

WSU Export Control Compliance Policy

Introduction:

Since the 1940s the Departments of State, Commerce, and Treasury has regulated the transfer or release of any export from the U.S. that has been deemed strategically important. The export control regulations govern how these exports are managed.

While all units and university personnel can be subject to the export control regulations, this policy is intended for the Principal Investigator (PI).

Policy Details:

- I. Export(s) and sanctioned transactions include, but are not limited to:
 1. Activities or research in export-controlled areas, typically identified during grant and award processing, defined in Federal oversight & enforcement section below;
 2. Activities sponsored by any entity restricting publication or participation by foreign nationals;
 3. Activities involving the shipping or taking of equipment, technology, or software outside the U.S.;
 4. Activities involving teaching and research collaborations, participation, or training with foreign nationals here or abroad may be subject to export control regulations and this policy;
 5. Activities involving travel or work outside the U.S.;
 6. Hosting, paying, or conducting tours with foreign national visitors through WSU research areas;
 7. Receipt and/or use of export-controlled information or technologies from other parties (e.g., funders);
 8. Sharing, shipping, transmitting, or transferring of encryption software in source code or object code; and
 9. Any other activity under Federal oversight & enforcement section below.

- II. Federal oversight & enforcement includes:
 1. Department of Commerce, through the [Bureau of Industry and Security \(BIS\)](#), administers the Export Administration Regulations (EAR), oversees dual-use items as well as strictly commercial items.
 2. Department of State, through the [Directorate of Defense Trade Controls \(DDTC\)](#), oversees the International Traffic in Arms Regulations (ITAR), items used either for military or space purposes.
 3. Department of the Treasury, through [Office of Foreign Assets Control \(OFAC\)](#), enforces specific embargoes and/or sanctions.

- III. Export Control compliance Roles and Responsibilities include, but are not limited to:

All personnel are responsible for ensuring their activities are conducted in compliance with export control regulations, all requirements of this policy, and any technology control plan in which they are included.

1. The Vice President for Research, or designee, is the designated Empowered Official (EO) as it relates to export control regulations.
2. The export compliance officer (ECO) is responsible for oversight of WSU's export compliance program.

3. Additional areas with oversight responsibilities include, but are not limited to, the Office of International Programs, the Office of Research Support & Operations, Purchasing, Human Resources Services, department administrators, units, & principal investigators, as each work in conjunction with the ECO to facilitate compliance.

Procedure:

- I. Export Assessment Procedures:
 - a. When requested or required, the EC will assess or assist in determining when activities are subject to export control regulations.
 - b. Typical export assessment determinations include:
 - i. Whether or not an activity falls under the purview of Export Control Regulations or qualifies as [Fundamental Research](#);
 - ii. A commodity jurisdiction determination (which agency has oversight), a commodity classification determination;
 - iii. A determination of whether a collaboration or foreign exchange involves transactions subject to trade sanctions and whether any parties involved in the transaction require government authorization.
 - c. If an export assessment determines that an activity is subject to the regulations, the PI or individual will work with the ECO in seeking the necessary export license or government approval (e.g., export license exception), and/or recommend security measures (e.g., technology control plan).
- II. Communicating with Federal Agencies:
 - a. WSU cooperates with all governmental agencies with law enforcement and license responsibilities related to export control, sanctions, and facility security regulations and the EO, ECO, or designee, serves as the university point of contact.
- III. Export Classifications:
 - a. When requested or necessary, the ECO assists the PI with export classifications.
 - b. All classifications must be approved by the ECO.
- IV. Sanctioned Transactions:
 - a. Sanctioned transactions are strictly prohibited unless they are vetted and approved by the ECO and the department chair/director and senior leadership (e.g., vice chancellor, dean, vice president).
 - b. When necessary, transactions may be additionally reviewed or appealed to the vice president for research, chief compliance officer, and/or the Risk Management Advisory Group.
 - c. Potential sanctioned transactions the ECO vets include, but are not limited to:
 - i. Entity listed organizations and individuals;
 - ii. Hiring, paying, or hosting individuals from sanctioned and/or embargoed countries;
- V. Restricted Party Screening includes:
 - a. Assessed by the ECO as needed or by request, or
 - b. Any unit may request access to restricted party screening (RPS) software maintained by the Office of International Programs. Requesting units must develop an internal process, with the assistance of the ECO, to use the screening software.
- VI. Foreign Nationals on Campus:
 - a. Students & Visiting scholars
 - i. Publicly available information may be transferred to a foreign national without an export license. Transfer of controlled exports or deemed exports are not permitted to a foreign

Appendix A: References

WSU Websites:

Office of Research Assurances

<https://ora.wsu.edu/export-controls/>

ORSO International Collaborations & Working with Foreign Entities

<https://orso.wsu.edu/working-with-foreign-entities/>

Compliance & Risk Management – International Travel

<https://crmo.wsu.edu/international-rm/>

Regulatory Websites:

U.S. Department of Commerce – Bureau of Industry and Security

<https://bis.doc.gov>

U.S. Department of State – International Traffic in Arms Regulations, 22 C.F.R. §§120-130,

https://www.pmdtc.state.gov/ddtc_public?id=ddtc_kb_article_page&sys_id=24d528fddbfc930044f9ff621f961987

U.S. Department of the Treasury – Office of Foreign Assets Control – Sanctions Programs and Information

<https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information>

National Security Decision Directive 189 (NSDD 189)

<https://fas.org/irp/offdocs/nsdd/nsdd-189.htm>

Appendix B: Definition of terms

- **Deemed export:** The release or transmission of controlled exports to a foreign person in the U.S., this is an export to the foreign national's home country or country of current citizenship.
- **Defense Article:** Any item or technical data designated in the United States Munitions List (See 22 C.F.R. §121.1). See 22 C.F.R. §120.6 "Defense Article."
- **Entity List:** The Entity list identifies foreign parties (such as an individual, business, research institution, or government organization) that are prohibited from receiving some or all the items subject to the EAR.
- **ECO:** Export Control Officer
- **Educational information:** Information that is commonly taught via instruction in catalog courses and associated teaching laboratories of academic institutions.
- **EO:** Empowered Official
- **Export license exception:** A written authorization provided by the appropriate regulatory authority detailing the specific terms and conditions allowing the export, deemed export, or re-export of controlled exports that would normally require an export license.
- **Export license:** A written authorization provided by the appropriate regulatory authority detailing the specific terms and conditions allowing the export, deemed export, or re-export of controlled exports.
- **Export:** An actual shipment or transmission out of the U.S., in any manner.
- **Foreign person or entity:** Anyone who is not a U.S. person (see definition below), including any foreign corporation, business association, partnership, trust, society, or any other foreign entity or group as well as international organizations and foreign governments.
- **Fundamental Research:** Any "basic and applied research in science and engineering, the results of which are ordinarily published and shared broadly within the scientific community..." is not subject to export control regulations under the Fundamental Research exclusion. See National Security Decision Directive 189 (NSDD 189). Research that contains publication restrictions or that contains access or dissemination restrictions does not qualify as Fundamental Research. See 15 C.F.R. §734.8 "'Technology' or 'Software' that arises during, or results from Fundamental Research," 22 C.F.R. §120.10 "Technical Data," and 22 C.F.R. §120.11 "Public Domain."
- **Personnel:** Faculty, staff, visiting scholars, research associates and fellows, postdoctoral fellows, student employees, students, visitors, volunteers, and all other persons retained by or working at the university.
- **Re-export:** An actual shipment or transmission of an item subject to the regulations from one foreign country to another foreign country.
- **Restricted/Prohibited party:** An individual or entity who is on one of the lists published by the Departments of Commerce, State, or the Treasury and are prohibited from receiving anything considered export controlled.
- **Sanctioned and/or embargoed countries:** Certain individuals, entities, and countries with whom the U.S. government actively restricts U.S. persons or entities from conducting interactions.
- **Technology control plan:** Document generated by the Office of Research Assurances outlining the physical, information, and personnel security measures required to safeguard export-controlled items or technologies.
- **U.S. person or entity:** Anyone who is: a U.S. citizen, a lawful permanent resident of the U.S., or has refugee or asylum status in the U.S., wherever that person is located. Also includes U.S. incorporated or organized firms and their foreign branches.
- **Unit:** Generic term for any WSU department, program, center, or other unit within a college or central office.

Appendix C: Responsibilities

All WSU personnel (i.e., faculty, staff, visiting scholars, research associates and fellows, post-doctoral fellow, student employees, students, visitors, volunteers, and all other retained by or working at the university)

- Must be aware of and comply with all E.C. regulations and applicable university policies and procedures.
- Ensure all activities are conducted in compliance with regulations, this policy, and any technology control plan on which you are included.
- Complete any required training prior to receiving access to export-controlled items, technology, information, or software
- Notify the ECO if it is believed or known that export control regulations may apply to an activity, project, or transaction.
- Provide information to the ECO to assist in determining whether export control regulations apply and whether an export license or other authorization may be required.
- With the assistance of the ECO, obtain an export license or authorization when required.
- Prior to traveling outside the U.S., check the Treasury Department’s list of sanctioned countries, and ensure that all legal requirements are followed while interacting with such destination.
- Check with the ECO before agreeing to provide and/or receive any funding for or from a foreign national individual or entity.
- Forward all relevant export control documentation to the ECO for retention.
- Promptly report to the ECO any activities or actions that are believed or known to constitute an export violation.

Data Security:

- Ensure the security of any export-controlled technical information that you receive, use, store, or transmit is compliant with [Executive Policy 37](#).
- Contact the ECO to determine if a technology control plan is in place or needs to be established.
- Adhere to the Information Security Control Requirements for handling data.
- If you are IT staff, and you become aware that personnel have access to export-controlled data, contact the ECO to determine if a technology control plan or other safeguards are in place.

International Travel:

- Determine if export control regulations apply to your travel by visiting the [WSU Export Control Decision Tree](#) within the <https://myresearch.wsu.edu> database or contacting the ECO.
- WSU employees and official volunteers should also register their travel with [Risk Management Services International Travel](#).

Shipping:

- Ensure that shipments are not prohibited or licensable under export control regulations.
- Ensure that a correct ECCN or other required export number is indicated on the shipping documentation.
- Consult with the ECO as needed.

Receiving Gifts:

- Notify the ECO if the university acquires any item which may be a defense article.

Purchasing or Acquiring Items:

- Screen prospective and actual vendors, suppliers, and partners.
- Notify the ECO if the university acquires any item which may be a defense article.
- Notify the ECO when the seller/manufacture request that an End-Use statement be completed due to export controls.

Records Retention:

- Maintain all export-related records for a period of five years

Department Administrators:

- Be aware of and comply with all export control regulations and applicable university policies and procedures.
- Identify projects where export-controlled items, information, or software may be received from and/or transmitted to an outside party, or where such items will be developed during the project.
- Identify projects and other interactions where payments will be made to foreign entities.
- Identify projects or other activities requiring travel to a sanctioned country(s).
- Identify projects and other activities where items will be shipped (exported) to a foreign country, entity, or individual.
- Identify projects and other activities in which a foreign visitor may interact with export-controlled items or projects.
- Notify the ECO as soon as possible, if any one of the above events occur.

Unit (department, program, center, or other unit within a college):

- Be aware of and comply with all export control regulations and university policies and procedures.
- Request access to restrictive party screen software from ORA as desired; develop internal process to use the software, with the assistance of the ECO.
- Ensure that prohibited end use transactions are not made to foreign nationals.
- Ensure that foreign national students have access to and engage only in approved/licensed research.
- Notify ORA of visiting scholars and request an export review of proposed activities before access is given and arrival of the individual.
- Screen prospective faculty, staff, and student employees to determine if an individual is a denied person or otherwise a prohibited party, as desired; use RPS software; and retain records.
- Complete mandatory annual training if required to do so by the ECO.
- Administer and monitor existing technology control plans for your personnel.
- Notify the ECO of any issues that arise regarding the implementation of, or compliance with, any management plan.
- Assist in providing information for the I-129 visa attestation process. Provide information regarding faculty who are citizens of sanctioned countries. Appropriately scope work performed by such faculty so that they do not meet export-controlled information. Communicate such parameters to the appropriate support personnel.
- When determined appropriate, designate one or more individuals to perform restricted party screening in conjunction with ORA.

Supervisors:

- Ensure that individuals from sanctioned countries have no access to restricted research, technical data, items, equipment, software, or encryption during their tenure at WSU.

Office of Commercialization:

- Be aware of and comply with all export control regulations and university policies and procedures.
- Identify potential export control issues arising in conjunction with Material Transfer Agreements, Non-Disclosure Agreements, or other licensing agreements.
- Identify projects where export-controlled items, information, or software may be received from and/or transmitted to an outside party, or where such items will be developed in the course of the project.
- Identify projects and other interactions where payments will be made to foreign entities.
- Identify projects or other activities requiring travel to a sanctioned country(s).
- Identify projects and other activities where items will be shipped to a foreign country(s).
- Identify projects and other activities in which a foreign visitor may interact with export-controlled items or projects.
- Notify the ECO as soon as possible, if any one of the above events occur.

Human Resource Services:

- Be aware of and comply with all export control regulations and university policies and procedures.
- Assist university personnel in verifying the current citizenship status of university personnel when requested.
- Ensure that no foreign nationals are appointed to export-controlled projects, without approval of the ECO.
- In conjunction with the ECO and other unit personnel, request a Background Check for personnel who access or will access export-controlled restricted data as needed.

Office of International Programs:

- Procure all requested visas.
- Process all I-129 attestation forms.
- Notify ORA when an I-129 attestation is required for an individual from an embargoed or sanctioned country.

Office of Research Assurances, Export Compliance Officer:

- Monitor and oversee the university's export control program.
- Assist university personnel in assessing their export control obligations and document such review
- Assist with any export licenses, government approvals and/or security measures to ensure compliance.
- Determine the licensing requirements for research involving exports and deemed exports
- Assist in determining whether an export license is required relating to travel, or a shipment outside the U.S.
- Assist the Office of Research Support and Operations, Office of Commercialization, Attorney General's Office, and other contracting departments in determining export compliance requirements surrounding a proposed activity or agreement.
- Coordinate and be responsible for the retention of export documents and records.
- Provide and/or oversee export control related training for all relevant parties.
- Serve as university point of contact with governmental agencies relative to export control issues.
- Conduct periodic self-assessments of university export- or sanction-restricted activities and report findings.

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- When required by law or regulation, report known or suspected violations of export control regulations to the VP for Research.

Vice President for Research:

- Serve as the designated WSU empowered official as it relates to the export control regulations.
- Review & approve transactions with sanctioned countries and prohibited parties as requested.

Senior WSU officials (chair/director/dean) & University Risk Management Committee:

- Review & approve transactions with sanctioned countries and prohibited parties as requested.

AGO (Attorney General Office):

- Advise the ECO in the preparation of export license applications.