

UNIVERSITY OF DAYTON

TITLE: University Export Control Procedure

EFFECTIVE DATE: October 2013

APPROVAL: W. Barnes

PURPOSE: The purpose of this procedure is to ensure compliance with U.S. Federal export control laws and regulations.

SCOPE: This procedure explains what University employees need to do when they intend to export, or intend to share with a foreign person, U.S. commodities, technology, or technical data.

I. INTRODUCTION

Federal law restricts the export of goods and technology. Thus, when research involves providing information or services to foreign nationals, it is important to know whether the goods, services, data, or technology are covered by the export control laws and regulations. Generally, export controls cover all fields of science and engineering. An export occurs when there is a transfer of items/information or the provision of specific services to a foreign national (except for green card holders). The export can occur even if the foreign national is in the United States, *i.e.*, “deemed export.” An export can also occur when allowing a foreign national access to work supporting a contract. It is also important not to export without having determined whether the transfer of information or provision of services is excluded or exempted from the regulations, and, if not exempt, having obtained the proper license first. The primary regulations of concern are the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations. The EAR regulates “dual use” items that are primarily for commercial use but may also, at times, have a military application. The ITAR regulates defense articles and services that are contained on the U.S. Munitions List.

If an item is controlled by the EAR or ITAR, permission to export may be required prior to exporting or sharing it with a foreign national.

II. WHAT TO DO

The following statement appears on every award notification to the Principle Investigator:

EXPORT COMPLIANCE NOTICE (Effective October 1, 2011)

In order to ensure compliance with US Federal Export Laws and Regulations, foreign nationals will not be permitted to charge to sponsored programs without prior approval from the Export Administrator. If you require the services of a foreign national, intend to export technology or commodities, or expect to host visiting foreign nationals on this program, please contact Bill Barnes for an export review at William.Barnes@udri.udayton.edu or 229-3004.

If you plan to send something (goods, software, services or technology) anywhere outside the United States or if you plan to share information or technology with someone who is not a US citizen (including foreign national employees), contact [Bill Barnes](mailto:Bill.Barnes@udri.udayton.edu) at 229-3004 so that an export license determination can be made. The vast majority of exports do not require prior US government approval. However, if an export license is required, it may take six months or longer to secure one in order to export controlled materials from the US or transmit them to a non-US citizen within the US. Keep in mind that there are substantial criminal and civil penalties for anyone who violates export regulations.

The following basic information will be needed:

- The contract that involves the export
- What you are exporting.
- Location where the item is being exported.
- Name and nationality of the person who will receive the item.
- What the item will be used for.

III. DEFINITIONS

Export - Any item, service or technology that is sent from the United States to a foreign destination.

Deemed Export - The release of controlled technology or source code to a foreign national in the United States is deemed to be an export to the country of the foreign national.

Foreign National - a person who is not a US citizen. Exceptions: a foreign national who (1) is granted permanent residence, as demonstrated by the issuance of a permanent resident visa (Green Card) or (2) is granted US citizenship, or (3) is granted status as a "protected person" under 8 U.S.C. 1324b(a)(3). This includes all persons in the US as tourists, students, business people, scholars, researchers, technical experts, military personnel, etc.

IV. **FOR MORE INFORMATION**

- [Export Administration Regulations](#)
- [Bureau of Industry and Security](#) - for more information on Export Administration Regulations.
- [State Department Directorate of Defense Trade Controls](#) - for more information on International Traffic in Arms Regulations.

REFERENCE DOCUMENTS:

Department of Commerce Export Administration Regulations; Department of State International Traffic in Arms Regulations; Export Administration Act of 1979, as amended; International Emergency Economic Powers Act, as amended; Arms Export Control Act, as amended; University of Dayton Export Administration Policy

MAINTENANCE OF POLICY: University of Dayton Export Administrator