



EXPORT MANAGEMENT AND COMPLIANCE PROGRAM MANUAL

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List of Abbreviations

AECA	Arms Export Control Act
BIS	Bureau of Industry and Security
CCL	Commerce Control List
CJ	Commodity Jurisdiction
DDTC	Directorate of Defense Trade Controls
DECCS	Defense Export Control and Compliance System
DoC	U.S. Department of Commerce
DoD	U.S. Department of Defense
DoS	U.S. Department of State
EO	Empowered Official
EAR	Export Administration Regulations
ECCN	Export Control Classification Number
EMCP	Export Management and Compliance Program
FRE	The Fundamental Research Exclusion
ITAR	International Traffic in Arms Regulations
OFAC	U.S. Office of Foreign Assets Control
ORS	Office of Regulatory Services (UTA)
PI	Principal Investigator
RSP	Research Security Program
SDN List	Specially Designated Nationals and Blocked Persons List
TAA	Technical Assistance Agreement
TCP	Technology Control Plan
USDT	U.S. Department of Treasury
USML	United States Munitions List
UTA	The University of Texas at Arlington
VPRI	Vice President for Research and Innovation

Definitions

Bureau of Industry and Security (BIS) - BIS is an agency of the U.S. Department of Commerce. BIS advances U.S. national security, foreign policy, and economic objectives by ensuring an effective export control and treaty compliance system, and by promoting continued U.S. leadership in strategic technologies. BIS accomplishes its mission by maintaining and strengthening adaptable, efficient, effective export controls and treaty compliance systems, along with active leadership and involvement in international export control regimes. BIS maintains the Export Administration Regulations (EAR) governing “dual-use” exports.

Commodity Classification Request - this is a formal request submitted to BIS for an official classification determination when the items at issue are not subject to the exclusive export control jurisdiction of another U.S. government agency listed in [§734.3\(b\)](#) of the EAR.

Commerce Control List (CCL) - a list of items under the export control jurisdiction of the Bureau of Industry and Security, U.S. Department of Commerce. Note that certain additional items described in [part 732 of the EAR](#) are also subject to the EAR. The [CCL](#) is divided into ten broad categories, and each category is further subdivided into five product groups.

Commodity Jurisdiction Request - this is a formal request submitted to DDTC for an official classification determination. DDTC will provide a determination of whether a particular article or service is covered by the U.S. Munitions List. The determination, consistent with [22 CFR §120.2](#), [§120.3](#), and [§120.4](#), entails consultation among DoS, DoD, DoC, and other U.S. government agencies and industry in appropriate cases.

Deemed Export

ITAR definition - an export that occurs by releasing or otherwise transferring technical data to a foreign person in the United States.

EAR definition - an export that occurs by releasing or otherwise transferring “technology” or source code (but not object code) to a foreign person in the United States.

Defense Article - any item or technical data designated in the USML ([22 CFR §121.1](#)), or any item or technical data that provides the equivalent performance capabilities of a defense article in the USML, and includes: technical data recorded or stored in any physical form, models, mockups or other items that reveal technical data directly relating to items designated in 22 CFR §121.1; and forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacturing where they are clearly identifiable by mechanical properties, material composition, geometry, or function as defense articles. It does not include basic marketing information regarding function or purpose or general system descriptions.

Defense Service - 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; the furnishing to foreign persons of any technical data controlled under this subchapter, whether in the United States or abroad; or 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.

Directorate of Defense Trade Controls (DDTC) - is charged with controlling the export and temporary import of defense articles and services governed by [22 U.S.C. §2778](#) of the [Arms Export Control Act \(AECA\)](#) and [Executive Order 13637](#). This section of the AECA is implemented by the International Traffic in Arms Regulations ([22 CFR §§120-130](#)) maintained by DDTC. DDTC seeks to facilitate legitimate defense trade with partners and allies while denying adversaries access to sensitive U.S. technology.

Dual-Use - items that have both commercial and military or proliferation applications. While this term is used informally to describe items subject to the EAR, purely commercial items and certain munitions items listed on the [Wassenaar Arrangement Munitions List \(WAML\)](#) or the [Missile Technology Control Regime \(MTCR\) Annex](#) are also subject to the EAR per [15 CFR §734.2\(a\)](#).

EAR99 - items that fall under DoC jurisdiction and are not listed on the CCL are designated as EAR99. These items generally consist of low-technology consumer goods. Most commercial products are designated EAR99, and generally will not require a license to be exported or reexported. However, if you plan to export an EAR99 item to an [embargoed or sanctioned country](#), to a [party of concern](#), or in support of a [prohibited end-use](#), you may be required to obtain a license.

Empowered Official (EO) - per [22 CFR §120.67](#) is a U.S. person who is: 1) is directly employed by the applicant or a subsidiary in a position having authority for policy or management within the applicant organization; (2) is legally empowered in writing by the applicant to sign license applications or other requests for approval on behalf of the applicant; and (3) understands the provisions and requirements of the various export control statutes and regulations, and the criminal liability, civil liability, and administrative penalties for violating the Arms Export Control Act and the International Traffic in Arms Regulations. Under ITAR [22 CFR §122.1](#), parties that manufacture, export or temporarily import “defense articles” or furnish “defense services” are required to register with DDTC. An EO must be designated during the ITAR/DDTC registration process.

Export

ITAR definition - except as set forth in [22 CFR §120.54](#) or [§126.16](#) or [§126.17](#) of the ITAR, means: (1) An actual shipment or transmission out of the United States, including the sending or taking of a defense article out of the United States in any manner; (2) Releasing or otherwise transferring technical data to a foreign person in the United States (a deemed export); (3) Transferring registration, control, or ownership of any aircraft, vessel, or satellite subject to this subchapter by a U.S. person to a foreign person; (4) Releasing or otherwise transferring a defense article to an embassy or any of its agencies or subdivisions, such as a diplomatic mission or consulate, in the United States; (5) Performing a defense service on behalf of, or for the benefit of, a foreign person,

whether in the United States or abroad; or (6) The release of previously encrypted technical data as described in [§120.56\(a\)\(3\)](#) and [\(4\)](#). (b) Any release in the United States of technical data to a foreign person is deemed to be an export to all countries in which the foreign person has held or holds citizenship or holds permanent residency.

EAR definition - except as set forth in [15 CFR §734.17](#) or [§734.18](#), the term export means (1) an actual shipment or transmission out of the United States, including the sending or taking of an item out of the United States, in any manner, (2) releasing or otherwise transferring “technology” or source code (but not object code) to a foreign person in the United States (a “deemed export”), (3) transferring by a person in the United States of registration, control, or ownership of (i) a spacecraft subject to the EAR that is not eligible for export under License Exception STA (i.e., spacecraft that provide space-based logistics, assembly or servicing of any spacecraft) to a person in or a national of any other country or, (ii) any other spacecraft subject to the EAR to a person in or a national of a Country Group D:5 country. Any release in the United States of “technology” or source code to a foreign person is a deemed export to the foreign person's most recent country of citizenship or permanent residency. The export of an item that will transit through a country or countries to a destination identified in the EAR is deemed to be an export to that destination.

Export Classification Control Number - An ECCN is an alpha-numeric designation in the CCL which describes the item and indicates licensing requirements. An ECCN categorizes items based on the nature of the product, i.e., type of commodity, software, or technology and its respective technical parameters. Please note that an ECCN is not to be confused with [Schedule B](#) or [HTS codes](#) which have no bearing on whether an item is export-controlled.

Foreign Person

ITAR definition - means any natural person who is not a lawful permanent resident as defined by [8 U.S.C. §1101\(a\)\(20\)](#) or who is not a protected individual as defined by [8 U.S.C. §1324b\(a\)\(3\)](#). Foreign Person also means any foreign corporation, business association, partnership, trust, society, or any other entity or group that is not incorporated or organized to do business in the United States, as well as international organizations, foreign governments, and any agency or subdivision of foreign governments (e.g., diplomatic missions).

EAR definition - any natural person who is not a lawful permanent resident of the United States, citizen of the United States, or any other protected individual as defined by [8 U.S.C. §1324b\(a\)\(3\)](#). Foreign Person also means any corporation, business association, partnership, trust, society, or any other entity or group that is not incorporated in the United States, or organized to do business in the United States, as well as international organizations, foreign governments, and any agency or subdivision of a foreign government (e.g., diplomatic mission). “Foreign person” is synonymous with “foreign national,” as used in the EAR, and “foreign person” as used in the International Traffic in Arms Regulations ([22 CFR §120.16](#)). This definition does not apply to [part 760 of the EAR](#) (Restrictive Trade Practices or Boycotts).

Foreign Trade Regulations - the Foreign Trade Regulations (FTR) are required under the provisions of [13 U.S.C. §301](#). The FTR is located in [15 CFR Part 30](#). The FTR contains the regulatory requirements for filing the Shipper's Export Declaration, or Electronic Export Information (EEI), in the Automated Export System (AES) and is the foundation for collecting, compiling, and disseminating export trade statistics for the United States. The EEI collected through the AES also strengthens the U.S. government's ability to prevent the export of certain items to unauthorized destinations or end users because the AES aids in targeting and identifying suspicious or illegal shipments prior to exportation.

Fundamental Research

ITAR definition - basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community, as distinguished from research the results of which are restricted for proprietary reasons or specific U.S. Government access and dissemination controls.

EAR definition - research in science, engineering, or mathematics, the results of which ordinarily are published and shared broadly within the research community, and for which the researchers have not accepted restrictions for proprietary or national security reasons.

Harmonized System - the [Harmonized System](#) (HS) is a standardized numerical method of classifying traded products that serves as the foundation for the import and export classification systems used in the United States and by many trading partners. It is used by customs authorities around the world to identify products when assessing duties and taxes and for gathering statistics. This international classification system is standardized between countries at a basic 6-digit level, with country-specific definitions for the 8- and 10-digit levels. The HS is administered by the [World Customs Organization](#) (WCO) and is updated every five years.

Harmonized Tariff Schedule - the [HTS of the United States Annotated for Statistical Reporting Purposes \(HTSUSA\)](#) is a publication of the U.S. International Trade Commission (USITC) and is based on the Harmonized System. The HTS is administered by the [International Trade Administration](#) (ITA). Import statistics are initially collected and compiled in terms of about 14,000 commodity classifications in the HTSUSA. Commodity classifications in the U.S. are provided in two publications, the Schedule B for exports and the HTS for imports.

License

ITAR definition - a document bearing the word "license" issued by the Deputy Assistant Secretary of State for Defense Trade Controls, or an authorized designee, that permits the export, reexport, retransfer, temporary import, or brokering of a specific defense article or defense service.

EAR definition - authority issued by the Bureau of Industry and Security authorizing an export, reexport, or other regulated activity. The term "license" does not include authority represented by a "license exception."

Office of Foreign Assets Control - The Office of Foreign Assets Control ("OFAC") of the US Department of the Treasury administers and enforces economic and trade sanctions based on US foreign policy

and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States.

Release

ITAR Definition - Technical data is released through (1) visual or other inspection by foreign persons of a defense article that reveals technical data to a foreign person; (2) oral or written exchanges with foreign persons of technical data in the United States or abroad; (3) the use of access information to cause or enable a foreign person, including yourself, to access, view, or possess unencrypted technical data; or (4) the use of access information to cause technical data outside of the United States to be in unencrypted form.

EAR Definition - Except as set forth in [15 CFR §734.18](#), “technology” and “software” are “released” through (1) visual or other inspection by a foreign person of items that reveals “technology” or source code subject to the EAR to a foreign person; or (2) oral or written exchanges with a foreign person of “technology” or source code in the United States or abroad.

Reexport

ITAR Definition - (1) An actual shipment or transmission of a defense article from one foreign country to another foreign country, including the sending or taking of a defense article to or from such countries in any manner; (2) Releasing or otherwise transferring technical data to a foreign person who is a citizen or permanent resident of a country other than the foreign country where the release or transfer takes place (a deemed reexport); or (3) Transferring registration, control, or ownership of any aircraft, vessel, or satellite subject to this subchapter between foreign persons.

EAR Definition - (a) Except as set forth in [§734.18](#) and [§734.20](#), Reexport means: (1) An actual shipment or transmission of an item subject to the EAR from one foreign country to another foreign country, including the sending or taking of an item to or from such countries in any manner; (2) Releasing or otherwise transferring “technology” or source code subject to the EAR to a foreign person of a country other than the foreign country where the release or transfer takes place (a deemed reexport); (3) Transferring by a person outside the United States of registration, control, or ownership of: (i) A spacecraft subject to the EAR that is not eligible for reexport under License Exception STA (i.e., spacecraft that provide space-based logistics, assembly or servicing of any spacecraft) to a person in or a national of any other country; or (ii) Any other spacecraft subject to the EAR to a person in or a national of a Country Group D:5 country.

Schedule B - This is a 10-digit export classification code assigned by the U.S. Census Bureau. These codes are used to compile statistics on exports from the U.S.

Technical Data

ITAR Definition - (1) Information, other than software as defined in [§120.40\(g\)](#), 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 on the U.S. Munitions List and [600-series items controlled by the Commerce Control List](#); (3) Information covered by an invention secrecy order; or (4) Software (see [§120.40\(g\)](#)) directly related to defense articles. (b) The definition in [paragraph \(a\)](#) of this section does not include information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities, or information in the public domain as defined in [§120.34](#) or telemetry data as defined in note 3 to Category XV(f) of the [USML](#). It also does not include basic marketing information on function or purpose or general system descriptions of defense articles.

EAR Definition - see definition for technology

Technology

ITAR Definition - see definition for technical data

EAR Definition - information necessary for the “development,” “production,” “use,” operation, installation, maintenance, repair, overhaul, or refurbishing (or other terms specified in ECCNs on the CCL that control “technology”) of an item. N.B. (nota bene/note well): Controlled “technology” is defined in the [General Technology Note](#) and the [CCL](#). NOTE 1 TO DEFINITION OF Technology: “technology” may be in any tangible or intangible form, such as written or oral communications, blueprints, drawings, photographs, plans, diagrams, models, formulae, tables, engineering designs and specifications, computer-aided design files, manuals or documentation, electronic media or information revealed through visual inspection; NOTE 2 TO DEFINITION OF Technology: The modification of the design of an existing item creates a new item and technology for the modified design is technology for the development or production of the new item.

U.S. Census Bureau - is a principal agency of the U.S. Federal Statistical System, responsible for producing data about the American people and economy.

U.S. Department of Commerce - is an executive department of the U.S. federal government concerned with creating the conditions for economic growth and opportunity.

U.S. Department of State - is an executive department of the U.S. federal government responsible for the country's foreign policy and relations.

U.S. Department of the Treasury - is the national treasury and finance department of the federal government of the United States, where it serves as an executive department. The department oversees the Bureau of Engraving and Printing, the U.S. Mint, and the Office of Foreign Assets Control governing U.S. sanctions.

U.S. Person

ITAR Definition - a person who is a lawful permanent resident as defined by [8 U.S.C. §1101\(a\)\(20\)](#) or who is a protected individual as defined by [8 U.S.C. §1324b\(a\)\(3\)](#). It also means any corporation, business association, partnership, society, trust, or any other entity, organization, or group that is

incorporated to do business in the United States. It also includes any governmental (federal, state, or local) entity. It does not include any foreign person as defined in [§120.63](#).

EAR Definition - (a) For purposes of §§ [732.3\(j\)](#), [736.2\(b\)\(7\)](#), [740.21\(e\)\(1\)](#), [744.6](#), [744.10](#), [744.11](#), [744.12](#), [744.13](#), [744.14](#), and [745.2\(a\)\(1\)](#) of the EAR, the term U.S. person includes: (1) Any individual who is a citizen of the United States, a permanent resident alien of the United States, or a protected individual as defined by [8 U.S.C. §1324b\(a\)\(3\)](#); (2) Any juridical person organized under the laws of the United States or any jurisdiction within the United States, including foreign branches; and (3) Any person in the United States. (b) See also §§ [740.9](#), [740.14](#), and [740.21\(f\)\(2\)](#) and parts [746](#) and [760](#) of the EAR for definitions of “U.S. person” that are specific to those sections and parts.

“Use”/Use Technology

ITAR Definition - not defined under ITAR. Visual inspection or any of the elements of “use” mentioned in the EAR would constitute a release/export for ITAR-controlled items/technology. See ITAR definition of “[release](#).”

EAR Definition - (All categories and General Technology Note) - Operation, installation (including on-site installation), maintenance (checking), repair, overhaul, and refurbishing. In the United States, a release/deemed export occurs only when all six of these elements of “use” are provided. NOTE: If an ECCN specifies one or more of the six elements of “use” in the heading or control text, only those elements specified are classified under that ECCN. See [15 CFR §734.15](#), [BIS FAQ Quiz #4 example](#), and [BIS FAQ on Deemed Exports and Fundamental Research for Biological Items](#) for more information.

United States Munitions List - a list of articles, services, and related technology designated as defense and space-related by the United States federal government. This designation is pursuant to sections 38 and 47(7) of the Arms Export Control Act ([22 U.S.C. §2778](#) and [§2794\(7\)](#)). These articles fall under the export (and temporary import) jurisdiction of DoS. The [Directorate of Defense Trade Controls](#) (DDTC) implements the ITAR including the [USML](#). Any article, service, or related data found to be on the USML requires an export license or documented license exception from DDTC before it can be released/exported.

Purpose

Export control laws are very complex and always evolving. The rules and regulations for specifying who or what is considered export-sensitive and where export controls apply can be very difficult to navigate, even for subject matter experts. The purpose of UTA's Export Management and Compliance Program (EMCP) Manual is to provide guidance on U.S. Export Control laws and regulations, to identify key export compliance issues such as those related to research, education, international shipping, foreign visitors, travel, and more within a university setting. This EMCP describes how UTA implements its *Export Control and U.S. Economic Sanctions Policy* and documents the export compliance policies and procedures for UTA. The procedures and information herein serve as UTA's program of internal controls, safeguards, and educational measures designed to minimize the risk of potential export control violations and institutional policy. Overall, this manual is still only intended to provide an outline of basic export control information. This manual should not be relied upon exclusively, nor should it be construed as legal advice. UTA and all individuals acting on behalf of UTA, including faculty, staff, students, and all principal investigators, are responsible for understanding the applicable export control laws and regulations that are pertinent to their activities, and to ensure UTA's compliance with those laws and regulations. Any questions or concerns should be directed to the [Office of Regulatory Services \(ORS\) \(regulatoryservices@uta.edu\)](mailto:regulatoryservices@uta.edu).

Export Management and Compliance Program Scope

This ECMP manual includes all activities affecting the control of items/equipment, technology, and software with regard to export compliance. The EMCP encompasses the following laws and regulations:

1. U.S. Export Administration Regulations (EAR) of the [U.S. Department of Commerce \(DoC\)](#), [Title 15 Code of Federal Regulations, Parts 730-774](#)
2. U.S. International Traffic in Arms Regulations (ITAR) of the [U.S. Department of State \(DoS\)](#), [Title 22 Code of Federal Regulations, Parts 120-130](#)

3. [Foreign Trade Regulations \(FTR\)](#) of the U.S. Census Bureau of the U.S. Department of Commerce, [Title 15 Code of Federal Regulations, Part 30](#)
4. [Office of Foreign Assets Control \(OFAC\)](#) of the Department of the Treasury, [Title 31, Subtitle B, Parts 500-599](#)

Export Compliance Policy

It is the policy of UTA to maintain full compliance with all United States export control laws and regulations. Under no circumstances shall it be permissible for any individual operating on behalf of UTA to conduct research, export goods/materials, or otherwise act contrary to any United States export regulations. To ensure this compliance, all employees and students are expected to, and are responsible for, understanding and following all export control requirements related to his or her work, and to ensure that no exports are made contrary to these laws and regulations.

Organization – Office of Research Administration

UTA operates [multiple research facilities](#) located in Arlington, TX, as well as in various locations throughout the Dallas-Fort Worth metroplex. The senior administrator responsible for research operations is the Vice President for Research & Innovation (VPRI). The Responsible Official for Export Control is the Associate Vice President for Research Administration (Associate VPR). The Office of Regulatory Services (ORS) is under the direction of the Associate VPR and is responsible for coordinating the export compliance program and ensuring compliance. The full organizational structure is identified in [UTA's VPRI Organizational Chart](#).

Export Controls Overview

Institutions of higher education and their employees are required to comply with federal export control laws and regulations. Criminal sanctions, including monetary fines and/or prison sentences for individuals, can apply for violation of these laws and regulations. These regulations have become more prominent, and scrutiny concerning the level of compliance with these regulations has heightened. These laws and regulations cover

virtually all fields of science and engineering prohibiting the unlicensed export of certain materials, items, and information for national security, nuclear nonproliferation, regional stability, crime control and detection, anti-terrorism, military superiority, protection of trade secrets , and more.

DoC and DoS, along with various other government agencies, control what technology, items, goods, and services may be exported outside of the United States, and to foreign persons within the United States. If an item is export-controlled, prior authorization from one of the government agencies may be required to transfer the item internationally. Foreign person access to or use of the item may be restricted based on its classification and the circumstances unless an export license is obtained from the governing agency.

While compliance with all applicable legal requirements is imperative, it is equally important to maintain an open research environment that welcomes the participation of researchers from around the world as part of the University's mission. To maintain this balance, university personnel must be familiar with the United States export control laws, including important exclusions and exemptions, as they relate to their responsibilities. Depending on the nature of their activities and/or job functions, university personnel may be required to participate in formal training as determined by the university's EOs, ORS, and/or the employee's supervisors.

Understanding three basic concepts related to export control in a university setting is essential:

1. the nature of the technology that is export controlled and its export classification,
2. the fundamental research exclusion (FRE), and
3. deemed exports.

A few items deserve special emphasis:

- i. Most exports from the United States do not require an export license. Only exports that are "export controlled" under the EAR and/or ITAR require export

licenses (or applications of a license exception) prior to being exported. Controlled exports usually arise for one or more of the following reasons:

- a. the nature of the export has actual or potential military applications or economic protection issues,
 - b. government concerns about the destination country, organization, or individual,
 - c. government concerns about the declared or suspected end use or the end user of the export.
- ii. When an item/technology is export-controlled, a license may be required **before** the technology can be exported. This requirement relates not only to tangible items (products, prototypes, technical data, technology, software, etc.) but also to research results (e.g., information, technology). Further, the term “export” does not only apply to technology/items physically leaving the United States but also to the [release](#) of the technology/items to a foreign national ***within the United States*** (referred to as a “deemed export”). A disclosure/release of controlled technology to a foreign researcher or student in a UTA laboratory may be considered a “deemed export.” See [BIS’s Deemed Export FAQs](#) for additional information and examples of deemed exports.
- iii. There are certain countries for which it is the policy of the United States to generally deny licenses. Examples would be [Cuba, North Korea, Iran, Sudan, and Syria](#). For defense articles and defense services under the ITAR ([22 CFR §126.1\(d\)](#)), Belarus, Burma, China, Cuba, Iran, North Korea, Syria, and Venezuela have a policy of denial.
- iv. Even if information related to a research project appears on one of the lists of controlled technologies, there is often an exclusion for “[fundamental research](#)” (FRE). This important concept is discussed in further detail later in this manual.

Daily Export Compliance at UTA

The responsibility to ensure overall export compliance has been assigned to the Associate VPR, with daily activities conducted by ORS. Within ORS, an export compliance trained

Research Support Specialist (RSS) processes daily incoming export compliance tasks and provides leadership, knowledge, and guidance on export compliance issues to ensure UTA's compliance with US export laws, regulations, and internal policies and procedures. Any required export licenses are coordinated and reviewed by the RSS and approved by an Empowered Official. Export license requirements are researched by the RSS who seeks guidance from the Associate Director or Director of Regulatory Services, and/or Empowered Official when necessary to make licensing, classification, and other export control determinations.

Key Roles and Responsibilities

Empowered Official

The Associate VPR is UTA's Empowered Official (EO) for all purposes relating to applicable federal export control laws and regulations. The EO may designate other export control trained and knowledgeable individuals as Empowered Officials as well, having the same responsibilities and authority.

The EO has the independent authority to:

- (i) Inquire into any aspect of a proposed export, temporary import, or brokering activity
- (ii) verify the legality of the transaction and the accuracy of the information and,
- (iii) refuse to sign any license application or other request for approval without prejudice or other adverse recourse.

Office of Regulatory Services

On a daily and ongoing basis, ORS is responsible for directing and monitoring the university's export compliance program, recordkeeping, and implementing procedures and/or guidelines to comply with federal export control laws and regulations, including developing, implementing, and updating this manual. The Export Control Research

Support Specialist (RSS) is responsible for conducting the day-to-day activities of the program.

When requested, ORS will determine or assist other offices and employees in export control assessments to determine compliance and recordkeeping obligations with respect to activities potentially subject to export control laws, as well as to determine the applicability of the Fundamental Research Exclusion (FRE) or other exclusions provided by law. ORS will make jurisdiction and classification determinations, apply for export licenses as needed, investigate, and report potential violations, and consult with UTA's Office of General Counsel (OGC) on export control matters as needed. Both ORS and Research Security will also conduct Restricted Party Screenings (RPS).

All interactions with government officials on export control matters will be made, administered, and/or managed by ORS as determined appropriate. Any communications from government officials related to UTA's export compliance program regarding its employees, research, facilities, or equipment should be forwarded to ORS for handling.

As part of its overall responsibility for directing and monitoring UTA's export control compliance program, ORS will conduct periodic reviews of UTA's compliance with export control laws and regulations and report its findings to the EO as appropriate.

University Administrators

All research and related personnel with managerial or supervisory authority over foreign persons or projects involving export-controlled information or items should view export control compliance as an important part of their daily responsibilities. These individuals are responsible for overseeing export compliance in their areas of responsibility/expertise and for supporting ORS by implementing the procedures set forth in this manual, any export control-related instruction/guidance provided by ORS, and as otherwise deemed necessary to ensure export compliance.

Principal Investigators

All UTA Investigators (including faculty, staff, students, or any person conducting research

at or on behalf of UTA) are responsible for full compliance with all federal and university export control requirements in the conducting of their research. Violation of the export control laws can directly affect investigators through potential fines, loss of research funding, and/or personal criminal liability. Each Investigator must:

- 1) Understand their export control obligations and participate in training when applicable to be able to identify export control concerns.
- 2) Be aware of the [export control red flags section](#) of this manual and when encountered, bring them to the attention of ORS.
- 3) Determine, before initiation of research, whether any information or technology involved in his or her research is subject to export control laws or regulations and notify ORS when export controls apply or are unclear.
- 4) Review his or her research periodically to ensure continuing compliance with export control laws and regulations.
- 5) Train students and other researchers involved in the project on their export control obligations, where applicable.
- 6) Understand that any informal agreements made with a sponsor may negate the [Fundamental Research Exclusion \(FRE\)](#) or other key exclusions and impose export control obligations on the investigator; and
- 7) Understand that any [release](#) of information or technology to a foreign person within the United States (deemed export) or to anyone outside the United States (export) is subject to export controls.
- 8) Complete/sign export control certifications and documents as requested by ORS or UTA.

Administrative contacts may support principal investigators in maintaining and responding to inquiries related to Technology Control Plans. Administrative contacts acting on behalf of the principal investigator must understand and comply with the same

responsibilities outlined above.

Other Individuals

All individuals retained by, or working at (including contractors), or for the university must conduct their affairs in accordance with United States export control laws and regulations.

Relation with Other Institutions

Other institutions maintain their export control compliance programs to ensure compliance with export control laws and regulations. To the extent there are overlapping export control compliance obligations, such as when university faculty, research, facilities, or equipment are concerned, external parties should coordinate with UTA's ORS.

Key Issues in Export Control

Fundamental Research

The fundamental research exclusion exempts basic and applied research in science and engineering performed by institutions of higher learning in the U.S. if the research is conducted openly and without restrictions on publication, access, or dissemination of the research results. FRE definitions for ITAR and EAR are as follows:

- i. [ITAR \(22 CFR §120.34\(a\)\(8\)\)](#) – fundamental research is defined to mean basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community, as distinguished from research the results of which are restricted for proprietary reasons or specific U.S. Government access and dissemination controls.
- ii. [EAR \(15 CFR §734.8\(c\)\)](#) – fundamental research means research in science, engineering, or mathematics, the results of which ordinarily are published and shared broadly within the research community, and for which the researchers have not accepted restrictions for proprietary or national security reasons.

To be eligible for FRE, there cannot be publication restrictions other than a limited review to ensure the protection of proprietary information. Also, if the research is funded by the

U.S. Government and they are requiring specific access and dissemination controls to protect resulting research information, the portion of the research that is restricted is not eligible for FRE. In many cases, if the research information is made public or intended to be made public it may qualify as fundamental research (see [22 CFR §125.4\(b\)\(13\)](#)). For additional information, please review [ITAR \(22 CFR §120.34\)](#), [EAR \(15 CFR §734.8\)](#), [BIS's "Revisions to Definitions in the EAR" FAQ page](#), and [BIS's "Deemed Exports and Fundamental Research for Biological Items" page](#). It is extremely important to note and understand the following:

- i. Application of the FRE is limited to information and technology, it does not, and cannot, apply to physical items.
- ii. FRE does not apply to research conducted outside of the United States. For any research/information *presented* outside of the United States, it is best practice to limit presentations to information that is already published and is therefore public domain information.
- iii. The research itself is ITAR-controlled if it involves the provision of a [defense service](#).
- iv. The hardware generated is controlled by the ITAR if it is considered a defense article as defined in the [United States Munitions List \(USML\)](#).

Many research activities at UTA may be excluded from export controls because UTA can assert the fundamental research exclusion. As mentioned previously FRE is only applicable to technology/information and is **not** applicable to the physical items/software that may be export-controlled. Any physical items/software involved will need to be reviewed for classification and export control analysis. When FRE is not available, such as when one needs to export a tangible item (products, prototypes, technical data, technology, software, etc.), it is important to notify ORS as soon as possible. If an export license will be required from either DoC or DoS (depending on classification and jurisdiction), it may take six months or more to receive a license after the submission of the license application. **ORS will assist investigators in determining if a research project is eligible for FRE.**

U.S. and Foreign Persons

A U.S. person may engage in activities that are export-controlled unless there are some additional restrictions that limit participation to only U.S. citizens. The regulations generally define a foreign person as anyone who is not a U.S. person. Please see the ITAR ([22 CFR §120.63](#)) and EAR ([15 CFR §772](#)) definitions of “foreign person” for detailed information. When determining whether an individual is a foreign person, EAR requires consideration of the individual’s most recent citizenship or permanent residence, while the ITAR requires consideration of the individual’s country of origin (i.e., country of birth), as well as all current citizenships. Licensing determinations and analysis must be completed with these parameters in mind, respectively. **When conducting research that may potentially involve export controls, avoid releasing or providing access to any related information, technology, or technical data until the individual’s citizenship status is confirmed.**

Deemed Exports

The disclosure or transfer of export-controlled software, technologies, or technical data to a foreign entity or individual inside the U.S. is “deemed” to be an export to the home country of the foreign entity or individual. The term “[deemed export](#)” applies to technology transfers under the EAR, and the provision of technical data or defense services under ITAR. Whenever possible, and in accordance with export control laws, foreign national faculty, students, staff, and scholars should not be restricted from participation or access to educational and research activities. See [BIS’s Deemed Export FAQs](#) for additional information and examples of deemed exports. **When conducting research that may potentially involve export controls and your lab or project team includes non-U.S. Persons, contact ORS for guidance to identify or mitigate potential deemed exports. Possible mitigation measures may include the designation of specific duties for the individual to avoid an export release, ORS applying for a deemed export license, ORS and OGCS negotiating contract terms with sponsors to avoid any unnecessary restrictions, implementation of a Technology Control Plan (TCP), or submission of a license application to seek authorization for the individual to be**

involved.

Information Not Subject to, or Excluded from Export Controls

The majority of research and teaching activities at UTA are exempted from export controls. Even when technology/information is export-controlled, UTA may be able to take advantage of these exemptions, allowing the technology/information to be shared freely. **Contact ORS regarding potential exemptions or exclusions to the export control regulations. ORS will help determine if an activity is eligible and will coordinate the requirements to utilize the exemption.**

Publicly Available Information / Public Domain - The public domain exclusion exempts the sharing of any technology, technical data, or information if the same technical data or information has already been widely published, or is available in libraries, or through newsstands, bookstores, subscriptions, free web sites, or is disclosed in published patent applications.

Educational Information - The education exclusion exempts the sharing of information commonly taught in colleges and universities, or educational information released by instruction in catalog courses and associated teaching laboratories. Therefore, in general, no license is required to share information as part of a course being taught. Note, however, that the education exclusion does not apply to proprietary information and certain information deemed classified or sensitive by the federal government, as well as online courses in some cases. For example, online courses may not be offered in Iran without a license due to [OFAC's Iran Sanctions](#).

Full-Time University Employees - Under a specific exemption, the ITAR allows a university to disclose unclassified technical data in the U.S. to a foreign person who is the university's *bona fide* and full-time regular employee. The exemption is available only if:

- the employee's permanent abode throughout the period of employment is the United States

- the employee is not a national of a country to which exports are prohibited pursuant to [22 CFR §126.1](#)
- the university informs the individual in writing that the technical data may not be transferred to other foreign persons without the prior written approval of DDTC; and
- the university documents the disclosure of technical data under the exemption providing:
 - 1) a description of the technical data
 - 2) the name of the recipient / end-user
 - 3) the date and time of export
 - 4) the method of transmission (e.g., email, fax, FedEx)
 - 5) and the ITAR reference, i.e., ITAR §125.4(b)(10), *Full-Time University Employee*.

Note that the “full-time *bona fide* employee” requirement will preclude foreign students and postdoctoral researchers from qualifying for access to technical data under this exemption. Generally, an H1B work visa would be required. This exemption only applies to the transfer of technical data and discussions related to the data. Discussions may occur between the UTA foreign national full-time employee and other UTA university employees working on the project.

Foreign Travel

For any travel conducted for University business, a travel authorization ([TA](#)) must be completed to document the trip.

- When traveling abroad on university business, *certain items/activities may be export-controlled depending on the item and destination*. An export license or other governmental approval may be required *prior* to departure. Licenses that may be required pursuant to [export control regulations](#) can take up to several months to obtain and must be finalized prior to departure.

- Before travelers depart, they should consider each of the following (see more detailed information [here](#)):
 - Where You're Going - to determine if your destination has sanctions or other restrictions
 - What You're Taking with You - to determine whether a license, license exception, or other approval will be necessary
 - Your Activities Abroad - to determine whether any activities would constitute an unauthorized export or a defense service requiring a license
 - How to Protect Your Research & Data - to determine any relevant risks, safeguards, and best practices
- Travelers should not take ANY of the following items abroad without first obtaining specific guidance and instructions from ORS:
 - UTA-owned scientific equipment (other than a sanitized laptop computer, PDA, smartphone, or electronic storage device)
 - Export controlled technology, technical data, or information controlled
 - Technology, technical data, information, materials, or equipment under a UTA Technology Control Plan (TCP) or Research Security Plan (RSP)
 - Data or information received under an obligation of confidentiality
 - Data or analyses that result from a project for which there are contractual constraints on the dissemination of the research results
 - Devices, equipment, or computer software with restrictions on export to or access by foreign nationals
 - Devices, systems, or software that were specifically designed or modified for military or space applications
 - Controlled unclassified information, or
 - Classified information.

- The traveler must follow [UTA's International Travel Guidelines](#) to any foreign location. From time to time, situations arise that may elevate risk to certain locations, including restricted regions. The traveler must consult [UTA's Business Affairs travel page](#) when planning for the trip and before departure for current information. DoS also periodically issues [travel advisories and alerts](#) which should be reviewed by the traveler prior to the trip.
- Cybersecurity is of critical importance when traveling internationally. For information on data security while traveling, review the Department of Homeland Security's [Cybersecurity While Traveling Tip Sheet](#) and the Center for Internet Security's [Cybersecurity While Traveling](#). When traveling to foreign countries of concern, the Office of Research Security may request a travel briefing to provide guidance on appropriate safety measures to implement while traveling and abroad.
- The traveler must not hand carry, or ship items in advance, which are export controlled without a license, unless authorized by a license exception/exemption. This must first be confirmed via consultation with ORS (see potential options in the section below, "[Licensing, License Exceptions, and Exemptions for Export Releases, Transmissions, or Transfer](#)").
- If there are OFAC sanction/travel concerns for the destination country, or if the traveler is hand-carrying or shipping any university materials, technology, or equipment there will likely be additional requirements that must be coordinated in advance. If presenting or discussing research, the traveler should only provide information that is either already published or has no restrictions on publication (exceptions should be discussed with ORS in advance). If the traveler has any concerns about their travel regarding export controls and sanctions, please contact ORS via regulatoryservices@uta.edu for assistance.
- ORS or Research Security can perform screening of foreign entities (i.e., international travel destinations) and individuals (such as foreign collaborators

or export recipients) as needed prior to international travel. See “[Screening Practices](#)”.

Travelers must ensure that confidentiality terms, if relevant, are understood and established in advance of travel or international collaboration. For more information please review [UTA’s posted general guidance on confidentiality \(NDAs\)](#) and [Safeguarding Confidential Information](#).

Prior to any foreign travel, contact ORS and Research Security at researchsecurity@uta.edu for guidance and an analysis of potential risks related to the destination, items going with you, and activities abroad.

International Shipping and eShipGlobal

University personnel shipping anything internationally (materials, documents, equipment, specimens, etc.) should utilize [eShipGlobal](#), the University's preferred online shipping service.

eShipGlobal provides built-in compliance verification checks. Some high technology goods, and other less assuming goods, are export controlled depending on their classification and destination. When processing a shipment, eShipGlobal will flag any export compliance concerns and/or Dangerous Goods/HAZMAT concerns, which will then require approval from ORS and/or Environmental Health and Safety (EH&S) respectively. In addition, eShipGlobal creates and maintains documentation of shipments helping to comply with federal recordkeeping requirements. eShipGlobal can be accessed via the [My Apps](#) webpage. eShipGlobal can now be utilized for larger freight shipments, in addition to small-package express shipments. **If sending an international shipment with another service outside of eShipGlobal, shippers should first contact ORS to determine if any export licensing requirements apply. Refer to [ORS’s International Shipping webpage](#) for more information, including an eShipGlobal instructional guide, overview, and training videos.**

Procurement/Vendor Reviews

When UTA Procurement has any concerns about a new vendor during their vetting process, they will contact ORS and/or Research Security to complete [RPS screening](#) on that vendor as well. Procurement will obtain approval prior to approving this new vendor and approving any transaction. **When purchases are made directly from foreign vendors (not subject to processing through UTA Procurement), purchasers should contact Research Security to perform screening of the item, recipient, and destination. See “Screening Practices” for more information:** <https://resources.uta.edu/research/regulatory-services/export-control/screening-practices.php>.

Foreign Collaborations

All foreign parties involved in sponsored international collaborations with UTA are screened by Research Security. If such collaboration is processed via a [BlueSheet](#) submission, the PI is responsible to select when a project includes “Foreign Involvement,” indicating foreign travel, foreign shipments, and/or foreign collaboration. This will automatically notify ORS and Research Security to initiate a review and screening of the foreign parties involved. ORS will review if the foreign parties are from a country of concern or if there are any anticipated exchanges of controlled technology. For any research involving foreign involvement that does not go through the proposal/BlueSheet process, the PI is responsible for contacting Research Security for screening prior to proceeding. **See “Screening Practices” for more information:** <https://resources.uta.edu/research/regulatory-services/export-control/screening-practices.php>.

Foreign Gifts

All gifts are processed through either the [Office of Development and Alumni Affairs](#) (OD) or the [Office of Grants and Contracts Services](#) (OGCS). Non-research-related gifts are processed via OD. When a gift involves a “[country of concern](#),” the information is sent to

Research Security for review, screening, and approval prior to processing. Research-related gifts are processed with OGCS via a BlueSheet submission. The PI submitting the BlueSheet is responsible for selecting “Foreign Involvement,” when the gift involves a foreign party. This will automatically notify Research Security to initiate a review and screening of the foreign parties involved. PIs are responsible for ensuring the BlueSheet process is utilized for any research-related gifts. See “Screening Practices” for more information: <https://resources.uta.edu/research/regulatory-services/export-control/screening-practices.php>.

Military Critical Technical Data Agreement – DD Form 2345

The *Military Critical Technical Data Agreement* (DD 2345) is the institutional form UTA fills out to register in the [Joint Certification Program](#) (JCP) to facilitate either the exchange of export-controlled technical data between defense contractors (i.e., between prime contractor and subcontractor) or the participation of UTA researchers in DoD/DND sponsored events (e.g., to discuss program requirements or present research findings). Under the JCP, data is released to the recipient organization’s data custodian named on the DD Form 2345. The Data Custodian is responsible for ensuring that appropriate controls are in place, preventing unauthorized disclosures/exports to the end user (i.e., researcher).

All DD Form 2345-related questions and requests must be directed to ORS at regulatoryservices@uta.edu. Examples include, but are not limited to, requests to use UTA’s DD 2345 certification number, requests for a copy of UTA’s approved DD 2345, employment verification with DD 2345 authorization, and representations and certifications associated with sponsored programs, proposals, or awards.

An approved [TCP](#) is required for all JCP data, regardless of format, which will be received or stored by UTA personnel. In certain cases, access to JCP data may also require a TCP. A TCP is not required for meeting participation unless the participant will be retaining notes, conference proceedings, presentations, etc. from the meeting that require safeguarding. A special abbreviated format for TCPs is available for DD 2345 situations. The full process

and related forms are available [here](#). **UTA faculty, staff, trainees, and students engaging in university-supported activities are required by the JCP to use the institutional certification rather than register as individuals. The university's institutional certification/approval is maintained by ORS.**

Identifying Export Control Concerns

Export Control Indicators

The following are common indicators that an activity involves export control. An export control review should be conducted prior to initiation of the following activities to ensure that no violations occur:

- 1) the results of research conducted at, or by UTA are intended for military, nuclear, or space purposes or other restricted end-uses/end-users,
- 2) foreign persons will have access to controlled items or technology,
- 3) software including encryption features will be developed or purchased,
- 4) travel abroad with research equipment, chemicals, biological materials, encrypted software, or controlled physical items; or travel abroad with laptops, cell phones, tablets, portable drives, or other electronic devices containing controlled information,
- 5) a proposed activity/transaction will involve embargoed countries or entities, individuals/entities located in embargoed countries, or who are on prohibited or restricted end-user lists,
- 6) the sponsor or collaborator requires pre-approval rights or restricts publications or the participation of foreign persons (this does not necessarily negate FRE, but could),
- 7) international shipments, including equipment, chemicals, or biologicals to a foreign country,
- 8) an agreement contains a clause or language confirming the applicability of specific export control regulations or identifies the existence of technical data or controlled

technical information (e.g., DFARS 252.204-7012)

For any of the common indicators above, contact ORS for an export control assessment.

Potential Red Flags

A few other red flag indicators in export transactions per BIS are listed below, the comprehensive list can be found [here](#).

- 1) An entity or its address is similar to one of the parties found on the Bureau of Industry and Security's list of denied persons.
 - 2) A recipient/collaborator is reluctant to offer information about the end-use of the item.
 - 3) An entity lists a freight forwarding firm as its address or destination for a shipment.
 - 4) An item's capabilities do not fit the requester's line of business or research focus.
 - 5) The requested item/material/technology is incompatible with the technical level of the destination country or entity, such as semiconductor manufacturing equipment shipped to a company that has no electronics industry capabilities.
- Additional helpful information can be found via [BIS' Know Your Customer Guidance](#).

If you observe or know of any activities resembling the red flags listed above or have suspicions involving the security of any export-controlled activities, contact ORS.

Sanctioned Countries

U.S. economic sanctions broadly prohibit most transactions between U.S. persons and persons or entities in an embargoed country, including Cuba, Iran, North Korea, and Syria. This prohibition includes the importation and exportation of goods *and* services, whether direct or indirect, as well as "facilitation" by U.S. persons of transactions between foreign parties and a sanctioned country. For example, sending a check to an individual in Iran may require an [OFAC](#) license, or be prohibited altogether. More limited sanctions may

block specific types of transactions or require licenses under certain circumstances for exports to several countries. OFAC maintains a comprehensive list of [Sanctions Programs and Country Information](#).

While most sanctions are administered by OFAC, BIS has authority over certain export prohibitions (via “embargo” regulations), as is the case with exports to Syria. In other words, a license from BIS is required to ship most items to Syria and other OFAC-sanctioned countries or could be prohibited. Economic sanctions and embargo programs are country-specific, detailed in the specific prohibition, and change frequently. More information can be found in [Part 746 of the EAR – Embargoes and Other Special Controls](#).

If an activity involves a foreign country (for example, the location of a research collaborator or as a destination for foreign travel), contact ORS and Research Security to assess the applicability of any foreign sanctions or embargoes.

Restricted Party Screening

DoC, DoS, and USDT, along with various other government agencies, maintain lists of prohibited and restricted end-users. To ensure that UTA is not doing business with individuals or entities that have been debarred, denied export privileges, or are otherwise on a government-denied/restricted parties lists, UTA must screen individuals and entities as provided in this manual. Restricted Party Screening (RPS) is the process of determining whether a person or entity is on a restricted party list. Research Security routinely conducts restricted party screening of prospective visiting foreign scholars (including associated individuals and institutions) referred by the Office of International Education, foreign entities/individuals involved in foreign collaborations identified in grant proposals or referred by investigators, prospective vendors referred by Procurement, and more. ORS will also review if export-controlled technology will be exchanged or accessed by the entity/individual. To conduct RPS, UTA utilizes a licensed export control compliance/screening application that screens individuals or entities against the current restricted parties lists electronically. Screening without utilizing a screening service is possible as well via the [International Trade Administration’s Consolidated Screening List](#), however it does not rescreen searches daily and requires manual searching. The export

control compliance/screening service performs Restricted Party Screening against relevant U.S. Government lists, rescreening all searches daily, including, but not limited to:

- 1) **Specially Designated Nationals and Blocked Persons List ("SDN List")** - barred terrorists, narcotics traffickers, and persons and entities associated with embargoed regimes. Generally, all transactions with such persons are barred. The SDN List is available at: <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>.
- 2) **Denied Persons List** - individuals and entities that have had their export privileges revoked or suspended. It is illegal to export to any company or individual which appears on the DPL. <https://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern/denied-persons-list>.
- 3) **Entity List** - entities identified as being involved in the proliferation of missile technology, weapons of mass destruction, and related technologies. Transactions with these individuals may be possible but may require a license. The Entity List specifies the license requirements that it imposes on each listed person. [https://www.ecfr.gov/current/title-15/part-744/appendix-Supplement No. 4 to Part 744](https://www.ecfr.gov/current/title-15/part-744/appendix-Supplement+No.+4+to+Part+744)
- 4) **Unverified List** - foreign persons and entities for which BIS has been unable to verify the nature of their operations. While transactions with these entities are not barred, special due diligence is required: <https://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern/unverified-list>.
- 5) **List of Debarred Parties** - persons and entities barred from engaging in the export or re-export of items subject to the ITAR USML: https://www.pmddtc.state.gov/ddtc_public?id=ddtc_kb_article_page&sys_id=c22d1833dbb8d300d0a370131f9619f0

- 6) **State Designated Terrorist Organizations** - All transactions with these entities are barred. <https://www.state.gov/foreign-terrorist-organizations/>
- 7) **Nonproliferation Sanctions** - foreign individuals, private entities, and governments that engage in proliferation activities. All transactions with these entities are barred. <http://www.state.gov/t/isn/c15231.htm>.

Possible Match Results - If ORS and/or Research Security determines there is a possible match for a party screened, a secondary review will be conducted using additional detailed information. If the possible match cannot be dismissed on secondary review, more information might be requested to make an appropriate determination. Each possible match should be evaluated on an individual basis by depending on the proposed transaction or activity. ORS and Research Security are responsible for maintaining records of final determinations. **Review an overview of UTA's Screening Practices here:** <https://resources.uta.edu/research/regulatory-services/export-control/screening-practices.php>. **If you have any concerns about individuals, institutions, or other entities please send that information to [Research Security](#) for additional screening.**

Jurisdiction Determination and Classification Review

International Traffic in Arms Regulations (ITAR) and the [United States Munitions List \(USML\)](#)

The U.S. Department of State's [Directorate of Defense Trade Controls \(DDTC\)](#) is charged with controlling exports and temporary imports of defense articles and services as governed by 22 U.S.C. 2778 of the [Arms Export Control Act \(AECA\)](#) and Executive Order 13637. DDTC seeks to facilitate legitimate defense trade with partners and allies while denying adversaries access to sensitive U.S. technology. These items are regulated via the [International Traffic in Arms Regulations \(ITAR\)](#). The ITAR includes a list of articles, services, and related technical data designated as defense articles and services regulated by the federal government known as the [United States Munitions List \(USML\) - 22 CFR §121.1](#). ITAR defense articles and services are highly restricted. Non-U.S. Persons may not be allowed access to information regarding the design, development, production,

manufacture, assembly, **operation**, repair, testing, maintenance, or modification of defense articles unless authorization has been received from DDTC via a license.

Any person/entity who engages in the business of manufacturing, exporting, or temporarily importing defense articles, including technical data, or furnishing defense services, must register with DDTC. UTA is registered with DDTC, view the current Registrant Code [here](#). The purpose of registration is primarily to provide the U.S. Government with visibility to parties engaging in ITAR-controlled activities. Registration does not confer any export, temporary import, or brokering rights or privileges.

There are 21 USML categories as follows:

- I. Firearms, Close Assault Weapons and Combat Shotguns
- II. Guns and Armament
- III. Ammunition/Ordinance
- IV. Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines
- V. Explosives, Energetic Materials, Propellants, Incendiary Agents, and Their Constituents
- VI. Surface Vessels of War and Special Naval Equipment
- VII. Ground Vehicles
- VIII. Aircraft and Related Articles
- IX. Military Training Equipment and Training
- X. Personal Protective Equipment
- XI. Military Electronics
- XII. Fire Control, Laser, Imaging and Guidance Equipment
- XIII. Materials and Miscellaneous Articles
- XIV. Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment
- XV. Spacecraft and Related Articles
- XVI. Nuclear Weapons Related Articles

- XVII. Classified Articles, Technical Data, and Defense Services Not Otherwise Enumerated
- XVIII. Directed Energy Weapons
- XIX. Gas Turbine Engines and Associated Equipment
- XX. Submersible Vessels and Related Articles
- XXI. Articles, Technical Data, and Defense Services Not Otherwise Enumerated

ITAR defense items are broadly defined to include any item or equipment, related technology, software, or data that is built, compiled, specially designed, or modified to military or defense specifications. **This can include precision electronics, components, and instruments used during fundamental research projects.** The fact that UTA can procure such an item commercially does not necessarily mean that the item is not a defense article. Many items included in the USML are available commercially. In some cases, a vendor or provider of such an item may label the item ITAR, flagging it as an export-controlled defense item. ORS can assist with determining whether an item, technology, or service is ITAR-controlled.

It is important to keep in mind that ITAR restrictions apply even in the context of open laboratory, fundamental research projects where no citizenship or publication restrictions have been accepted. Oftentimes there are “inputs” for a research project that are ITAR controlled (such as equipment or technical data from a sponsor/collaborator) that may impart export controls to a project or require segregation and safeguards. Buyers, licensees, and other types of recipients of ITAR items remain responsible for managing the applicable foreign person restrictions, **even as a part of a fundamental research project.** Therefore, it is imperative that the classification of items, equipment, and technology are determined well before their incorporation into a lab environment, and well before the items are utilized. To better understand what is regulated under the ITAR, it is important to read the regulations in the context of the definitions for defense articles, defense service, and technical data:

Defense Article ([22 CFR §120.31](#)) means any item or technical data designated on the

USML, or an item or technical data that provides the equivalent performance capabilities of a defense article on the USML, and includes:

- Technical data recorded or stored in any physical form, models, mockups, or other items that reveal technical data directly relating to items on the USML; and
- Forgings, castings, and other unfinished products, such as extrusions and machined bodies, which have reached a stage in manufacturing where they are clearly identifiable by mechanical properties, material composition, geometry, or function as defense articles.

It does not include basic marketing information on function or purpose or general system descriptions. The policy described in [22 CFR §120.3](#) is applicable to designations of additional items.

Defense Service ([22 CFR §120.32](#)) means:

- 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,
- The furnishing to foreign persons of any technical data controlled on the USML, whether in the United States or abroad; or
- 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.

It does not include basic marketing information on function or purpose or general system descriptions. The policy described in [22 CFR §120.3](#) is applicable to

designations of additional items.

Technical Data ([22 CFR §120.33](#)) means:

- Information, other than software as defined in [§120.40\(g\)](#), 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,
- Classified information relating to defense articles and defense services on the U.S. Munitions List and 600-series items controlled by the Commerce Control List (see more information below about the CCL),
- Information covered by an invention secrecy order; or
- Software (see [22 CFR §120.40\(g\)](#)) directly related to defense articles.

This definition does not include information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities, or information in the public domain as defined in [22 CFR §120.34](#) or telemetry data as defined in note 3 to Category XV(f) of [22 CFR §121.1](#). It also does not include basic marketing information on function or purpose or general system descriptions of defense articles.

ITAR Classification - While DDTC has authority over deciding whether an item is ITAR- or EAR-controlled, it encourages exporters to self-classify. If doubts exist as to whether an article or service is covered by the USML, then DDTC can provide advice as to whether a particular article is a defense article subject to ITAR, or a dual-use item subject to EAR ([Commodity Jurisdiction \("CJ"\) Request](#) (22 CFR §120.12)),. Determinations are based on the origin of the technology (i.e., as a civil or military article), and whether it is predominantly used in civil or military applications. **ORS can assist with the USML classification of ITAR-controlled items or services and is responsible for the submission of any DDTC Commodity Jurisdiction Requests on behalf of UTA; contact regulatoryservices@uta.edu for assistance.**

Export Administration Regulations (EAR) & the Commerce Control List (CCL)

[BIS](#) regulates exports of dual-use items and technology via the Export Administration Regulations ([15 CFR Parts 730-774](#)). The EAR requires a license for the exportation of a wide range of items with potential "dual" commercial and military use such as:

- Commodities - finished or unfinished goods ranging from high-end microprocessors to airplanes, to ball bearings.
- Manufacturing Equipment - 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 - includes certain alloys and chemical compounds.
- Software - includes software specifically associated with particular commodities or manufacturing equipment, as well as software containing encryption and the applicable source code.
- [Technology](#) - includes both technical data and services. Unlike the ITAR, there is no distinction between the two.

The EAR includes a list of items subject to regulation known as the [Commerce Control List \(CCL\)](#).

CCL Categories:

- 0 - Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]
- 1 - Special Materials and Related Equipment, Chemicals, Microorganisms, and Toxins
- 2 - Materials Processing
- 3 - Electronics
- 4 - Computers
- 5 - Part 1 Telecommunications and Part 2 Information Security
- 6 - Sensors and Lasers
- 7 - Navigation and Avionics
- 8 - Marine
- 9 - Aerospace and Propulsion

Product Groups:

- A - Systems, Equipment, and Components
- B - Test, Inspection, and Production Equipment
- C - Materials
- D - Software
- E – Technology

Using the above categories and product groups, an [Export Control Classification Number \(ECCN\)](#) can be determined. The ECCN is a 5-character alphanumeric code that governs how an item/technology is controlled. The first character is a number that describes the category of the item. The second character is a letter that indicates the product group. The last three numerical digits are used for the numerical ordering of the item. If an item falls under U.S. Department of Commerce authority and is *not* specifically identified on the CCL, it is designated “[EAR99](#).” EAR99 items are generally low-technology consumer goods and do not require a license in most situations. However, if the item will be exported to an embargoed country, to an end-user of concern, or in support of a prohibited end-use, a license may be required. **ORS can assist with determining whether an item, technology, or service is EAR-controlled.**

The federal government’s recent export reform initiative has resulted in some changes to the USML and CCL. Some defense articles that were once listed on the USML have now moved to the CCL creating two new series of ECCNs: 500 for Spacecraft and 600 for Commerce Munitions. Items that moved from the USML to the CCL have generally included less important parts, components, accessories, and attachments used in or with defense articles. For additional information see [BIS’s decision tools](#) and [FAQs/additional resources](#).

[Dual-use](#) items are broadly defined as any item (equipment, instrument, related technology, material, software, or data) that is *civilian* by design and intended application but could, by virtue of its specifications and performance, be used for a defense purpose.

Dual-use items can include research instruments and related software, materials, or data used in fundamental research. At times, technological components can be more strictly controlled than their related end items and may constitute an export for any specific element, or combination of elements. These restrictions are dictated by the EAR's specific instructions for each component ECCN. The fact that UTA can procure such items commercially does not mean that they are not export-controlled. In some cases, a vendor or provider of an item may label it as EAR-controlled, which flags it as a dual-use export-controlled item. The level of control and license requirements are based on variables such as the destination country or country of citizenship, the user, and the end use of dual-use items.

For dual-use items, it is important to identify situations where related technology that requires controls will be potentially shared or utilized. Below are several examples of technology sharing, which may trigger an export control issue:

- 1) utilizing vendor-proprietary repair or maintenance manuals, or software configuration programs, provided by a vendor (or third party),
- 2) training or providing information to research personnel to perform **all** six of the following elements of "use" with respect to a CCL-controlled research instrument: operation, installation (including on-site installation), maintenance (checking), repair, overhaul, and refurbishing. (see [15 CFR §734.15 Release](#), [BIS FAQ Quiz #4 example](#), and [BIS FAQ on Deemed Exports and Fundamental Research for Biological Items](#) for more information); and
- 3) developing or modifying a dual-use instrument (typically a co-development arrangement with a vendor or manufacturer) that likewise exposes the underlying controlled design. Development may include all stages of work prior to serial production, such as design research, analysis, "proof of concept," assembly and testing of prototypes, pilot production schemes, configuration, or integration design.

EAR Classification - As discussed previously, DDTC has primary authority to decide whether an item is ITAR or EAR-controlled.

When it is confirmed or determined that an item is EAR-controlled, the exporter must determine its ECCN. In most cases, it is expected that an exporter should be able to self-classify controlled goods. It is recommended to contact the manufacturer and/or provider of the item to obtain the specific classification, and/or additional information necessary to self-classify the item. If self-classification options have been exhausted, or an official classification is needed, an exporter can submit a formal "[Classification Request](#)" to BIS. (see [15 CFR §748.3](#) and [Classification Request Guidelines](#) for more information.) To determine whether a license is required or would be granted for a particular transaction, a party can request BIS provide a non-binding "advisory opinion" (see [15 CFR §748.3](#)). While BIS aids in determining the specific ECCN or a dual-use item listed on the CCL, if doubt exists as to whether an item is ITAR or EAR-controlled, BIS will stay its classification proceeding and forward the issue to DDTC for jurisdiction determination. **ORS can assist with CCL classification of EAR-controlled items or services and is responsible for submission of any BIS Classification or Advisory Opinion Requests on behalf of UTA; contact regulatoryservices@uta.edu for assistance.**

Sanctions Programs and The Office of Foreign Assets Control (OFAC)

OFAC of the US Department of the Treasury administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy, or economy of the United States.

OFAC administers several different sanctions programs which may prohibit transactions with a person or entity. The sanctions can be either comprehensive or selective, using the blocking of assets and trade restrictions to accomplish foreign policy and national security goals. These sanction programs are country and/or person/entity-specific and may be

updated at any time. Prohibited transactions are trade or financial transactions and other dealings in which U.S. persons may not engage unless authorized by OFAC or expressly exempted by statute. Because each program is based on different foreign policy and national security goals, prohibitions may vary between programs. Occasionally there may be exceptions to these prohibitions. OFAC regulations often provide general licenses authorizing the performance of certain categories of transactions. OFAC also issues specific licenses on a case-by-case basis under certain limited situations and conditions.

A summary description of each particular embargo or sanctions program may be found in the [Sanctions Programs and Country Information](#) area and the [Guidance and Information for Industry Groups](#) area on OFAC's website. There may be broad prohibitions on dealings with certain countries, and/or against specifically named individuals and entities. The named individuals and entities are incorporated into OFAC's list of Specially Designated Nationals and Blocked Persons ("SDN list") which includes approximately 6,400 names of companies and individuals who are related to the sanction's targets. In addition, OFAC maintains [other sanctions lists](#) that may have different prohibitions associated with them. Sanctioned parties are known to move from country to country and may end up in locations where they would be least expected. U.S. persons are prohibited from doing business with SDNs regardless of their location. Entities that an SDN owns (defined as a direct or indirect ownership interest of 50% or more) are also sanctioned, regardless of whether the entity is specifically named on the SDN List. Because OFAC's programs are dynamic, it is very important to check OFAC's website regularly to ensure that your sanctions lists are current and that you have complete information regarding the latest restrictions affecting countries and parties with which you plan to do business. **ORS and Research Security routinely screens individuals and entities against OFAC's sanctions lists/programs, see "Screening Practices" for more information: <https://resources.uta.edu/research/regulatory-services/export-control/screening-practices.php>. If a planned transaction with a person or entity is not described in the Screening Practices, contact ORS and/or Research Security for advance screening and guidance.**

Foreign Trade Regulations

U.S. Census Bureau maintains the [Foreign Trade Regulations \(FTR\)](#) which provide the regulatory framework for processing export shipments, namely filing the [Electronic Export Information \(EEI\)](#), in the Automated Export System (AES). The FTR is the foundation for collecting, compiling, and disseminating export trade statistics for the United States. U.S. exporters must comply with the FTR as well as the ITAR, EAR, and other export regulations.

An [EEI filing is required](#) from UTA in the following circumstances:

- export is valued over \$2,500 per [Schedule B number](#) and is sent from the same exporter to the same recipient, on the same day; (According to the FTR Section 30.1(c), value is defined as the selling price in U.S. dollars plus inland and domestic freight, insurance, and other charges to the U.S. seaport, airport, or land border port of export),
- requiring an export license, regardless of value or destination,
- subject to the ITAR even if exempt from export licensing requirements regardless of value or destination,
- falling under “600 series” of the Export Control Classification Number (ECCN) for items enumerated in paragraphs “a to x”,
- requiring license exception-Strategic Trade Authorization (STA),
- destined for Cuba, Iran, North Korea, Sudan, or Syria (regardless of value),
- effective June 29, 2020, exports destined for China, Russia, and Venezuela regardless of value,
- rough diamonds, regardless of value ([HTS](#) 7102.10, 7102.21, and 7102.31) and destination,
- self-propelled vehicles,
- shipped TO Puerto Rico or U.S. Virgin Islands (with the same requirements as shipping to foreign countries.)

***EEI filing requirements apply to all exports of university-owned items or equipment subject to the list above, *including when these items are hand-carried* to the destination (for example, if you take a UTA laptop with you to China, or a piece of equipment valued at more than \$2,500 to any foreign, non-exempt destination).**

EEI Filing Exemptions:

- small shipments up to \$2,500 U.S.,
- shipments FROM the U.S. to Canada of ANY amount unless the merchandise requires an export license or permit, is subject to ITAR, or involves rough diamonds, self-propelled vehicles, or is transiting Canada (if Canada exempt, note on the commercial invoice),
- shipments TO most U.S. possessions (i.e., Guam, Northern Mariana Islands, Midway Island, Wake Island, and American Samoa),
- shipments FROM the U.S. or Puerto Rico to other U.S. Territories
- for additional exemptions, see the [FTR Sections 30.36-30.40](#).

Most exporters maintain experienced logistics/export compliance professionals to ensure compliance with these regulations. [eShipGlobal](#) and ORS serve this same purpose at UTA. Utilizing eShipGlobal for international shipments helps to ensure that all export regulations are complied with. Utilizing shipping services such as FedEx or UPS directly adds risk to UTA's international shipments as they do not maintain the added checks in place with eShipGlobal, to ensure compliance. All UTA shippers should utilize eShipGlobal or contact ORS directly prior to using a different service. Regardless of the shipping service utilized, it is of the utmost importance that all shipments are represented accurately with the correct Schedule B, ECCN, value, etc. to help ensure compliance. The value should be the cost to produce or procure the goods exported when the export shipment is not part of a sales transaction. ECCNs and Schedule B codes should never be assumed. **Review procedures for International Shipments [here](#) and International Travel [here](#). Contact ORS to evaluate any UTA property/items you plan to hand-carry to a foreign destination or to evaluate an international shipment. ORS will complete EEI filings as required.**

Research and Other Research-Related Agreements

Data and information involved in university research are commonly excluded from export control regulation under the ITAR or EAR based on public domain exclusion and the Fundamental Research Exclusion (FRE). It is important for researchers to be aware of these key exclusions and to understand that their benefits can be lost if certain provisions are present in research-related agreements. For this reason, investigators should avoid informal understandings or “side agreements” with research sponsors or collaborators that restrict foreign person's access to the research or that impose controls on the publication or other dissemination of research results. All research related agreements must be processed through [Agreement Management](#). Only official signatories assigned by the President are authorized to sign agreements.

Contractual terms of concern

Certain agreement provisions may negate FRE and require seeking a license, undertaking monitoring, or other activities.

If any of the following provisions are present, and cannot be negotiated away, in a research-related agreement or subcontract (including a Material Transfer Agreement or Non-Disclosure Agreement related to research), ORS should be consulted for guidance prior to execution of the agreement.

- 1) The sponsor maintains the right to restrict or approve the publication or release of research results (other than UTA’s standard customary brief delay to protect a sponsor’s confidential information or to preserve the patentability of an invention),
- 2) Research data and/or other research results will be owned by the sponsor (e.g., as sponsor’s proprietary or trade secret information),
- 3) Statements that *specific* export control restrictions will apply to the research (a general statement that UTA must comply with export control regulations does not necessarily indicate the export control status of the activity),

- 4) Incorporation by reference of Federal Acquisition Regulations (FARs), agency-specific FARs, or other federal agency regulations, which impose specific controls on access to or dissemination of research results,
- 5) Restrictions on, or prohibitions against, the participation of research personnel based on citizenship or national origin,
- 6) Statements that the sponsor anticipates providing export-controlled items or information for use in connection with the research,
- 7) Equipment and/or encrypted software are required to be received as part of the project,
- 8) The research project will involve the use of export-controlled items or technical information obtained from the sponsor, collaborator, or another third party (aka “inputs”),
- 9) There is a controlled unclassified information (CUI) clause (e.g., DFARS 252.204-7012),
- 10) The presence of a Disclosure of Information clause (DFARS 252.204-7000); or
- 11) The research will take place outside the United States (including related activities such as attending conferences, shipping items internationally, and transfer of technology or data across country borders).

Federal Clauses Affecting Access and Dissemination

Specific access and dissemination clauses may be buried within the language of the Federal Acquisition Regulations (FAR), the Defense Federal Acquisition Regulation Supplement (DFARS), or other agency-specific regulations included as part of a prime contract or flowed down in a subcontract. These clauses are contractual in nature and do not, by themselves, determine whether a project is export-controlled or negate the Fundamental Research Exclusion. Instead, they signal the need for early institutional review to assess how disclosure restrictions, data safeguarding requirements, or cybersecurity obligations apply to UTA’s portion of the work. When present, these clauses must be identified and addressed prior to award acceptance or commencement of work. The Offices of Grant & Contract Services and Agreement Management can identify

relevant clauses and coordinate any negotiation of alterations or removal through a common institutional review process. The team will work with PIs and institutional partners to determine appropriate, risk-based measures—if any—while preserving an open research environment. These clauses include, but are not limited to:

FAR 52.227-14 (Rights in Data – General) - Grants the government unlimited rights in data first produced or delivered under the contract. Government approval is required to assert copyright in data first produced in the performance of the contract and not published in academic, technical, or professional journals, symposia proceedings, or similar works. For basic or applied research, suggest requesting Alternate IV to lift this restriction. Alternate IV provides the contractor with the right to copyright data without government permission.

FAR 52.227-17 (Rights in Data – Special Works) - Prevents the release, distribution, and publication of any data originally produced for the government’s internal use and represents an absolute restriction on the publication or dissemination of contractor-generated data. It should not apply to basic and applied research and should be removed from the contract based on exceptions to this clause’s applicability. Refer to FAR 27.405-1 for more information.

DFARS 252.204-7000 (Disclosure of Information) - States that “Contractor shall not release to anyone outside the contractor’s organization any unclassified information, regardless of medium (e.g., film, tape, document), pertaining to any part of this contract or any program related to this contract.” In other words, this clause imposes contractual restrictions on disclosure of certain unclassified information pertaining to the Department of Defense contract unless the following exceptions apply:

- 1) if the contracting officer has given prior written approval,
- 2) where the information is already in the public domain prior to the date of release,
- 3) if the research is determined in writing to be fundamental research by the Contracting Officer. Refer to 27.404-2, 27.404-3, and NSDD-189 as justification for

getting the restriction removed. Also, refer to IRS Ruling 76-296. May also add alternate language that allows for review and comment on publications.

When contractual terms are present that contradict the expected Fundamental Research Exclusion, and the PI is under the impression that UTA's portion of the contracted research is/should be designated Fundamental Research, UTA must officially request an exception to [DFARS 252.204-7000](#) ("7000 clause") from the contracting officer. If UTA is a subcontractor, the request must be made through the prime contractor per [DFARS 252.204-7000\(c\)](#) and must be submitted at least 10 days prior to the proposed date for release per [DFARS 252.204-7000\(b\)](#).

- When the [Office of Agreements Management](#) receives a contract/subcontract that includes the 7000 clause, it will notify the Office of Regulatory Services (ORS).
- ORS will work with the PI to confirm whether UTA's portion of the work would meet the definition of fundamental research.
- If agreed that UTA's research is not export controlled, Agreements Management will request an exception to the 7000 clause directly with the contracting officer (if UTA is prime contractor) or through the prime contractor (if UTA is a subcontractor).
 - UTA's "[Request for Exception to Contract Clause DFARS 252.204-7000 Disclosure of Information](#)" will be utilized to make this request.
- If the request for exception to the 7000 clause is granted, Agreements Management will notify ORS and the PI.
- ORS will document the fundamental research analysis, communication between Agreements Management, and the contracting officer and will save the written determination in the OneDrive.
- If the request for exception to the 7000 clause is not granted, the work must be protected and conducted with appropriate export controls in place. ORS will work with the PI to develop a TCP as needed. PIs should not independently interpret or respond to the DFARS disclosure requirements and should not agree to informal

sponsor commitments related to information release outside UTA's agreement review process.

DFARS 252.225-7048 (Export-Controlled Items) - States that "The Contractor shall comply with all applicable laws and regulations regarding export-controlled items, including, but not limited to, the requirement for contractors to register with the Department of State in accordance with the ITAR. The Contractor shall consult with the Department of State regarding any questions relating to compliance with the ITAR and shall consult with the Department of Commerce regarding any questions relating to compliance with the EAR." This may require the investigator to certify that the project does not involve any items that are subject to Export Control Laws.

ARL 52.004-4400 (Approval of Foreign Nationals) - All foreign nationals must be approved before beginning work on the project. This is a foreign national restriction and may void FRE. A technology control plan may be required, and the PI should contact ORS for further clarification. If the Investigator is doing basic research and the sponsor will take those results and work on the controlled technology at another location, the clause *may* be removed.

ARL 52.005-4401 (Release of Information) - Includes reference to "non-releasable, unclassified information" and a requirement to "confer and consult" prior to release of information. The sponsor retains publication/information approval, which may void the FRE. Negotiate substitution with ARL Cooperative Agreement Language: Prior Review of Public Releases, "The Parties agree to confer and consult with each other prior to publication or other disclosure of the results of work under this agreement to ensure that no classified or proprietary information is released. Prior to submitting a manuscript for publication or before any other public disclosure, each party will offer the other party ample opportunity (not to exceed 60 days) to review such proposed publication or disclosure, to submit objections, and to file application letters for patents in a timely manner."

AFMC 5352.227-9000 (Export-Controlled Data Restrictions) - Requires an Export license prior to assigning any foreign person to work on the project or allowing foreign persons access to the work, equipment, or technical data generated by the project. ORS needs to be notified if this clause is included in the contract. It may be difficult to find qualified U.S. citizens for some projects. In this case, UTA may be able to negotiate that foreign students are permitted project involvement and must obtain this confirmation in writing from the sponsor if granted.

DFARS 252.204-7012 (Controlled Unclassified Information) - Requires the security requirements described in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, "Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations to protect controlled unclassified information (CUI) on non-Federal information systems. Please see UTA's additional detailed information for guidance. "Controlled Unclassified Information" does not necessarily indicate that the project is export-controlled nor does it negate the Fundamental Research Exclusion; however, there is a stronger likelihood that it might. Agreements Management will notify the Office of Research Security and appropriate institutional partners when this clause is included in a research-related agreement. Research Security will coordinate with the PI, the Office of the Vice President for Research, and the Information Security Office, as appropriate, to assess applicability and determine required safeguards. The presence of this clause does not automatically require any single mitigation mechanism; safeguards are determined based on risk and applicability. PIs should not independently interpret the clause's requirements, implement cybersecurity controls on their own, or make commitments regarding data safeguarding or incident reporting outside UTA's established review and coordination process.

Resolving Export Control Concerns

When a potential export control concern is identified, ORS will collaborate with the parties involved, and determine the appropriate course of action to address the concern. In each case, ORS will determine whether:

- the conditions merit an application for a license or other authorization
- the conditions are such that an exclusion or license exception may be applicable
- a Technology Control Plan (TCP), Research Security Plan (RSP), or other requirements for the conduct of the research will be necessary to prevent an unauthorized release of the technology from occurring.

ORS will notify the investigator of their export control determinations. ORS will maintain records of all export control analyses and determinations.

ORS can help prepare a Technology Control Plan that documents a set of security protocols for sensitive research. TCPs are specific to information or materials that are controlled under export control laws. TCPs are more focused on protecting a specific item from access (physical or electronic) to prevent export control law violations (where a license may be required to access or export the controlled information).

Research Security Certification & Mitigation Plan (RSCMP)

A Research Security Certification & Mitigation Plan is an assessment by the Research Security of a researcher's lab and portfolio. Research Security will provide a mitigation plan for guidance and controls to researchers to protect sensitive university information or technology, such as unpublished intellectual property and research data. A mitigation plan and security certification are not routinely prepared for all research or collaborative projects, they are used on an "as needed" basis which may be determined by university administration or researchers themselves. This determination is based on elevated concerns or the perception of risk (of theft or foreign influence), to protect the PI and other computers/researchers on UTA's network from inadvertent or intentional unauthorized access. Consult the Office of Research Security at researchsecurity@uta.edu for assistance in receiving a security certification and mitigation plan.

Technology Control Plan (TCP)

Development - If it is determined that a project is export-controlled, ORS will work with the PI to develop and implement a Technology Control Plan (TCP) to secure the controlled technology/data from access by unlicensed non-U.S. persons. The TCP will include:

- 1) a briefing/training section for all TCP personnel to review and certify understanding,
- 2) identification of the export-controlled items,
- 3) identification and nationality of all project personnel,
- 4) appropriate physical and informational security measures (e.g., laboratory compartmentalization, time blocking, locked storage, electronic security, etc.),
- 5) personnel screening measures.

The TCP will be signed by each project personnel and the Empowered Official (EO). The TCP will also include plans for self-monitoring and assessment on a routine basis during the duration of the project.

Appropriate Security Measures - The TCP will include physical and informational security measures appropriate to the export control categories involved in the project. Examples of security measures include, but are not limited to:

- Project Personnel - Authorized personnel must be clearly identified. Appropriate access should only be provided to those authorized (through licenses if applicable) to have access to export-controlled information and technology.
- Controlled Information/Materials - Project data and/or materials must be physically shielded and otherwise protected from unauthorized individuals by operating in secured laboratory spaces/work areas or during secure time blocks.
- Marking of Controlled Information/Materials - Export-controlled information must be clearly identified and physically labeled as export-controlled.

- Work Products - Both soft and hardcopy data, lab notebooks, reports, and research materials must be stored in locked cabinets; preferably located in rooms with key-controlled access limited to Authorized Personnel.
- Controlled Equipment/Instrumentation - Such tangible items (including internal components), associated operating manuals, and schematic diagrams containing export-controlled technology must be physically secured from unauthorized access.
- Electronic communications and databases - Appropriate measures must be taken to secure controlled electronic information. Such measures may include user ID, password control, SSL, or other approved encryption technology. Database access may be managed via a Virtual Private Network (VPN). Only authorized users can access the site and all transmissions of data over the internet will be encrypted using a 128-bit Secure Sockets Layer (SSL) or other advanced, federally approved encryption technology.
- Conversations - Discussions about the project or work products are limited to approved Project Personnel and are held only in areas where unauthorized personnel are not present. Discussions with third-party sub-contractors are only to be conducted undersigned agreements that fully respect the non-U.S. citizen limitations for such disclosures.

Training and Certification

- Training - Before any individual may participate as personnel in a TCP-required project, they must:
 - (1) read and adhere to the procedures of the TCP (including the TCP Overview) and subsequent amendments,
 - (2) complete site-specific training with the PI prior to accessing or working with controlled items/materials,
 - (3) complete the online [Export Control training module](#) and

(4) be familiar with and adhere to any applicable EAR and/or ITAR regulations.

- Certification - Each person signing a TCP must certify that his or her citizenship status provided in the TCP is correct and that she or he has read, understood, and will adhere to the terms of the TCP.

Licensing, License Exceptions, and Exemptions for Export Releases, Transmissions, or Transfer

Travel, transfer, or transmissions of export-controlled items/materials to destinations outside the U.S. or to foreign persons within the U.S. may require a [license](#) or a license exception. A license may be required depending on the items or technology, country of destination or citizenship, or whether defense services are provided to a foreign person.

A [license exception](#) may be available for EAR-controlled, university-owned items, technology, or software transmitted or transferred outside the U.S. under the “TMP” license exception if the individual exporting can verify that he or she:

- will ship or hand-carry the items, technology, or software for UTA business only,
- will return or certify the destruction of the items, technology, or software within 12 months of leaving the U.S.,
- will keep the items, technology, or software within his or her “effective control” ([15 CFR §772](#)),
- will take necessary security precautions to protect against the unauthorized export of the technology,
- will not ship or hand-carry the items, technology, or software to Iran, Syria, Cuba, North Korea, or Sudan without first consulting with ORS.

The Baggage License Exception (BAG) covers EAR-controlled personal items such as personal effects, clothing, or electronic devices (i.e., laptops, smartphones) taken during university travel. The BAG License Exception requires that the items be:

- owned by the individual or member of immediate family,

- limited to personal use of the individual or members of their immediate family traveling with them,
- consumed abroad or otherwise returned to the U.S.,
- not intended for sale or other disposal

The BAG License Exception does not apply to ITAR items. The exception applies to personally owned tools, instruments, equipment, and technology for use in the trade, occupation, employment, vocation, or hobby of the traveler.

See UTA's "[Consider What You're Taking With You](#)" guidance for more information.

A [license exemption](#) may be available for ITAR-controlled technical data transmitted or transferred outside the U.S. if the individual exporting the technical data can certify that:

- the technical data will be utilized overseas solely by a U.S. person(s),
- the U.S. person overseas is an employee of UTA or the U.S. Government and is not an employee of a foreign subsidiary,
- if the information is classified, it will be sent overseas in accordance with the requirements of the Department of Defense [National Industrial Security Program Manual](#); and,
- no export will be made to countries listed in [22 CFR §126.1](#).

Please note that other exceptions or exemptions may be available, please contact ORS for assistance.

Any individual intending to travel or transmit controlled data outside the U.S. should first consult with ORS. All exceptions or exemptions must be documented with ORS and the record maintained for at least five years after the termination of the project, or the travel return date.

If a project is determined to require an export license, ORS will complete and submit the license application on behalf of UTA. Note that each non-U.S. person requiring a license must be specifically licensed for each controlled project.

When possible, UTA will utilize the TMP and/or BAG license exceptions. Consider utilizing these certification forms to self-certify compliance with the exception requirements. It will help demonstrate to a customs officer that you are aware of the export control regulations.

- [Export Control License Exception \(BAG\) Certification Form](#)
- [Export Control License Exception \(TMP\) Certification Form](#)

Training Programs

ORS will prepare updated training materials and will ensure that personnel engaged in export-controlled projects complete the appropriate training and briefings. ORS will maintain records of training and briefings completed/provided.

Academic deans, directors, and/or department heads will assist ORS in implementing the export control training sessions or briefings relative to their respective schools, departments, centers, or institutes. In addition, the directors of other offices including Business Services, Environmental Health and Safety, Human Resources, Office of International Education, Office of Innovation and Commercialization, Travel, and others will assist ORS in conducting the export control training sessions or briefings relative to their units.

A list of resources and training requirements is available on the [ORS website](#).

Recordkeeping

Unless otherwise provided for, all records pertaining to export control shall be maintained by ORS consistent with the UTA/UT System [Records and Information Management and Retention Policy](#), [15 CFR §762](#) and [22 CFR §122.5](#). Generally, records required by the EAR and ITAR are required to be maintained for 5 years from the date of an export/transaction, the expiration of the license or [other approval](#), or the use of a license exception. If BIS or any other government agency requests such records following a voluntary self-disclosure, the records must be maintained until the agency concerned provides written authorization otherwise.

Monitoring

Periodic audits of these processes are conducted to ensure that they are conducted in accordance with UTA's approved policies and procedures and that those policies and procedures are an effective means of maintaining full compliance. ORS may conduct internal reviews of TCPs and other projects. The purpose of these reviews is to identify potential violations, deficiencies in training, inadequate procedures, and more that can be rectified. Monitoring may be performed via Standard Annual Assessments and/or Comprehensive Assessments. Standard Annual Assessments are coordinated by e-mail and include confirmation that personnel, citizenship, and more are current, as well as confirmation that the TCP in place is being adhered to and is effective. Comprehensive Assessments include in-depth investigator meetings, lab visits, and inventory confirmations in addition to the details confirmed by standard assessments.

Detecting and Reporting Violations

It is the policy of UTA to voluntarily self-disclose violations if, and when they occur. In recent years, government agencies have increased their rate of investigations, and prosecution of export regulation violations. The penalties for these violations can be very severe, including personal liability, monetary fines, and imprisonment. However, government agencies assign great weight to voluntary self-disclosures as a mitigating factor.

Any individual who suspects a violation has occurred must immediately notify ORS. ORS will then send an initial notification about the suspected violation to the appropriate government agency (for EAR violations, see [15 CFR §764.5](#). For ITAR violations, see [22 CFR §127.12](#)). ORS will conduct an internal review of the suspected violation by gathering information about the circumstances, personnel, items, and communications involved. Once the review is complete, ORS will provide the government agency with a thorough narrative account including:

- the project's description and background

- a description of the suspected violation
- the controlled items and classifications involved
- date on which the violation occurred
- the countries involved
- the individuals involved and their respective citizenships
- an explanation of why the violation occurred
- any corrective actions taken
- UTA's commitment to export control compliance

Once the initial notification and narrative account letter have been reviewed by the respective government agency, the agency will respond with either a Warning Letter or a Charging Letter delineating any penalties and/or actions required. ORS will take the necessary steps to implement these requirements.

Disciplinary Actions

In recognition of the seriousness of non-compliance with export controls, UTA will address non-compliance and disciplinary actions in accordance with the [University of Texas Regents' Rules and Regulations](#). Further, in accordance with [UTA's Standards of Conduct Policy](#), all UTA employees are subject to the relevant policies, standards, laws, and regulations that guide the University's work, including export control regulations.

Revision History

Date	Section	Changes
August 2023	All	Manual creation
10/23/2024	All	Annual Review
07/16/2026	Research and Other Research-Related Agreements	Added 7000 Clause process and other updates