

The University of Pittsburgh Export Controls Procedures

University of Pittsburgh

Office of Export Controls Services – EChelp@pitt.edu



I. COMMITMENT TO EXPORT CONTROLS COMPLIANCE

The University of Pittsburgh promotes and conducts research to advance knowledge, enhance student learning experiences, and build its reputation in the scientific community. While the University endorses the principles of freedom of inquiry and open exchange of knowledge, it is the policy of the University to comply with all laws applicable to research including export controls regulations.

The export of certain technologies, software and hardware is regulated and controlled by Federal laws for reasons of national security, foreign policy, prevention of the spread of weapons of mass destruction and for competitive trade reasons. The University and all its employees are required to comply with the laws and implementing regulations issued by the Department of State, through its International Traffic in Arms Regulations (“ITAR”), the Department of Commerce, through its Export Administration Regulations (“EAR”) and the Department of the Treasury through its Office of Foreign Asset Controls (“OFAC”).

In the aftermath of September 11, 2001, and the increased security needs of the United States, the importance and scrutiny of compliance with these regulations has increased, and research contracts and agreements received by universities from sponsors, both Federal and industrial, in which export control provisions are contained, have increased significantly. Export controls regulations apply regardless of the source of funding, both external and internal.

While most research conducted on U.S. college and university campuses is excluded from these regulations under the Fundamental Research Exclusion, university research involving specified technologies controlled under the EAR and/or ITAR, or transactions and exchanges with designated countries, individuals and entities may require the University to obtain prior approval from the appropriate agency before allowing foreign nationals to participate in controlled research, collaborating with a foreign company and/or sharing research—verbally or in writing—with persons who are not United States citizens or permanent residents. The consequences of violating these regulations can be quite severe, ranging from loss of research contracts and exporting privileges to monetary penalties and jail time for the individual violating these regulations.

The export controls regulations affect not only research conducted on campus, but also travel and shipping items outside the U.S. Simply traveling to certain sanctioned countries could require a license from the OFAC. OFAC sanctions prohibit transactions and exchange of goods and services in certain countries and with designated persons and entities. Multiple lists of denied individuals and parties are maintained and enforced by federal agencies including the

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Departments of State, Commerce, and Treasury. Shipping items outside the U.S. as well as taking controlled items on a flight, even if shipping or traveling in the conduct of research, could require a license from these agencies.

The University is committed to export controls compliance. An export controls officer and staff have been established in order to implement the procedures laid out within this document. Details of these procedures including more information and resources regarding regulations that impact university activities can be found on the Office Export Controls Services website¹ or by contacting the University Export Controls Officer (“UECO”), at 412-624-7415, or e-mailing to EChelp@pitt.edu.

II. UNIVERSITY EXPORT CONTROLS COMMITTEE

The University Export Controls Committee (UECC) is appointed by the Provost and includes liaisons to the academic units, the Office of General Counsel, Environmental Health and Safety, Office of International Services, Computing Services and Systems Development, the Office of Technology Management, the University Center for International Studies, Human Resources, and related business operations from the Office of the Chief Financial Officer. The University Export Controls Officer (UECO) resides in the Office of Export Controls Services. The Vice Provost for Research (VPR) chairs the Committee.

The UECC is an advisory committee to the UECO, VPR and Provost. The initial charge of the UECC is to provide expertise in matters related to export controls that arise in the course of University research and operations and to advise the UECO, VPR, and Provost on policies, procedures and necessary institutional actions that will strengthen institutional compliance with export controls regulations. In addition, the UECC will assist the UECO in the implementation of programs aimed at:

- Informing the university community on export controls regulations, sanctions and embargoes;
- Implementing a university-wide export controls compliance program;
- Facilitating communication regarding export controls compliance and implementation of procedures with the various constituencies on campus including, but not limited to: the deans, department chairs, center directors, and

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other central and school based administrative offices; and

- Conveying to constituencies the importance of compliance with the regulations, licenses, and agreed upon procedures, and the penalties for non-compliance.

The UECC will directly aid the UECO in matters related to export controls and be available to meet at regular intervals.

III. KEY ACTORS RESPONSIBLE FOR EXPORT CONTROL COMPLIANCE

A. EMPOWERED OFFICIALS

The current Director of the Office of Export Controls Services is the UECO and will function as the University's primary Empowered Official for export controls matters. In addition, the Vice Provost for Research (VPR) and the General Counsel (GC) may also function as Empowered Officials for export controls matters should the UECO be unavailable. The Empowered Officials have the authority to resolve export controls matters within their area of operation and represent the University before the export controls regulators in matters related to registration, licensing, commodity jurisdiction requests, or voluntary disclosures. While certain oversight functions may be delegated by Empowered Officials to their staffs, only the Empowered Officials have the power to sign and bind the University in any proceeding before DDTTC, BIS, OFAC, or any other government agency with export controls responsibilities.

B. UNIVERSITY EXPORT CONTROLS OFFICER (UECO)

The UECO reports to the VPR. The UECO has the authority and the responsibility for the implementation of the procedures set forth in this Export Compliance Program.

The UECO works closely with the VPR and other members of the UECC and the Office of Export Controls Services Staff (OEC) in performing his or her responsibilities. The UECO:

1. identifies areas at the University relative to research and other activities that are impacted by export controls regulations. Designated export controls staff will assist by conducting on-going risk assessment monitoring which may at times involve other members of the University community involved in export controls activities;

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2. develops controls procedures in collaboration with other University departments and areas to ensure the university remains in compliance. Separate desk procedures will be developed for areas in the University where activities are likely to give rise to export concerns;
3. develops procedures, in consultation with the UECC and subject to approval by the VPR to implement and strengthen compliance with the University's export controls program;
4. is responsible for creating and conducting educational programs for inventors, principal investigators, centers, and academic units covering export controls regulations and procedures implemented at the University. Export controls staff will assist in conducting individual training specific to situations as well as a more broadly based training program suitable for all University faculty and staff;
5. is responsible for creating and conducting educational programs for other central units within the University covering export controls regulations and procedures followed at the University;
6. monitors and interprets export controls laws and regulations with advice and counsel from the Office of General Counsel (OGC);
7. drafts both official guidance documents and general advisories for the community. Official guidance documents will be formally presented first to the VPR and Provost for review and approval then to the UECC. General advisories will be drafted, reviewed and finalized by UECO and staff, and presented to the VPR, Provost and UECC as documents not requiring formal review, but for information purposes;
8. maintain a University export controls website containing all guidance documents, FAQs and links to federal regulations;
9. assists investigators, researchers and offices within the University when research or research results are export controlled, and recommend procedures to control all export controlled items.
10. seeks legal assistance from OGC about classification of technology and the filing of license applications on behalf of the University for items or situations under the

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jurisdiction of government agencies such as the Department of Commerce, Department of State, Department of Treasury, or Nuclear Regulatory Commission; and

11. develops a Technology Control Plan (“TCP”) for any export-controlled projects and items consistent with these procedures to aid the principal investigator (“PI”) in meeting his or her export controls responsibilities.

C. OFFICE OF EXPORT CONTROLS SERVICES

The UECO will have sufficient staff dedicated to implementing the export controls procedures and training. These staff members will work in coordination with other University entities involved in the export controls process. The Office of Export Controls Services will therefore be the focal office within the University that provides assistance and expertise with export controls to the University community. The UECO’s export controls staff will:

1. provide assistance to the grant/contract officer and the PIs in reviewing the terms of a research agreement or grant that contains export controls issues;
2. support grant/contract officers who monitor sponsored research agreements and proposals for the presence of export controls issues and sends them if necessary to the UECO for review;
3. support grant/contract officers in their duties of maintaining a centralized database of all relevant documentation relating to a research project or education activity including export controls issues; and
4. will coordinate with the PI’s and the UECO to ensure that foreign nationals will be isolated from participation in an export-controlled project in accordance with the TCP, unless the university applies for and obtains a license from the relevant agency.

D. KEY UNIVERSITY MANAGERS

Academic deans, department chairs, and directors share the responsibility of overseeing export controls compliance in their respective schools, departments, centers, or institutes. They will also support the UECO in implementing procedures as deemed necessary by the UECO for export controls compliance in their respective departments, centers, or schools.

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In addition, the directors of other University offices share the responsibility of overseeing export controls compliance in their offices and supporting the UECO in implementing procedures as deemed necessary by the UECO for export controls compliance, including, but not limited to: Chief Financial Officer areas (Research/Cost Accounting, Purchasing, Accounts Payable, and Financial Information Services), the Office of International Services, University Center for International Studies, Computer Services and Systems Development, Human Resources, the Office of Technology Management, and Environmental Health and Safety. The export controls staff will work with these offices to establish desk procedures. Each office will ultimately be responsible for their specific desk procedure which will contain a process of evaluation for export controls issues in their area, and procedures for contacting the export controls staff whenever further review is necessary. Although desk procedures will not typically be done for individual academic departments and schools, the export controls staff will issue guidance on commonly encountered export controls issues to help provide education on topics of relevance.

E. PRINCIPAL INVESTIGATOR (“PI”)

PIs possess the detailed knowledge of the type of information and technology involved in a university research project or other university activity; and accordingly, PIs are expected to cooperate with the UECO and UECO staff to identify and resolve export controls issues which arise in the course of their university research. Beyond research activities, PIs must ensure that they do not disclose controlled information or transfer controlled articles or services to a foreign national without prior authorization as required, which disclosures could occur in the course of presenting at conferences, and discussing research findings in class with fellow researchers or collaborators.

To meet his or her obligations, each PI:

1. must understand his or her obligations under export controls, and participate in regular trainings to help him or her identify export controls issues. The training for faculty and staff is to be developed under the direction of the UECO;
2. must assist the UECO’s staff to classify the technology involved in the research or other university activity;
3. identify foreign nationals that may be involved and, if export controls is likely, initiate the process of clearing foreign national participation well in advance to

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ensure that a license is obtained in a timely manner, or implement proper measures to isolate foreign nationals from participation;

4. must, if undertaking an export controlled project, brief the students and other researchers involved in the project of their obligations under export controls; and
5. cooperate with the UECO in developing the TCP of which the PI has the responsibility to follow and implement. The TCP template is located at Appendix.

IV. EXPORT CONTROL ANALYSIS

A. INITIAL REVIEW

Sponsored research agreements and proposals will be reviewed in the OR for the presence of export controls issues. If potential export controls issues are identified, the UECO will be notified. When reviewing sponsored research agreements and proposals, the OR staff shall screen all projects assigned to them for potential export controls issues by identifying the following red flags:

1. references to a specific controls under U.S. export regulations (beyond a mere statement to comply with the law);
2. restrictions on publication or dissemination of the research results;
3. pre-publication approval from sponsor;
4. proprietary or trade secret claims on project results;
5. restriction of access or participation to U.S. citizens only;
6. military applications of the project results; or
7. funding from the Department of Defense, the Department of Energy, the Army, the Air Force, the Naval Office, NASA, the National Reconnaissance Office, or other U.S. government agencies.



B. FINAL REVIEW

If the OR identifies a potential or actual export controls issue, the project will be referred to the UECO for review and resolution. After review, the UECO will ensure that all export controls matters have been addressed including but not limited to obtaining a license and implementing a TCP. The UECO's staff is responsible for advising the PI of all export controls issues relevant to his/her project that require the PIs compliance. The export controls staff will work with the UECO to accomplish this.

V. TECHNOLOGY CONTROL PLAN

A. DEVELOPMENT

If the UECO determines a project is export controlled, the UECO and export control staff will work with the PI to develop and implement a TCP to secure the controlled technology from access by unlicensed non-U.S. citizens. UECO may also issue a streamlined or simplified TCP as appropriate depending on the nature of the applicable controls. A streamlined TCP, or simple one page acknowledgement, will be done for individual pieces of equipment or software that will be used in fundamental research. The acknowledgement will be sent to the PI and list the controlled nature of the piece and other guidance so that the PI and his/her staff do not violate any export controls regulations. If a full TCP is necessary, it will include:

1. a commitment to export controls compliance;
2. identification of the relevant export control categories and controlled technologies;
3. identification of the project's sponsors;
4. identification and nationality of each individual participating in the project;
5. appropriate physical and informational security measures;
6. personnel screening measures; and
7. appropriate security measures for and following project termination.

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B. APPROPRIATE SECURITY MEASURES

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

- Laboratory Compartmentalization. Project operation may be limited to secured laboratory areas physically shielded from access or observation by unauthorized individuals. These areas must remain locked at all times. In high risk or particularly sensitive cases, the University Police should be informed of the location of sensitive data or materials and should be given the PI and UECO's names and telephone numbers as contacts in the event of a security breach. The University Police may conduct a physical security survey and issue recommendations if desired.
- Time Blocking. Project operation may be restricted to secure time blocks when unauthorized individuals cannot observe or access.
- Marking. Export controlled information must be clearly identified and marked as export-controlled.
- Personnel Identification. Individuals participating in the project may be required to wear a badge, special card, or other similar device indicating their access to designated project areas. Physical movement into and out of a designated project area may be logged. As may be necessary, the project may require electronically controlled card-access. Cost-estimates and implementation of electronic card-access are available through the University's Department of Integrated Security.
- Locked Storage. Tangible items such as equipment, associated operating manuals, and schematic diagrams should be stored in rooms with key-controlled access or other means of secure access control, such as proximity badges. Soft and hardcopy data, lab notebooks, reports, and other research materials should be stored in locked cabinets.
- Electronic Security. Project computers, networks, and electronic transmissions should be secured and monitored through User Ids, password controls, 128-bit Secure Sockets Layer encryption or other federally approved encryption technology.



- Confidential Communications. Discussions about the project must be limited to the identified and authorized project participants, and only in areas where unauthorized individuals are not present. Discussions with third party sub-contractors must occur only under signed agreements which fully respect the non-U.S. citizen limitations for such disclosures.

C. TRAINING & CERTIFICATION

Before any individual may observe or access the controlled technology, he or she must be briefed on the procedures authorized under the TCP, certify his or her agreement to comply with all security measures outlined in the TCP, and have his or her certification authorized by the UECO or other authorized export controls individual. Appendix A provides the University's template for TCP briefing and certification. Export controls staff will complete the TCP in conjunction with the PI and at the PI's discretion, his/her co-investigators and/or staff so that there is total transparency.

VI. LICENSING

If a project is export controlled and a license is needed to involve a foreign national, an Empowered Official may apply for an export license to allow the disclosure of information to foreign students and researchers. Note that each foreign student must be specifically licensed for each controlled project. Also note that a TCP, as described in Section IV above, must be implemented. The UECO, in coordination with the VPR and OGC, will prepare and sign the necessary documentation for obtaining a license.

VII. LICENSE EXCEPTIONS AND EXEMPTIONS RELATED TO TRAVEL OUTSIDE THE U.S.

Travel or transmissions to destinations outside the U.S. can also implicate export controls regulations. A license may be required depending on which items are taken, which countries are visited, or whether defense services are provided to a foreign person. However, an exception or exemption from license requirements may exist. The export controls staff will provide guidance related to foreign travel and export controls which will appear on the export controls webpage.

A *License Exception*² called *TMP* may be available for EAR controlled items, technology, or software if the individual travelling outside the U.S. can certify that he or she:

² See 15 C.F.R. § 740.1.

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1. will ship or hand-carry the items, technology, or software for University business only;
2. will return or certify the destruction of the items, technology, or software within 12 months of leaving the U.S.;
3. will keep the items, technology, or software within his or her effective control;
4. will take necessary security precautions to protect against the unauthorized export of the technology; and
5. will not ship or hand-carry the items, technology, or software to Iran, Syria, Cuba, North Korea, or Sudan³ without first consulting with the UECO.

A *License Exemption*⁴ may be available to ITAR controlled technical data transmitted outside the U.S. if the individual transmitting the technical data can certify that:

1. the technical data is to be used overseas solely by a U.S. person(s);
2. the U.S. person overseas is an employee of the University or the U.S. Government and is not an employee of a foreign subsidiary;
3. if the information is classified, it will be sent overseas in accordance with the requirements of the Department of Defense Industrial Security Manual; and
4. no export will be made to countries listed by 22 C.F.R. § 126.1.⁵

The ITAR is far more restrictive compared to the EAR. Since the University does not typically perform activities that produce ITAR controlled technical data, the chances of this occurring are remote.

Please note that other exceptions or exemptions may be available.

³ This list is subject to change. For most current list, see 15 C.F.R. § 742.1.

⁴ See 22 C.F.R. § 125.4.

⁵ The full list of proscribed countries may be found in Part 126 of the ITAR https://www.pmdtc.state.gov/regulations_laws/itar.html

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Any individual intending to travel with or transmit controlled data outside the U.S. shall consult with the UECO at the earliest opportunity for approval and clearance. All license exceptions or exemptions shall be documented by the UECO and the record shall be maintained by the UECO, as well as by the Department/School, for at least five years after the termination of the project or the travel return date. This is necessary for audit purposes.

VIII. TRAINING PROGRAMS

Training is the foundation of a successful export compliance program. Well-informed faculty and staff minimize the likelihood that inadvertent violations of the law will occur. The greatest risk of non-compliance of export laws and regulations occurs during casual conversations in person, on the telephone, or via e-mail. The way to prevent these types of violations is through awareness and training.

The UECO will be responsible for training materials to be given to employees or students engaged in an export controlled project receive the appropriate briefing. The UECO will also maintain records of training or briefings provided. General export controls information and presentations will be available for the university community online at the Office of Export Controls Services website⁶.

Academic deans, directors, or department chairs will assist the UECO in implementing the export controls training sessions or briefings relative to their respective schools, departments, centers, or institutes. In addition, the directors of other offices or units on campus including, but not limited to: Chief Financial Officer areas (Research/Cost Accounting, Purchasing, Accounts Payable, and Financial Information Services), the Office of International Services, University Center for International Studies, Computer Services and Systems Development, Human Resources, the Office of Technology Management, and Environmental Health and Safety will assist the UECO in implementing the export controls training sessions or briefings relative to their units. Broad training has been ongoing. Specific training aimed at faculty and staff is to be developed. Options include electronic training through the CITI software program. Live training is also an option through UECO's training programs conducted on site and through other mediums such as the Faculty and Staff Development Program (FSDP).

⁶ www.export.pitt.edu

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IX. RECORDKEEPING

Unless otherwise provided for, all records indicated herein shall be maintained consistent with the University's record retention policy, and shall be retained no less than five years after the project's TCP termination date or license termination date, whichever is later.

If ITAR-controlled technical data is exported under an exemption, certain records of the transaction must be kept even beyond the University's five year retention period.⁷ Those records include:

1. a description of the unclassified technical data;
2. the name of the recipient /end-user;
3. the date / time of export;
4. the method of transmission (*e.g.*, e-mail, fax, telephone, FedEx); and
5. the exemption under which the export took place.

Note that information which meets the criteria of being in the public domain, being educational information, or resulting from Fundamental Research is not subject to export controls under the ITAR. Therefore, the special requirement for recordkeeping when using an exclusion, exception, or exemption may not apply. However, it is a good practice to provide such description for each project to establish a record of compliance.

BIS has specific record-keeping requirements.⁸ Under the EAR, records are required to be kept for a period of five years from the project's termination date. However, if BIS or any other government agency makes a request for such records following a voluntary self-disclosure, the records must be maintained until the agency concerned provides written authorization otherwise. Recordkeeping is important and is currently being done through a combination of hard copy and electronic files.

⁷ See 22 C.F.R. §§ 122.5 and 123.26.

⁸ See 15 C.F.R. § 762.6.

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X. MONITORING AND AUDITING

In order to maintain the University's export compliance program and to ensure consistent adherence to U.S. export laws and regulations, the UECO may conduct internal reviews of TCPs and certain projects. The purpose of the reviews is: (i) to identify possible violations; (ii) to identify deficiencies in training and procedures that will be further addressed by the UECC or any Empowered Official. Export controls staff will conduct regular follow-up queries for each TCP and acknowledgement on file. If deficiencies are noted during the audit, prompt action will be taken to correct the situation.

XI. DETECTING AND REPORTING VIOLATIONS

Since September 11, 2001, government agencies have dramatically increased the investigation in and successful 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. All confirmed violations will be documented and handled in accordance with University policy.

Any individual who suspects a violation has occurred must immediately notify an Empowered Official. The Empowered Official (if not the UECO) shall then immediately notify the UECO, who will then consider the violation before proposing a course of action. If self-disclosure is chosen, the UECO will make the required notification to the appropriate government agency.⁹ The UECO will conduct an internal review of the suspected violation with the advice, assistance, and counsel from the OGC, UECC, and/or Empowered Officials. Once the review is complete and the GC and VPR concur, the UECO will provide the government agency with a supplementary letter with a thorough narrative account of:

1. the project's description and background;
2. a description of the suspected violation;
3. which items and controlled categories were involved;
4. which dates the violations occurred on;

⁹ For EAR violations, see 15 C.F.R. § 764.5. For ITAR violations, see 22 C.F.R. § 127.12(c).

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5. which countries were involved;
6. who was involved and their citizenships;
7. an explanation of why the violation occurred;
8. any corrective actions taken; and
9. University's commitment to export controls compliance.

Once the initial notification and supplementary letter have been sent, UECO shall comply with the government agency's instructions. Export controls agencies as well as experts in the field agree that voluntary disclosures reduce the chances of huge fines and unnecessary scrutiny.

XII. COMPLIANCE WITH POLICY

In recognition of the seriousness of non-compliance with export controls, the University may address non-compliance with employee discipline including termination of employment in accordance with existing University policies and procedures.

| DOCUMENT HISTORY AND VERSION CONTROLS | | |
|--|---|----------------------------|
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| Last Amendment | February 2016 | Version 2.1 |
| Supersedes | March 2015 June 2013 (original document) | Version 2.0 Version 1.0 |



List of Abbreviations

| | |
|----------|---|
| BIS | Department of Commerce Bureau of Industry and Security |
| CCL | Commerce Control List |
| CJ | Commodity Jurisdiction |
| DDTC | Department of State Directorate of Defense Trade Controls |
| EAR | Export Administration Regulations |
| ECCN | Export Control Classification Number |
| UECO | University Export Controls Officer |
| ITAR | International Traffic in Arms Regulations |
| OFAC | Department of the Treasury Office of Foreign Assets Control |
| OGC | Office of General Counsel |
| OR | Office of Research |
| PI | Principal Investigator |
| SDN List | Specially Designated Nationals and Blocked Persons List |
| TAA | Technical Assistance Agreement |
| TCP | Technology Control Plan |
| USML | United States Munitions List |
| VPR | Vice Provost for Research |



Appendix A: Acknowledgement Template

Appendix B: Technology Control Plan (TCP) Template