Florida Institute of Technology

High Tech with a Human Touch™

EXPORT CONTROL

MANAGEMENT PLAN
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1. FORWARD

Florida Tech is committed to conducting research in compliance with export control laws, regulations, and sanctions of the United States. Florida Tech, in fulfilling this commitment, has established export control oversight in the Office of Research with support by University administration and in collaboration with both academic and research units engaged in activities subject to export control.

The Office of Research, under the Office of the President, provides direction and support to administration, researchers, faculty, staff, and employees in complying with export control. The Office of Research provides education, training, and guidance on U.S. export control as it pertains to research and related activities at Florida Tech.

This Export Control Management Plan is a tool to disseminate compliance protocols implemented at Florida Tech for compliance with U.S. export control laws, regulations and sanctions.

2. GENERAL

There is a dichotomy between conducting university research and the limitations imposed on universities on the sharing of their research techniques and resulting fruits. On the one hand, Florida Tech researchers strive to acquire and disseminate knowledge. On the other is the U.S. Government, entrusted with regulating the dissemination of commodities and knowledge based upon constantly shifting geopolitical factors including national security, foreign policy, nuclear nonproliferation, and economic interests. These two interests may conflict across a variety of University activities, restricting access to foreign persons and preventing public dissemination.

Of importance to the university researcher are the control measures the government has employed to regulate commodities and technologies, and the sanctions imposed on specific countries and persons. These control measures dictate how, to whom, and to what extent, research and the resulting fruits can be shared without a license issued by the US Government. This body of law is commonly referred to as “Export Control”.

Export control consists of a variety of federal laws, enacted in multiple regulations, administered by multiple federal agencies. The regulatory structure is a patchwork of often overlapping regulatory regimes that can be confusing and vague. While certain federal agencies have exclusive jurisdiction over specific practices, commodities or activities, other agencies may serve in oversight, enforcement or advisory capacities, with sometimes broader jurisdiction. The Office of Research is charged as Florida Tech’s primary unit in interpreting Export Control Law, seeking Federal Government licensure and advice as well as enforcing export compliance for Florida Tech Persons (which includes students, volunteers, faculty and staff).
Acronyms

<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>AECA</td>
<td>Arms Export Control Act</td>
</tr>
<tr>
<td>BIS</td>
<td>Bureau of Industry and Security</td>
</tr>
<tr>
<td>CCL</td>
<td>Commerce Control List</td>
</tr>
<tr>
<td>CFR</td>
<td>Code of Federal Regulations</td>
</tr>
<tr>
<td>CAU</td>
<td>Custody, Access and Use Agreement</td>
</tr>
<tr>
<td>DDTC</td>
<td>Directorate of Defense Trade Controls</td>
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<tr>
<td>DoC</td>
<td>U.S. Department of Commerce</td>
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<tr>
<td>DoS</td>
<td>U.S. Department of State</td>
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<tr>
<td>DoT</td>
<td>U.S. Department of the Treasury</td>
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<tr>
<td>EAA</td>
<td>Export Administration Act</td>
</tr>
<tr>
<td>EAR</td>
<td>Export Administration Regulations</td>
</tr>
<tr>
<td>ECCN</td>
<td>Export Control Classification Number</td>
</tr>
<tr>
<td>ECO</td>
<td>Export Control Officer</td>
</tr>
<tr>
<td>FACR</td>
<td>Foreign Assets Control Regulations</td>
</tr>
<tr>
<td>FSO</td>
<td>Facility Security Officer</td>
</tr>
<tr>
<td>ITAR</td>
<td>International Traffic in Arms Regulations</td>
</tr>
<tr>
<td>MOU</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>NISPOM</td>
<td>National Industrial Security Program Manual</td>
</tr>
<tr>
<td>OFAC</td>
<td>Office of Foreign Assets Control</td>
</tr>
<tr>
<td>ORC</td>
<td>Office of Research and Commercialization</td>
</tr>
<tr>
<td>PI</td>
<td>Principal Investigator</td>
</tr>
<tr>
<td>TCP</td>
<td>Technology Control Plan</td>
</tr>
<tr>
<td>US Person</td>
<td>U.S. Citizen or Green Card Holder</td>
</tr>
<tr>
<td>USML</td>
<td>U.S. Munitions List</td>
</tr>
</tbody>
</table>

Acknowledgements

The Florida Institute of Technology (Florida Tech) acknowledges and appreciates the University of Central Florida (UCF) for granting Florida Tech permission to alter selected portions of their “Export Control Compliance Program Guidelines” for use in this instruction.

Disclaimer

The Florida Tech Export Control Management Plan, Guidelines, Technology Control Plan, process and other materials are specifically tailored to the Florida Tech research community. This document and all other materials therein are not intended to replace any regulatory document of interpretation or to relieve importers or exporters of their statutory responsibility to comply with current laws, regulations, policies and procedures of the U.S. Government. Florida Tech’s export control content may not apply to other specific situations that occur outside of the Florida Tech research community. Florida Tech’s export control materials do not constitute legal advice. Those outside of the Florida Tech research community should not act or rely on any of this information and should seek the advice of an attorney before taking any actions. Applicable U.S. Laws & Regulations
Foreign National Participation at Florida Tech

As a private institution of higher education, Florida Tech employs foreign nationals and hosts foreign visitors in connection with international exchange programs, international students, international research collaborations, and other business agreements. It is the intent of Florida Tech to employ foreign nationals and host international visitors, both long and short term, in the most welcoming manner possible while also assuring compliance with U.S. laws, regulations and trade sanctions governing the export of certain commodities and technical data.

International Traffic in Arms Regulations

The Arms Export Control Act (“AECA”), implemented by the International Traffic in Arms Regulations (“ITAR”) and administered by the State Department’s Directorate of Defense Trade Controls prohibits the export, temporary import of defense articles and technical data, the manufacture abroad of defense articles using U.S. technology, the provision of defense services to foreign persons and the brokering of defense articles or services by all U.S. persons unless approved in advance by a DDTC-issued export license, agreement, or by qualification of an ITAR exemption. This includes the export of defense articles and defense services from the United States to any foreign destination or to any foreign person, whether located in the United States or abroad. The ITAR prohibits the export of all defense articles and services unless specifically permitted by the process described in the ITAR. ITAR controls are based on national security/nonproliferation and foreign policy considerations. There is considerable overlap among the policies underlying the ITAR and the Export Administration Regulations administered by the Commerce Department. Nevertheless, the objective of ITAR is to limit access to and use of “munitions” and related services and data—as opposed to dual-use items and technologies—to purposes and end-users that serve the foreign policy interests of the United States. As a result, the State Department is generally considered much less sensitive to commercial considerations than the Commerce Department.

Definitions important and specific to the ITAR include:

- A “defense item” is defined by the AECA at 22 U.S.C. 2778(j)(1)(4)(a) as follows: “The term “defense items” means defense articles, defense services and related technical data.
- A “defense article” is defined as any item or technical data on the United States Munitions List (“USML”). Pursuant to the AECA at 11 U.S.C. 2794(s), defense articles include: (A) any weapon, weapon system, munition, aircraft, vessel, boat or other implement of war, (B) any property, installation, commodity, material, equipment, supply or goods used for the purpose of making military sales, (C) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in this paragraph, (D) any component or part of any article listed in this paragraph, but does not include merchant vessels,....source material,... byproduct material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data.
A “defense service,” is defined as

1. 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.”
2. The furnishing to foreign persons of any technical data controlled under the ITAR.
3. Military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the United States or abroad or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice, not defined as “assistance.”

“Technical Data” means

1. Information, other than software 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 directly related to defense articles;
5. 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 the ITAR. It also does not include basic marketing information on function or purpose or general system descriptions of defense articles.

U.S. Munitions List (USML)

The U.S. Munitions List (“USML”) is enumerated in 22 CFR Part 121 and specifies twenty-one (21) “Categories” of defense articles, with sub-itemization of “Significant Military Equipment” (SME) articles. SME is defined in 22 CFR § 120.7 as “articles for which special export controls are warranted because of their capacity for substantial military use or capability. An electronic version of the USML is available on the Department of State website at:

The twenty-one categories found on the USML are as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category I</td>
<td>Firearms, Close Assault Weapons and Combat Shotguns</td>
</tr>
<tr>
<td>Category II</td>
<td>Guns and Armament</td>
</tr>
<tr>
<td>Category III</td>
<td>Ammunition / Ordinance</td>
</tr>
<tr>
<td>Category IV</td>
<td>Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines</td>
</tr>
<tr>
<td>Category V</td>
<td>Explosives and Energetic Materials, Propellants, Incendiary Agents and Their Constituents</td>
</tr>
<tr>
<td>Category VI</td>
<td>Surface Vessels of War and Special Naval Equipment</td>
</tr>
<tr>
<td>Category VII</td>
<td>Ground Vehicles</td>
</tr>
<tr>
<td>Category VIII</td>
<td>Aircraft and Related Articles</td>
</tr>
<tr>
<td>Category IX</td>
<td>Military Training Equipment and Training</td>
</tr>
<tr>
<td>Category X</td>
<td>Protective Personnel Equipment and Shelters</td>
</tr>
<tr>
<td>Category XI</td>
<td>Military Electronics</td>
</tr>
<tr>
<td>Category XII</td>
<td>Fire Control, Range Finder, Optical and Guidance and Control Equipment</td>
</tr>
<tr>
<td>Category XIII</td>
<td>Materials and Miscellaneous Articles</td>
</tr>
<tr>
<td>Category XIV</td>
<td>Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment</td>
</tr>
<tr>
<td>Category XV</td>
<td>Spacecraft Systems and Associated Equipment</td>
</tr>
<tr>
<td>Category XVI</td>
<td>Nuclear Weapons, Design and Testing Related Items</td>
</tr>
<tr>
<td>Category XVII</td>
<td>Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated</td>
</tr>
<tr>
<td>Category XVIII</td>
<td>Direct Energy Weapons</td>
</tr>
<tr>
<td>Category XIX</td>
<td>Gas Turbine Engines and Associated Equipment</td>
</tr>
<tr>
<td>Category XX</td>
<td>Submersible Vessels and Related Articles</td>
</tr>
<tr>
<td>Category XXI</td>
<td>Articles, Technical Data and Defense Services Not Otherwise Enumerated</td>
</tr>
</tbody>
</table>

**Commodity Jurisdiction**

The process of determining if an item, article, service or technical data is on the USML and subject to the requirements of the ITAR is known as the “Commodity Jurisdiction” (“CJ”) process. CJ is used by the U.S. Government if doubt exists as to whether an article or service is covered by the USML or some other regulations, such as the Commerce Control List (“CCL”). Designations of defense articles and defense services are made by the Department of State with the concurrence of the Department of Defense.
Proper CJ determination is absolutely essential to avoid violations because export compliance relies upon knowing which regulatory regime governs a particular export or activity (e.g. EAR or ITAR). The ITAR only regulates items, defense articles, services and associated technical data of items specifically identified on the USML as opposed to other U.S. export regulations.

The order of review for CJ is to self-classify items, articles or services to determine if they are subject to the ITAR by being listed on the USML, or if they meet the qualifications of being considered “specially designed.” “Specially designed” is used to determine if an item or service meets the criteria of a defense article or defense service, or provides the equivalent performance capabilities of a defense article on the USML. If an article is not on the USML, or if it is not “specially designed” then it may be on the CCL, or subject to a different regulatory regime. The DDTC has a web-based interactive “Order of Review Decision Tool” to assist with this process: http://www.pmddtc.state.gov/licensing/dt_OrderofReview.htm

CJ is used to determine if an item or service meets the criteria of a defense article or defense service, or provides the equivalent performance capabilities of a defense article on the USML. The effort to determine whether an activity or item is subject to the ITAR, i.e., on the USML, is known as a “Jurisdictional Analysis”, while the review for the EAR is known as “Commodity Classification.” Conducting either of these analyses independent of government guidance is known as “self-classification”.

The Jurisdictional Analysis process begins by reviewing the general characteristics of the item, technology or proposed defense service. The general characteristics must fall within the proscribed requirements of “specially designed” to be subject to the ITAR. Commodities and software are “specially designed” if:

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If the technology meets the definitional requirements of qualifying as “specially designed” and is identified within a USML Category, the characteristics and functions of an article can be matched to a specific entry found on the USML.

DDTC has a web-based interactive “Specially Designed” decision tool to assist with this process: http://www.pmddtc.state.gov/licensing/dt_SpeciallyDesigned.htm

Both the Departments of Commerce and State prefer for organizations to attempt to self-classify whenever possible; however, if a concluded jurisdictional determination cannot be made through either the Commodity Classification or Jurisdictional Analysis process, the U.S. Government will provide a definitive written determination in response to the submission of a “Commodity Jurisdiction Request.” Necessary forms and processes are available at the DDTC website: http://www.pmddtc.state.gov/commodity_jurisdiction/index.html

**Definition of Export Under the ITAR**

The ITAR defines the term “export” broadly. The term applies not only to exports of tangible items from the U.S., but also to transfers of intangibles, such as technology or information. The ITAR defines as an “export” the passing of information or technology to foreign nationals even in the United States. The following are examples of exports:

1. As a result of development, has properties peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics, or functions described in the relevant U.S. Munitions List paragraph; or
2. Is a part (see § 121.8(d) of this subchapter), component (see § 121.8(b) of this subchapter), accessory (see § 121.8(c) of this subchapter), attachment (see § 121.8(c) of this subchapter), or software for use in or with a defense article.
3. Is a part, component, accessory, attachment, or software is not controlled by a U.S. Munitions List “catch-all” or technical data control paragraph if it:
   a. Is subject to the EAR pursuant to a commodity jurisdiction determination;
4. Is, regardless of form or fit, a fastener (e.g., screws, bolts, nuts, nut plates, studs, inserts, clips, rivets, pins), washer, spacer, insulator, grommet, bushing, spring, wire, or solder;
5. Has the same function, performance capabilities, and the same or “equivalent” form and fit as a commodity or software used in or with a commodity that:
   a. Is or was in production (i.e., not in development); and
   b. Is not enumerated on the U.S. Munitions List;
6. Was or is being developed with knowledge that it is or would be for use in or with both defense articles enumerated on the U.S. Munitions List and also commodities not on the U.S. Munitions List; or
7. Was or is being developed as a general purpose commodity or software
1. **Exports of articles from the U.S. territory**
   - Shipping or taking a defense article out of the United States.
   - Transferring title or ownership of a defense article to a foreign person, in or outside the United States.

2. **Extra-territorial transfers**
   - The re-export or re-transfer of defense articles from one foreign person to another, not previously authorized (i.e., transferring an article that has been exported to a foreign country from that country to a third country).
   - Transferring the registration, control, or ownership to a foreign person of any aircraft, vessel, or satellite covered by the USML, whether the transfer occurs in the United States or abroad.

3. **Export of intangibles**
   - Disclosing technical data to a foreign person, whether in the United States or abroad, through oral, visual, or other means.
   - Performing a defense service for a foreign person, whether in the United States or abroad.

**Requirements for ITAR Export Authorization**

Any person or entity who engages in the U.S. in the business of manufacturing or exporting or temporarily importing defense articles or furnishing defense services is required to register with the Department of State. Registration is a mandatory prerequisite to process license applications or invoke other approvals for an activity regulated by the ITAR, or invoke the use of an exemption to the license requirement. Once registered, licenses to export defense articles or perform defense services can be processed, including permanent and temporary export and import licenses and technical assistance agreements for complex programs for the provision of defense services. Certain licenses or exemptions or other government approvals are required to employ or allow foreign nationals to participate in activities subject to export requirements (see “deemed exports”). License applications or the invocation of other government approvals and exemptions contain additional certifications / transmittal letters, supporting documentation, and in some cases, non-transfer and use certification from the licensee and / or the foreign government of the licensee.

University research is subject to the ITAR when the research involves defense articles or technical data. Activities that involve defense articles or export-controlled technical data that involve foreign persons require a license or other government approval before the foreign person is permitted access to the articles or data. Instruction or methods involved in the ITAR-controlled research constitute the provisioning of “defense services”, which is also a licensable activity. A “defense service” is equivalent to a “deemed export” under the EAR.

**Proscribed Countries**

Pursuant to U.S. policy related to arms embargoes, no ITAR exports, including license requests, exemptions and other government approvals for export may be made to countries proscribed in 22
C.F.R. § 126.1, such as China, Cuba, Iran, North Korea, Sudan, and Syria. Additional restrictions apply to other countries; a complete list of U.S. arms embargoes is available online at:
http://www.pmddtc.state.gov/embargoed_countries/index.html

Export Administration Regulations

The U.S. Department of Commerce’s (“DoC”) Bureau of Industry and Security (“BIS”) regulates all dual-use technologies, materials, items, software, and technology not administered by another agency under the authority of the Export Administration Act of 1969 (“EAA”) as enumerated in the Export Administration Regulations (EAR). The export control provisions of the EAR are intended to serve the national security, foreign policy, nonproliferation and short supply interests of the US, and in some cases, to carry out its international obligations. “Dual-use” items, products, technologies, and software that have both military, or civilian and commercial applications, but were not “specially designed” for military applications are identified on the Commerce Control List (“CCL”). Certain technologies identified on the CCL may parallel those enumerated on the USML; however, the key distinguishing factor is the military application of the items.

All items of U.S.-origin, wherever located, are subject to the EAR. Foreign manufactured goods are generally exempt from the EAR re-export requirements if they contain less than a de minimis level of U.S. content by value. Such de minimis levels are set in the regulations relative to the ultimate destination of the export or re-export.

The EAR requires a license for the exportation of a wide range of items with potential “dual” commercial and military use, or otherwise of strategic value to the United States (but not made to military specifications). However, only items listed on the Commerce Control List (“CCL”) require a license prior to exportation. Items not listed on the CCL are designated as EAR99 items and generally can be exported without a license, unless the export is to an embargoed country, or to a prohibited person or end-use.

Commerce Control List (CCL)

The EAR specifically enumerates controlled technologies on the CCL, including technical thresholds and performance parameters that distinguish various levels of controls. The CCL is divided into ten broad categories, which is further subdivided into five product groups. This scheme is the framework for a matrix-based system utilized within the EAR to categorize control, licensing and exception requirements. Every commodity on the CCL is categorized according to a “Export Control Classification Number” (“ECCN”), which is an numeric-alpha code that describes the item and indicates licensing requirements. All ECCNs are listed within the CCL.
The following are the primary ten broad categories:

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category 0:</td>
<td>Nuclear Materials, Facilities and Equipment &amp; Miscellaneous</td>
</tr>
<tr>
<td>Category 1:</td>
<td>Materials, Chemicals, Microorganisms and Toxins</td>
</tr>
<tr>
<td>Category 2:</td>
<td>Material Processing</td>
</tr>
<tr>
<td>Category 3:</td>
<td>Electronics</td>
</tr>
<tr>
<td>Category 4:</td>
<td>Computers</td>
</tr>
<tr>
<td>Category 5:</td>
<td>Telecommunications and Information Security</td>
</tr>
<tr>
<td>Category 6:</td>
<td>Sensors and Lasers</td>
</tr>
<tr>
<td>Category 7:</td>
<td>Navigation and Avionics</td>
</tr>
<tr>
<td>Category 8:</td>
<td>Marine</td>
</tr>
<tr>
<td>Category 9:</td>
<td>Propulsion Systems, Space Vehicles and Related Equipment</td>
</tr>
</tbody>
</table>

The following are the five product groups controlled under the EAR:

- **Commodities, Equipment, Assemblies and Components.** Finished or unfinished goods ranging from high-end microprocessors to airplanes, to ball bearings.
- **Test, Inspection, Production and Manufacturing Equipment.** This includes equipment specifically for manufacturing or testing controlled commodities, as well as certain generic machines, such as computer numerically controlled (“CNC”) manufacturing and test equipment.
- **Materials.** This includes certain alloys and chemical compounds.
- **Software.** This includes software specifically associated with particular commodities or manufacturing equipment, as well as any software containing encryption and the applicable source code.
- **Technology.** Specific information necessary for the “development”, “production”, or “use” of a product. The information takes the form of “technical data” or “technical assistance”. Unlike the ITAR, there is generally no distinction between the two. However, the EAR may apply different standards to technology for “use” of a product than for the technology for the “design” or “manufacture” of the product.

**Commodity Classification**

As previously reviewed, the State Department’s CJ process is the primary means to determine which regulatory requirements are subject to an export activity. The State Department has jurisdiction to decide whether an item is ITAR- or EAR-controlled. DDTC encourages exporters to self-classify the product. If doubt exists, a CJ request may be submitted to DDTC to determine whether an item is ITAR- or EAR-controlled. Proper CJ determination is absolutely essential to avoid violations because export compliance relies upon knowing which regulatory regime governs the technology.
Once it is determined that an item is EAR-controlled, the exporter must determine its Export Control Classification Number ("ECCN"). The first digit identifies the general category within which the entry falls (e.g., 3A001). The letter immediately following this first digit identifies under which of the five groups the item is listed (e.g., 3A001). The second digit differentiates individual entries by identifying the type of controls associated with the items contained in the entry (e.g., 3A001). Listed below are the Reasons for Control associated with this second digit.

Once the ECCN is determined all associated regulatory control requirements can be looked up using the Reasons for Control and Commerce Country Chart.

<table>
<thead>
<tr>
<th>Reasons for Control</th>
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<tbody>
<tr>
<td>AT</td>
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<tr>
<td>CB</td>
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<td>CC</td>
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<td>CW</td>
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<td>SI</td>
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<td>SL</td>
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</tbody>
</table>

The reason for controls identified on the ECCN are cross indexed to the “Commerce Country Chart” found in Supplement No. 1 to Part 738. The chart is available at: [http://www.bis.doc.gov/index.php/forms-documents/doc_download/14-commerce-country-chart](http://www.bis.doc.gov/index.php/forms-documents/doc_download/14-commerce-country-chart)

The “Country Chart” header identifies, for each applicable Reason for Control, a column name and number (e.g., CB Column 1). These column identifiers are used to direct you from the CCL to the appropriate column identifying the countries requiring a license. A license or other export authorization is required if the Chart and Reason for Control are marked with an X.

**Requirements for EAR Export Authorization**

Once determined that a license is required, an exporter can apply for export authorization from BIS.

The EAR contains a number of exceptions. Determining whether a particular exception applies requires review of the specific application as detailed in 15 C.F.R. § 740, as well as review of the notes on applicable license exceptions following the ECCN entry on the CCL. These exceptions include:
The definition of export under the EAR is very broad, just as in the ITAR, and covers a broad range of products and activities. Definitions that are important and specific to the EAR include:

- **Export.** “Export” means an actual shipment or transmission of items subject to the EAR out of the United States, or release of technology or software subject to the EAR to a foreign national in the United States.

- **Export of Technology or Software (“Deemed Export”).**
  - Any release of technology or software subject to the EAR in a foreign country; or
  - Any release of technology or source code subject to the EAR to a foreign national. Such release is deemed to be an export to the home country or countries of the foreign national. Deemed exports may occur through such means as a demonstration, oral
briefing, or plant visit, as well as the electronic transmission of non-public data that will be received abroad.

- **Release of Technology or Software.** Technology or software is “released” for export through:
  - Visual inspection by foreign nationals of U.S.-origin equipment and facilities;
  - Oral exchanges of information in the United States or abroad; or
  - The application to situations abroad of personal knowledge or technical experience acquired in the United States.

- **Re-export.** “Re-export” means an actual shipment or transmission of items subject to the EAR from one foreign country to another foreign country; or release of technology or software subject to the EAR to a foreign national outside the United States, i.e., the shipment or transfer to a third country of goods or technology originally exported from the United States.

- **Re-export of Technology or Software (Deemed Re-export).** Any release of technology or source code subject to the EAR to a foreign national of another country is a deemed re-export to the home country or countries of the foreign national. Re-export includes the export or re-export of items subject to the EAR that will transit through a country or countries or be transshipped in a country or countries to a new country or are intended for re-export to the new country, are deemed to be exports to the new country.

The release of technology or software source code to a foreign national in the United States is regulated, as is visual inspection by foreign nationals at U.S. facilities. This concept, as defined above, is considered a “Deemed export.” The Deemed export relies upon the transmission in the US of technology as follows:

- **Technology.** Specific information necessary for the “development”, “production”, or “use” of a product. The information takes the form of “technical data” or “technical assistance”. Unlike the ITAR, there is generally no distinction between the two. However, the EAR may apply different standards to technology for “use” of a product than for the technology for the “design” or “manufacture” of the product.

- **Required Information for the Development, Production, or Use of Items on the CCL:**
  - **Required.** As applied to “technology” or “software”, refers to only that portion of “technology” or “software” which is peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics or functions. Such “required” “technology” or “software” may be shared by different products.
  - **Development.** “Development” is related to all stages prior to serial production, such as: design, design research, design analyses, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, configuration design, integration design, layouts.
  - **Production.** Means all production stages, such as: product engineering, manufacture, integration, assembly (mounting), inspection, testing, and quality assurance.
  - **Use.** Operation, installation (including on-site installation), maintenance (checking), repair, overhaul and refurbishing.
- **Technical Assistance.** Technical assistance—May take forms such as instruction, skills training, working knowledge, consulting services. “Technical assistance” may involve transfer of “technical data”.

- **Technical Data.** May take forms such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, read-only memory.

### Foreign Assets Control Regulations (FACR)

In addition to ITAR and EAR export restrictions, The Office of Foreign Assets Control (“OFAC”) in the Treasury Department administers and enforces economic and trade sanctions against targeted:

<table>
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<th>Foreign governments (e.g. Iran, Sudan, Cuba)</th>
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<td>Individuals (e.g. terrorists, narcotics traffickers)</td>
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<td>Entities (e.g. drug front companies, charities linked to terrorist groups)</td>
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<td>Practices (e.g. trade in rough diamonds, proliferation of WMDs)</td>
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There are three types of sanctions programs:

#### Comprehensive Sanctions
- Counter Narcotics Trafficking
- Non-proliferation (WMD)
- Anti-terrorism
- Sudan
- Cuba
- Iran

#### Regime-Based Programs
- Former Liberian Regime of Charles Taylor
- Democratic Republic of the Congo
- Zimbabwe
- Cot D’Ivoire
- Balkans
- Belarus

#### Limited Program
- Burma (Myanmar)
- Diamond Trading
- North Korea
- Syria

Numerous publications and legislation encompass the spectrum of sanctions, embargoes, and financial regulations. Sanctions typically regulate:

- 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; and
- Holding certain types of blocked property in interest-bearing accounts.
• Transactions with specific entities or individuals known as “specially designated nationals,” found in the Specially Designated Nationals List ("SDNL").

In many cases a general or specific license from OFAC is required in order to travel to sanctioned countries, or have transactions with sanctioned countries, entities, or individuals. University personnel will not engage in international collaborations with sanctioned countries, entities, or individuals without first consulting with the Office of Research to determine if an OFAC license is required.

**Anti-boycott Restrictions**

U.S. Anti-boycott policies proscribe certain actions regarding the Arab League’s boycott of Israel and require reporting to the Department of Commerce or the Internal Revenue Service for certain boycott related communications or identification of participation in an international boycott. U.S. anti-boycott laws require US firms and persons to refuse to participate in foreign boycotts that the U.S. government does not sanction. Any interaction, contracts, or agreements with foreign companies, entities and Governmental agencies of identified participating boycott countries may require scrutiny to ensure there are no reportable boycott issues.

Prohibited conduct includes:

- Agreements to refuse or actual refusal to do business with or in Israel or with blacklisted companies.
- Agreements to discriminate or actual discrimination against other persons based on race, religion, sex, national origin or nationality.
- Agreements to furnishing or actual furnishing of information about business relationships with or in Israel or with blacklisted companies.
- Agreements to furnishing or actual furnishing of information about the race, religion, sex, or national origin of another person.
- Implementing letters of credit containing prohibited boycott terms or conditions.

Examples Include:

- **Prohibited Boycott Condition in a Purchase Order:** "In the case of overseas suppliers, this order is placed subject to the suppliers being not on the Israel boycott list published by the central Arab League."
- **Reportable boycott condition in an importer’s purchase order:** "Goods of Israeli origin not acceptable."
- **Prohibited Condition in a Contract:** "The Contractor shall comply in all respects with the requirements of the laws of the State of Bahrain relating to the boycott of Israel. Goods

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manufactured by companies blacklisted by the Arab Boycott of Israel Office may not be imported into the State of Bahrain and must not be supplied against this Contract.”

- **Prohibited Boycott Condition in a Questionnaire:**
  - Do you have or ever have had a branch or main company, factory or assembly plant in Israel or have sold to an Israeli?
  - Do you have or ever have had general agencies or offices in Israel for your Middle Eastern or international operations?

- **Prohibited Condition in a Trademark Application:** "Requirement for the registration of pharmaceutical companies: Certification letter regarding the boycott of Israel (i.e., do not comprise any parts, raw materials, labor or capital of Israeli origin)."

### Penalties for Export Violations

Penalties for export violations can apply to individuals and the university.

**International Traffic in Arms Regulations (ITAR)**

- Maximum $1,000,000 per violation or imprisonment of up to twenty years, or both pursuant to 22 U.S.C. 2778(c)

**Export Administration Regulations (EAR)**

- **Criminal:** Maximum $1,000,000 per violation or imprisonment of up to twenty years, or both
- **Administrative:** Maximum $11,000 per violation or $120,000 per violation for items involving national security
- Pursuant to the International Emergency Economic Powers (IEEPA) Enhancement Act:
  - **Criminal:** Maximum $100,000 per violation or imprisonment of up to twenty years, or both
  - **Administrative:** Maximum of greater of $250,000 per violation or twice the amount of the transaction

**Office of Foreign Assets Control (OFAC)**

- Pursuant to the Trading with the Enemy Act (TEWA) of 1917, 50 USCS Sec 5
  - **Criminal (Willful Violation):** Maximum $1,000,000 per violation, and up to $100,000 in individual fines, per violation or imprisonment of up to ten years, or both
  - **Criminal (Knowing Violation):** Maximum $100,000 or up to ten years in prison, or both, per violation
  - **Civil:** Maximum of $65,000 per violation
- Pursuant to the International Emergency Economic Powers (IEEPA) Act, 20 USCS Sec 1701
  - **Criminal:** Maximum $1,000,000 per violation or imprisonment of up to twenty years, or both
  - **Civil:** Maximum $250,000 per violation, or twice the amount of the transaction
Administrative Penalties

- **Warning Letter**: are administrative determinations that a violation has occurred, but that a “good faith effort” (mitigating factor) to comply with the law and to cooperate with an investigation has been shown with no aggravating factors.

- **Denial Order / Interim Suspension**: deny the sanctioned party any U.S. export privileges and any access to U.S.-origin goods and technology, from any source, for a specified period of time or indefinitely and may be narrow in scope, such as a restriction on the export of specific items or to specific destinations.

- **Seizure & Forfeiture**: Commodities or technical data which have been, are being, or are intended to be exported or shipped from or taken out of the U.S. in violation of the Export Administration Act (EAA) or International Traffic in Arms Regulations (ITAR) are subject to being seized and forfeited including, the vehicles carrying such commodities or technical data.

- **Debarment**: includes the exclusion from practice or the denial of export privileges, including the revocation of contracts, loss of funding, debarment from government contracts or implementation of additional compliance measures.

Voluntary Self-Disclosure of Suspected Violations

Because of the complexity of the ITAR, EAR and FACR, accidental or inadvertent violations of export control regulations are possible. In research, a university may presumably discover that a researcher or collaborator has violated the ITAR or EAR. DDTC, BIS and OFAC all have voluntary disclosure programs and procedures whereby a potential export violation may be self-disclosed. Specifically, Section 127.13 of the ITAR states that the DDTC:

> “Strongly encourages the disclosure of information...by persons, firms or any organization that believes they may have violated any export control provision of the Arms Export Control Act, or any regulations, order, license, or other authorization issued under the authority of the Arms Export Control Act.\“

The cognizant export administration agency may consider a voluntary disclosure as a mitigating factor in determining whether to impose any penalties (including monetary penalties) or seek other enforcement action. A failure to submit a Voluntary Self-Disclosure (“VSD”) may be considered as an aggravating factor, likely increasing the penalties levied upon an organization.

**Florida Tech will report all potential violations of the ITAR, EAR and FACR immediately upon discovery.** A comprehensive report must be provided to the relevant federal agency within 60 calendar days of the initial notification. A formal request for extension will be lodged with the appropriate agency if 60 days is insufficient. The procedure for detecting, investigating, reporting, and correcting suspected export violations are as follows:

The investigation of suspected export violations will be expedited. An investigation is a pre-requisite to properly evaluate whether to submit a voluntary self-disclosure. All investigations will be carried out by the Director of Research Compliance and reported to the SVPR. An investigation will examine the full scope of any potential violations, to include:
• Potential violation, causes, important facts, aggravating or mitigating circumstances.
• Parties involved, dates, places, locations, methods, export jurisdictions, means by which the violation was detected, type of export violation (physical, visual, oral, electronic);
• Short term corrective actions / stops implemented upon violation discovery, including parties involved in the corrective actions.

Investigation will consist of three phases:
1. Data preservation
   a) Notify necessary parties of the investigation
   b) Require parties to preserve all materials related to the subject matter
   c) Categorize and review the types of information and documents relevant to the investigation
   d) Demand strict compliance with data preservation
   e) Inform parties of how information should be preserved
   f) Designate a Point of Contact

2. Data collection and review
   a) Document preservation and collection interviews
   b) Collection and review of paper and electronic data

3. Interviews of relevant employees/participants
   a) Following collection, review and organization of data, interviews with all relevant parties will be conducted.

Upon conclusion of data collection, interviews and evaluation, a formal report will be prepared. Facts developed during the course of the investigation are important for VSD purposes in addition to university decision-making. Contents of the report will include:

1. Description of the subject and scope of the investigation
2. Description of each phase of the investigation, including all efforts
3. A chronology of the facts developed via the investigation
4. A description of remedial measures undertaken
5. A description of proposed corrective/preventative actions

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VSD’s will be drafted pursuant to Section 127.12(c)(2) of the ITAR, as a baseline, which include:

| i. | A precise description of the nature and extent of the violation (e.g., an unauthorized shipment, doing business with a party denied U.S. export privileges, etc.); |
| ii. | The exact circumstances surrounding the violation (a thorough explanation of why, when, where, and how the violation occurred); |
| iii. | The complete identities and addresses of all persons known or suspected to be involved in the activities giving rise to the violation (including mailing, shipping, and e-mail addresses; telephone and fax/facsimile numbers; and any other known identifying information); |
| iv. | Department of State license numbers, exemption citation, or description of any other authorization, if applicable; |
| v. | U.S. Munitions List category and subcategory, product description, quantity, and characteristics or technological capability of the hardware, technical data or defense service involved; |
| vi. | A description of corrective actions already undertaken that clearly identifies the new compliance initiatives implemented to address the causes of the violations set forth in the voluntary disclosure and any internal disciplinary action taken; and how these corrective actions are designed to deter those particular violations from occurring again; |
| vii. | The name and address of the person making the disclosure and a point of contact, if different, should further information be needed. |

If during the course of an investigation a violation of export control is not discovered, the Director of Research Compliance will retain the investigation data and review the incident with current procedures to determine if adjustments are required.

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3. ACTIVITIES NOT SUBJECT TO REGULATION

The EAR, ITAR and FACR only regulate certain transactions that involve controlled items, technology, defense articles or services. Articles or services not listed on the USML or CCL, or specifically excluded from the regulations are not subject to export controls, regardless of the context of university research or educational activities. Common to all regulations, although worded sufficiently different to make equivalent comparison impossible, are the concepts of general “publicly available” and “public domain” information that is not subject to regulations, as follows:

- Information in the Public Domain or Publically Available, e.g. published information and software
- University Research that is neither classified, nor contains “technical data”
- Marketing Information
- Educational information released in official catalogue courses and associated teaching labs of U.S. institutions of higher education
- Patent applications

A discussion of each of these generally excluded publicly available items follows.

Public Domain (ITAR); Publicly Available (EAR)

- The EAR excludes publicly available technology if it is already published or will be published. Information is published when it becomes generally accessible to the interested public in any form, including:
  - publication in periodicals, books, print, etc., available for general distribution free or at cost;
  - readily available at libraries open to the public or university libraries;
  - patents and open patent applications available at any patent office; or
  - release at an open conference, meeting, seminar, trade show, or other gathering open to the public
- The ITAR does not regulate information in the “Public Domain” nor is such information subject to licensing requirements. The ITAR has a very narrow scope of what is included within “public domain”: 
Marketing Information (EAR and ITAR)

- The EAR (734.7) would include marketing information as qualifying for public release as being generally accessible and distributed to the interested public.
- The ITAR (120.10(5)) states that technical data “does not include basic marketing information on function or purpose or general system descriptions of defense articles.”

Educational Information (EAR and ITAR)

Both the ITAR and the EAR address the issue of general educational information that is typically taught in schools and universities. Such information, even if it relates to items included on the USML or the CCL, does not fall under the application of export controls.

- The EAR (734.9) states that educational information is not subject to the EAR if it is “released by instruction in a catalogue course and associated teaching lab of academic institutions” (with the exception of certain encryption software and object code).
• The ITAR (120.10(5)) states that technical data “does not include information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities or information in the public domain....”

Patent Information (EAR and ITAR)

• The EAR (734.10) excludes “information contained in a patent application.”
• The ITAR (120.11(5)) excludes “patents available at any patent office.”

University Research

While some of Florida Tech’s projects involve applied research and may result in defense articles or technical data, Florida Tech generally only undertakes projects that have the potential to make some contribution to the advancement of fundamental knowledge, primarily through publishable results. Florida Tech operates under the presumption that its research activities constitute “Fundamental Research” (as defined below) and that the results of such research may be generally published freely or shared within the academic community, except to the extent that (i) Florida Tech explicitly agrees to publication or access restrictions requested in advance by the research sponsor; or (ii) some aspect of a particular research project is otherwise inconsistent with Fundamental Research.

The EAR (734.8(a)) defines Fundamental Research to mean:

[B]asic and applied research in science and engineering, where the resulting information is ordinarily published and shared broadly within the scientific community. Such research can be distinguished from proprietary research and from industrial development, design, production and product utilization, the results of which are restricted for proprietary reasons or specific national security reasons as defined § 734.11(b) of [the EAR].

Section 734.8(b) of the EAR explicitly states that “research conducted by scientists, engineers or students at a university normally will be considered fundamental research,” provided that the university does not accept certain types of “prepublication review” requirements or “other restrictions on publication of scientific and technical information resulting from the research.” Even where the university accepts prepublication review requirements or publication restrictions with respect to information provided by the sponsor (i.e., restrictions on “input” information from the sponsor), this section provides that the university still may treat information resulting from the research (i.e., the “output” information resulting from the university’s research) as “Fundamental Research.”

The ITAR, Section 120.11, provides an exclusion from export control restrictions for information and technology already in the public domain, including technology resulting from “Fundamental Research” at universities and other institutions of higher learning. Under Section 120.11 of the ITAR, Fundamental Research is defined to mean:
Both the ITAR and the EAR provide that information published and generally accessible to the public through fundamental research is not subject to export controls. However, there are certain restrictions.

**Fundamental Research Disqualifiers**

- Information results must be produced as part of basic and applied research in science and engineering and must be broadly shared within the scientific community (i.e., no restrictions on publication / dissemination of the research results);
- Information generated from the research is separate and distinguishable from the conduct that occurs in performance of the research;
- Even when the results of research are not subject to export controls, government approval may be required if the performance of the research requires foreign national access to export controlled technology. This may take the form of:
  - Proprietary/restricted information released to a foreign national. Provided by a research sponsor, partner institution, or from a previous research project;
  - Operation or use of export-controlled equipment in a manner that exceeds the deemed export threshold
  - Mere access to a defense article.
- Performance location is limited to accredited U.S. institutions of higher learning in the United States. EAR allows fundamental research to occur at facilities other than accredited institutions of higher learning in the United States; however this type of research is considered “Corporate Research” and not fundamental research pursuant to 734.8(e).
- Research performed in the US at accredited institutions will not qualify as fundamental if the university (or the primary investigator) has accepted publication or other dissemination restrictions:
  - ITAR specifically identifies restrictions for proprietary reasons, or specific U.S. Government access and dissemination controls.
  - EAR specifies that fundamental research is distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary reasons or specific national security reasons. University-based research is not considered fundamental research if the
university or its researchers accept restrictions (other than review to ensure no release of sponsor-provided proprietary or patent information) on publication of scientific and technical information resulting from the project.

- National security controls include:
  - Prepublication review and approval by the Government, with right to withhold permission for publication;
  - Restriction on prepublication dissemination of information to non-U.S. citizens or other categories of persons;
  - Restrictions on participation of non-U.S. citizens or other categories of persons in the research

**Areas of Research Impact**

The availability of the Fundamental Research exemptions under the ITAR and the EAR has significant implications for universities and how they operate. Most importantly, the Fundamental Research exemptions enable universities to maintain open environments that encourage the free exchange of ideas, without having to segregate or discriminate among students and faculty on the basis of nationality or citizenship. Where the Fundamental Research exemptions are not available, universities are required to determine the export classification of the technology involved or resulting from their research activities and to comply with all applicable export licensing requirements. In instances where the research involves technologies that are controlled under the ITAR or the EAR, the “deemed export” provisions of these regulations would require universities to establish access controls to ensure that foreign national students, faculty members and visitors do not participate in or have access to the controlled research. Transfers or release of export controlled information in the university research environment may occur as a result of:

- Allowing virtual or physical access
- A demonstration, briefing or presentation
- A conversation (in-person or telephone)
- Laboratory or plant visit
- Film crew
- Faxes or letters
- Hand-carry of documents, hardware or drawings
- Design reviews
- Posting non-public data on the internet
- The exchange of electronic data or communication
- Surreptitious attempts, such as unsolicited inquiries
- Carrying a laptop or other electronic device with controlled technical information or software out of the country
- Collaborating with other universities or foreign collaborators
Because the acceptance of publication or access restrictions generally would render a university’s research activities ineligible for the Fundamental Research exemptions, universities engaged in sponsored research are very cautious to determine whether the sponsor seeks to impose access or restrictions on the research results. Application of “fundamental research” to university research activities must be consistent with the Florida Tech Policy on Export Controls. Compliance reviews are conducted by the Office of Research Sponsored Programs staff. The final determination of whether a program qualifies for the fundamental research exclusion can only be authorized by the Director of Research Compliance. This is almost exclusively done in writing to comply with federal record requirements.

It is Florida Tech’s position that “fundamental research” constitutes only the information resulting from research and not any informational inputs provided to the research or conduct performed during research. As such, Florida Tech approach for fundamental research is to separate out activities pursuant to Input, Conduct and Output.

Proprietary or Restricted Information Provided by Research Sponsors

The EAR and the ITAR provide that information received from government or corporate sponsors (i.e., “input” information) remains subject to the export control regulations when it is identified as proprietary or otherwise subject to access or publication restrictions. Information received from DoD that is designated as “For Official Use Only,” “Sensitive But Unclassified” or otherwise restricted constitutes export controlled information and may not be released to foreign nationals, except as authorized under the ITAR or the EAR. Similarly, proprietary technical data and software applications received from corporate research sponsors or partners also would be subject to export controls.

The receipt of such controlled information, however, would not necessarily eliminate the availability of the Fundamental Research exemptions for the University’s research results (i.e., “output” information). Where the university is able to conduct the research and publish the research results without disclosing the restricted input data to unauthorized persons, the research activities and results generally remain exempt from export controls under the Fundamental Research exemptions. In contrast, where it is not possible to publish research results without disclosing restricted input data or software, such research results would be subject to applicable export controls.

Exports of Controlled Hardware, Software and Related Technical Data

The Fundamental Research exemptions under the ITAR and EAR apply only to the information and technology developed through the research (i.e., “output” information). Hardware and software items produced in the course of research still may be subject to export controls when physically exported from the United States. Certain technical data relating to the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of such controlled applications also may be subject to export controls. (At the same time, “basic marketing information” or “general system descriptions” relating to the function or purpose of defense articles are exempt from controls pursuant to the Section 120.10 of the ITAR, unless specific contractual provisions state otherwise.)
In this regard, certain technologies may initially be researched for academic or commercial applications and regularly draw upon pre-contractual, Florida Tech-developed technologies and software tools. These underlying technologies and software tools have broad research-related and commercial applications, and Florida Tech regularly publishes its research findings in these areas. Where such underlying technologies and software tools are used or incorporated into a particular military application that is deemed to be ITAR-controlled, such usage should not subject those underlying technologies and software tools to the same ITAR controls. Thus, while Florida Tech recognizes that it would need to restrict access to a specific military application in some cases (including the application itself and any application-specific source code and related technology), it would continue to treat its research relating to the underlying technology and software tools as Fundamental Research where appropriate.

Florida Institute of Technology will, where appropriate, restrict access to specific military applications. Presentations, publications, facility tours and other types of disclosures do not include or otherwise result in the release of ITAR-controlled technical data.

**DoD Research & Development Funding Accounts**

Research funds received from Department of Defense (“DoD”) agencies generally originate from one of seven accounts specified within the DoD’s research and development budget for funding particular types of activities, as follows:

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While the account used to fund a particular research program may be indicative of the purpose and objectives of the research, the allocation of funding is an internal agency matter and the originating account is not necessarily determinative of the eligibility of the research for the Fundamental Research exemptions under the ITAR and the EAR. The decision as to whether the research would be subject to export controls is more properly based on the particular subject matter and research activities to be performed. Florida Tech would expect any restrictions applicable to the research program or the research results to be identified in the contract documents.
Defense Services

Finally, the Fundamental Research exemptions generally apply only to basic and applied research conducted in the United States. Pursuant to the ITAR’s restrictions on “defense services,” research involving the provision of military or defense-related technical assistance (i.e., “conduct”) to foreign persons may require authorization under the ITAR, even where there are no contractual access or publication restrictions applicable to the research. Accordingly, Florida Tech will apply for and obtain ITAR approvals for mere access to defense articles or technical data for foreign persons.
4. MANAGEMENT CONTROL STRUCTURE & POLICY

Institutional Commitment

As a leading academic institution on the forefront of technological development and academic research, the Florida Institute of Technology (Florida Tech) will strive to educate and conduct research in compliance with the export control laws, regulations, and sanctions of the United States. A preponderance of activities taking place at Florida Tech are educational in nature, consisting of basic and applied research, the fruits of which are intended for learning and open distribution among scientific and technical communities. While the University recognizes that education is based primarily on the free and open exchange of information and ideas, it consciously chooses to accept research and conduct activities subject to proprietary or national security restriction that nullify free and open exchange and subject such efforts to limitations on access and distribution. To fulfill its commitment, the University has established a Director of Research Compliance within the Office of Research to collaborate with various academic departments and research units engaging in activities subject to export controls to:

- Support implementation of university-wide export control policies and procedures by working directly with university administration and technical personnel.
- Maintain the University Export Compliance Management Plan (ECMP) to provide consistency and compliance for university entities involved in exports and travel matters, inclusive of screening end users, end use and countries for exported technology; subcontractors and visitors to controlled facilities; and determining international travel requirements including those for embargoed and sanctioned countries.
- Provide subject matter expertise on university policy and procedures related to export controls to university administration, faculty, researchers, and employees.
- Perform research on regulatory issues related to export control and work with functional and legal experts to represent university compliance.
- Oversee the development of university security procedures for controlling technology. This includes Technology Control Plans (TCP) and other security procedures to document controls for secure handling, use, storage, and transmission of sensitive information; physical security controls for sensitive work and material storage areas; research activities subject to export control and activities with contractual security requirements.
- Develop and deliver training to inform, educate, and promote awareness to the University community of all export control processes and procedures.
- Provide consultation and guidance to faculty, staff and administration on decisions that may have regulatory impact on export control.
- Develop content and delivery methods associated with ITAR, EAR, OFAC, international travel and related issues.
- Work with the Director of Contracts, Director of Florida Tech Consulting, and Associate Vice President for Government Relations, along with other Office of Research staff, in daily close coordination to identify export control issues that need to be addressed for all proposals, grants and contracts.
• Utilize internal and external information sources to determine commodity jurisdiction and to self-classify equipment and technologies pursuant to ECCN or USML classifications.
• Maintain an information management system for tracking and managing export controlled hardware, software, information and deliverables in accordance with University policies.
• Utilize automated tools for the screening of research project personnel and external recipients to determine federal export control status (Visual Compliance).
• Review H-1B and other foreign national beneficiary information as it relates to deemed export and licensing needs. Work with other campus units to review agreements and technology, data, or software associated with foreign national activity.
• Work with federal regulatory and investigatory agencies (Commerce, State, Treasury, Energy, Defense, DSS, FBI) regarding export control matters, and assist these agencies in the identification of foreign interdiction of sensitive U.S. technology, articles, and data identified as export controlled.
• Perform agreement reviews and analysis; conduct export assessments of international shipping, transfers and travel; prepare and submit license applications for international exports and deemed-exports, and determine the application of licensing exceptions or licensing requirements and exception/exemption certificates as applicable.
• Oversee and enforce mandatory export control training required of all PI’s receiving grants and contracts.

Most research and activities conducted on-campus are excluded from U.S. export control laws, including the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR), and U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC) sanction regulations. However, certain research involving specified technologies controlled under the EAR or the ITAR, or transactions and exchanges with designated countries or sanctioned entities may require that the Florida Institute of Technology obtain an export license or other government approval prior to providing controlled technologies to certain foreign national employees, professors, students, researchers or other foreign national collaborators. However, information generated during the course of “Fundamental Research”, as defined under such laws, is exempt from export licensing requirements.

The University will fully comply with U.S. export control laws while ensuring that, to the extent possible, university instruction and research is conducted openly and without restriction on participation or publication. To this end, the University will ensure that, unless unavoidable, information generated during the performance of any university research, including sponsored contract activities, qualifies for the Fundamental Research provisions of applicable export control laws. The civil and criminal penalties associated with violating export control regulations can be severe, ranging from administrative sanctions including loss of research funding to monetary penalties to imprisonment for individuals.

The University is committed to educating its employees, professors, students, researchers or other collaborators on U.S. export control laws and regulations and their particular application within a university research setting. As part of the University’s ongoing commitment to export control
compliance and education, the University has established a website at: http://www.fit.edu/research that contains university export control policies, forms, training modules and reference materials.

**Export Control Policy** ([http://www.fit.edu/policies/7320](http://www.fit.edu/policies/7320))

Florida Institute of Technology is committed to compliance with federal export control laws, regulations and sanctions. The Office of Research is the designated authority charged with compliance oversight of U.S. export control requirements for sponsored programs, and consulting and unsponsored (unfunded) research activities, and has final authority on such matters. Individuals acting on behalf of FIT are responsible for the proper handling, transfer, access, storage, control and dissemination of export controlled hardware, software, information, technology and technical data to destinations and persons outside of the U.S., as well as to foreign nationals at the university engaged in instruction, conducting research or providing service activities.

The Office of Research is the functional administrative unit charged with the responsibility for oversight of compliance and record keeping of all applicable exports and regulated transactions with sanctioned individuals, entities and countries. FIT personnel are responsible to adhere to the protocols, policies and procedures issued by the Office of Research when export or trade sanction regulations apply and must properly handle export controlled hardware, software, information, technology or technical data by regulating access, use, storage and disposal.

The civil and criminal penalties associated with violating export control regulations can be severe, ranging from administrative sanctions, loss of research funding, monetary penalties and possible imprisonment.

A copy of the current guideline and policy is included in the Appendix of this ECMP, and is available on the export compliance website at: [http://www.fit.edu/research/osp](http://www.fit.edu/research/osp).

**Empowered Officials**

The President has designated the following university officers as empowered officials pursuant to 22 CFR 120.25:

- Dr. Annie Becker, Senior Vice President for Research, Office of Research

In this capacity, designated Empowered Official:

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Organization Structure

The Office of Research is the functional administrative unit at Florida Tech that has oversight of compliance of U.S. export control laws, regulations, and sanctions. The Office of Research, reporting directly to the President, is responsible for institutional-wide development, implementation, maintenance, management and improvements associated with export control in support of Florida Tech research activities.

The Office of Research organization structure is shown in Figure 1. The Senior Vice President for Research serves as the chief research official working closely with the President, Provost, and other University officials in defining the research agenda at Florida Tech. All the directors, in support of export control laws, regulations, and sanctions, report directly to the Senior Vice President for Research. The Director of Research Compliance is responsible for and has direct oversight of export control for all research-related activities at the University. The Director of Contracts and the Director of Florida Tech Consulting work closely with the Director of Research Compliance to ensure enforcement of Florida Tech’s export control processes and procedures. Each of these key positions is described in terms of responsibilities associated with oversight of export control compliance and associated training activities.

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SENIOR VICE PRESIDENT FOR RESEARCH
The Senior Vice President for Research, has oversight of the Office of Research inclusive of all export control activities associated with Florida Tech research. The Senior Vice President for Research is the empowered official for export control at Florida Tech.

DIRECTOR OF RESEARCH COMPLIANCE
The Director of Research Compliance, is the principal point of contact for all export control and related activities throughout the university. The Director of Research Compliance is responsible for university-wide development, implementation, maintenance, and improvement activities in support of Florida Tech compliance with export control laws, regulations, and sanctions of the United States.

DIRECTOR OF CONTRACTS
The Director of Contracts, works closely with the Director of Research Compliance in monitoring all grant and contract proposals and awards as compliant with export control laws, regulations, and sanctions.

The Director of Contracts is responsible for pre-award and post-award activities associated with all grants and contracts through the Office of Research at Florida Tech. The Director of Contracts is responsible for export related activities as listed below:

- Reviews all solicitations, proposals, contracts, and grants to identify compliance and regulatory requirements to include, but not limited to, export control, uniform guidance, human subjects, vertebrate animals, and conflicts of interest.
- Works closely with the Director of Research Compliance in monitoring export control related to front-line reviews of pre-award and post-award activities.
• Provides guidance to PI’s and co-PI’s related to all aspects of proposal submission with referrals to the Director of Research Compliance for issues related to export control.
• Supports the implementation of university-wide policies and procedures associated with export control particularly as they pertain to pre-award and post-award activities.
• Provides expert feedback and guidance in reviewing policies and procedures related to export control associated with grants and contracts.
• Performs other duties to include preparation of project budgets, submitting proposals, reviewing, negotiating, signing grants, contracts, and modifications; issuing and monitoring subcontracts and assisting with closeout activities; as well as providing training and outreach programs for faculty, researchers, and employees.

DIRECTOR OF FLORIDA TECH CONSULTING
The Director of Florida Tech Consulting, works closely with the Director of Research Compliance in monitoring contracts to confirm their compliance with export control laws, regulations, and sanctions.

The Director Florida Tech Consulting is responsible for pre-award and post-award activities associated with all consulting contracts through the Office of Research at Florida Tech. The Director of Florida Tech Consulting is responsible for export related activities as listed below:

• Reviews all solicitations and contracts to identify compliance and regulatory requirements to include, but not limited to, export control, uniform guidance, human subjects, vertebrate animals, and conflicts of interest.
• Works closely with the Director of Research Compliance in monitoring export control related to front-line reviews of pre-award and post-award activities.
• Provides guidance to PI’s and co-PI’s related to all aspects the consulting project with referrals to the Director of Research Compliance for issues related to export control.
• Supports the implementation of university-wide policies and procedures associated with export control particularly as they pertain to pre-award and post-award activities.
• Provides expert feedback and guidance in reviewing policies and procedures related to export control associated contracts.
• Performs other duties to include preparation of project budgets, submitting proposals, reviewing, negotiating; issuing and monitoring subcontracts and assisting with closeout activities; as well as providing training and outreach programs for faculty, researchers, and employees.

PRINCIPAL INVESTIGATOR
Principal Investigators (PI’s) are responsible for ensuring that employees in their activities are properly instructed in the handling of export-controlled materials, technical data or software prior to involvement in the project, completed mandatory export control training, and are cognizant of their obligations and responsibilities under the Technology Control Plan.

The PI takes ownership of the research project and associated export control concerns through the Florida Tech Export Control Certification and Technology Control Plan. The PI will have completed the Export Compliance focused CITI compliance training prior to beginning work on the project.

The following is the PI description from the Florida Tech Export Control Policy webpage as of July 2016 (revised on October 2016) and located at: http://www.fit.edu/policies/7320.
A PI is a faculty or staff member serving as the lead researcher responsible for the administration and oversight of a grant, contract, agreement or other sponsored program.

A PI engaged in sponsored research or Florida Tech Consulting of any scope and duration shall, before commencement and continually thereafter, review whether or not the intended research is subject to controls or requirements contained within export regulations and, if applicable, to comply with such requirements.

The PI is responsible for overall and ongoing compliance with export control regulations throughout the duration of the research. The PI must complete training provided by the Office of Research before commencing research, as he or she is responsible for knowledge of export control regulations including EAR, ITAR and OFAC regulations.

The PI must also ensure all project personnel have completed the export control training online before they begin work on the project. Online training is available at http://www.fit.edu/research/osp/#export-controls.

The PI is responsible for preparing, implementing and complying with a project-specific technology control plan and any other designated security measures necessary for compliance. All technology control plans must be submitted to the Office of Research for approval. The Office of Research will assist, as needed, in the creation of a technology control plan, and has the authority to modify, return for modification, and audit technology control plans throughout the course of the project.

The PI and researchers may commence with the research initiative unless otherwise restricted by other policies or procedures of FIT if, after review, it is determined the scope of the intended research does not fall within the export control regulations.

**UNIVERSITY STRUCTURE FOR EXPORT CONTROL COMPLIANCE**

There is close coordination of export control compliance activities with the Office of Research and Florida Tech’s administrative units. The Office of Research has functional oversight of compliance and record-keeping as it applies to export control. The primary point of contact, within the Office of Research, is the Director of Research Compliance having responsibility for university-wide compliance with export control laws, regulations, and sanctions.

The administrative units, identified in Figure 1, have an active role in implementing policies and procedures through a direct relationship with the Office of Research. These units include the following:

- Central Administration – Administrative units and departments, including Human Resources, Purchasing, International Student Services, Development, Information Technology, and Financial Affairs.
- Academic Administration – Colleges & Schools, Graduate Programs, Personnel (Visiting Scholars, Postdocs), and Enrollment Management.
• University Administration – President & CEO, Sr. Vice President for Academics & Provost, Chief Financial Officer & Sr. Vice President for Financial Affairs, Chief of Staff, and Vice Presidents of corresponding organizational structures.

Figure 1: University Structure for Export Control Compliance

**Facility Security**
The Director of Research Compliance collaborates with the Facility Security Officer to ensure there is a common approach to national security issues common to export controlled and classified programs. Suspicious contacts and other reportable events related to classified programs are forwarded to the Facility Security Officer for disposition. Exports of classified information or articles are coordinated with the Facility Security Officer pursuant to NISPOM requirements. Joint training seminars are coordinated as appropriate.

**Sponsored Programs**
The Office of Sponsored Programs covers federal and state government programs including flow down contracts from government agencies through private contractors. In close daily coordination with the Director of Research Compliance, Sponsored Programs ensures that all sponsored activities are managed in accordance with the Florida Tech Export Control Policy. Sponsored programs personnel are trained to assess potential export control issues associated with Florida Tech programs and route any issues to the Director of Research Compliance for final disposition. The Director of Contracts is in contact with the Director of Research Compliance on a daily basis, given the intersection of duties at the point of receiving and negotiating contract language.

**Technology Transfer**
In coordination with the Director of Research Compliance, the IP Specialist ensures that all Patent applications are secured until such time as they are filed and become “publically available.” Fundamental research generated technology and information contained in the patent application is not public domain until the patent is processed, typically 18 months after submission. Information about the invention that is not publically disseminated via the patent application, journal articles, or other public venues is not public domain. Information left out of the patent, patent application and other publically available documents such as know-how is not public domain. The IP Specialist coordinates with the
Director of Research Compliance to implement the necessary security protocols for all patent applications subject to a secrecy order.

**Finance & Accounting (F&A)**
Finance and Accounting informs the Director of Research Compliance when restricted party screening on international financial transactions for compliance with applicable OFAC regulations are required. The Executive Director for Compliance and Risk Management reviews travel to destinations on the State Department Travel Warning List and executes approval requirements to ensure that all necessary reviews were conducted, and approvals obtained in accordance with the University International Travel Policy and Procedures.

**Office of Development**
In coordination with the Director of Research Compliance, develop policies and procedures to

(i) screen international financial transactions for compliance with applicable OFAC regulations and entity lists, and
(ii) ensure that all Foundation-funded activities are in compliance with export and sanction laws.

**Human Resources (HR)**
Human Resources provides citizenship information to the Office of Research to ensure international employees and foreign exchanges are in compliance with export and sanction laws.

**The Office of the Senior Vice President for Academic Affairs and Provost (SVPAAP)**
The SVPAAP provides university-wide services related to international studies, Memoranda of Understanding (“MOU”) between Florida Tech and foreign institutions, study-abroad programs, international travel to restricted destinations, coordinating international partnerships. The SVPAAP coordinates travel approvals and international partnership arrangements between Florida Tech and foreign educational institutions with the Director of Research Compliance.

**International Student and Scholar Services (ISSS)**
The International Student and Scholar Services (ISSS) processes all visa requests on behalf of the University. ISSS reviews visa requests and submits all J1 DS-2019 applications related to activities taking place in technical colleges to the Director of Research Compliance for compliance assessment. Sponsoring units are required to submit a Visiting Scholar Questionnaire for assessment by the Director of Research Compliance. Sponsoring units are required to complete a Foreign National Employee Questionnaire. ISSS coordinates with the Director of Research Compliance to review employee, visiting scholar and business visitors’ activity for compliance with export controls.

**Purchasing**
Purchasing contacts the Director of Research Compliance to conduct Restricted Party Screening on foreign vendors. If requested, assign an administrator/responsible person to coordinate development and implementation of export compliance procedures with the Director of Research Compliance.
Colleges, Research Centers & Institutes Administration

Vice Presidents, Deans, Department Heads & Directors
Academic Deans, Directors and department heads share the responsibility of overseeing export compliance in their respective departments, centers and institutes and work with the Director of Research Compliance to implement effective processes and controls to ensure export control compliance.

Faculty/Principal Investigators
Principal Investigators and department heads are responsible for ensuring that employees in their activities are properly instructed in the handling of export-controlled, or proprietary information and that they have signed the required briefing document, prior to involvement in the project, attended mandatory Export Control Training, and are cognizant of their obligations and responsibilities under the Technology Control Plan. Because faculty members have expert knowledge of the type of information involved in a research activity, their participation in the export control process is critical.

The Office of Research will consult and provide assistance to faculty and Principal Investigators:

- To understand their obligations to comply with export control regulations by providing information and training
- To determine if technology involved in their research is specified in the USML or the CCL
- To review award agreements, terms and conditions for possible export control indicators
- Assist in preventing unauthorized distribution of export controlled technology
- Assist in the development Technology Control Plans (TCP) and implement research security measures, if required
- Ensure staff (students, post docs, visiting scholars) are appropriate to work on restricted programs, including when there is a change in scope of an export controlled project
- Ensure foreign nationals are excluded from access to export controlled technology or data until the availability of an exclusion has been determined, or an export license has been obtained.

University Personnel
Personnel, including Administrative and Professional (“A&P”), students, post docs, visiting scholars and other support staff provide critical support to export controls by:

- Identifying potentially problematic export control issues and forwarding those issues for assessment, including:
  - Deemed exports
  - Shipping
  - Import of goods
  - Reporting of suspicious incidents
5. PROCEDURES

Florida Tech has a process in place to internally review and verify that technical data pursuant to any research contract is correctly classified for export control considerations. This formal process is enforced for all Florida Tech research grants and contracts. The process includes a mandatory classification review conducted by the Director of Research Compliance.

- **Receipt of Grants and Contracts** - All research grants and contracts are processed through the Office of Research either through Sponsored Programs or Florida Tech Consulting. Both organizational components, in close daily coordination with the Director of Research Compliance, ensure that all grants and contract pre-award and post-award are managed in accordance with the Florida Tech Export Control Policy [http://www.fit.edu/policies/7320](http://www.fit.edu/policies/7320). More specifically, the Director of Contracts and the Director of Florida Tech Consulting route all grants and contracts to the Director of Research Compliance for final review.

- **Review of Grants and Contracts** - The Director of Research Compliance conducts a mandatory review of all research grants and contracts for export control restrictions. The Director of Research Compliance makes a final determination in close coordination with the Director of Contracts and the Director of Florida Tech Consulting.

**Procedure: Review of Export Control on Research Grants and Contracts**

**REVIEW OF EXPORT CONTROL RESTRICTIONS**

The Director of Research Compliance implements the following procedure steps:

1. Identify the Sponsor, Prime Sponsor for federal “flow down” contracts, and the involvement of other federal agencies.

2. Determine the Sponsor or Prime Sponsor as being military-related, intelligence agency, affiliated research lab, or foreign government. (Federal agencies include DoD, DOE, NASA, NSA, MDA, DHS, DARPA, NGIA, DTRA, CIA, CTTSO, and others; federal agency research labs include AFOSR, AFRL, ARL, ONR, HEL-JTO, and others).

3. Determine the Sponsor or Prime Sponsor for SBIR and STTR subcontracts as being military-related, intelligence agency, affiliated research lab, or foreign government. (Federal agencies include DoD, DOE, NASA, NSA, MDA, DHS, DARPA, NGIA, DTRA, CIA, CTTSO, and others; federal agency research labs include AFOSR, AFRL, ARL, ONR, HEL-JTO, and others). The Director reviews the federal guidelines associated with the contract to determine whether there is export control restrictions that must be enforced.

4. Review the announcement (guideline, BAA, RFP, RFQ, etc.) and award documents (contract, grant, terms & conditions, etc.) to identify restrictions that would preclude the grant or contract from qualifying as “fundamental research” (i.e. exclusion of foreign persons or publishing restrictions).
5. Review the grant or contract to identify all potential “foreign components” that may require export control oversight. The review of foreign components includes International Travel, International Shipping, Foreign Sponsors, Foreign Collaborators, Foreign Subcontractor/Consultants, and Foreign Performance Locations.

6. Evaluate the input associated with the grant or contract. This requires input identification of non-public domain data, proprietary data, or confidentiality agreement (e.g., NDA, CDA, PIA, MTA) as well as export controlled associated with scope of work, equipment, materials, or data.

7. Determine technology for the grant or contract as military, intelligence, space, energy, or defense related in nature. Further drill-down determines whether it is space, satellite, missile, or rocket technology; also, whether there are pathogens, toxins, select agents, biological, chemicals, nuclear technology, propulsion, energy research, turbines, UAV’s, simulation software or hardware, high-powered lasers, optics, or advanced ceramics.

8. Determine constraints on information dissemination in the announcement/agreement. These may include government security classification, sponsor approval of foreign national personnel, and/or DD2345 requirements.

9. Identify restrictions related to information security, personnel participation, citizenship status, as well as access to physical location and equipment.

10. Identify restrictions on research outputs and deliverables. These include identification of generation, fabrication, or modification of export control materials and services; as well as, restrictions on distribution.

11. Determine whether the grant or contract is fundamental research as defined under ITAR or EAR.

12. Determine whether the grant or contract provides a defense service to a foreign government requiring a licensure.

13. Ascertain whether the research is considered product development resulting in restrictions related to fundamental research.

14. Formulate a final determination and record the outcome. There are two possible outcomes:

14.1 There are no export control (ITAR, EAR, FACR) restrictions associated with the grant or contract. The Director of Research Compliance records in the Export Control index that the grant or contract is not export controlled. This information is disseminated to Sponsored Programs or Florida Tech Consulting, appropriately. No further review is conducted.

14.2 If any further follow-up is needed in regard to 1 through 13 above, the Director of Research Compliance will investigate export control restrictions. The following investigative activities may be performed:

- Consult Principal Investigator (PI) and contracting entity for information on export control restrictions.
- Consult manufacturer regarding controlled equipment.
• Confer with export control officers at other universities (e.g., Michael Miller, Assistant Director for Export Compliance at UCF) for classification and related restrictions.
• Utilize Bureau of Industry and Security (BIS) resources (SNAP-R, CCL Order of Review, and BIS enforcement agents) for classification and related restrictions.
• Utilize DDTC resources (Order of Review Decision Tool, hotline) for classification.
• Utilize Visual Compliance software classification module for dynamic data retrieval.
• Consult legal experts for classification, restrictions, and procedural information.

VERIFICATION OF EXPORT CONTROL RESTRICTIONS

15. The Director of Research Compliance verifies the classification of technical data or technology by the following methods:
   • DDTC Commodity Jurisdiction
   • SNAP-R request to BIS.
   • Confirm with sponsor’s export control/trade compliance personnel.
   • Confirm with the manufacturer.
   • Consult with export control experts in a network of support with other universities.
   • DDTC Order of Review Decision tool.
   • Utilize Visual Compliance Software tool.

Procedure: Export Control Notification of Compliance

Director of Research Compliance communicates to relevant personnel the export control restrictions associated with the grant or contract. The Director requires the Principal Investigator (PI) to complete export control training prior to initiating work on the grant or contract and requires the PI to complete the Florida Tech Export Control Certification document (Appendix A). The Director works with the PI to complete a Technology Control Plan (Appendix B) prior to receiving controlled technical data, software, or technology. The Director records activities and conducts audits relevant to export control compliance associated with the grant or contract.

Training: The PI and all Florida Tech personnel involved in an export controlled grant or contract are required to complete online training modules. These modules are offered through a vendor, Collaborative Institutional Training Initiative (CITI), focused on university research compliance issues including export control. The Director of Research Compliance has administrative privileges to monitor compliance with training requirements.

The following CITI program training modules are required by Florida Tech personnel prior to beginning export controlled research:

• Introduction to Export Compliance (ID:16800)
• Export Compliance for Researchers Part I (16801)
• Export Compliance for Researchers Part II (16802)

The CITI program training modules are designed to train on export compliance in a university environment. The training modules include sections on export control, operational departments,
international shipping, purchasing, international and foreign waters, collaborations, and U.S. sanctions programs, distance education, and technology. (Course descriptions in Appendix C.)

Certification: The PI is required to complete a Florida Tech Export Control Certification (ECC) prior to commencing the project. Certification informs the PI of responsibilities associated with export control for the project. The Director of Research Compliance verifies that the PI has completed the form before the start of the project. The ECC form is shown in Appendix A.

The first page requires sponsor and classification information as well as identification of foreign research involvement to include export destination and presence of foreign persons. The second page includes attestations as to PI responsibilities for having access to export controlled data, software, and technology.

The attestations include:

1. I understand that I am responsible for ensuring that appropriate precautions are taken so that any export-controlled technology is not disseminated to foreign nationals or exported to embargoed countries or entities without Florida Institute of Technology first acquiring the necessary license(s) from the appropriate U.S. government agency or agencies.
2. I understand that I may be held personally responsible for violation of export control laws and regulations including the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR) and the regulations promulgated by the Office of Foreign Asset Control, which may include substantial fines and imprisonment.
3. I will take necessary precautions to ensure export-controlled project technology is securely maintained in locked cabinets or drawers and under password-protected computer files. I will ensure computer security measures are implemented and enforced as required at all times.
4. I will ensure that proper procedures are implemented to secure and restrict access to authorized personnel to laboratories and other locations where export-controlled project technology may be located. Only persons authorized to work with the export-controlled project technology have physical and/or electronic access.
5. I will ensure that the required CITI training is completed by all co-PIs as well as funded and non-funded researchers, students, staff and other personnel involved in export-controlled project technology.
6. I completed the required CITI training modules, listed below, for export control. Web link: http://www.fit.edu/research/osp/#online-training .
   • Introduction to Export Compliance (ID: 16800)
   • Export Compliance for Researchers: Part I (ID: 16801)
   • Export Compliance for Researchers: Part II (ID: 16802)

The PI signs the form to confirm understanding of and accountability for the export control restrictions on the project.

The ECC is updated when changes to the project are made; for example, students are added or removed, equipment is acquired, restricted technical data is acquired or accessed. The Director of Research Compliance validates on an annual basis each ECC.

Protection of Data, Software, and Technology: The issuance of an ECC also creates a requirement for a Technology Control Plan (TCP), shown in Appendix B, describing how the researcher will protect export
controlled data, software, and technology. The document covers the general conduct of the research, appropriate signage, storage requirements, IT requirements and any additional steps required by the awarding entity.

The TCP is updated when changes to the project are made; for example, students are added or removed, equipment is acquired, restricted technical data is acquired or accessed. The Director of Research Compliance validates on an annual basis each TCP.

Recording and Audit: Activities involved in assessing an export controlled project as well as any progress notes are recorded in a Florida Tech Export Index Microsoft Excel spreadsheet file. All completed documents are stored in an Export Control file folder in the Office of Research shared hard drive. Hard copies are scanned into a file folder in the Office of Research shared hard drive. Office of Research and Information Technology personnel, excluding students, have access to the Office of Research shared hard drive. The Director of Research Compliance conducts ECC and TCP audits throughout the year.

**Procedure: International Travel**

The Office of Research works closely with Central, Academic and University units in identifying Export Control issues prior to Florida Tech personnel travelling internationally.

**REVIEW OF EXPORT CONTROL RESTRICTIONS REGARDING INTERNATIONAL TRAVEL**

The Director of Research Compliance implements the following procedure steps:

1. Upon notification of international travel (either by receipt of an International Travel Form or direct contact by the traveler) the Director of Research Compliance will:
   a. Send the traveler an International Travel and Export Compliance form (Appendix D) if deemed necessary by the Director of Research Compliance (based on location the traveler is heading to and if the traveler conducts restricted research).
   b. Review the country (or countries) of travel and any listed organizations utilizing the visual compliance online export compliance tool ([www.visualcompliance.com](http://www.visualcompliance.com)).
   c. Identify if the traveler is currently working on a restricted research project (export controlled)
   d. Identify if there are any export control issues related to any equipment that is is listed on the travel form (or if the traveler has identified directly any equipment they plan on bringing with them).
   e. Identify if there is any equipment being left overseas.
   f. Determine if there is a licensure requirement or general prohibition related to travel.

2. Contact the traveler and review any export issues discovered in step 1.

3. Director of Research Compliance signs the International Travel form and submit to the Provost office.
6. APPENDICES

Appendix A- Florida Tech Export Control Certification

Florida Institute of Technology

EXPORT CONTROL CERTIFICATION

Principal Investigator (PI)

College and Department

Project Title

Sponsored By

Index Number

The Index Number is identified by Florida Tech Office of Research as involving project technology, information and or end users subject to U.S. Export Control Regulations for which no exemption applies. Summarize project technology in the box below:

Project technology falls under the following classification numbers if you wish to contact the Office of Research at 321-674-7809 for further details.

CCN #  ___________________ USML # ___________________

The project technology will be exported:  □ YES  □ NO

If yes, list the destination contact person, organization or entity, address and country below. If more space is needed, attach a separate sheet with all export locations.

Contact Name ___________________________ Email ___________________________

Organization/Entity ___________________________

Address ___________________________ Country ___________________________

Contact Name ___________________________ Email ___________________________

Organization/Entity ___________________________

Address ___________________________ Country ___________________________

List all foreign nationals, including students, involved in the project having access to export-controlled technology. If more space is needed, attach a separate sheet.  □ NONE

Full Name ___________________________ Email ___________________________

Current Citizenship ___________________________ Permanent U.S. Resident:  □ YES  □ NO

Relationship to Project:  □ Co-PI  □ Researcher  □ Student  □ Other

Full Name ___________________________ Email ___________________________

Current Citizenship ___________________________ Permanent U.S. Resident:  □ YES  □ NO

Relationship to Project:  □ Co-PI  □ Researcher  □ Student  □ Other

Full Name ___________________________ Email ___________________________

Current Citizenship ___________________________ Permanent U.S. Resident:  □ YES  □ NO

Relationship to Project:  □ Co-PI  □ Researcher  □ Student  □ Other

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Florida Institute of Technology - Office of Research

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V1.1, July 28, 2016
Florida Institute of Technology

EXPORT CONTROL CERTIFICATION

I understand that I am responsible for ensuring that appropriate precautions are taken so that any export-controlled technology is not disseminated to foreign nationals or exported to embargoed countries or entities without Florida Institute of Technology first acquiring the necessary license(s) from the appropriate U.S. government agency(ies).

I understand that I may be held personally responsible for violation of export control laws and regulations including the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR) and the regulations promulgated by the Office of Foreign Asset Control, which may include substantial fines and imprisonment.

I will take necessary precautions to ensure export-controlled project technology is securely maintained in locked cabinets or drawers and under password-protected computer files. I will ensure computer security measures are implemented and enforced as required at all times.

I will ensure that proper procedures are implemented to secure and restrict access to authorized personnel to laboratories and other locations where export-controlled project technology may be located. Only persons authorized to work with the export-controlled project technology have physical and/or electronic access.

I will ensure that the required CITI training is completed by all co-PIs as well as funded and non-funded researchers, students, staff and other personnel involved in export-controlled project technology.

I completed the required CITI training modules, listed below, for export control. Web link: http://www.fit.edu/research/osp/online-training
  • Introduction to Export Compliance (ID: 16800)
  • Export Compliance for Researchers: Part I (ID: 16801)
  • Export Compliance for Researchers: Part II (ID: 16802)

I hereby certify that I have read and understand this certification

PI Full Name (printed) ________________________________

PI Signature ________________________________ Date ____________

*Technology refers to, but is not limited to, research, technical data, physical items, technology and any other artifacts as inputs or outputs that are produced during the conduct of the project involving export control.
Appendix B- Florida Tech Technology Control Plan (Sample)

Technology Control Plan (TCP)
Florida Institute of Technology

Contract or other controlling document number:

Statement of Institutional Commitment
Florida Institute of Technology, Inc. ("Florida Tech", "FIT" or the "University") is committed to complying with applicable export control, embargo and trade sanction laws and regulations in all university activities. This Technology Control Plan (TCP) identifies the specific measures that will be taken by a Responsible Person (an FIT executive or faculty member) unless prior approval is obtained from the Office of Sponsored Programs (OSP), and all project personnel to ensure compliance with those requirements.

Responsible Person:
Dept:
Email: __________________ Telephone: __________________

Covered Items and Information
The following items or information have been determined to be subject to export control requirements which require that the University place limitations on who may have access to or use the items or information, hereinafter called Covered Items and Information. A variety of factors must be taken into account to determine who may have access to Covered Items and Information; for this reason, only individuals who are identified below and have been approved by OSP may have access.

A list of the Covered Items and Information that will be protected under this TCP is provided in the table below:

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<th>No.</th>
<th>Name or Description</th>
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*Provide the applicable U.S. Munitions List category and subparagraph if subject to the ITAR, the Export Control Classification Number (ECCN) if subject to the Export Administration Regulations (EAR), or the paragraph and subparagraph if subject to the DoE nuclear regulations.
Note: If more than ten entries are needed, additional space is provided on the last page of this document.

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FIT Confidential
As a result of this determination, the Responsible Person, identified above, has worked with OSP to develop this TCP to ensure that Covered Items and Information are adequately protected from disclosure to foreign persons without an approved license, valid licensee exception, or other written government approval.

Security Overview

"One Card Reader Lock" is the principal method of securing items and information by using at least one mechanism to prevent access by unauthorized persons. This is the minimum requirement for safeguarding the MOUSE TRAP and locked filing cabinets for the written information listed above. Project personnel are responsible for safeguarding Covered Items and Information at all times by having "one lock," this includes preventing visual access if needed. Tour groups containing foreign nationals will occasionally been shown through the room containing the MOUSE TRAP. These groups are accompanied at all times by an authorized person. No photography will be permitted in the room containing the MOUSE TRAP. The entrance to the room includes a "No Unauthorized Photography" sign. Caution tape has been placed on the floor 12 feet from the MOUSE TRAP and tour groups remain behind the tape to prevent direct access. A second "No Unauthorized Photography" sign is posted next to the MOUSE TRAP.

Operations Overview

The MOUSE TRAP will use an as yet procured vacuum pump and cryogen recirculation system. The operations of the chamber (sealing, pump down, cooling) will be carried out only by the Responsible Person and those listed on the approved Personnel List (Appendix 1). Users of the MOUSE TRAP will be other Florida Tech faculty and students both domestic and foreign. Users will supply the operators with their test articles at least 24-hours ahead of time. It is predicted that the MOUSE TRAP will take 24-hours to pump down. Users will not be present during these operations. While Users are conducting their tests they will be supervised by an operator. A log of Users will be maintained by the Responsible Person. The log will include first and last name, student/staff/faculty/other, date of use, nationality.
Physical Security

Work Area. Locations where work is to be performed with Covered Items and Information shall have restricted access. Restricted access is defined as having a clearly defined perimeter, which is adequate to protect against oral, in the case of discussions involving Covered Items or Information. Physical barriers and locks on all office doors are strongly recommended but are not required as long as oral and visual disclosure can be prevented. Project personnel within the Restricted Area shall be responsible for challenging all persons who may lack appropriate access authority.

Specify the location(s) where work will be performed with the covered items and information.

Room 133 has restricted door access using a one card reader lock.

Storage. All export Covered Items and Information (hard copies) will be secured in the assigned locked room, storage device or container when not in the personal possession of approved project personnel. Keys or combinations to storage containers used to secure Covered Items and Information will only be issued to the approved project personnel authorized on this TCP. Electronic devices containing Covered Items and Information must be physically secured or in the possession of an approved user at all times. Note: Security of electronic files should be addressed in the Information Security section, below, rather than here.

Specify the location(s) where the covered items and Information (hard copies) will be stored when not in use.

Room 146 has restricted door access using a one card reader lock.

Marking. Whenever possible Covered Items and Information should be clearly marked with an appropriate warning, for example: WARNING - This contains export controlled technical data. Access or dissemination in violation of the EAR may result in severe administrative (institutional) and criminal (individual) penalties. Contact the FIT Office of Sponsored Programs (321) 674-7309 if you find this item/document unsecured. When physical space is limited, an abbreviated warning may be used, for example: Export Controlled. Watermarks, headers or...
factors may be used to mark electronic documents.

Describe the markings or warnings that will be placed on covered items and information or explain why they are not practical or possible.

The ______ will be equipped with marking:

WARNING - This contains export controlled technical data. Access or dissemination in violation of the ITAR/EAR may result in severe administrative (institutional) and criminal (individual) penalties. Contact Dr. Daniel Kirk, Associate Dean of the College of Engineering at 321-574-xxxx, office, or 321-xxxx-xxxx, cell if you find this item unsecured. Example

Information Security
The Purchaser shall store the Confidential Information under the same level of security that the Purchaser uses to store its own most valuable information. But in no event may the Purchaser use less than a commercially reasonable level of security. The Purchaser agrees to retain all Confidential Information at its usual place of business and to store all Confidential Information separate from other information and documents held in the same location. Further, the Confidential Information is not to be used, reproduced, transformed, or stored on a computer or device that is accessible to persons to whom disclosure may not be made, as set out in this Agreement.

Note: Administrative access by central, school or departmental IT personnel must be limited to U.S persons (citizens, permanent residents or protected individuals).

List all IT resources (computers, servers, systems, etc.) that will be used to store or process Covered Items and information.

Information will be stored and processed on an IT dedicated offline encrypted computer and hard drive.

List all individuals with administrative access to IT resources who are not Project Personnel.

Mr. Eric Kiedzik, Vice President for Information Technology, Chief Information Officer, Florida Institute of Technology.
Describe any project specific security methods, devices or procedures that will be employed to assure computer security.

If needed, additional research data will be stored on dedicated offline encrypted external hard drive placed accessible by authorized personnel only.

Data Storage and Transmission. External portable hard drives or flash drives, rather than shared central servers, are recommended for data storage provided physical storage is employed when they are not in use. Drives and devices used to store Covered Items and Information must be password protected or encrypted. For data storage on drives with network access or backup servers, the Covered Items and Information must be secured by encryption and password protection. Email may not be used for the transfer of Covered Items or Information subject to the ITAR or EAR. A secure file transfer method (SSH/SCP/SFTP/SSL) or mailing a disk or flash drive is preferred methods to transfer Covered Items and Information in electronic format. Note: Emailing Covered Items or Information subject to control regimes other than the EAR will be considered on a case-by-case basis, but is not authorized unless specified below, when authorized to use email, the sender is responsible for ensuring that the recipient is physically present in the U.S. at the time of transfer.

Describe any project specific security methods or procedures that will be employed for data storage and transmission.

The data will be stored on an FIT dedicated offline encrypted external hard drive.

Supercomputing and Cloud Computing. Unless specified below no supercomputing or cloud computing facilities or services will be used to store, process or transfer Covered Items or Information.

Describe any intended use of supercomputing or cloud computing facilities or services.

Export Control Risks

Award Terms. When the terms of an award contain explicit export control requirements, foreign national restrictions, or require that the sponsor's approval be obtained prior to publication or dissemination of research results, FIT will typically treat the project as subject to US export controls. In such cases, the research results must be identified as Covered Items and Information, above.

Nondisclosure/Confidentiality. In most cases, proprietary information provided to FIT under confidentiality conditions will be presumed to be subject to U.S. export controls and may not be shared with foreign nationals.
without the approval of OSP.

Student Involvement. Student participation on projects that require the sponsor’s permission to publish or where results are subject to US export controls must be limited to work which is not required for the completion of their degree or program without the explicit approval of the student’s Department Chair, Dean’s Office, Vice President for Academic Affairs and the Office of the Vice President for Research. Students may have access to background proprietary information only to the extent permitted by the applicable export control regulations.

**Project Specific Export Authorizations**
Specify any intended exports of Covered Items and Information in the section below. Inclusion in this section does NOT in and of itself, constitute approval to export; it is rather an indication to OSP that an export license or other authorization may be needed. This prohibition on exports includes, but is not limited to, exports to foreign nationals in the U.S., as well as the permanent or temporary shipment or transfer of Covered Items and Information out of the U.S.

Specify any planned exports of Covered Items and Information:

**Special Notes**

Use the space below to provide any project specific notes or clarifications.

List any other project specific requirements or conditions in the space provided.

X. Export license required for Deemed Export purposes.

**Project Personnel Requirements**

Identification. All project personnel needing access to Covered Items and Information must be identified in Appendix 1: Personnel List and sign an Acknowledgement of Responsibilities. The Responsible Person may request the addition or removal of project personnel at any time by submitting a Revised TCP to OSP.

Training. All project personnel are required to complete the University’s export control training program prior to having access to Covered Items and Information or participating in any export controlled aspect of this project.
Annual refresher training is required for all project personnel. As part of training, project personnel are made aware of what constitutes an export, their responsibilities to prevent both active and inadvertent disclosures of Covered Items and Information, and of the criminal and civil penalties (including prison sentences of up to 10 years and fines of up to $1M per violation) for failure to comply with U.S. export control laws.

Screening. OSP will screen all project personnel against the applicable lists of restricted parties and will determine licensing requirements based on their country(ies) of citizenship, nationality, or permanent residence. The Responsible Person shall not allow project personnel access to Covered Items and Information until the individual has signed Attachment A, completed the required training, and been authorized by OSP. Foreign nationals will only be authorized by OSP once any license requirements have been fulfilled through documentation of an applicable exemption or license exception, or by receipt of an approved export license.

Recordkeeping
U.S. export control regulations require retention of records associated with all exports, use of license exceptions, and certain other activities. The Responsible Party or Department shall be responsible for keeping records for the required five years from the date of the last related activity or longer if necessary to comply with regulatory requirements or the terms and conditions of the award.

End of Project Requirements
Upon completion of this project all Covered Items and Information must be disposed of in accordance with applicable sponsor terms and U.S. export control requirements. Hard copies will be disposed of by cross-cut shredding, incineration or return to the provider; an export license or other authorization may be required for foreign providers. Electronic files will be destroyed by using current “wiping” software. Contact OSP or your department information technology/security administrator for information on effective solutions for wiping. Hardware and equipment can be disposed of properly by contacting OSP; no Covered Items and Information may be surplussed without prior approval of OSP. This TCP must be maintained as long as Covered Items and Information are retained by FIT.

Associated Agreements
It is important that OSP be able to link this TCP to any associated sponsored programs and other agreements to assure compliance with their terms and conditions. List all agreements, both funded and unfunded, associated with the acquisition and use of the Covered Items and Information in the table below:

<table>
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<tr>
<th>No.</th>
<th>Title or Description</th>
<th>Sponsor or Other Party</th>
<th>Type of Agreement</th>
<th>IT Security Clause (if any)</th>
<th>FIT Project or Award No.</th>
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Internal Notification & Assessment

Notification. The Responsible Person shall notify OSP (1) prior to adding new personnel; (2) when the scope of the project changes; (3) to request modifications to the approved TCP, and (4) when there is a change in funding, or in the award terms or conditions. The Department shall notify OSP if (1) the Responsible Person resigns, retires or otherwise ends their employment at FIT; (2) if there is a change in the Principal Investigator on a sponsored award associated with this TCP, or (3) it becomes aware of any deviations from the requirements of this TCP.

Re-Certification. The Responsible Person shall certify annually, or at any time upon the request of OSP, to the following: 1) the accuracy of the TCP or, if needed, provide any necessary updates; 2) that all activities involving Covered Items and Information are being conducted in compliance with the approved TCP; 3) that all personnel have completed any required training, and 4) the current status of the project, i.e., completed or ongoing, which necessitated the development of the TCP. Failure to comply with requests for re-certification in a timely manner will result in revocation of approval and notification of the appropriate Department Chair, Dean, and the Office of the VP for Research or the EVP/COO, as appropriate. Failure to comply with re-certification requirements or with the terms of the TCP may also result in denial of access to sponsored funds for work involving Covered Items and Information and may constitute a violation of U.S. export controls.

Assessment. The Responsible Person and Department agree to cooperate fully with any compliance checks initiated by OSP. Checks may be conducted for cause or as part of a random assessment process.

Submitted by: [Dr. Your Name]
Signature: ___________________________ Date: __________________

OSP approval:
Mr. John Allen
Signature: ___________________________ Date: __________________

OSP Assigned TCP No.:
Appendix 1 (required)
Personnel List

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<th>No</th>
<th>Full Name</th>
<th>Countries of Citizenship</th>
<th>Countries of Residence</th>
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Appendix C - CITI Training Course Descriptions

**Introduction to Export Compliance (ID:16800)** -
Provides an overview of export controls, which are an ever-growing area of compliance for universities and research institutions across the United States and around the world. Export control laws and regulations affect a variety of activities, including many activities that take place physically within the U.S. An overview of the three primary U.S. regulatory agencies and their differences is also provided. It includes an in-depth discussion to help learners recognize when export controls may be applicable to various research activities.

Author(s): Wendy M. Epley, MSc-RTC, ECoP® - EAR & ITAR - University of Arizona

**Export Compliance for Researchers Part I (16801)** -
Offers a review of how researchers can responsibly conduct export-controlled research activities, conveys accumulated best practices commonly accepted by the university export control community, and provides other useful information in complying with U.S. export control laws and regulations.

Author(s): Michael Miller, MS - University of Central Florida; M. Kay Ellis, MHR - University of Arizona

**Export Compliance for Researchers Part II (16802)** -
Expands on the impact of the export control regulations on the researcher and research activities. It discusses the export control concerns associated with the input, conduct, and output of research activities; the responsibilities and best practices employed by researchers engaging in activities subject to export controls; and the security measures typically implemented by researchers to protect export-controlled research programs and activities.

Author(s): Michael Miller, MS - University of Central Florida; M. Kay Ellis, MHR - University of Arizona
Appendix D- International Travel and Export Compliance Form

Florida Institute of Technology

TRAVEL AND EXPORT COMPLIANCE

This form is required for all official travel outside of the United States for Florida Tech faculty and staff. This form is due to the Director of Research Compliance no later than 5 business days prior to travel.

List location(s) on arrival(s) for each travel destination. Include address, contact information and flight information:

Identify each event to include conferences, seminars or other activities:

For each expected meeting, identify the name, country and origin of attendees, to include organizations, companies, universities and governments:

Names of conference organizer(s) or point of contact for the traveler at the conference:

List university equipment to be taken on the trip:

List any expected equipment to be left overseas. Explain why any equipment is expected to be left overseas:

Does the traveler have any restricted (export-controlled) projects? □ No □ Yes Will the traveler be taking any data with them? □ No □ Yes

Signatures:

Traveler ___________________________ Date ___________________________

Florida Institute of Technology Office of Research
150 West University Boulevard, Melbourne, FL 32901-6975 • 321-674-8900 • Fax 321-674-8909
www.fit.edu/research