



Export Controls and Sanctions

Rules of Thumb

The Importance of Compliance

- Export Controls exist to protect U.S. national security, to advance U.S. economic interests, and to achieve foreign policy objectives.
- Important to maintain trust with our students, our faculty, our donors, and the Missouri taxpayer.
- Penalties for violations are severe and include fines, jail time, loss of export privileges, loss of government contracts, and reputational damage. Penalties can be levied against individuals and the University.

What is an export?

Federal Regulations

Department of the Treasury – Sanctions Programs

Department of State – Defense Articles, Software, Technical Data and Services

Department of Commerce – Dual Use Articles, Software, and Technology

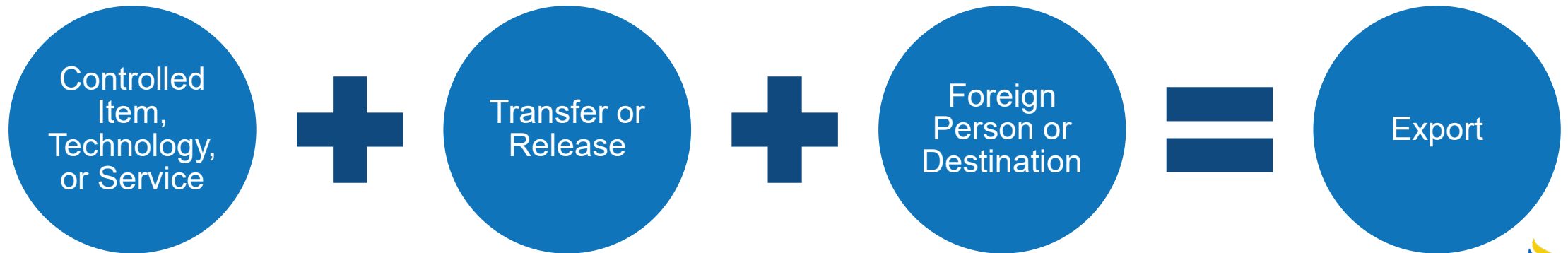
These are not the only regulatory authorities. There may be more depending on the transaction, but these are the main ones that apply to the university.

Requirements

In all cases there are recordkeeping requirements

Sometimes they require advanced disclosure to the federal government

In rare circumstances they require written permission from the government, known as an export license.



Regulatory Authorities

	Department of State	Department of Commerce	Department of the Treasury
Empowered Agency	Directorate of Defense Trade Controls (DDTC)	Bureau of Industry and Security (BIS)	Office of Foreign Assets Control (OFAC)
Regulations	International Traffic in Arms Regulations (ITAR)	Export Administration Regulations (EAR)	Foreign Assets Control Regulations (FACR)
Scope	Permanent and temporary exports, and temporary imports of: <ul style="list-style-type: none"> ○ Defense articles ○ Defense services ○ Technical Data 	Permanent and temporary exports, reexports, and retransfers (in-country) or: <ul style="list-style-type: none"> ○ Commodities ○ Software ○ Technology Predominately focused on dual-use items/technologies having both military and civilian applications.	Services of value to and from certain countries, regimes and other parties on which economic and trade sanctions have been issued.
Control List	United States Munitions List (USML)	Commerce Control List (CCL)	OFAC Sanctions Lists
Classifications	USML Categories	Export Control Classification Numbers (ECCN)	Comprehensive Sanctions: Cuba, Iran, North Korea, Syria and Crimea, Donetsk, & Luhansk regions in Ukraine
Licensing Requirements	Most restrictive, but relatively straightforward in application	More permissive, but more complex in application	Typically restrictive, and typically complex in application; depends on individual sanctions program

Restricted Parties: All 3 of these departments maintain publicly available lists of parties that the U.S. government has designated as acting contrary to the national security or foreign policy objectives of the United States. They may be a prohibited destination for exports, they may be subject to targeted sanctions through OFAC, or they may be other restrictions on our activities with them.

Key Terms

Export: 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

Deemed Export: Releasing or transferring export-controlled technology to a Foreign Person in the United States

Foreign Person: Any person who is not a U.S. citizen by birth or naturalization, U.S. permanent resident, or has special status (e.g., refugee or asylum holders)

Export License: Specific authorization from the U.S. government to engage in an otherwise prohibited activity. Applications can be returned without action, denied, granted with provisos, or revoked at any time.

Export License Exception/Exemption: An otherwise prohibited activity that is authorized if a very specific set of criteria are met. There are recordkeeping requirements associated with the usage of these and they are self-electing.

How can exports happen?

Exports occur in a variety of ways.

Sharing controlled technology with foreign persons located inside the U.S.

This is deemed to be an export to that foreign person's country of citizenship. Includes software and source code.

Sharing controlled technology with persons located outside the U.S.

Whether it is via email, a phone conversation, or sharing data on a computer screen, sharing controlled technology with anyone (regardless of citizenship) located in another country is an export of that technology.

International Shipping

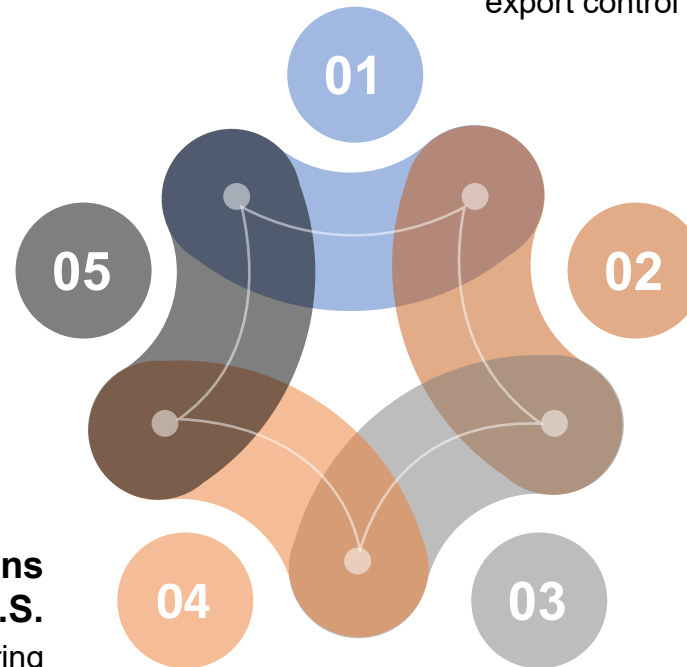
Shipping any item outside of the United States falls under export control regulations, regardless of the origin of the item.

International Travel

Traveling internationally with University items falls under export control regulations. Regulations apply to permanent AND temporary exports.

Accessing controlled technology from outside the U.S.

This is an export to the country from which the technology is being accessed. There may be exemptions available for this activity.



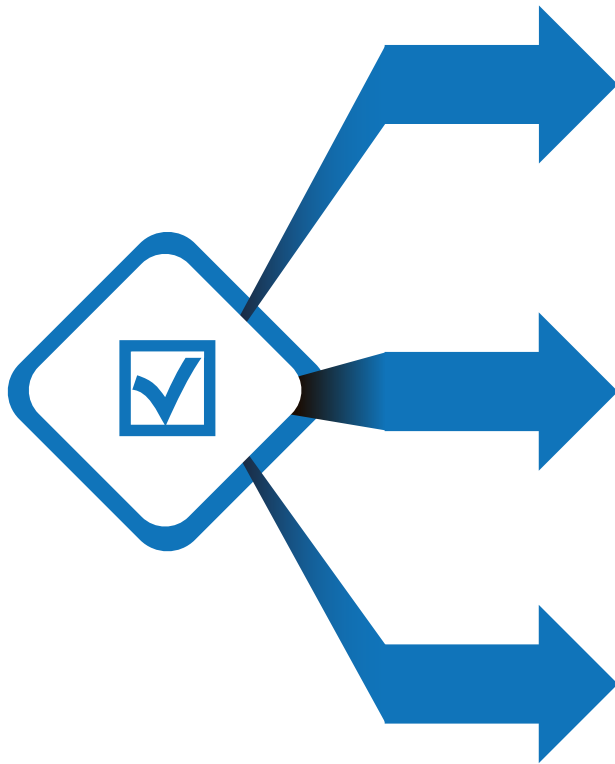


Universities are regulated differently than industry under export controls.

There are certain exemptions and exceptions that are generally only available to us.

Industry/government have varying levels of understanding. They may make incorrect assumptions.

Exempt Technology



Educational Information



Information released by instruction in a catalog course or associated teaching laboratory of an academic institution

General scientific, mathematical, or engineering principles

Published Information



Information available to the public without restrictions upon its further dissemination

Includes patents available at any patent office

Fundamental Research



Basic and applied research in science and engineering, ***the results of which*** ordinarily are published and shared broadly within the scientific community...

Only applies to what we generate – not to what we receive

These only apply to technology and software – not to physical items

Controlled Technology



Receipt of confidential or proprietary information

Information with restrictions on its further dissemination

Typically covered by a CDA or the confidentiality section of a sponsored research agreement



Research Results with access or dissemination restrictions

Research results that a sponsor holds as their proprietary information

Proprietary research (even if self-imposed)

Requirements for research results to be approved by the sponsor prior to publication

Restrictions on research staff based on citizenship



When we act like a
university, we are
treated like one.

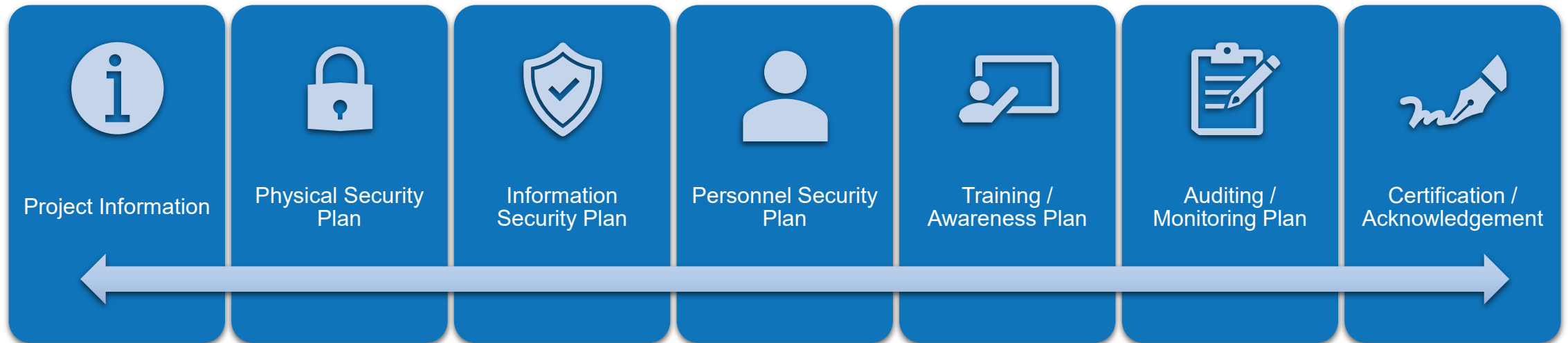
When we act like a
business, we are
regulated like one.

Limits to Fundamental Research (FRE)



Managing Export Controlled Info

When universities receive, process, generate, or store export controlled technical data, technology, or software (and sometimes even items), a Technology Control Plan is implemented to describe and document the steps necessary to protect export-controlled technology.



Case Study #1: John Reece Roth



John Reece Roth, PhD
*Former Professor
University of Tennessee*

Violation:

15 counts of exporting “defense articles and services” without a license and 1 count of wire fraud.

Obtained USAF contract to develop plasma actuators to control the flight of small subsonic, unmanned, military drone aircraft. During the course of that contract, he allowed two foreign national students to access export controlled data and equipment, and export some of the data from the contract on a trip to China. The Arms Export Control Act prohibits the export of defense-related materials, including the technical data, to a foreign national or a foreign nation.

Aggravating Factors:

He knew he was performing exports without the required licenses.

There was potential harm to U.S. national security and, even if he had requested an export license, it likely would have been denied.

Penalty:

Sentenced to 4 years in prison and 2 years supervised release.

Case Study #2: Thomas Butler



Thomas Butler, PhD
Former Professor
Texas Tech University

Violation:

Reported to police that 30 vials of *Yersenia pestis* (the causative agent of human plague) were missing from his lab. FBI agents rushed to Lubbock to investigate, and President Bush was briefed on the incident. Butler had placed the vials in a FedEx package for export to Tanzania without the required license and labeled the package “laboratory materials.”

Penalty:

Sentenced to 2 years in prison for making fraudulent claims and unauthorized exports.

Case Study #6: UMass Lowell



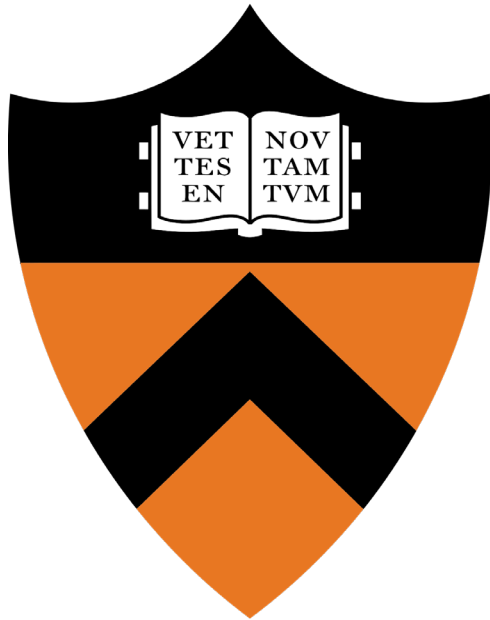
Violation:

Exported an antennae, cables, and an atmospheric testing device (valued at \$2000,000 and classified as EAR99) to Pakistan Space and Upper Atmosphere Research Commission (SUPARCO) without a license. SUPARCO has been on the Entity List as a prohibited destination for exports since November 1998 due to its involvement in nuclear and missile activities.

Penalty:

Suspended penalty \$100,000

Case Study #4: Princeton University



Violation:

Exported various strains and recombinants of animal pathogens from the United States to non-U.S. research institutions in 15 countries without the required export licenses.

The items were controlled for Chemical and Biological Weapons reasons and were valued at approximately \$27,000.

Mitigating Factors:

Voluntary Self-Disclosure & cooperation with the investigation. The USG likely would have approved the export licenses had Princeton submitted them.

Administrative Settlement (02/02/2021):

- Civil penalty of \$54,000
- One external audit – results and mitigation plans submitted to the government
- One internal audit – results and mitigation plans submitted to the government
- Two annual reports describing enhancements made to their export compliance program

How to Report

The University is committed to institutional accountability, transparency and the protection of students, faculty, staff, patients, and visitors. As an organization we strive to promote and foster a 'speak up' culture that will make our institution a better place to live, learn, and work.

If you witness, personally experience, or suspect unacceptable or unethical behavior related to export controls or sanctions, we expect you to report it.

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