



POLICY and STATEMENT OF COMPLIANCE
WITH U.S. EXPORT AND SANCTION LAWS

FOR
THE UNIVERSITY OF NEBRASKA-LINCOLN

Dear Colleagues:

One fundamental mission of the University of Nebraska–Lincoln is the creation and free dissemination of knowledge. As an institution, we are committed to education through open research in which all methodologies and data are freely shared with the academic community and the general public. At the same time, we as investigators must balance our commitment to openness in research against our responsibility to comply with various laws and regulations. For example, we must take measures to ensure that research is conducted ethically and in a way that promotes the informed consent of human participants and protects the welfare of animal subjects.

In a similar fashion, research activities are subject to a body of laws and regulations known as export controls. These controls may, in particular circumstances, limit the ability of members of our community to participate in or communicate the results of certain research. UNL’s policy is to comply with all export controls of the United States, including the Arms Export Control Act (“AECA”), the International Traffic in Arms Regulations (“ITAR”), the Export Administration Regulations (“EAR”), the Foreign Assets Control Regulations (“FACR”), and other laws and regulations governing national security and American economic interests.

Export control regulations are complex and may impact the conduct of research in unexpected ways. While it may seem obvious that export controls impact research involving military technologies, these regulations may also reach research in other disciplines, including studies of pathogens, development of software, and even international travel. Complexity, however, is no excuse for noncompliance. Even inadvertent or innocent disclosures of sensitive information may constitute crimes with serious legal consequences for both individual researchers and for the institution. Investigators must therefore take personal responsibility for managing access to sensitive information and controlled items.

With this in mind, the Office of Research and Economic Development seeks to assist researchers in their compliance efforts by informing the members of our university community about the laws and regulations that affect their work and provide guidance and resources for protecting sensitive information and items. We invite you to visit UNL’s export compliance website (<http://research.unl.edu/researchresponsibility/export-control/>) and get in touch with the Export Management and Compliance Program at (402) 472-6929 or exportcontrol@unl.edu. Our staff is available to provide guidance in all aspects of export compliance, and is committed to helping the UNL community navigate the often murky waters of export control.

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DOES THE EXPORT CONTROL POLICY APPLY TO MY RESEARCH?

Key Questions to Ask BEFORE Beginning a Research Project

If you answer yes to ANY of the following questions, contact the UNL Export Control and Laboratory Safety Specialist at 402.472.4491 to determine how Export Controls Regulations apply to your research.

- Does your Research Agreement/Contract/Grant contain a restriction on publication or presentation of results?
- Does your Research Agreement/Contract/Grant contain a restriction on export or foreign national access?
- Will the University partner with a foreign company?
- Will equipment be shipped to a foreign country?
- Will you be traveling to sanctioned or embargoed countries for purposes of teaching, outreach/service or performing research?
- Is your research subject material specifically for, or could it have any application in, military use, use in outer space, or use for weapons of mass destruction?
- Will a defense article be used in the research?
- Is encrypted software involved?
- Is your research subject listed on the [Commerce Control List](#)?
- Is your research covered in the U.S. Munitions List (USML), found in [Part 121 of the ITAR](#)?

Primarily, research relating to:

- Spacecraft
- Satellites
- Weapons of Mass Destruction
- Missile Technology, or
- Military Equipment.

Export Control Flowchart

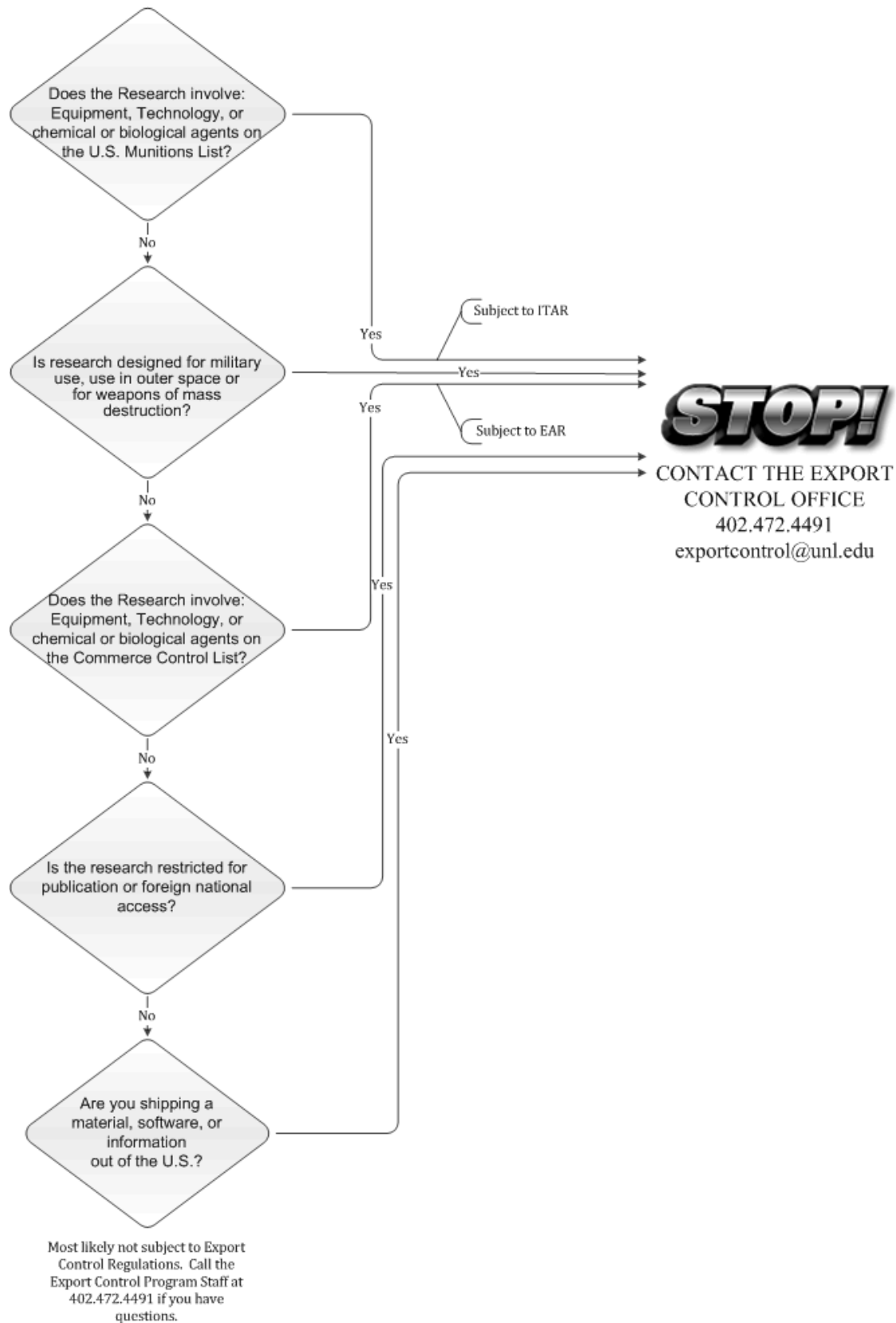


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POLICY STATEMENT

The University of Nebraska-Lincoln (UNL) is committed to educating its students through open research in which all methodologies, data, and research results are freely shared with the public. However, in some instances, research sponsors may impose restrictions on the research for reasons of national security or protection of trade. Export Control Regulations address the distribution of strategically important technology, services, and information to foreign nationals and foreign countries. The United States laws and regulations regarding exports restrict the use of, and access to, certain sensitive or controlled technical information, materials, and technology.

UNL has developed the following policy to ensure that all faculty, staff, students, and affiliates comply with Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), Office of Foreign Assets Control (OFAC) regulations and all other applicable export control or sanction related regulations. This policy and any amendments or additions applies to all university activities that may result in an export control or sanctioned transaction with a person, entity, or country requiring an export license or other governmental approval.

INTRODUCTION TO EXPORT CONTROL REGULATIONS

The United States export laws and regulations restrict the use of, and access to, certain sensitive or controlled technical information, materials, and technology for reasons of national security or protection of trade. The export control regulations are not new. In fact, the regulation of the export of goods and technology out of the U.S. began July 5, 1940. The first controls banned aircraft parts, scrap metal, and aircraft fuel during World War II. Cold War-era controls included weapons of war, dual-use technology, and encryption methods. Because certain fundamental and applied research has military applications, regardless of whether intended or not, universities have begun to implement export control programs in recent years to ensure compliance because of heightened concerns about homeland security, the proliferation of weapons of mass destruction, terrorism, drug trafficking, and leaks of U.S. technology to foreign competitors.

What IS and IS NOT regulated?

Fundamental Research, as defined in the [National Security Decision Directive 189 \(1985, NSDD189\)](#), is EXCLUDED from export control regulations. For research to be considered to be “fundamental research”, two basic criteria must be met:

- Research outcomes are freely publishable, AND
- There are no restrictions on the access to and dissemination of the research results.

If there are restrictions on publication (e.g. the sponsor bars the university from publishing results or can review and remove material prior to publication) or there are limitations on access or dissemination of the research results (e.g., foreign nationals are not allowed to participate in research), then the research does not fall under the fundamental research exclusion, and likely is subject to export control regulations. Fortunately, much of the work conducted at a university falls under the ‘safe harbor’ of the Fundamental Research Exclusion.

In general, the export control regulations may cover five main types of university activities:

- Research relating to spacecraft, satellites, or other military research;
- Transfers of controlled information, including technical data, to persons and entities outside the United States;
- Shipment of controlled physical items, such as scientific equipment, from the United States to a foreign country;
- Verbal, written, electronic, or visual disclosures of controlled scientific and technical information related to export controlled items to foreign nationals in the United States. Such a transfer is termed a "deemed export" and is regulated because the transfer is "deemed" to be to the country where the person is a resident or a citizen;
- Travel to certain sanctioned or embargoed countries for purposes of teaching or performing research.

Unfortunately, civil and criminal sanctions, including fines and/or prison sentences for individuals violating export control and embargo laws, are substantial, and apply to individual university personnel, as well as to the University as an institution. Therefore, it is important that all university personnel understand their obligations under these laws.

Who is responsible for regulation?

The U.S. Department of State, U.S. Department of Commerce, and the U.S. Department of Treasury have independently implemented regulations governing the export of technologies, information, and software, as well as economic sanctions for non-compliance. There are two main Export Control Regulations that are applicable to the university, the International Traffic in Arms Regulation (ITAR, 22CFR § 120-130) and the Export Administration Regulations (EAR, 15CFR § 730-774), whereas economic and trade sanctions are promulgated by the Department of Treasury's Office of Foreign Assets Control (OFAC, 31 CFR §500-599).

International Traffic in Arms Regulations (ITAR)

22CFR § 120-130. Administered by the U.S. Department of State (http://www.pmddtc.state.gov/regulations_laws/itar.html). The U.S. Munitions List is the list of ITAR controlled items that fall under Export Control Regulations. Any defense articles, defense services, and related technical data are regulated under this list, where a license is required to export goods and technologies contained in this list, including deemed exports.

- Category I – Firearms
- Category II – Artillery Projectors
- Category III – Ammunition
- Category IV – Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines
- Category V – Explosives, Propellants, Incendiary Agents and their constituents
- Category VI – Vessels of War and Special Naval Equipment
- Category VII – Tanks and Military Vehicles
- Category VIII – Aircraft and Associated Equipment
- Category IX – Military Training Equipment
- Category X – Protective Personnel Equipment
- Category XI – Military Electronics
- Category XII – Fire Control, Range Finder, Optical and Guidance and Control Equipment
- Category XIII – Auxiliary Military Equipment
- Category XIV – Toxicological Agents and Equipment and Radiological Equipment
- Category XV – Spacecraft Equipment and Associated Equipment
- Category XVI – Nuclear Weapons Design and Test Equipment
- Category XVII – Classified Articles, Technical Data and Defense Services not Otherwise Enumerated
- Category XVIII – Reserved
- Category XIX – Reserved
- Category XX – Submersible Vessels, Oceanographic and Associated Equipment
- Category XXI – Miscellaneous Articles

Export Administration Regulations (EAR)

15CFR § 730-774. Administered by the U.S. Department of Commerce Bureau of Industry and Security (BIS) (<http://www.bis.doc.gov/index.htm>). These regulations control the export of “dual-use” items, those that have an commercial or non-military use and that also have the

potential to be used in some way for defense-related purposes. The list of controlled items are contained in the Commerce Control List (CCL) published at 15CFR § 774, Supplement 1.

The CCL categorized controlled items as follows and a license is required to export goods and technologies contained in this list. A license will be denied for any export (including deemed exports) to embargoed countries (e.g. Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria).

- Category 0 -Nuclear Materials, Facilities & Equipment (and Miscellaneous Items)
- Category 1 - Materials, Chemicals, Microorganisms and Toxins
- Category 2 - Materials Processing
- Category 3 - Electronic
- Category 4 - Computers
- Category 5 (Part 1 and Part 2) - Telecommunications and Information Security
- Category 6 - Sensors and Lasers
- Category 7 - Navigation and Avionics
- Category 8 - Marine
- Category 9 - Propulsion Systems, Space Vehicles and Related Equipment

Department of Treasury's Office of Foreign Assets Control (OFAC)

- 31 CFR §500-599. Administered by the U.S. Department of Treasury Office of Foreign Assets Control (<http://www.treas.gov/offices/enforcement/ofac/>). The OFAC administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States. Many of the sanctions are based on United Nations and other international mandates, are multilateral in scope, and involve close cooperation with allied governments.
- Sanctions Programs (Country and List-based) Include:
- Specially Designated Nationals List (SDN List)
- Anti-terrorism sanctions
- Non-proliferation Sanctions
- Narcotics Trafficking Sanctions
- Cuba Sanctions

COMPLIANCE OVERSIGHT AND RESPONSIBILITIES

Responsible Officials

The Office of Research Responsibility is responsible for the Export Control Program at UNL. Under these responsibilities, Office of Research staff have the authority to (1) inquire into any aspect of a proposed export, temporary import, or any other transaction within the scope of export control regulations, (2) verify the legality of the transaction and the accuracy of any information to be submitted to a licensing or approval authority and (3) restrict access to any and all funding, thereby halting any and all research efforts, for projects which are not in compliance with Export Control Regulations. The responsible staff members for the Export Control Program are as follows.

- Kimberly Andrews Espy, Associate Vice Chancellor for Research & Institutional Official
- Donald Beermann, Director Institutional Animal Care Program and Research Compliance
- Sara Conrad, Export Control and Laboratory Safety Specialist

UNL Export Control Program Responsibilities:

Project evaluation and license determination process

The UNL Export Control Program staff have the sole authority to complete and submit applications, and obtain export control licenses for university personnel. Please note that the licensing process is arduous and time-consuming. Researchers are advised that it could take up to four months to obtain a license for each foreign national and that a separate license must be obtained for each project on which each foreign national is working. Therefore, appropriate time must be allowed to obtain a license prior to initiating ANY project work. It is strongly recommended that the principal investigator coordinates with the Office of Sponsored Programs and the Export Control Program staff to ensure that license application process is begun prior to the proposal submission to ensure that the monies are able to be released upon receipt.

Technology Control Plan

The UNL Export Control program staff have created a Technology Control Plan (TCP) template and will work with the Principal Investigator(s) and their staff to create a customized plan that will detail the methods in which the access to the Export Control Regulated technology, equipment, data, etc. will be managed, enforced, and recorded. This TCP will be followed expressly when the PI and project staff conduct the project work. This Technology Control Plan must be in place for all research efforts subject to export control regulations, regardless of involvement of foreign persons in conducting the research.

Willful Non-compliance

The UNL Export Control program staff are obligated to report those individuals who are willfully in non-compliance with the export control regulations.

Internal Reviews/Laboratory Inspections

Include:

- Laboratory inspection
- System Review, including but not limited to access, security, information technology, staffing
- Record keeping system
- Awareness and training programs
- Reasonable Export Control Compliance

Screening

UNL employs the Visual Compliance web service. The Visual Compliance export control web service screens many U.S. government lists, including but not limited to:

Department of Commerce Bureau of Industry and Security (BIS) Denied Persons

List

- Department of Commerce BIS Entity List
- Department of Commerce BIS Unverified List
- Department of State Arms Export Control Act Debarred Parties
- Department of State Designated Terrorist Organizations
- Department of State Terrorist Exclusion List (TEL)
- Department of State Nonproliferation Orders: Missile Sanctions, Lethal Military Equipment Sanctions, Chemical and Biological Weapons Sanctions, Nuclear Sanctions
- Department of State International Traffic In Arms Regulations (ITAR) Munitions Export Orders
- Department of Treasury Specially Designated Nationals and Blocked Persons, including Cuba and Merchant Vessels, Iran, Iraq and Merchant Vessels, Sudan Blocked Vessels
- Department of Treasury Specially Designated Terrorist Organizations and Individuals
- Department of Treasury Specially Designated Narcotic Traffickers and Narcotics Kingpins
- Department of Treasury Foreign Narcotics Kingpins
- Department of Treasury Foreign Persons Designated Under the Weapons of Mass Destruction (WMD) Trade Control Regulations
- U.S. Federal Register General Orders

Optionally, U.S. federal procurement program exclusion and medical program exclusion lists can be scanned by Visual Compliance software simultaneously.

- U.S. General Services Administration (GSA) List of Parties Excluded from Federal Procurement Programs
- U.S. General Services Administration (GSA) List of Parties Excluded from Federal Nonprocurement Programs

- U.S. General Services Administration (GSA) List of Parties Excluded from Federal Reciprocal Programs
- U.S. Office of the Inspector General List of Individuals/Entities Excluded from Federal Health and Medicare Programs

Domestic

- Specially Designated Nationals and Blocked Persons (OFAC)
- Federal Bureau of Investigation (FBI) Wanted Fugitives
- FBI Ten Most Wanted Fugitives
- FBI Most Wanted Terrorists
- FBI Hijack Suspects
- FBI Seeking Information
- Food and Drug Administration – Clinical Investigators
- Food and Drug Administration – Debarment List
- Food and Drug Administration – Disqualified and Restricted
- Department of Homeland Security Most Wanted Fugitive Criminal Aliens
- Department of Homeland Security Most Wanted Most Wanted Human Smugglers
- U.S. Marshals Service – Top 15 Most Wanted
- U.S. Marshals Service – Major Fugitive Cases
- U.S. Drug Enforcement Administration – Major International Fugitives
- U.S. Central Command Iraqi SS Most Wanted
- Immigration and Customs Enforcement Most Wanted
- Office of Research Integrity PHS Administrative Actions
- U.S. Postal Inspection Service – Most Wanted
- U.S. Secret Service – Most Wanted
- Bureau of Alcohol, Tobacco, Firearms, and Explosives Most Wanted 11
- Air Force Office of Special Investigations – Top Ten Fugitives
- Naval Criminal Investigation Service – Wanted Fugitives

International

- Japan Foreign End-Users of Concern
- Canada Public Safety and Emergency Preparedness Listed Entities
- Politically Exposed Persons in Money Laundering Risk Countries (CIA)
- Australia Department of Foreign Affairs and Trade Consolidated List

- European Union (EU) Council Regulation on Restrictive Measures to Combat Terrorism [Designated Persons, Groups, and Entities]
- Interpol Recently Wanted
- United Nations (UN) Consolidated List
- Bank of England Consolidated List of Financial Sanctions Targets in the U.K.
- World Bank Listing of Ineligible Firms
- OSFI Consolidated List – Entities
- OSFI Consolidated List – Individuals
- OSFI Warning List
- OCC List of Unauthorized Banks
- Royal Canadian Mounted Police (RCMP) – Wanted

Visual Compliance Restricted Party Screening software also includes Risk Country alerts for any problem countries named in the search, including foreign-produced, direct product re-exports and transshipment country prohibitions among others.

Record Keeping

Required under EAR § 762.2 (5 years)

- Forms
- Certifications
- Documents (EAR § 772)
- Memoranda, notes, and correspondence
- Contracts
- Invitations to bid
- Financial records
- Documents and reports
- Other records pertaining to exports of commodities, software, or technology.
- Log or database of items exported from the campus
- A current copy of the EAR with all Export Administration Bulletin updates filed
- A current copy of the ITAR regulations, with all updates filed
- A written copy of this manual and updates
- A copy of the most current Denied Persons List and all Federal Register notices identifying persons added to, or deleted from the list.

Duties/Responsibilities of Principal Investigators, Researchers, Staff and Students

- Consult with the Export Control Program Specialist BEFORE commencing any research, shipping, or exchange of materials that may be subject to federal regulatory export licensing controls.
- Re-evaluate each research project any time the scope of the project or the project staff changes

- Avoid any ‘side agreements’ that would defeat the safe harbor of the fundamental research exclusion, and make the research subject to export control regulations
- Do not bring technology or information into the university or onto the campus that is not part of the ongoing research activities (e.g. proprietary software obtained from outside consulting activities)
- For outgoing materials, verify that the recipient has obtained the proper permits
 - Verify that all materials are packaged in accordance with regulations
- Exercise reasonable export control precautions for controlled technologies
 - Create/Fill in a Technology Control Plan (Appendix IV)
 - Clearly mark controlled technologies
 - Identify personnel who may lawfully access the technologies
 - Follow the procedures identified in the technology control plan, including storing hard copies of controlled technologies in secure, restricted access, locked cabinets
 - Secure access to electronic copies of controlled technologies by passwords, user IDs, etc.
 - Store technologies in a single location
 - Require training for all personnel lawfully able to access controlled technologies. The Export Control Specialist will provide training as needed.
- Principal Investigator Certification Process
- For agreements requiring export control, prior to University acceptance of a formal agreement from an outside party, the principal investigator will be required to sign a certification form.

Duties/Responsibilities of Department Head/Chair and/or Deans/Directors

- Responsible for overseeing the principal investigator/staff compliance with the Technology Control Plan
- Responsible for overseeing that each research project is re-evaluated any time the scope of the project or the project staff changes
- For agreements requiring export control, prior to University acceptance of a formal agreement from an outside party, the Department Head/Chair and/or Dean/Director will be required to sign a certification form.

PENALTIES FOR NON-COMPLIANCE

NOTE: Penalties for violations can apply to both individuals AND institutions and include:

- Loss of “exporting” privileges (usually for 30-90 days)
- Loss of federal funding or industry contract -- for the university and for the individual
- Public relations and media negative exposure

Penalties by Regulating Office

- Department of State (ITAR)
 - Criminal: up to \$1,000,000 per violation AND up to 10 years in prison
 - Civil: seizure and forfeiture of articles, revocation of exporting privileges, fines of up to \$500,000 per violation
- Department of Commerce (EAR)
 - Criminal: \$50,000 to \$1,000,000 or five times the value of the export, whichever is greater, per violation, up to 10 years in prison
 - Civil: loss of export privileges, fines \$10,000 to \$120,000 per violation
- Department of Treasury (OFAC)
 - Criminal violations: up to \$1,000,000 per violation, up to 10 years imprisonment
 - Civil penalties: \$12,000 to \$55,000 fines (depending on applicable law) per violation.
 - Violation of specific sanctions laws may add additional penalties

TRAINING

This policy and all other forms, flowcharts, and brochures have been provided to help you know when you need to alert the University to a possible Export Control issue. UNL is constantly developing additional material on Export Control Regulations to provide information for those who need it. Anytime you have a question about Export Control Regulations, please contact the Export Control Program staff (Sara Conrad, 402.472.4491, sconrad2@unl.edu, <http://research.unl.edu/orr/exportcontrol.shtml>)

APPENDIX I. Forms/Flowcharts

APPENDIX II. ABBREVIATIONS

BIS	Bureau of Industry and Security
CDA	Confidential Disclosure Agreement
CCL	Commerce Control List
DDTC	Directorate of Defense Trade Controls
EAR	Export Administration Regulations
ECCN	Export Control Classification Number
FACR	Foreign Assets Controls Regulations
FSS	Financial Support Services
ITAR	International Traffic in Arms Regulations
MTA	Material Transfer Agreement
MTCRA	Missile Technology Control Regime Annex
NISPOM	National Industrial Security Program Operations Manual
NLR	No License Required
OFAC	Office of Foreign Assets Controls
TCP	Technology Control Plan
USML	United States Munitions List

APPENDIX III. IMPORTANT CONCEPTS AND DEFINITIONS

Export

Any item that is sent from the United States to a foreign destination is an export, including, but not limited to, commodities and software or technology, such as clothing, building materials, instrumentation, chemicals, biological materials, circuit boards, automotive parts, blueprints, design plans, retail software packages and technical information.

Deemed Export

In addition to the shipment of a commodity (e.g. a product) from the United States to a foreign country, the Export Administration Regulations state that the release of technology to a foreign national (even inside the United States) is also ‘deemed’ to be an export

‘Deemed’ examples can include:

- Tours of laboratories by foreign nationals
- Foreign students, staff, or faculty conducting export controlled research or working in a laboratory where export controlled research is being performed.
- Hosting foreign scientists
- Emails, visual inspection, oral exchanges

Educational Instruction Exclusion

The sharing of general scientific, mathematical, or engineering information commonly taught in colleges and universities (including information in the public domain) is exempt from export control regulations.

Fundamental Research Exclusion

Fundamental Research as defined in the National Security Decision Directive 189 (1985, NSDD189) is that which the research results are freely publishable and there is no restriction on access and dissemination of the research results. If either of these requirements (i.e. there are publication restrictions or there are limitations on access or dissemination of the research results) is removed, then the fundamental research exclusion is invalidated.

Public Domain/Publicly Available Exclusion

Items in the public domain or that are publicly available are generally excluded from Export Control. These types of items can include:

- Artistic or non-technical publications (maps, children’s books, sheet music, calendars, film)
- Information that is published and generally available to the public:
 - Through sales at bookstands and stores
 - Through subscriptions available without restrictions
 - At libraries open or available to the public

- Through patents
- Through unlimited distribution at a conference, meeting seminar, trade show, generally accessible to the public in the U.S.
- Includes technology and software that are educational and released by instruction in catalog courses and associated labs and universities

Commerce Control List (CCL)

The Commerce Control List is a list that includes commodities, software, and technology subject to the export licensing authority of the Bureau of Industry and Security. The CCL is contained in Supplement No. 1 to Part 774 of the EAR.

Defense Article

Defense article is a term used by the U.S. Department of State. It is defined as any item or technical data found in §121.1 of the ITAR (the United States Munitions List). This term includes technical data recorded or stored in any form, models, mock-ups, or other items that contain or reveal technical data directly relating to items designated in §121.1. It does not include basic marketing information on function or purpose or general system descriptions.

Defense Service

Defense service is a term used by the U.S. Department of State. It is defined as the furnishing of assistance (including training) to foreign persons, whether in the United States or abroad, in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing OR use of defense articles. Defense service also includes the furnishing of technical data controlled by the ITAR to foreign persons, whether in the United States or abroad. Additionally, it includes the provision of military training to foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the United States or abroad by correspondence courses; technical, educational or informational publications and media of all kinds; training aid; orientation; training exercise; and military advice.

Dual Use

Dual use describes tangible items, software, and/or technology that have both a potential civilian and military use.

Foreign National/Foreign Persons

A “foreign national” is anyone who is NOT a “U.S. person.” A “U.S. person” is any one of the following:

- U.S. citizen
- Lawful permanent resident alien (green card holder)
- Refugee (a person who has been forced from his home and crossed an international border for safety)

- Protected political asylee or someone granted temporary residency under the amnesty provision.

Re-export

Re-export means an actual shipment or transmission of controlled tangible items, software, or information from one foreign country to another foreign country. The export or re-export of controlled tangible items, software, or information that will transit through a country or countries, or will be unloaded in a country or countries for reloading and shipment to a new country, or are intended for re-export to the new country, are deemed to be exports to the new country, and thus are regulated by export controls.

Technical Data

As defined in 22 CFR §120.10, technical data is:

- (1) Information, other than software as defined in 22 CFR §120.10(a)(4), which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions or documentation.
- (2) Classified information relating to defense articles and defense services;
- (3) Information covered by an invention secrecy order;
- (4) Software as defined in 22 CFR §121.8(f) directly related to defense articles;

This definition does not include information concerning general scientific, mathematical or engineering principles commonly taught in schools, colleges and universities or information in the public domain as defined in § 120.11. It also does not include basic marketing information on function or purpose or general system descriptions of defense articles.

APPENDIX IV. TECHNOLOGY CONTROL PLAN

Type Project Title and PI Name Here

Technology Control Plan

PI Name

Address

Revision Date

RECORD OF CHANGES

Date **Reviewer**

Date **Reviewer**

Date **Reviewer**

POLICY STATEMENT

The University of Nebraska-Lincoln (UNL) is committed to educating its students through open research in which all methodologies, data, and research results are freely shared with the public. However, in some rare instances, research sponsors may impose restrictions on the research for reasons of national security or protection of trade. Export Control Regulations deal with the distribution of strategically important technology, services and information to foreign nationals and foreign countries. The United States laws and regulations regarding exports restrict the use of, and access to, certain sensitive or controlled technical information, materials, and technology.

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SCOPE

The procedures contained in this Technology Control Plan (TCP) apply to all elements of the University of Nebraska–Lincoln (UNL) and all activities not specifically identified as Fundamental Research and/or Educational Information. (Export Administration Regulations (EAR) 15 CFR §734.8 and §734.9, International Traffic in Arms Regulations (ITAR) 22 CFR §120.11)

Disclosure of export controlled or classified information to foreign persons [anyone who is not a U.S. person (i.e. a U.S. citizen, lawful permanent resident, refugee, protected political asylee or someone granted temporary residency under the amnesty provision)] may be considered an export under 22CFR §§120-130 and/or 15CFR §734 and may require a Department of Commerce or Department of State License or Agreement. An export may occur by passing of information or material that is export controlled and it can occur anywhere, even a classroom on the university campus.

PURPOSE

The purpose of this TCP is to ensure that technical information and/or technical data that are not specifically excluded as *Fundamental Research* and/or *Educational Information* from EAR or ITAR is not transferred to Foreign Persons (including employees, visitors, or students) unless approved by license or other authorization with the Department of State (Office of Defense Trade Controls (ODTC)), Department of Commerce (Bureau of Industry Security (BIS)) or other approval from the appropriate U.S. federal agency as applicable. The TCP contains procedures to control access for all export-controlled information to ensure compliance with the National Industrial Security Program.

Prior to acceptance of any project subject to export control regulations or international collaboration principal investigators are required to contact and work with the UNL Export Control Program staff. The UNL Export Control Program staff is responsible for evaluating the project for the purpose of determining the specific security measures needed to prevent the unauthorized export of restricted technical data, technology or information, as required by federal law and university policy. If needed, the Principal Investigator and the Export Control Program staff will develop a TCP prior to commencing any work on the project. The Principal Investigator and staff associated with the project are responsible for following the TCP, and the corresponding department is responsible for overseeing their compliance with the TCP.

Contact Information

Sara Conrad
Export Control and Laboratory Safety
Specialist
Office of Research Responsibility
University of Nebraska – Lincoln
110 Mussehl Hall
P.O. Box 830720
Lincoln, NE 68583-0720
402.472.4491
Sconrad2@unl.edu

PI Name
Title
Address 1
Address 2
Address 3
Address 4
Phone Number
Email Address

FOREIGN PERSONS

No foreign person will be given access to any material on any project or program that is subject to export control regulations until that individual's license authority has been approved by the appropriate agency [Department of State (Office of Defense Trade Controls (ODTC)), Department of Commerce (Bureau of Industry Security (BIS)) or other appropriate agency]. Prior to acceptance of a project that is subject to export control regulations; the Principal Investigator and the Export Control Program staff will develop a TCP prior to commencing any work on the project.

University of Nebraska–Lincoln employees who have supervisory responsibilities for foreign persons will be provided a written export control/licensing briefing that addresses relevant requirements as they pertain to the technical data, technology, or information involved in the project for the purposes of management and oversight. The relevant department chair and dean will be provided the same material.

All persons employed by, assigned to, or visiting a UNL laboratory and participating in any manner in a project subject to export control regulations will be provided a written briefing on topics regarding the following:

- Department of State (Office of Defense Trade Controls (ODTC)), Department of Commerce (Bureau of Industry Security (BIS)) or other appropriate agency license applications (These must be obtained for all foreign persons participating in the project **prior** to the release of any technical data, technology or information)
- Security rules and export control policies and procedures
- Specific technical data, technology or information that has been authorized for release
- Regulations for the use of facsimile, automated information systems and reproduction machines
- Institutional and personal penalties for Export Control Regulation violations.

INTERNATIONAL COLLABORATIONS

In addition to ITAR and EAR export controls, the Office of Foreign Assets Control (OFAC), (<http://www.treas.gov/offices/enforcement/ofac/>), also regulates certain interactions with sanctioned countries, entities and individuals as per 31 CFR §500 and must be considered, especially in international collaborations. These include the following items:

- Transactions involving designated foreign countries or their nationals
- Transactions with respect to securities registered or inscribed in the name of a designated national
- Importation of and dealings in certain merchandise
- Holding of certain types of blocked property in interest-bearing accounts

UNL employees will not participate in international collaborations with sanctioned countries, entities, or individuals prior to contacting the Export Control Program staff.

APPENDIX A. Project Specific Information

Sponsor Name: Type Sponser Name Here

Project Title: Type Project Title Here

Project Account Number: Type Project Account Number Here

Principal Investigator: Type PI Name Here

The University of Nebraska-Lincoln (UNL) is committed to complying fully with Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), Office of Foreign Assets Control (OFAC) regulations and all other applicable export control or sanction related regulations. The UNL Export Control Program will assist each employee in understanding any export control requirement related to his or her work and to ensure that no exports are made contrary to those requirements.

Commodity Jurisdiction and Classification: (To be completed jointly by the PI and Export Control Program staff)

This project is subject to export control restrictions under Type the Specific EAR or ITAR ECCN or Category.

The purpose of this project is to list specific objectives here.

As a result of the export control requirements for this project, the Principal Investigator, Type PI Name Here, has created a Technology Control Plan to ensure that controlled technical data, technology, and information are protected from disclosure to foreign persons who do not have an approved license or valid license exception from the government. The plan addresses physical security, information security, personnel screening procedures and training and is detailed below.

Physical Security Plan:

Project data and/or materials must be physically shielded from observation by unauthorized individuals by operating in secured laboratory spaces, or during secure time blocks when observation by unauthorized persons is prevented.

Location:

Describe the physical location of each sensitive technology/item include building and room numbers. A schematic of the immediate location is highly recommended.

Physical Security:

UNL will implement the following physical security restrictions to Room Number in the Department Address, Building where the controlled equipment/technology is located.

- All export controlled information and materials (including laboratory notebooks and any hard copy of data) will be secured in a locked and controlled container in room number when not in use. Access to these items will only be given to personnel who have been cleared for access by the Export Control Program (a list of cleared personnel will be provided to the principal investigator by the Export Control Program staff. A log will be maintained of files or documents checked out for meetings or work sessions and will be available for auditing by the Export Control Program at all times.

- Printed copies of files that contain information provided directly by the sponsor or information derived by sponsor data will be marked with the following warning:
“This document contains technical data whose export is restricted. Violations of these export laws are subject to severe criminal penalties.”
- During times when all export controlled material is securely locked up in the manner described above, the rooms may be used for other functions.
- Access to these buildings is controlled by Keys, electronic card, etc.. The UNL Security? monitor and control the room access.
- Emergency Access is managed by UNL Security?
- Oversight and control of the electronic access system and keys to these rooms will be restricted to only UNL Security? .
- Prior to use of these rooms for export control purposes the locks will be changed and keys controlled by the UNL Security?.
- Individuals with access are expressly prohibited from permitting others to access the research site. No one other than those with permitted access are allowed to access materials subject to Export Control Regulations
- The custodial staff access will be coordinated with the researchers, so that sensitive materials are securely locked away during their visit.
- The researchers and staff, who are authorized to enter the room when export controlled material is present, will escort all visitors and keep visitor logs during the time export controlled material is in use. Citizenship of all visitors will be documented by the Industrial Security Department when making access determinations.

Information Security:

UNL will implement the following information security measures to protect the controlled information.

- Computers used for this project include faculty workstations, mobile workstations, etc that reside room number, building. Only Export-Control Program authorized researchers are the sole designated users of their workstations.
- All workstations run Operating System with the latest security service pack and patches.
- Researchers are required to provide a User ID and password to gain access to the machine. This User ID and password never will be shared with any one in any manner.
- Both failed and successful logins are logged internally.
- Appropriate measures will be taken to secure controlled electronic information, including User IDs, password control using 128-bit or better encryption.
- Removable hard drives may be used for data backup. When not in use, the backup removable drives will be securely locked away in a container in room number, building.

- Firewalls are installed on each of the machines to secure and monitor network access from/to the machines.
- For meetings, foreign travel, emails, symposiums, etc., where unlicensed controlled technology is potentially discussed, prior approval will be sought from Sponsor and licenses obtained if necessary.
- All controlled technical materials will be destroyed by National Security Agency approved devices.
- Any computer hard drives containing sensitive information will be scrubbed and reformatted at the end of the contract, AND overwritten three times with a DOD disk-wipe program.
- Emails shall not contain restricted technical data or files unless both send and receive email locations are encrypted.

Personnel Screening Procedures

All personnel who will work in any manner on the contract will be screened against the Denied Party List, Entity List, Unverified List, Specially Designated Nationals List, Debarred List, NSA Nonproliferation Sanctions list and General Order 3 to Part 736 of the EAR.

All personnel who will work on the contract will review this plan and sign the form in Appendix A.

Training and Awareness Program

- The UNL Export Control Program in conjunction with the principal investigator will inform applicable foreign national UNL employees of any technology access limitations.
- The UNL Export Control Program in conjunction with the principal investigator will train applicable U.S. person UNL employees on any technology access limitations for foreign national employees.

Self Evaluation Program

The principal investigator will notify the Export Control Program staff immediately of the following:

- Any additional persons need to be added to the project to enable the required Export Control Program screening and training
- The scope of the project changes in any manner
- An employee is separated from the project and/or UNL

The principal investigator also will certify annually that the project is being carried out in compliance with this TCP.

Revisions

Any requested revisions to this TCP or security procedures regarding the project will take effect when reviewed by the department and college, and is approved in writing by the UNL

Empowered Official, Dr. Kimberly Andrews Espy, Associate Vice Chancellor for Research, Office of Research Responsibility.

Material Transfer

Because an export license is required in many cases, no item can be exported or released to a foreign national in the United States (“deemed export”) without first determining if an export license is required. Further, all shipments of tangible items must be in compliance with regulations regarding the licensing, packaging, and shipment of the material. Many materials also require a Material Transfer Agreement (MTA) prior to shipment, and therefore, approval by the Office of Technology Development and the Export Control Program must be in place prior to initiating any shipments.

.

Submitted:

_____	<u>Enter a date</u>
(Signature, Principal Investigator)	Date
<u>Type full name</u>	
(Printed Name)	

Acknowledgement of Immediate Supervisor:

_____	<u>Enter a date</u>
(Signature)	Date
<u>Type full name</u>	
(Printed Name)	

APPENDIX B. Statement of Work

APPENDIX C. Acknowledgement Form

Sponsor Name and Project Title: Type Project Title Here

Project Account Number: Type Project Account Number Here

Principal Investigator: Type PI Name Here

I, Type Your Name Here, have read the University of Nebraska–Lincoln Technology Control Plan and have discussed the plan with the UNL Export Control Program staff. I understand the plan and agree to comply with its all requirements.

(Signature, Principal Investigator) Enter a date
Date
Type full name
(Printed Name)

Acknowledgement of Immediate Supervisor:

(Signature) Enter a date
Date
Type full name
(Printed Name)

Acknowledgement of Department Chair:

(Signature) Enter a date
Date
Type full name
(Printed Name)

Acknowledgement of Dean's office:

(Signature) Enter a date
Date
Type full name
(Printed Name)

APPENDIX D. Nondisclosure Statement

Sponsor Name and Project Title: Type Project Title Here

Project Account Number: Type Project Account Number Here

Principal Investigator: Type PI Name Here

I, Type Your Name Here, acknowledge and understand that any technical data or defense service related to defense articles on the U.S. Munitions List and/or Export Administration Regulations (EAR), to which I have access or which is disclosed to me in the course of my affiliation with University of Nebraska–Lincoln, is subject to export control under the International Traffic in Arms Regulation (Title 22, Code of Federal Regulations, §§120-130) and/or the items and activities subject to the EAR (Title 15, Code of Federal Regulations, §§730-774).

I hereby certify that such data will not be further disclosed, exported, or transferred in any manner to any foreign national, foreign owned company, or any foreign country without prior written approval of the Directorate of Defense Trade Controls (DDTC), U.S. Department of State, U.S. Department of Commerce, and in accordance with U.S. government security and customs regulations.

I understand that, under §127.3 of the ITAR, I can be subject to fine or imprisonment if I am convicted of willful violation of any provision of Section 38 or 39 of the Arms Export Control Act (AECA). Also, I understand that under §764.3 of the EAR, I can be subject to fine, imprisonment, or other administrative sanction for willful violation of any provision of Export Administration Act (EAA), the EAR, or any order, license, or authorization issued thereunder.

Enter a date

(Signature, Principal Investigator) Date

Type full name

(Printed Name)

Acknowledgement of Immediate Supervisor:

Enter a date

(Signature) Date

Type full name

(Printed Name)

Acknowledgement of Department Chair:

Enter a date

(Signature) Date

Type full name

(Printed Name)

Acknowledgement of Dean's office:

(Signature)

Type full name

(Printed Name)

Enter a date

Date

APPENDIX E. Bona Fide Employee Letter

Applicable to University of Nebraska–Lincoln employees who are exempt from ITAR export control restrictions as a Bona Fide Employee of UNL.

Sponsor Name and Project Title: Type Project Title Here

Project Account Number: Type Project Account Number Here

Principal Investigator: Type PI Name Here

Dear: Type Name of Employee Here

You are hereby notified that as Choose a participant or a principal investigator in the Sponsored Project for Type Project Title Here you will be producing International Traffic in Arms Regulations (ITAR) export control restricted experimental or developmental electronic equipment specifically designed or modified for military application or specifically designed or modified for use with a military system and associated technical data.

In accordance with ITAR 22 CFR § 125.4(b)(10), the ITAR-restricted defense articles or technical data may not be transferred to foreign persons without the prior written approval of the Office of Defense Trade Controls. Prohibited technical transfer includes oral, visual, written or electronic disclosure, as well as transfer of physical custody. Violations of International Traffic in Arms Regulations can result in criminal penalties of up to 10 years in prison and \$1M in fines, and civil penalties of up to \$500,000 in fines and forfeiture (22 CFR §§ 127-1 through 127-12).

If you have questions about this export control restriction, please contact Sara Conrad (402-472-4491).

Sincerely,

Sara Conrad

Export Control and Laboratory Safety Specialist

APPENDIX F. Termination/Departure Statement

Sponsor Name and Project Title: Type Project Title Here

Project Account Number: Type Project Account Number Here

Principal Investigator: Type PI Name Here

I, Type Your Name Here, certify that I have not given or disclosed, nor will I disclose, to any unauthorized person any documents, reports, or other data, which is considered to be export controlled or sensitive information associated with Type Project Title Here program.

(Signature) Enter a date
Date
Type full name
(Printed Name)

Acknowledgement of Immediate Supervisor:

(Signature) Enter a date
Date
Type full name
(Printed Name)

Acknowledgement of Department Chair:

(Signature) Enter a date
Date
Type full name
(Printed Name)

Acknowledgement of Dean's office:

(Signature) Enter a date
Date
Type full name
(Printed Name)

APPENDIX G. Acknowledgement of Technology Control Plan for University of Nebraska–Lincoln (To be completed by all personnel associated with the project)

For the Project Name

For the Government Sponsor

Name: Type Name Department: Department

Status: U.S. Citizen/Green Card Holder/Foreign National – Country of Origin

Signature: _____

Name: Type Name Department: Department

Status: U.S. Citizen/Green Card Holder/Foreign National – Country of Origin

Signature: _____

Name: Type Name Department: Department

Status: U.S. Citizen/Green Card Holder/Foreign National – Country of Origin

Signature: _____

Name: Type Name Department: Department

Status: U.S. Citizen/Green Card Holder/Foreign National – Country of Origin

Signature: _____

Name: Type Name Department: Department

Status: U.S. Citizen/Green Card Holder/Foreign National – Country of Origin

Signature: _____

Name: Type Name Department: Department

Status: U.S. Citizen/Green Card Holder/Foreign National – Country of Origin

Signature: _____

Name: Type Name Department: Department

Status: U.S. Citizen/Green Card Holder/Foreign National – Country of Origin

Signature: _____

Name: Type Name Department: Department
Status: U.S. Citizen/Green Card Holder/Foreign National – Country of Origin
Signature: _____

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Status: U.S. Citizen/Green Card Holder/Foreign National – Country of Origin
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Status: U.S. Citizen/Green Card Holder/Foreign National – Country of Origin
Signature: _____

Name: Type Name Department: Department
Status: U.S. Citizen/Green Card Holder/Foreign National – Country of Origin
Signature: _____

Name: Type Name Department: Department
Status: U.S. Citizen/Green Card Holder/Foreign National – Country of Origin
Signature: _____

APPENDIX H. License Files

APPENDIX I. Abbreviations

BIS	Bureau of Industry and Security
CCL	Commerce Control List
CDA	Confidential Disclosure Agreement
CFR	Code of Federal Regulations
DDTC	Directorate of Defense Trade Controls
DOS	Department of State
EAA	Export Administration Act
EAR	Export Administration Regulations
ECCN	Export Control Classification Number
FACR	Foreign Assets Controls Regulations
FSS	Financial Support Services
ITAR	International Traffic in Arms Regulations
MTA	Material Transfer Agreement
MTCRA	Missile Technology Control Regime Annex
NISPOM	National Industrial Security Program Operations Manual
NLR	No License Required
NSA	National Security Agency
ODTC	Office of Defense Trade Controls
OFAC	Office of Foreign Assets Control (http://www.treas.gov/offices/enforcement/ofac/)
TCP	Technology Control Plan
USML	United States Munitions List

APPENDIX J. IMPORTANT CONCEPTS and DEFINITIONS

Commerce Control List (CCL)

The Commerce Control List is a list that includes commodities, software and technology subject to the export licensing authority of the Bureau of Industry and Security. The CCL is contained in Supplement No. 1 to Part 774 of the EAR.

Deemed Export

Most people think of an export as the shipment of a commodity from inside the United States to a foreign country, however, under the EAR, the release of technology to a foreign national (even inside the United States) is also ‘deemed’ to be an export.

Situations that can involve release of U.S. technology or software include:

- Tours of laboratories
- Foreign students or professors conducting research
- Hosting foreign scientists
- Emails, visual inspection, oral exchanges

Defense Article

Defense article is a term used by the U.S. Department of State. It is defined as any item or technical data found in §121.1 of the ITAR (the United States Munitions List). This term includes technical data recorded or stored in any form, models, mock ups or other items that reveal technical data directly relating to items designated in §121.1. It does not include basic marketing information on function or purpose or general system descriptions.

Defense Service

Defense service is a term used by the U.S. Department of State. It is defined as the furnishing of assistance (including training) to foreign persons, whether in the United States or abroad, in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles. Defense service also includes the furnishing of technical data controlled by the ITAR to foreign persons, whether in the United States or abroad. Additionally, it includes the provision of military training to foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the United States or abroad by correspondence courses; technical, educational or informational publications and media of all kinds; training aid; orientation; training exercise; and military advice.

Dual Use

Dual use describes tangible items, software, and/or technology that have both a civilian and military use.

Educational Instruction Exclusion

The sharing of general scientific, mathematical or engineering information commonly taught in colleges and universities (including information in the public domain) is exempt from export control.

Export

Any item that is sent from the United States to a foreign destination is an export. This can include commodities, software or technology, such as clothing, building materials, instrumentation, chemicals, biological materials, circuit boards, automotive parts, blueprints, design plans, retail software packages and technical information.

Foreign Persons

A “foreign national” is anyone who is not a “U.S. person.” A “U.S. person” is any one of the following:

- U.S. citizen
- Lawful permanent resident alien (green card holder)
- Refugee
- Protected political asylee or someone granted temporary residency under the amnesty provision.

Fundamental Research Exclusion

Fundamental Research as defined in the National Security Decision Directive 189 (1985, NSDD189) is that which the research results are freely publishable and there is no restriction on access and dissemination of the research results. If either of these requirements (i.e. there are publication restrictions or there are limitations on access or dissemination of the research results) is removed, then the fundamental research exclusion is invalidated.

Public Domain/Publicly Available Exclusion

Items in the public domain or that are publicly available are generally excluded from Export Control. These types of items can include:

- Artistic or non-technical publications (maps, children’s books, sheet music, calendars, film)
- Information that is published and generally available to the public:
 - Through sales at bookstands and stores
 - Through subscriptions available without restrictions
 - At libraries open or available to the public
 - Through patents
 - Through unlimited distribution at a conference, meeting seminar, trade show, generally accessible to the public in the U.S.

- Includes technology and software that are educational and released by instruction in catalog courses and associated labs and universities

Re-export

Re-export means an actual shipment or transmission of controlled tangible items, software or information from one foreign country to another foreign country. The export or re-export of controlled tangible items, software or information that will transit through a country or countries, or will be unloaded in a country or countries for reloading and shipment to a new country, or are intended for re-export to the new country, are deemed to be exports to the new country.

Technical Data

As defined in 22 CFR §120.10, technical data is:

- (1) Information, other than software as defined in 22 CFR §120.10(a)(4), which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions or documentation.
- (2) Classified information relating to defense articles and defense services;
- (3) Information covered by an invention secrecy order;
- (4) Software as defined in 22 CFR §121.8(f) directly related to defense articles;

This definition does not include information concerning general scientific, mathematical or engineering principles commonly taught in schools, colleges and universities or information in the public domain as defined in § 120.11. It also does not include basic marketing information on function or purpose or general system descriptions of defense article