990s and schedules, including Schedules F and R, for tax years 2014, 2015, 2016, 2017, and 2018.
12. A list of all persons at your Institution supported by a gift, contract, and/or restricted or conditional gift or contract with or from a foreign source (e.g., a research scientist working on a project testing artificial intelligence or other engineering systems funded in whole or in part by a foreign source, a foreign graduate student studying physics under a scholarship or other contractual arrangement with a foreign government, a fellow in a cultural studies program created by endowment or other gift from a foreign source). The relevant foreign source should be specified for each such person. The time frame for this request is January 1, 2014, to the present.
13. A list of the persons responsible for 20 U.S.C. § 1011f compliance for your Institution. The time frame for this request is January 1, 2014, to the present.
14. All certifications and related documentation required under the International Traffic in Arms Regulations (ITAR), 22 CFR Subchapter M, the Arms Export Control Act of 1976 (Title II of Pub. L. 94-329), 90 Stat. 729, 22 U.S.C. Chapter 39, the Export Administration Regulations (EAR), 15 CFR 730 et seq., or any other related authority with respect to programs and activities sponsored by your Institution. The time frame for this request is January 1, 2014, to the present.

As used in this Notice of Investigation and Information Request:

"Agent" means any person who acts for or on behalf of a foreign source and includes a subsidiary or affiliate of a foreign legal entity.

"Contract" has the meaning given at 20 U.S.C. § 1011f(h)(1).

"Foreign source" has the meaning given at 20 U.S.C. § 1011f(h)(2).

"Gift" has the meaning given at 20 U.S.C. § 1011f(h)(3).

“Institution” has the meaning given at 20 U.S.C. § 1011f(h)(4) and for the purposes of this investigation and record request includes MIT and all affiliated entities (e.g., centers, schools, boards, foundations, laboratories, research facilities, branches, and/or non-profit organizations, their employees, faculty, lecturers, researchers, and fellows) operating substantially under MIT’s auspices or for its benefit.

“Record” means all recorded information, regardless of form or characteristics, made or received by you, and including metadata, such as email and other electronic communication, word processing documents, PDF documents, animations (including PowerPoint™ and other similar programs) spreadsheets, databases, calendars, telephone logs, contact manager information, Internet usage files, network access information, writings drawings, graphs charts, photographs, sound recordings, images, financial statements, checks, wire transfers, accounts, ledgers, facsimiles, texts, animations, voicemail files, data generated by calendaring, task management and personal information management (PIM) software (such as Microsoft Outlook), data created with the use of personal data assistants (PDAs), data created with the use of document management software, data created with the use of paper and electronic mail logging and routing software, and other data or data compilations, stored in any medium from which information can be obtained either directly or if necessary, after translation by the responding party into a reasonably usable form. The term “recorded information” also includes all traditional forms of records, regardless of physical form or characteristics.

“Restricted or conditional gift or contract” has the meaning given at 20 U.S.C. § 1011f(h)(5).

If you claim attorney-client or attorney-work product privilege for a given record, then you must prepare and submit a privilege log expressly identifying each such record and describing it so the Department may assess the validity of your claim. Please note no other privileges apply here.

Your record and data preservation obligations are outlined at Exhibit A.

This investigation will be directed by the Department’s Office of the General Counsel with support from Federal Student Aid. Please contact Patrick Shaheen at [Patrick.Shaheen@ed.gov](mailto:Patrick.Shaheen@ed.gov) with any questions you might have regarding production of the requested information.

Sincerely yours,



Reed D. Rubinstein  
Principal Deputy General Counsel  
delegated the authority and duties of the General  
Counsel

# EXHIBIT A

## RECORD PRESERVATION REQUIREMENTS

This investigation requires preservation of all information from your institution's computer systems, removable electronic media, filing systems, and other locations relating to the matters that are the subject of the Notice of Investigation. You should immediately preserve all data and information about the data (i.e., backup activity logs and document retention policies) relating to records maintained in the ordinary course of business and that are covered by the Notice of Investigation. Also, you should preserve information available on the following platforms, whether in your possession or the possession of a third party, such as an employee or outside contractor: databases, networks, computer systems, including legacy systems (hardware and software), servers, archives, backup or disaster recovery systems, tapes, discs, drives, cartridges and other storage media, laptops, personal computers, internet data, personal digital assistants, handheld wireless devices, mobile telephones, paging devices, and audio systems (including voicemail). You should also preserve all hard copies of records regardless of location.

The laws and rules prohibiting destruction of evidence apply to electronically stored information in the same manner that they apply to other evidence. Accordingly, you must take every reasonable step to preserve relevant records. "Reasonable steps" with respect to these records include:

- Notifying in writing all potential custodians and IT personnel who may have relevant records of their preservation obligations under this investigation.
- Discontinuing all data and document destruction policies.
- Preserving all metadata.
- Preserving relevant records and/or hardware unless an exact replica of the file (a mirror image) is made.
- Preserving passwords, decryption procedures (and accompany software), network access codes, ID names, manuals, tutorials, written instructions, decompression or reconstruction software.
- Maintaining all other pertinent information and tools needed to access, review, and reconstruct necessary to access, view, and/or reconstruct all requested or potentially relevant electronic data.

You have an obligation to preserve all digital or analog electronic files in electronic format, regardless of whether hard copies of the information exist, with all metadata. This includes preserving:

- Active data (i.e., data immediately and easily accessible today).
- Archived/journaled data (i.e., data residing on backup tapes or other storage media).
- Deleted data (i.e., data that has been deleted from a computer hard drive but is recoverable through computer forensic techniques).
- Legacy data (i.e., data created on old or obsolete hardware or software).