

QUESTIONS ABOUT EXPORT CONTROLS

What are export controls and how do the regulations affect activities at UA?

U.S. export controls consist of a broad, diverse, and complicated array of regulatory requirements that have varying and often surprising impacts on the activities of our personnel. There are three areas in particular that give rise to most export control issues in the University setting.

First, the Export Administration Regulations (EAR) and International Traffic in Arms Regulations (ITAR) prohibit the unauthorized disclosure or transfer of controlled software, technology, and technical data to non-U.S. persons, both abroad *and in the United States* (i.e., a "deemed export,"). As a result, the University must take care to prevent EAR- and ITAR-controlled software and technical information from being disclosed to non-U.S. students and researchers in the absence of U.S. Government authorization.

Second, export controls regulate the shipment, transmission, carriage, or provision of certain goods, software, technology, and services outside of the United States. The items subject to the regulations include the EAR-controlled items on the Commerce Control List (CCL) and the ITAR-controlled items on the U.S. Munitions List (USML).

And finally, the Foreign Assets Control Regulations impose economic sanctions against several countries as well as the individuals and organizations on the Specially Designated Nationals List (a U.S. Government official list of the bad guys). The country-wide sanctions include robust restrictions on travel and trade to and from the targeted countries, affecting the ability of University personnel to study, teach, or conduct research in those locations.

What are some examples that could trigger an export compliance review?

- Publication, access, and dissemination restrictions in the sponsored research agreement
- Foreign party restrictions stated in the sponsored agreement
- International travel
- Technology or technical data (terms explained below) to be received from sponsor
- Equipment received from sponsor or purchased for research that is export controlled
- Non-U.S. students or visiting scholars participating in the project
- Project is sponsored by defense contractor
- The project is military or space-related
- The project will be conducted abroad or with a foreign sponsor or collaborator
- Sponsor /entity/research is located in Cuba, Iran, North Korea, Sudan, or Syria
- Any shipment of goods, services, information or technology abroad

If export controls are applicable, the project could require a TCP (Technology Control Plan) and/or an export license prior to commencement of activity.

What is a Technology Control Plan (TCP)?

A TCP is a plan that outlines the procedures to secure certain export-controlled technology and project information (*e.g.*, technical data, materials, software or hardware) from use and observation by non-U.S. persons who do not have government authorization to access the project.

The University Export Control Program (UECP) staff, with assistance from the Principal Investigator (PI), use a TCP template that is modified to the specific project. The PI is the ultimate responsible party for adherence to the TCP by

project members. All project members are required to complete recurrent yearly on-line export training and to attend a TCP briefing conducted by the UECP. The UECP will conduct yearly audits of projects with TCPs.

What is an export?

An export is the transfer of export controlled information, technical data, technology, commodities, software, or providing a defense service to a non-U.S. person or entity. The manner in which the transfer or release of the item or information occurs does not affect whether an export has taken place.

What is a deemed export?

The release or transmission in any form of export controlled information or technology within the U.S. to anyone who is not a U.S. person.

Who or What is considered a U.S. person?

An individual who is a citizen, a permanent resident alien of the United States, or who is a protected individual as defined by 8 U.S.C. 1324b(a)(3). It is also any business entity incorporated to do business in the United States.

What is a foreign entity?

A foreign entity is any corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the United States, as well as international organizations, foreign governments and any agency or subdivision of foreign governments. A person (even a U.S. citizen) is considered a foreign person if they work for or represent a foreign entity.

What is a restricted party and how do I ensure I am not collaborating with one?

Restricted Parties are individuals or entities with whom the university and its employees may be prohibited by law, or require a license, to export to or engage in business transactions. Such individuals may or may not be U.S. persons. The various government agencies maintain “lists”. Visual Compliance is a web-based tool that UA uses to conduct Restricted Party and Specially Designated Nationals Screening. UA staff can use Visual Compliance to access the screening database by contacting UECP to request a user name and login. For additional information see

<https://rgw.arizona.edu/compliance/export-control-program/procedures-for-restricted-party-screenings>.

What is “Technical Data” and “Technology” ?

Technical data is a term defined in the ITAR as information which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles and software directly related to defense articles.

Technology is defined by the EAR as specific information necessary for the “development”, “production”, or “use” of a product.

Technical data and technology may take the form of blueprints, drawings, manuals, models, specifications, tables, formulas, plans, instructions or documentation.

Additional information about export control can be found at <https://rgw.arizona.edu/compliance/export-control-program> and by contacting UECP at export@email.arizona.edu.