

## **Export Control Guidance**

### **What are Export Controls?**

Export control laws regulate the export, transfer or transmission of certain types of goods, technology and information from the United States to a foreign destination or individuals who are foreign nationals.

Under these laws, an “export” includes not only the physical transfer or disclosure of an item outside the United States, but also the transfer or disclosure of an item or information within the United States to anyone who is a foreign national.

### **How Do Export Controls Apply To My Research?**

If your research project involves any of the following, export control laws could apply:

- Shipping equipment to a foreign country
- Collaborating with foreign colleagues in a foreign country
- Training or collaborating with foreign nationals
- Working with a country subject to U.S. sanctions

Research activities may be subject to export controls if they involve the export of any goods, technology or data that is either inherently military in nature or is “dual use” (commercial in nature with possible military applications). These items can include things such as: computers, electronics, sensors, and lasers. A full list of the items that are covered can be found at:

<https://www.bis.doc.gov/index.php/regulations/commerce-control-list-ccl> and [https://www.pmdotc.state.gov/regulations\\_laws/documents/official\\_itar/ITAR\\_Part\\_121.pdf](https://www.pmdotc.state.gov/regulations_laws/documents/official_itar/ITAR_Part_121.pdf)

Work related to these areas is considered high risk:

- Engineering
- Space sciences
- Computer Science
- Biomedical research with lasers
- Research with encrypted software
- Research with controlled chemicals, biological agents, and toxins

Export control regulations can also impact travel outside the United States. For example, participating in an open conference with foreign nationals, or traveling with a laptop that contains data that is subject to export controls may require an export

license. If you are planning foreign travel to any country that is subject to U.S. government sanctions (Cuba, Iran, North Korea, Sudan and Syria), such travel may require authorization from the government.

### Are There Any Exclusions?

Three main exclusions from export control laws may apply to academic research.

First, the fundamental research exclusion excludes any research that is carried out without restriction on publication or dissemination of research results. Research performed at USD will normally fall within this exception unless the sponsor has placed restrictions on the publication of scientific or technical information resulting from the project.

Second, the public domain exclusion provides that information that is published and generally accessible to the public is not subject to export controls.

Third, the bona-fide employee exception allows the sharing of controlled technical data with a foreign national who meets all of the following criteria: i) is not a national of an embargoed country; ii) is a full-time university employee; iii) has a permanent U.S. address while employed at the university; and iv) is advised in writing not to share the technical data with any other foreign nationals without government approval.

### What Do I Need To Do?

If your research is subject to export control laws, you may need to obtain an export license from the government prior to exporting materials or allowing a foreign national to participate in your research.

### What Are The Risks Of Noncompliance?

Violations of export control fines can be severe and may include large monetary fines and/or criminal sanctions, including imprisonment.

If you have any questions regarding whether export control laws apply to your work, research, or travel, please contact the Associate Provost for Research and Development.