



# EXPORT CONTROL

TRAINING FOR RESEARCHERS

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## MODULE 1: SELF TEST



### BY THE END OF THIS MODULE YOU SHOULD BE ABLE TO:

- Identify the primary export control laws and regulations
- Define the terms: “restricted research”, “export”, “foreign person”, “fundamental research”
- Know the UCF policy applicable to restricted research and where to find it
- Distinguish “fundamental research” from other types of research subject to export controls
- Describe the required security protocols implemented on restricted research programs
- Know who to contact for questions, concerns, or to report suspected violations

## INTRODUCTION

UCF permits researchers to accept and perform “restricted” research subject to proprietary or national security controls. Restricted research requires additional regulatory oversight and compliance because these activities are not exempt from federal law, as are many other educational activities. Compliance with federal laws and regulations is required throughout performance of restricted research and required security measures apply to **all** aspects of the research including access to research equipment, materials, prototypes, experiments, information required to perform the research, know-how and technical data resulting from the research.

The term “**restricted research**” includes activities that:

- are subject to national security or proprietary restrictions
- require custody, access or use of export-controlled technologies, equipment or data
- involves collaborating with other researchers who perform restricted research
- will involve a foreign person requiring a license to work on the restricted program

One of the most important responsibilities of a researcher participating in restricted research is to be familiar with federal compliance laws and regulations (collectively referred to as “export controls”) that govern program conduct by receiving annual awareness training. Compliance is not only a legal requirement, but also an ethical obligation of UCF researchers. The primary laws and regulations are administered by the U.S. Departments of State for activities with military/defense applications and associated services, and by the U.S. Department of Commerce for commercial and dual use activities (i.e. military or civilian research programs).

The term “**export**” refers to the transfer of items or knowledge to foreign persons in the United States or abroad, and the delivery of information to U.S. persons while such individuals are located in foreign countries.

**Exportable items or knowledge may include, for example:**

- |                             |                                   |                                    |
|-----------------------------|-----------------------------------|------------------------------------|
| ■ products                  | ■ executable program code         | ■ proposals                        |
| ■ commodities               | ■ technical data and/or knowledge | ■ models and prototypes            |
| ■ hardware                  | ■ blueprints                      | ■ photographs and performance data |
| ■ software                  | ■ drawings                        | ■ computer data files              |
| ■ subassemblies             | ■ operating instructions          | ■ experiment results               |
| ■ individual components     | ■ technical services              |                                    |
| ■ test and repair equipment |                                   |                                    |

**A “foreign person” is:**

- Someone who is not a U.S. person (not a U.S. citizen or a permanent resident alien)
- A foreign corporation, business association, partnership, trust, society or any other foreign entity or group that is not incorporated or organized to do business in the United States
- International organizations, such as a foreign university or research lab
- Foreign governments and any agency or subdivision thereof (e.g. diplomatic mission)

International collaborations located outside the United States may require special review because, in some instances, they may employ foreign persons or involve unallowable entities.

## WHEN AND HOW DO EXPORTS OCCUR?

- Sending or taking any controlled defense article or dual-use item outside the United States or providing it to a foreign person within the U.S.
- Disclosing (including orally or visually) or transferring technical data to a foreign person within the United States or abroad
- Performing a defense service on behalf of or for the benefit of a foreign person in the United States or abroad, including research collaboration
- Escorting tours of research facilities for foreign persons
- Publication of technical data, presentations and/or technical papers at symposia, conferences or meetings, or during technical discussions and even casual conversations
- Transferring information over international communications systems, such as the Internet, facsimile, video conference, NetMeeting and telephone conversations

The foreign party with whom you want to collaborate or the country involved may not be eligible for an export license or other government approval due to U.S. government prohibitions. This may include hosting visiting scientists/scholars or traveling to a foreign

country to participate in research. If you have any questions about this or other export issues, please discuss it with the UCF Export Control Officer assigned to your program.

## **RESEARCH ACTIVITIES THAT MAY REQUIRE AN EXPORT LICENSE**

Certain research activities constitute an export and require government permission in the form of a license or written approval before the activity may commence. Licenses are issued for a fixed period of time and are specific to a physical or data export, research activity, or service. Export licenses or approvals may be needed:

- To provide technical data to foreign sponsors or collaborators
- To return a part to a foreign supplier for repair
- To send a part/material or any item to a foreign lab for testing, or to any foreign collaborator
- To discuss technical data with a foreign sponsor or collaborator
- To conduct experiment or design discussions with a foreign sponsor or collaborator
- To deliver hardware to a foreign sponsor or collaborator
- To provide proposal data to a potential foreign sponsor
- To temporarily import defense articles or certain research instruments
- To export defense articles on a temporary basis
- To perform any defense services for a foreign sponsor or collaborator

Some exports may be covered under an existing license and others will require a separate license. It is possible that you may need an export license covering a product before you begin to work on a contract. In any case, before you begin any of the activity listed above with a foreign party, be sure you have the license you need.

## **PENALTIES**

Individuals violating federal law and applicable regulations governing the conduct of restricted activities and exports are subject to civil and criminal penalties that include fines, jail terms, suspension, denial of export or research privileges and debarment from government contracting. In addition, such a violation of UCF policy could result in discipline up to and including termination of employment.

## **LAWS AND REGULATIONS**

**Members of the University Community** involved with exports or conducting international research must be familiar with the export laws and regulations impacting these activities, namely: The Arms Export Control Act (AECA), as implemented by the International Traffic in Arms Regulations (ITAR); the Export Administration Act (EAA), as implemented by the Export Administration Regulations (EAR); The Treasury Department's Office of Foreign Asset Controls (OFAC); and the Anti-Boycott Act.

**ITAR, 22 CFR Parts 120-130** - These regulations administered by the State Department require that all exports and temporary imports of defense articles and services and technical data on the U.S. Munitions List be authorized by a U.S. State Department approved license, an approved agreement or an ITAR exemption. Exports include related research activities involving foreign persons.

**EAR, 15 CFR Parts 730-774** - These regulations administered by the Department of Commerce, control the export of dual-use items or items on the Commerce Control List (CCL), including information, know-how and technology.

**OFAC** – The U.S. Department of Treasury controls the sanctions and embargoes authorized by the U.S. that prohibit exports to, or the conduct of business, with certain countries and/or governments. This includes research collaborations, hosting visiting scholars, and performing services (such as providing dissertation services) to foreign students attending a university in an embargoed country.

**ANTI-BOYCOTT ACT** – Federal regulations prohibit providing certain types of information to foreign customers and agreeing to certain contractual provisions, such as supporting embargoes not approved by the U.S. The regulations require mandatory reporting of certain boycott requests, such as the Arab League boycott of Israel. It is vital that employees conducting business with foreign governments and companies understand and comply fully with these regulations.

## **CONTACTS**

University of Central Florida – Office of Export Controls Compliance

12201 Research Parkway, Orlando FL 32826

Mike Miller, Assistant Director for Export Controls Ph: 407-882-0660 Em: [Michael.Miller@ucf.edu](mailto:Michael.Miller@ucf.edu)

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## TEST YOURSELF

Your research team has recently been awarded a program by the Defense Advanced Research Projects Agency (DARPA) that prohibits publication of the research results without DARPA approval. The PI of the project wants to employ a foreign Graduate Research Assistant to run validation tests on the experiments. The validation will require you to provide the GRA with a copy of your final research report, lab journal and access to data stored on the secured project computer. It will be necessary for the team to exchange technical data and discuss possible approaches and solutions to problems with the foreign person GRA.

1. **Will an export occur? (Remember, you both work on the same research team.)**

YES NO

2. **Has an export occurred if the technical data and defense services are based on scientific methods already in the public domain?**

You have been invited to make a presentation at a conference at a university in China concerning the methods and results of a U.S. Air Force project. Your presentation slides will include some methods and technical data that has been published, and some unpublished material the Air Force requested you not publish. You have been told that the conference is public and you have attended similar events in the past. Your presentation will be posted on the conference website.

3. **If you depart for China out of Orlando with the technical presentation saved on your laptop, has an export occurred?**

4. **Are you allowed to handcarry non- Public Domain information out of the United States in any manner?**

5. **Are you violating any export control regulation by presenting at the conference?**

Your Government sponsor has verbally told you that a German foreign person can to participate in one of your restricted programs.

6. **Do you require an export license to allow the German student to participate?**

You have an approved license to allow an Egyptian postdoc to participate in an ITAR controlled Navy program characterizing the steel used in aircraft carriers. After you received the approved license for the export of the technical data, the Navy requests that you provide them with an additional study of submarine steel.

7. **Can you allow the Egyptian postdoc to participate in the submarine steel characterization under your current license?**

You are collaborating with the Air Force Research Laboratory (AFRL) to research potential new optical materials for use in infrared military guidance systems and other civilian products. A Taiwanese company produces a standard material that is used in commercial and defense products. In order to perform the AFRL research, you need to provide technical data (a source control drawing) to the Taiwanese company explaining how to modify their standard material to meet your requirement.

8. **Since the product to be procured from the Taiwanese company is a standard, off-the-shelf material with many applications, have you violated export control regulations by supplying the technical data?**

Your PI is responding to a public proposal announced by the South Korean Agency for Defense Development (ADD) to develop and test a prototype military training system. All of the literature regarding the system is in the public domain. The ADD has suggested the development occur in the U.S, while testing occurs in South Korea. The ADD will enroll two active duty Army Officers who are students at UCF to participate in the study.

9. **If awarded, will an export license be required?**

## CORRECT ANSWERS

1. Yes, a licensable export will occur. You will provide technical data and defense services to a foreign person, even though the GRA is a UCF student and employee. The research is not “fundamental research” and all data, materials, results and know-how are restricted.
2. Yes, because the program has publication restrictions, all aspects of the project, including common public domain methods are restricted.
3. Yes, technical data has been exported to China.
4. Hand-carrying military technical data not approved for public release out of the U.S. on a laptop is a violation of the ITAR. Only data that has been approved for public release, is published, or constitutes “fundamental research” is allowed to be exported.
5. Yes, presenting military data not approved for release is a violation of the ITAR. Know-how and other advice is a prohibited defense service.
6. Yes, a license issued by the U.S State Department is required. Verbal approval by a U.S. Government Agency is insufficient.
7. No, an amendment to the original license to expand the scope is required.
8. Yes, providing performance and any other data related to a military system is a violation of the ITAR.
9. Yes, a special license termed a “Technical Assistance Agreement” will be required prior to providing any service under the ADD award.