

Export Compliance For University Research Administrators: A Practical Guide

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RESEARCH ADMINISTRATORS

Training Objectives

Export Control Compliance



What is it?



Red Flags To Look For



Roles and Responsibilities

Export Controls And Sanctions Defined

Department of State	Department of Commerce	Department of Treasury
<p>ITAR: Section 38 of the Arms Export Control Act (22 U.S.C. 2778), as amended, authorizes the President to control the export and import of defense articles and defense services.</p>	<p>EAR: The EAR controls any item warranting control that is not exclusively controlled for export, reexport, or transfer (in-country) by another agency of the U.S. Government or otherwise excluded from being subject to the EAR.</p>	<p>OFAC: The Office of Foreign Assets Control (OFAC) is the agency primarily charged with enforcing U.S. Sanctions laws, for individuals, entities, and organizations.</p>

Comprehensively Sanctioned Countries



Cuba



Iran



North Korea



Syria



Russia



Belarus



Crimea, Donetsk,
and Luhansk
regions of Ukraine



Controlled Technologies And Software

Guns and ammunition

Military systems and technologies

Dangerous Human, Animal, Plant pathogens

Certain chemicals, metals, other materials

Encryption technology

Satellite Technology

Export Control Designations And Markings

“ITAR” – US Munitions List
Categories 1 (I) – 20 (XX)

“ECCN” – Export Control Classification Number

Ex: 1C351 – Human and Animal Pathogens and “Toxins”

ECCNs always begin with a number from 1 to 9

They are followed by a letter from A to E

They are then followed by three more numbers from 001 to 999.

“CUI” – Controlled Unclassified Information

“CDI” – Controlled Defense Information

“CTI” – Controlled Technical Information

“FOUO” – For Official Use Only

What Is Fundamental Research?

- **"Fundamental Research Exclusion"** - basic and applied research in science and engineering [at accredited institutions of higher learning in the U.S.] the results of which ordinarily are published and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons. **Information resulting from Fundamental Research is not subject to the U.S. Export Regulations.**
- Fundamental Research is the **most cost-effective** method of conducting research at the University:
 - No Publication/Dissemination Restrictions
 - No Personnel Restrictions
 - No Classified Information, Controlled Unclassified Information (CUI), or controlled technology or software



What Is NOT Fundamental Research

- Publication Review and Approval Language
- Data Security Requirements (NIST, FISMA, CMMC)
- Controlled Information (CUI, CDI, CTI)
- ITAR (USML Category) or EAR (ECCN No.)
- Foreign National (“Non-U.S. Person”) restrictions

General Awareness

- Specific contract clauses that restricts dissemination of information
- Specific terms that limit access to data, technology, or facilities
- Scope of work and project personnel (defense related, foreign nationals, etc.)
- Sponsor Type (DoD or military branch, DOE, or National Lab)



Flow-Through Provisions Of Concern

All Federal Contracts:

FAR 52.204-2 – security requirements

FAR 52.227-17 – special works/publication restriction

FAR 52.227-14 – Rights in Data

FAR 52.240-21 – basic safeguarding of covered defense contractor information systems

Department of Defense Contracts:

DFARS 252.204-7000 – disclosure of information/publication restriction

DFARS 252.204-7008 – compliance with safeguarding covered defense information controls

DFARS 252.204-7009 – limitations on the use of disclosure of third-party contractor reported cyber incident information

DFARS 252.204-7012 – safeguarding covered defense information and cyber incident reporting

DFARS 252.204-7020 – NIST SP 800-171 DoD Assessment Requirements

DFARS 252.204-7021 – Contractor Compliance with the Cybersecurity Maturity Model Certification Level Requirement

DFARS 252.225-7048 – Export Controlled Items

DFARS 252.227-7025 – Limitations on the Use or Disclosure of Government Furnished Information Marked with Restrictive Legends

ARL 52.004-4400 – foreign nationals performing under contract

ARL 52.005-4401 – release of information

AFMC 5352.227-9000 – export-controlled data restrictions

DEAR 952.204-71 – sensitive foreign nationals controls

252.204-7000 Disclosure of Information

(a)(3) The information results from or arises during the performance of a project that involves no covered defense information (as defined in the clause at DFARS [252.204-7012](#)) and has been scoped and negotiated by the contracting activity with the contractor and research performer and determined in writing by the contracting officer to be fundamental research (which by definition cannot involve any covered defense information), in accordance with National Security Decision Directive 189, National Policy on the Transfer of Scientific, Technical and Engineering Information, in effect on the date of contract award and the Under Secretary of Defense (Acquisition, Technology, and Logistics) memoranda on Fundamental Research, dated May 24, 2010, and on Contracted Fundamental Research, dated June 26, 2008 (available at DFARS PGI [204.4](#)).

Export Compliance Checkpoints For OSP - RAM Tracker Toggle

The screenshot displays the ORIS Stage Research application interface. At the top, the browser address bar shows 'orisstage.research.unc.edu'. The application has three tabs: 'Statuses', 'Status Logs', and 'Status Notes'. The 'Statuses' tab is active, showing a list of status categories on the left and a corresponding list of activities/substatuses on the right.

Status	Activities/Substatus
<input checked="" type="checkbox"/> Office of Sponsored Programs Received	<input checked="" type="checkbox"/> Holding for department info
<input type="checkbox"/> Subaward Initiation Portal Received	<i>Modified by Aucompaugh, Frank on 11/16/2022</i>
<input checked="" type="checkbox"/> Sponsored Projects Specialist Review	<input type="checkbox"/> Holding for sponsor info
<input type="checkbox"/> Contracting Officer Review	<input type="checkbox"/> Holding for subrecipient info
<input type="checkbox"/> Return to Department	<input type="checkbox"/> Holding for SPS info
<input type="checkbox"/> Manager Review	<input type="checkbox"/> Holding for Internal RA staff
<input type="checkbox"/> Compliance Review	<input type="checkbox"/> Holding for Internal Non-RA Work Unit
<input checked="" type="checkbox"/> Pending	<input type="checkbox"/> Holding for Subaward Initiation Portal
<input type="checkbox"/> Sent to Data Management	<input type="checkbox"/> Conflict of Interest (COI)
<input type="checkbox"/> Data Management Returned to SPS/CO	<input type="checkbox"/> Office of Human Research Ethics (OHRE)
<input type="checkbox"/> Completed	<input type="checkbox"/> Export Control - Publication Restrictions
<input type="checkbox"/> Marked for Deletion	<input type="checkbox"/> Export Control - Personnel Restrictions
<input type="checkbox"/> Deleted	<input type="checkbox"/> Export Control - Other
	<input type="checkbox"/> Institutional Animal Care and Use Committee (IACUC)
	<input type="checkbox"/> Privacy
	<input type="checkbox"/> ITS/Data Security
	<input type="checkbox"/> Office of Clinical Trials
	<input type="checkbox"/> Vice Chancellor Research/ Publication Restriction
	<input type="checkbox"/> Office of Technology Commercialization/ Intellectual Property
	<input type="checkbox"/> Completion of Dependent Transaction: (Please include a note with what type of dependent transaction. ex. Master Agreement, DUA, CDA)
	<input type="checkbox"/> In negotiation, with OSP

Export Compliance Checkpoints For OSP - RAM Tracker Toggle

The screenshot shows a web browser window with the URL `orisstage.research.unc.edu`. A notification bar at the top indicates the application is in "staging mode". The main content area is titled "Email Details" and contains the following fields:

- Email To:** `exportcontrol@unc.edu`
- Email Subject:** `RAMSES: Pending Export Control IPF [REDACTED]`
- Email From:** `noReply@unc.edu`
- Email CC:** (Empty field)

The email body is composed using a rich text editor with a menu bar (File, Edit, Insert, View, Format, Table, Tools) and a toolbar. The body text includes:

- Proposal No.: [REDACTED] [Click here for proposal](#)
- Proposal Lead PI: [REDACTED]
- Proposal Title:
- Proposal Sponsor: [REDACTED]
- Proposal Prime Sponsor:

The body text continues with a paragraph: "The Office of Sponsored Programs has received an award for the above referenced proposal. It has been marked as Pending Export Control and the following sub-statuses have been indicated as the reason for the pending status:" followed by "Holding for department info|Export Control - Publication Restrictions".

At the bottom right of the email body is an "Add Attachment" button. Below the email body is a table header with columns: "File Name", "Uploaded By", "Upload Date", and "Type". At the very bottom of the interface are three buttons: "Done", "Save & Send Email", and "Save".

Technology Control Plan (TCP)

The purpose of a Technology Control Plan (TCP) is to ensure compliance with federal laws or contract commitments regarding export control compliance and/or confidentiality.

A TCP is a written document, signed by the the PI who will be primarily responsible for complying with the terms of the TCP, which outline the project compliance requirements, processes, and procedures, upon which particular items, technical data, or technology may be kept and used on campus and/or outside the United States.

The applicable laws might include, for example, the Department of State's International Traffic in Arms Regulations (ITAR), the Department of Commerce's Export Administration Regulations (EAR), or other legal obligation(s).

Technology Control Plan (TCP)

TCP Requirements can, and often do, include the following requirements for the PI and their project personnel throughout the lifecycle of the sponsored project:

- NIST 800-171 compliant data storage systems.

- Physical security requirements.

- Project personnel screening.

- Project monitoring and auditing.

- TCP training and annual export training.

Questions/Discussion

If you have any questions concerning sponsored research, please contact ResAdminOSR@unc.edu.

If you have any questions concerning export compliance, please contact exportcontrol@unc.edu

For additional information, please visit our [webpage](#).

Additional Questions

For Ramses purposes, the export control has changed. Do we need to have any additional information if export control is yes. Are there new procedures or info that we can give the PI ahead of time or is this now done by your office directly to the PI?



THE UNIVERSITY
of NORTH CAROLINA
at CHAPEL HILL